

SUBCHAPTER IV. LONG-TERM FINANCING.

Article 4.

Local Government Bond Act.

Part 1. Operation of Article.

§ 159-43. Short title; legislative intent.

(a) This Article may be cited as "The Local Government Bond Act."

(b) It is the intent of the General Assembly by enactment of this Article to prescribe a uniform system of limitations upon and procedures for the exercise by all units of local government in North Carolina of the power to borrow money secured by a pledge of the taxing power. To this end, all provisions of special, local, or private acts in effect as of July 1, 1973, authorizing the issuance of bonds or notes secured by a pledge of the taxing power or prescribing procedures therefor are repealed. No special, local, or private act enacted or taking effect after July 1, 1973, may be construed to modify, amend, or repeal any portion of this Article unless it expressly so provides by specific reference to the appropriate section of this Article. (1971, c. 780, s. 1; 1973, c. 494, s. 2.)

§ 159-44. Definitions.

The words and phrases defined in this section shall have the meanings indicated when used in this Article, unless the context clearly requires another meaning:

- (1) "Finance officer" means the officer performing the duties of finance officer of a unit of local government pursuant to G.S. 159-24 of the Local Government Budget and Fiscal Control Act.
- (2) "Governing board" or "board" means the governing body of a unit of local government.
- (3) "Sinking fund" means a fund held for the retirement of term bonds.
- (4) "Unit," "unit of local government," or "local government" means counties; cities, towns, and incorporated villages; consolidated city-counties, as defined by G.S. 160B-2(1); sanitary districts; mosquito control districts; hospital districts; merged school administrative units described in G.S. 115C-513; metropolitan sewerage districts; metropolitan water districts; metropolitan water and sewerage districts; county water and sewer districts; regional public transportation authorities; and special airport districts.
- (5) "Utility or public service enterprise" includes:
 - a. Electric power transmission and distribution systems;
 - b. Water supply facilities and distribution systems;
 - c. Sewage collection and disposal systems;
 - d. Gas transmission and distribution systems;
 - e. Public transportation systems, including but not limited to bus lines, ferries, and mass transit systems;
 - f. Solid waste collection and disposal systems and facilities;
 - g. Cable television systems;
 - h. Off-street parking facilities and systems;
 - i. Public auditoriums, coliseums, stadiums and convention centers;
 - j. Airport;
 - k. Hospitals and other health-related facilities; and

1. Structural and natural stormwater and drainage systems of all types. (1971, c. 780, s. 1; 1973, c. 494, s. 3; 1977, c. 466, s. 2; 1979, c. 727, s. 2; 1989, c. 643, s. 3; c. 740, s. 3; 1991, c. 325, s. 4; 1995, c. 461, s. 10; 1997-456, s. 27; 2013-50, s. 3.)

§ 159-45. All general obligation bonds subject to Local Government Bond Act.

No unit of local government in this State shall have authority to enter into any contract or agreement, whether oral or written, whereby it borrows money and makes an express or implied pledge of its power to levy taxes as security for repayment of the loan, except by the issuance of its bonds in accordance with the limitations and procedures prescribed in this Article or by the issuance of its negotiable notes in accordance with the limitations and procedures prescribed in Article 9 of this Chapter or by the issuance of debt instruments in accordance with the limitations and procedures prescribed in Chapter 159G of the General Statutes. (1971, c. 780, s. 1; 1987, c. 796, s. 2(1).)

§ 159-46. Faith and credit pledged.

The faith and credit of the issuing unit are hereby pledged for the payment of the principal of and interest on all bonds issued under this Article and debt instruments secured by a pledge of its faith and credit in accordance with the limitations and procedures prescribed in Chapter 159G of the General Statutes according to their terms, and the power and obligation of the issuing unit to levy taxes and raise other revenues for the prompt payment of installments of principal and interest or for the maintenance of sinking funds shall be unrestricted as to rate or amount, notwithstanding any other provisions of law whether general, special, local, or private. (1971, c. 780, s. 1; 1987, c. 796, s. 2(2).)

§ 159-47. Additional security for utility or public service enterprise bonds.

(a) The revenues of a utility or public service enterprise owned or leased by a unit of local government shall be applied in accordance with the following priorities:

- (1) First, to pay the operating, maintenance, and capital outlay expenses of the utility or enterprise.
- (2) Second, to pay when due the interest on and principal of outstanding bonds issued for capital projects that are or were a part of the utility or enterprise.
- (3) Third, for any other lawful purpose.

Notwithstanding the foregoing provisions, a county which owns or leases hospitals or other health-related facilities and has not issued any general obligation bonds during the period July 1, 1973, to July 1, 1974, for a capital project that is or was a part of such hospitals or other health-related facilities shall have the option of applying the revenues of such hospitals or other health-related facilities in accordance with a bond order adopted under the Local Government Revenue Bond Act.

(b) In the discretion of the governing board of the issuing unit, the bond order may pledge the revenues (or any portion of the revenues) of a utility or public service enterprise to the payment of the interest on and principal of bonds issued under this Article to finance capital projects that are to become a part of the utility or enterprise.

(c) In the discretion of the governing board of the issuing unit, a bond order authorizing the issuance of bonds under this Article to finance capital projects that are to become a part of a utility or public service enterprise owned or leased by the issuing unit may state that the revenues of the utility or enterprise may be pledged to the payment of the interest on and principal of the bonds if

and to the extent that the governing board of the unit shall thereafter determine by resolution (prior to the issuance of the bonds), and that a tax sufficient to pay the principal of and interest on the bonds shall be annually levied and collected by the issuing unit on all taxable property within its taxing jurisdiction, but that in the event that any revenues of the utility or enterprise shall be pledged to the payment of the bonds, the tax may be reduced by the amount of utility or enterprise revenues available for the payment of the principal and interest. A pledge of utility or enterprise revenues pursuant to this subsection shall be made by resolution of the governing board of the issuing unit after the bond order is adopted and before bonds are issued thereunder.

(d) When a pledge of utility or enterprise revenues is made pursuant to this section, the issuing unit shall have, with respect to the utility or enterprise whose revenues are pledged, all of the powers set out in G.S. 159-83 and G.S. 159-89. (1971, c. 780, s. 1; 1973, c. 1326.)

§ 159-48. For what purposes bonds may be issued.

(a) Each unit of local government may borrow money and issue its bonds under this Article in evidence thereof for any one or more of the following purposes:

- (1) To suppress riots, insurrections, or any extraordinary breach of law and order.
- (2) To supply an unforeseen deficiency in the revenue when taxes actually received or collected during the fiscal year fall below collection estimates made in the annual budget ordinance within the limits prescribed in G.S. 159-13.
- (3) To meet emergencies threatening the public health or safety, as conclusively determined in writing by the Governor.
- (4) To refund outstanding revenue bonds or revenue bond anticipation notes.
- (5) To refund outstanding general obligation bonds or general obligation bond anticipation notes.
- (6) To fund judgments for specified sums of money entered against the unit by a court of competent jurisdiction.
- (7) To fund valid, existing obligations of the unit not incurred by the borrowing of money.

(b) Each county and city may borrow money and issue its bonds under this Article in evidence thereof for the purpose of paying any capital costs of any one or more of the following:

- (1) Providing airport facilities, including without limitation related land, landing fields, runways, clear zones, lighting, navigational and signal systems, hangars, terminals, offices, shops, and parking facilities.
- (2) Providing armories for the North Carolina National Guard.
- (3) Providing auditoriums, coliseums, arenas, stadiums, civic centers, convention centers, and facilities for exhibitions, athletic and cultural events, shows, and public gatherings.
- (4) Providing beach improvements, including without limitation jetties, seawalls, groins, moles, sand dunes, vegetation, additional sand, pumps and related equipment, and drainage channels, for the control of beach erosion and the improvement of beaches.
- (5) Providing cemeteries.
- (6) Providing facilities for fire fighting and prevention, including without limitation headquarters buildings, station buildings, training facilities, hydrants, alarm systems, and communications systems.

- (7) Providing hospital facilities, including without limitation general, tuberculosis, mental, chronic disease, and other types of hospitals and related facilities such as laboratories, outpatient departments, nurses' homes and training facilities, and central service facilities operated in connection with hospitals; facilities for the provision of public health services, including related facilities such as laboratories, clinics, and administrative offices; facilities specially designed for the diagnosis, treatment, education, training, or custodial care of individuals with intellectual or other developmental disabilities, including facilities for training specialists and sheltered workshops for individuals with intellectual or other developmental disabilities; nursing homes; and in connection with the foregoing, laundries, nurses', doctors', or interns' residences, administrative buildings, research facilities, maintenance, storage, and utility facilities, auditoriums, dining halls, food service and preparation facilities, fire prevention facilities, mental and physical health care facilities, dental care facilities, nursing schools, mental teaching facilities, offices, parking facilities, and other supporting service structures.
- (8) Providing land for corporate purposes.
- (9) Providing facilities for law enforcement, including without limitation headquarters buildings, station buildings, jails and other confinement facilities, training facilities, alarm systems, and communications systems.
- (10) Providing library facilities, including without limitation fixed and mobile libraries.
- (11) Providing art galleries, museums, and art centers, and providing for historic properties.
- (12) Providing parking facilities, including on- and off-street parking, and in connection therewith any area or place for the parking and storing of automobiles and other vehicles open to public use, with or without charge, including without limitation meters, buildings, garages, driveways, and approaches.
- (13) Providing parks and recreation facilities, including without limitation land, athletic fields, parks, playgrounds, recreation centers, shelters, stadiums, arenas, permanent and temporary stands, golf courses, swimming pools, wading pools, marinas, and lighting.
- (14) Providing public building, including without limitation buildings housing courtrooms, other court facilities, and council rooms, office buildings, public markets, public comfort stations, warehouses, and yards.
- (15) Providing public vehicles, including without limitation those for law enforcement, fire fighting and prevention, sanitation, street paving and maintenance, safety and public health, and other corporate purposes.
- (16) Providing for redevelopment through the acquisition of land and the improvement thereof for assisting local redevelopment commissions.
- (17) Providing sanitary sewer systems, including without limitation community sewerage facilities for the collection, treatment, and disposal of sewage or septic tank systems and other on-site collection and disposal facilities or systems.

- (18) Providing solid waste disposal systems, including without limitation land for sanitary landfills, incinerators, and other structures and buildings.
- (19) Providing storm sewers and flood control facilities, including without limitation levees, dikes, diversionary channels, drains, catch basins, and other facilities for storm water drainage.
- (20) Providing voting machines.
- (21) Providing water systems, including without limitation facilities for the supply, storage, treatment, and distribution of water.
- (22) Providing for any other purpose for which it is authorized, by general laws uniformly applicable throughout the State, to raise or appropriate money, except for current expenses.
- (23) Providing public transportation facilities, including without limitation equipment for public transportation, buses, surface and below-ground railways, ferries, and garage facilities.
- (24) Providing industrial parks, land suitable for industrial or commercial purposes, shell buildings, in order to provide employment opportunities for citizens of the county or city.
- (25) Providing property to preserve a railroad corridor.
- (26) Undertaking public activities in or for the benefit of a development financing district pursuant to a development financing plan.

(c) Each county may borrow money and issue its bonds under this Article in evidence of the debt for the purpose of, in the case of subdivisions (1) through (4b) of this subsection, paying any capital costs of any one or more of the purposes and, in the case of subdivisions (5) and (6) of this subsection, to finance the cost of the purpose:

- (1) Providing community college facilities, including without limitation buildings, plants, and other facilities, physical and vocational educational buildings and facilities, including in connection therewith classrooms, laboratories, libraries, auditoriums, administrative offices, student unions, dormitories, gymnasiums, athletic fields, cafeterias, utility plants, and garages.
- (2) Providing courthouses, including without limitation offices, meeting rooms, court facilities and rooms, and detention facilities.
- (3) Providing county homes for the indigent and infirm.
- (4) Providing school facilities, including without limitation schoolhouses, buildings, plants and other facilities, physical and vocational educational buildings and facilities, including in connection therewith classrooms, laboratories, libraries, auditoriums, administrative offices, gymnasiums, athletic fields, lunchrooms, utility plants, garages, and school buses and other necessary vehicles.
- (4a) Providing improvements to subdivision and residential streets pursuant to G.S. 153A-205.
- (4b) Providing land for present or future county corporate, open space, community college, and public school purposes.
- (5) Providing for the octennial revaluation of real property for taxation.
- (6) Providing housing projects for persons of low or moderate income, including construction or acquisition of projects to be owned by a county, redevelopment commission, or housing authority and the provision of loans, grants, interest

supplements, and other programs of financial assistance to these persons. A housing project may provide housing for persons of other than low or moderate income if at least forty percent (40%) of the units in the project are exclusively reserved for persons of low or moderate income. No rent subsidy shall be paid from bond proceeds.

(d) Each city may borrow money and issue its bonds under this Article in evidence thereof for the purpose of paying any capital costs of any one or more of the following:

- (1) Repealed by Session Laws 1977, c. 402, s. 2.
- (2) Providing cable television systems.
- (3) Providing electric systems, including without limitation facilities for the generation, transmission, and distribution of electric light and power.
- (4) Providing gas systems, including without limitation facilities for the production, storage, transmission, and distribution of gas, where systems also include the purchase or lease of natural gas fields and natural gas reserves and the purchase of natural gas supplies, and where any parts of the systems may be located either inside or outside the State.
- (5) Providing streets and sidewalks, including without limitation bridges, viaducts, causeways, overpasses, underpasses, and alleys; paving, grading, resurfacing, and widening streets; sidewalks, curbs and gutters, culverts, and drains; traffic controls, signals, and markers; lighting; and grade crossings and the elimination thereof and grade separations.
- (6) Improving existing systems or facilities for the transmission or distribution of telephone services.
- (7) Providing housing projects for the benefit of persons of low income, or moderate income, or low and moderate income, including without limitation (i) construction or acquisition of projects to be owned by a city, redevelopment commission or housing authority, and (ii) loans, grants, interest supplements and other programs of financial assistance to persons of low income, or moderate income, or low and moderate income, and developers of housing for persons of low income, or moderate income, or low and moderate income. A housing project may provide housing for persons of other than low or moderate income, as long as at least twenty percent (20%) of the units in the project are set aside for housing for the exclusive use of persons of low income. No rent subsidy shall be paid from bond proceeds.

(e) Each sanitary district, mosquito control district, hospital district, merged school administrative unit described in G.S. 115C-513, metropolitan sewerage district, metropolitan water district, metropolitan water and sewerage district, county water and sewer district, regional public transportation authority, and special airport district may borrow money and issue its bonds under this Article in evidence thereof for the purpose of paying any capital costs of any one or more of the purposes for which it is authorized, by general laws uniformly applicable throughout the State, to raise or appropriate money, except for current expenses.

(f) For any of the purposes authorized by subsections (b), (c), (d), or (e) of this section, a unit may do any of the following that it considers necessary or convenient:

- (1) Acquire, construct, erect, provide, develop, install, furnish, and equip.
- (2) Reconstruct, remodel, alter, renovate, replace, refurnish, and reequip.
- (3) Enlarge, expand, and extend.

(4) Demolish, relocate, improve, grade, drain, landscape, pave, widen, and resurface.

(g) Bonds for two or more unrelated purposes, not of the same general class or character, shall not be authorized by the same bond order. However, bonds for any of the purposes listed in any subdivision of any subsection of this section shall be deemed to be for one purpose and may be authorized by the same bond order. In addition, nothing in this section prohibits the combining of purposes from any subdivision of any subsection of this section and the authorization of bonds therefor by the same bond order to the extent that the purposes are not unrelated.

(h) As used in this section, "capital costs" include, without limitation, all of the following:

(1) The costs of doing any or all of the things mentioned in subsection (f) of this section.

(2) The costs of all property, both real and personal and both improved and unimproved, plants, works, appurtenances, structures, facilities, furnishings, machinery, equipment, vehicles, easements, water rights, franchises, and licenses used or useful in connection with the purpose authorized.

(3) The costs of demolishing or moving structures from land acquired and acquiring any lands to which the structures are to be moved.

(4) Financing charges, including estimated interest during construction and for six months thereafter.

(5) The costs of plans, specifications, studies and reports, surveys, and estimates of costs and revenues.

(6) The costs of bond printing and insurance.

(7) Administrative and legal expenses.

(8) Any other services, costs, and expenses necessary or incidental to the purpose authorized.

(i) This section does not authorize any unit to undertake any program, function, joint undertaking, or service not otherwise authorized by law. It is intended only to authorize the borrowing of money and the issuance of bonds within the limitations set out in this section to finance programs, functions, joint undertakings, or services authorized by other portions of the General Statutes or by city charters. (1917, c. 138, s. 16; 1919, c. 178, s. 3(16); C.S., s. 2937; 1921, c. 8, s. 1; Ex. Sess. 1921, c. 106, s. 1; 1927, c. 81, s. 8; 1929, c. 171, s. 1; 1931, c. 60, ss. 48, 54; 1933, c. 259, ss. 1, 2; 1935, c. 302, ss. 1, 2; 1939, c. 231, ss. 1, 2(c); 1943, c. 13; 1945, c. 403; 1947, cc. 520, 931; 1949, c. 354; c. 766, s. 3; c. 1270; 1953, c. 1065, s. 1; 1957, c. 266, s. 1; c. 856, s. 1; c. 1098, s. 16; 1959, c. 525; c. 1250, s. 2; 1961, c. 293; c. 1001, s. 2; 1965, c. 307, s. 2; 1967, c. 987, s. 2; c. 1001, s. 1; 1971, c. 780, s. 1; 1973, c. 494, s. 4; c. 1037; 1975, c. 549, s. 1; c. 821, s. 1; 1977, c. 402, ss. 1, 2; c. 811; 1979, c. 619, s. 3; c. 624, s. 1; c. 727, s. 3; 1985, c. 639, s. 2; 1987, c. 464, s. 7; c. 564, s. 10; 1989, c. 600, s. 7; c. 740, s. 4; 1991, c. 325, s. 5; 1997-6, s. 19; 1999-366, s. 4; 1999-378, s. 1; 2003-403, s. 3; 2009-281, s. 1; 2013-50, s. 4; 2019-76, s. 32.)

§ 159-49. When a vote of the people is required.

Bonds may be issued under this Article only if approved by a vote of the qualified voters of the issuing unit as provided in this Article, except that voter approval shall not be required for:

(1) Bonds issued for any purpose authorized by G.S. 159-48(a)(1), (2), (3), or (5).

(2) Bonds issued by a county, county water and sewer district created under Article 6 of Chapter 162A of the General Statutes, metropolitan water district created under Article 4 of Chapter 162A of the General Statutes, or city for any purpose

authorized by G.S. 159-48(a)(4), (6), or (7) or G.S. 159-48(b), (c), (d), or (e) (except purposes authorized by G.S. 159-48(b)(3), (11), (16), (22), or (23) or by G.S. 159-48(d)(2)) in an aggregate principal sum not exceeding two thirds of the amount by which the outstanding indebtedness of the issuing county, county water and sewer district, metropolitan water district, or city has been reduced during the next preceding fiscal year.

Pursuant to Article V, Sec. 4(2) of the Constitution, the General Assembly hereby declares that the purposes authorized by G.S. 159-48(a)(4), (6), and (7) and by G.S. 159-48(b), (c), (d), and (e) (except purposes authorized by G.S. 159-48(b)(3), (11), (16), (22), or (23) or by G.S. 159-48(d)(2)) are purposes for which bonds may be issued without a vote of the people, to the extent of two thirds of the amount by which the outstanding indebtedness of the issuing county, county water and sewer district, metropolitan water district, or city was reduced in the last preceding fiscal year. (1971, c. 780, s. 1; 1973, c. 494, s. 5; 1977, c. 402, s. 3; 1989, c. 470.)

Part 2. Procedure for Issuing Bonds.

§ 159-50. Notice of intent to make application for issuance of voted bonds; objection by citizens and taxpayers.

When a unit of local government proposes to issue bonds that must be approved by a vote of the people, it shall first publish a notice of its intent to make application to the Commission for approval of the issue. The notice shall be published once not less than 10 days before the application is filed. The notice shall state (i) that the board intends to file an application with the Commission for approval of a bond issue, (ii) in brief and general terms the purpose of the proposed issue, (iii) the maximum amount of bonds to be issued, and (iv) that any citizen or taxpayer of the issuing unit may, within seven days after the date of the publication, file with the governing board and the Commission a statement of any objections he may have to the issue. The Commission may prescribe the form of the notice.

Any citizen or taxpayer of the issuing unit who objects to the proposed bond issue in whole or in part may, within seven days from the date of publication of the notice, file a written statement of his objections with the board and the Commission. The statement shall set forth each objection to the proposed bond issue and shall contain the name and address of the person filing it. The Commission shall consider the statement of objections along with the application and shall notify the objector and the board of its disposition of each objection.

Failure to comply with this section shall not affect the validity of any bonds otherwise issued in accordance with the law. This section shall not apply to bonds that need not be submitted to a vote of the people. (1953, c. 1121; 1971, c. 780, s. 1.)

§ 159-51. Application to Commission for approval of bond issue; preliminary conference; acceptance of application.

No bonds may be issued under this Article unless the issue is approved by the Local Government Commission. The governing board of the issuing unit shall file an application for Commission approval of the issue with the secretary of the Commission. If the issuing unit is a regional public transportation authority, the application must be accompanied by resolutions of the special tax board of that authority and of each of the boards of county commissioners of the counties organizing the authority approving of the application. The application shall state such facts and have attached to it such documents concerning the proposed bonds and the financial

condition of the issuing unit as the secretary may require. The Commission may prescribe the form of the application.

Before he accepts the application, the secretary may require the governing board or its representatives to attend a preliminary conference to consider the proposed bond issue. If the issuing unit is a merged school administrative unit described in G.S. 115C-513, each county in which the merged unit is located may attend the preliminary conference.

After an application in proper form has been filed, and after a preliminary conference if one is required, the secretary shall notify the unit in writing that the application has been filed and accepted for submission to the Commission. The secretary's statement shall be conclusive evidence that the unit has complied with this section. (1953, c. 1121; 1971, c. 780, s. 2; 1989, c. 740, s. 5; 1991, c. 325, s. 6, c. 666, s. 6.)

§ 159-52. Approval of application by Commission.

(a) In determining whether a proposed bond issue shall be approved, the Commission may consider:

- (1) Whether the project to be financed from the proceeds of the bond issue is necessary or expedient.
- (2) The nature and amount of the outstanding debt of the issuing unit.
- (3) The unit's debt management procedures and policies.
- (4) The unit's tax and special assessments collection record.
- (5) The unit's compliance with the Local Government Budget and Fiscal Control Act.
- (6) Whether the unit is in default in any of its debt service obligations.
- (7) The unit's present tax rates, and the increase in tax rate, if any, necessary to service the proposed debt.
- (8) The unit's appraised and assessed value of property subject to taxation.
- (9) The ability of the unit to sustain the additional taxes necessary to service the debt.
- (10) The ability of the Commission to market the proposed bonds at reasonable interest rates.
- (11) If the proposed issue is for a utility or public service enterprise, the probable net revenues of the project to be financed and the extent to which the revenues of the utility or enterprise, after addition of the revenues of the project to be financed, will be sufficient to service the proposed debt.
- (12) Whether the amount of the proposed debt will be adequate to accomplish the purpose for which it is to be incurred.
- (13) If the proposed bond issue is for a water system as described in G.S. 159-48(b)(21), whether a unit has prepared a local water supply plan in compliance with G.S. 143-355.

The Commission may inquire into and give consideration to any other matters which it may believe to have a bearing on whether the issue should be approved.

(b) The Commission shall approve the application if, upon the information and evidence it receives, it finds and determines:

- (1) That the proposed bond issue is necessary or expedient.
- (2) That the amount proposed is adequate and not excessive for the proposed purpose of the issue.

- (3) That the unit's debt management procedures and policies are good, or that reasonable assurances have been given that its debt will henceforth be managed in strict compliance with law.
- (4) That the increase in taxes, if any, necessary to service the proposed debt will not be excessive.
- (5) That the proposed bonds can be marketed at reasonable rates of interest.
- (6) That the assumptions used by the finance officer of the unit in preparing the statement of estimated interest filed with the clerk pursuant to G.S. 159-55.1(a) are reasonable.

If the Commission tentatively decides to deny the application because it is of the opinion that any one or more of these conclusions cannot be supported from the information presented to it, it shall so notify the unit filing the application. If the unit so requests, the Commission shall hold a public hearing on the application at which time any interested persons shall be heard. The Commission may appoint a hearing officer to conduct the hearing, and to present a summary of the testimony and his recommendations for the Commission's consideration. (1931, c. 60, ss. 12, 13; 1971, c. 780, s. 1; 2011-374, s. 3.3; 2022-53, s. 1.)

§ 159-53. Order approving or disapproving an application.

(a) After considering an application, and conducting a public hearing thereon if one is requested under G.S. 159-52(b), the Commission shall enter its order either approving or denying the application. An order approving an issue shall not be regarded as an approval of the legality of the bonds in any respect.

(b) If the Commission shall enter an order denying an application, the proceedings under this Subchapter shall be at an end. (1931, c. 60, s. 14; 1971, c. 780, s. 1.)

§ 159-54. The bond order.

After or at the same time the application is filed with the Commission, a bond order shall be introduced before the governing board of the issuing unit. The bond order shall state:

- (1) Briefly and generally and without specification of location or material of construction, the purpose for which the bonds are to be issued, but not more than one purpose may be stated. For funding or refunding bonds a brief description of the debt, judgment, or obligation to be funded or refunded shall be sufficient.
- (2) The maximum aggregate principal amount of the bonds.
- (3) That taxes will be levied in an amount sufficient to pay the principal and interest of the bonds.
- (4) The extent, if any, to which utility or enterprise revenues are, or may be, pledged to payment of interest on and principal of the bonds pursuant to G.S. 159-47.
- (5) That a sworn statement of debt has been filed with the clerk and is open to public inspection.
- (6) If the bonds are to be approved by the voters, that the bond order will take effect when approved by the voters.
- (7) If the bonds are issued pursuant to G.S. 159-48(a)(1), (2), (3), or (5), that the bond order will take effect upon its adoption. If the bonds are to be issued pursuant to G.S. 159-48(a)(4), (6), or (7) or G.S. 159-48(b), (c), or (d) and are not to be submitted to the voters, that the bond order will take effect 30 days after its publication following adoption, unless it is petitioned to a vote of the

people as provided in G.S. 159-60, and that in that event the order will take effect when approved by the voters.

When the bond order is introduced, the board shall fix the time and place for a public hearing thereon. (1917, c. 138, s. 17; 1919, c. 178, s. 3(17); c. 285, s. 2; C.S., s. 2938; 1921, c. 8, s. 1; Ex. Sess. 1921, c. 106, s. 1; 1927, c. 81, s. 9; 1931, c. 60, ss. 49, 55; 1933, c. 259, ss. 1, 2; 1935, c. 302, ss. 1, 2; 1949, c. 497, ss. 1, 3; 1957, c. 856, s. 2; 1971, c. 780, s. 1; 1973, c. 494, s. 6; 2012-156, s. 2.)

§ 159-55. Sworn statement of debt; debt limitation.

(a) After the bond order has been introduced and before the public hearing thereon, the finance officer (or some other officer designated by the governing board for this purpose) shall file with the clerk a statement showing the following:

- (1) The gross debt of the unit, excluding therefrom debt incurred or to be incurred in anticipation of the collection of taxes or other revenues or in anticipation of the sale of bonds other than funding and refunding bonds. The gross debt (after exclusions) is the sum of (i) outstanding debt evidenced by bonds, (ii) bonds authorized by orders introduced but not yet adopted, (iii) unissued bonds authorized by adopted orders, and (iv) outstanding debt not evidenced by bonds. However, for purposes of the sworn statement of debt and the debt limitation, revenue bonds and project development financing debt instruments (unless additionally secured by a pledge of the issuing unit's faith and credit) shall not be considered debt and shall not be included in gross debt nor deducted from gross debt.
- (2) The deductions to be made from gross debt in computing net debt. The following deductions are allowed:
 - a. Funding and refunding bonds authorized by orders introduced but not yet adopted.
 - b. Funding and refunding bonds authorized but not yet issued.
 - c. The amount of money held in sinking funds or otherwise for the payment of any part of the principal of gross debt other than debt incurred for water, gas, electric light or power purposes, or sanitary sewer purposes (to the extent that the bonds are deductible under subsection (b) of this section), or two or more of these purposes.
 - d. The amount of bonded debt included in gross debt and incurred, or to be incurred, for water, gas, or electric light or power purposes, or any two or more of these purposes.
 - e. The amount of bonded debt included in the gross debt and incurred, or to be incurred, for sanitary sewer system purposes to the extent that the debt is made deductible by subsection (b) of this section.
 - f. The amount of uncollected special assessments theretofore levied for local improvements for which any part of the gross debt (that is not otherwise deducted) was or is to be incurred, to the extent that the assessments will be applied, when collected, to the payment of any part of the gross debt.
 - g. The amount, as estimated by the governing board of the issuing unit or an officer designated by the board for this purpose, of special assessments to be levied for local improvements for which any part of

the gross debt (that is not otherwise deducted) was or is to be incurred, to the extent that the special assessments, when collected, will be applied to the payment of any part of the gross debt.

- (3) The net debt of the issuing unit, being the difference between the gross debt and deductions.
- (4) The assessed value of property subject to taxation by the issuing unit, as revealed by the tax records and certified to the issuing unit by the assessor. In calculating the assessed value, the incremental valuation of any development financing district located in the unit, as determined pursuant to G.S. 159-107, shall not be included.
- (5) The percentage that the net debt bears to the assessed value of property subject to taxation by the issuing unit.

(b) Debt incurred or to be incurred for sanitary sewer system purposes is deductible from gross debt when the combined revenues of the water system and the sanitary sewer system (whether or not the water and sewer system are operated separately or as a consolidated system) were sufficient to pay all operating, capital outlay, and debt service expenditures attributable to both systems in each of the three complete fiscal years immediately preceding the date on which the sworn statement of debt is filed. For the purposes of this subsection, the "revenues" of a water system and a sanitary sewer system include:

- (1) Rates, fees, rentals, charges, and other receipts and income derived from or in connection with the system.
- (2) Fees, rents, or other charges collected from other offices, agencies, institutions, and departments of the issuing unit at rates not in excess of those charged to other consumers, customers, or users.
- (3) Appropriations from the fund balance of the prior fiscal year from the fund or funds established to account for the revenues and expenditures of the water system or sewer system pursuant to G.S. 159-13(a) of the Local Government Budget and Fiscal Control Act.

Before the sworn statement of debt is filed, the secretary shall determine to what extent debt incurred or to be incurred for sanitary sewer system purposes qualifies for deduction from gross debt pursuant to this subsection, and shall give his certificate to that effect. The secretary's certificate shall be filed with and deemed a part of the sworn statement of debt. The secretary's certificate shall be conclusive in the absence of fraud.

(c) No bond order shall be adopted unless it appears from the sworn statement of debt filed in connection therewith that the net debt of the unit does not exceed eight percent (8%) of the assessed value of property subject to taxation by the issuing unit. This limitation shall not apply to:

- (1) Funding and refunding bonds.
- (2) Bonds issued for water, gas, or electric power purposes, or two or more of these purposes.
- (3) Bonds issued for sanitary sewer system purposes when the bonds are deductible pursuant to subsection (b) of this section.
- (4) Bonds issued for sanitary sewers, sewage disposal, or sewage purification plants when the construction of these facilities has been ordered by the Environmental Management Commission, which Commission is hereby authorized to make such an order, or by a court of competent jurisdiction.
- (5) Bonds or notes issued for erosion control purposes.

(6) Bonds or notes issued for the purpose of erecting jetties or other protective works to prevent encroachment by the ocean, sounds, or other bodies of water.

(d) Repealed by Session Laws 2022-53, s. 2(a), effective July 7, 2022, and applicable to bonds issued under bond orders introduced on or after October 1, 2022, and to contracts entered into on or after October 1, 2022. (1917, c. 138, s. 19; 1919, c. 178, s. 3(19); c. 285, s. 4; C.S., s. 2943; 1921, c. 8, s. 1; Ex. Sess. 1921, c. 106, s. 1; 1927, c. 81, ss. 13, 14; c. 102, s. 1; 1931, c. 60, s. 51; 1933, c. 259, s. 1; c. 321; Ex. Sess. 1938, c. 3; 1955, c. 1045; 1959, c. 779, s. 10; 1967, c. 892, s. 4; 1969, c. 1092; 1971, c. 780, s. 1; 1973, c. 494, s. 7; c. 1262, s. 231; 1991, c. 11, ss. 2, 3; 1991 (Reg. Sess., 1992), c. 1007, s. 41; 2003-403, s. 4; 2013-200, s. 1; 2022-53, s. 2(a), (b).)

§ 159-55.1. Statement of disclosures necessary for bond authorization.

(a) After the bond order has been introduced and before the public hearing on it, the finance officer shall file with the clerk of the board a statement of disclosure stating the following:

- (1) Interest. – An estimate of the total amount of interest that will be paid on the bonds over the expected term of the bonds, if issued, and a summary of the assumptions upon which the estimate is based. The Commission must approve the assumptions upon which the estimate is based as provided in G.S. 159-52(b).
- (2) Property taxes. – An estimate of the increase in property tax rate, if any, necessary to service the proposed debt. If no increase in property tax rate is estimated to be needed, a brief statement to the effect that the existing projected revenues are expected to be sufficient to pay the principal and interest of the bonds. The estimated increase in property tax rate shall be stated as the rate of increase per one hundred dollars (\$100.00) of assessed valuation.
- (3) Two-thirds bonds. – The amount of two-thirds bonds capacity the unit has available for the current fiscal year, if any.

(b) The statement of disclosure shall include a statement to the effect that the information contained in it is preliminary and is for general informational purposes only, that there is no assurance that the assumptions upon which the disclosures are based will occur, that the occurrence of certain of the assumptions is beyond the control of the unit, and that differences between the actual circumstances at the time the bonds are issued from the assumptions included in the disclosure could result in significant differences between the disclosures made and the actual occurrences. The statement may include other qualifications as the finance officer deems appropriate. The validity of the bonds authorized by the order is not subject to challenge on the grounds that the actual occurrences when issued are different than the disclosures set forth in the statement.

(c) The statement of disclosure shall be filed with the Commission, posted online, and maintained by the clerk of the board. (2022-53, s. 2(c).)

§ 159-56. Publication of bond order as introduced.

After the introduction of the bond order, the clerk shall publish it once with the following statement appended:

"The foregoing order has been introduced and a sworn statement of debt has been filed under the Local Government Bond Act showing the appraised value of the [issuing unit] to be \$ _____ and the net debt thereof, including the proposed bonds, to be \$ _____. The finance officer of the [issuing unit] has filed a statement estimating that the total amount of interest that will be paid on

the bonds over the expected term of the bonds, if issued, is \$ _____. A tax is authorized to be levied to pay the principal of and interest on the bonds if they are issued. The finance officer has filed a statement estimating that [a property tax increase of \$_____ per \$100.00 of assessed valuation] [no property tax increase] will be required to provide sufficient funds to pay the principal and interest on the proposed bonds. These estimates are preliminary, are for general informational purposes only, and may differ from the actual interest paid on the bonds or the actual property tax increases required to provide sufficient funds to pay the principal and interest on the bonds. Anyone who wishes to be heard on the questions of the validity of the bond order and the advisability of issuing the bonds may appear at a public hearing or an adjournment thereof to be held at _____.

Clerk"

The publication may include a summary of the assumptions upon which the estimates of the total amount of interest that will be paid on the bonds over the expected term of the bonds if issued, or the amount of any property tax increase required to provide funds to pay principal and interest on the bonds if issued, are based, and may further state that there is no assurance that the circumstances included in the assumptions will occur, that the occurrence of certain of the assumptions is beyond the control of the issuing unit, and that differences between the actual circumstances at the time the bonds are issued from the assumptions included in the estimates could result in significant differences between the estimated interest and the actual interest on the bonds or the actual property tax increases required to provide sufficient funds to pay the principal and interest on the bonds. The statement may include additional qualifications as the unit deems appropriate. The validity of bonds authorized to be issued pursuant to this act is not subject to challenge on the grounds that the actual interest cost of the bonds when issued, or the actual property tax increases required to provide sufficient funds to pay the principal and interest on the bonds when issued, is different than the amount set forth in the estimates referenced in the publication of the bond order as introduced. (1927, c. 81, s. 16; 1971, c. 780, s. 1; 2013-200, s. 2; 2022-53, s. 3.)

§ 159-56.1. Certain proceedings ratified notwithstanding provisions of § 159-56.

All proceedings heretofore taken by the governing boards of units of local government in connection with the authorization of bonds are hereby ratified, approved, confirmed and in all respects validated, notwithstanding the provisions of G.S. 159-56; provided that the issuance of said bonds, the indebtedness to be incurred by the issuance thereof and the levy of a tax for the payment thereof shall have been approved at an election by a majority of the qualified voters of the unit voting thereon. (1973, c. 1172.)

§ 159-57. Hearing; passage of bond order.

On the date fixed for the public hearing, which shall be not earlier than six days after the date of publication of the bond order as introduced, the board shall hear anyone who may wish to be heard on the question of the validity of the order or the advisability of issuing the bonds. The hearing may be adjourned from time to time.

After the hearing, (and on the same day as the hearing, if the board so desires) the board may pass the order as introduced, or as amended. No amendment may increase the amount of bonds to be issued, nor substantially change the purpose of the issue. If the board wishes to increase the

amount of bonds to be issued, or to substantially change the purpose of the issue, a new proceeding under this Article is required.

The provisions of any city charter, general law, or local act to the contrary notwithstanding, a bond order may be introduced at any regular or special meeting of the governing board and adopted at any such meeting by a simple majority of those present and voting, a quorum being present, and need not be published or subjected to any procedural requirements governing the adoption of ordinances or resolutions by the governing board other than the procedures set out in this Subchapter. Bond orders shall not be subject to the provisions of any city charter or local act concerning initiative and referendum. (1927, c. 81, s. 17; 1953, c. 1065, s. 1; 1971, c. 780, s. 1.)

§ 159-58. Publication of bond order as adopted.

After adoption, the clerk shall publish the bond order once, with the following statement appended:

"The foregoing order was adopted on the _____ day of _____, _____, and is hereby published this _____ day of _____, _____. Any action or proceeding questioning the validity of the order must be begun within 30 days after the date of publication of this notice. The finance officer of the [issuing unit] has filed a statement estimating that the total amount of interest that will be paid on the bonds over the expected term of the bonds, if issued, is \$_____. A tax is authorized to be levied to pay the principal and interest on the bonds if they are issued. The finance officer has filed a statement estimating that [a property tax increase of \$_____ per \$100.00 of assessed valuation] [no property tax increase] will be required to provide sufficient funds to pay the principal and interest on the proposed bonds. These estimates are preliminary, are for general informational purposes only, and may differ from the actual interest paid on the bonds or the actual property tax increases required to provide sufficient funds to pay the principal and interest on the bonds.

Clerk"

The publication may include a summary of the assumptions upon which the estimates of the total amount of interest that will be paid on the bonds over the expected term of the bonds if issued, or the amount of any property tax increase required to provide sufficient funds to pay the principal and interest on the bonds if issued, are based, and may further state that there is no assurance that the circumstances included in the assumptions will occur, that the occurrence of certain of the assumptions is beyond the control of the issuing unit, and that differences between the actual circumstances at the time the bonds are issued from the assumptions included in the estimates could result in significant differences between the estimated interest and the actual interest on the bonds or the actual property tax increases required to provide sufficient funds to pay the principal and interest on the bonds. The statement may include such additional qualifications as the unit deems appropriate. The validity of bonds authorized to be issued pursuant to this act is not subject to challenge on the grounds that the actual interest cost of the bonds when issued, or the actual property tax increases required to provide sufficient funds to pay the principal and interest on the bonds when issued, is different than the amount set forth in the estimates referenced in the publication of the bond order as adopted. (1917, c. 138, s. 20; 1919, c. 49, s. 1; c. 178, s. 3(20); C.S., s. 2944; 1921, c. 8, s. 1; Ex. Sess. 1921, c. 106, s. 1; 1927, c. 81, s. 19; 1971, c. 780, s. 1; 1999-456, s. 59; 2013-200, s. 3; 2022-53, s. 4.)

§ 159-59. Limitation of action to set aside order.

Any action or proceeding in any court to set aside a bond order, or to obtain any other relief, upon the ground that the order is invalid, must be begun within 30 days after the date of publication of the bond order as adopted. After the expiration of this period of limitation, no right of action or defense based upon the invalidity of the order shall be asserted, nor shall the validity of the order be open to question in any court upon any ground whatever, except in an action or proceeding begun within the period of limitation prescribed in this section. (1917, c. 138, s. 20; 1919, c. 49, s. 1; c. 178, s. 3(20); C.S., s. 2945; 1921, c. 8, s. 1; Ex. Sess. 1921, c. 106, s. 1; 1927, c. 81, s. 20; 1971, c. 780, s. 1.)

§ 159-60. Petition for referendum on bond issue.

A petition demanding that a bond order be submitted to the voters may be filed with the clerk within 30 days after the date of publication of the bond order as introduced. The petition shall be in writing, and shall be signed by a number of voters of the issuing unit equal to not less than ten percent (10%) of the total number of voters registered to vote in elections of the issuing unit according to the most recent figures certified by the Board of Elections. The residence address of each signer shall be written after his signature. The petition need not contain the text of the order to which it refers, and need not be all on one sheet.

The clerk shall investigate the sufficiency of the petition and present it to the governing board, with a certificate stating the results of his investigation. The governing board, after hearing any taxpayer who may request to be heard, shall thereupon determine the sufficiency of the petition, and its determination shall be conclusive.

This section does not apply to bonds issued pursuant to G.S. 159-48(a)(1), (2), (3), or (5). (1917, c. 138, s. 21; 1919, c. 49, ss. 1, 2; c. 178, s. 3(21); C.S., s. 2947; 1921, c. 8, s. 1; Ex. Sess. 1921, c. 106, s. 1; 1927, c. 81, s. 20; c. 102, s. 2; 1971, c. 780, s. 1; 1973, c. 494, s. 8; 2017-6, s. 3; 2018-146, ss. 3.1(a), (b), 6.1.)

§ 159-61. Bond referenda; majority required; notice of referendum; form of ballot; canvass.

(a) If a bond order is to take effect upon approval of the voters, the affirmative vote or a majority of those who vote thereon shall be required.

(b) The date of a bond referendum shall be fixed by the governing board, but shall not be more than one year after adoption of the bond order, only on a date permitted by G.S. 163-287. The clerk shall mail or deliver a certified copy of the resolution calling a special bond referendum to the board of elections that is to conduct it within three days after the resolution is adopted, but failure to observe this requirement shall not in any manner affect the validity of the referendum or bonds issued pursuant thereto. Bond referenda shall be conducted by the board of elections conducting regular elections of the county, city, or special district. Several bond orders or other matters may be voted upon at the same referendum.

(c) The clerk shall publish a notice of the referendum at least twice. The first publication shall be not less than 14 days and the second publication not less than seven days before the last day on which voters may register for the referendum. The notice shall state the date of the referendum, the maximum amount of the proposed bonds, the purpose of the bonds, a statement that taxes will or may be levied for the payment thereof, and a statement as to the last day for registration for the referendum under the election laws then in effect.

(d) The form of the question as stated on the ballot shall be in substantially the following words:

"Shall the order authorizing \$ _____ bonds plus interest for (briefly stating the purpose) and providing that additional taxes may be levied in an amount sufficient to pay the principal of and interest on the bonds be approved?

YES

NO"

(e) The board of elections shall canvass the referendum and certify the results to the governing board. The governing board shall then certify and declare the result of the referendum and shall publish a statement of the result once, with the following statement appended:

"Any action or proceeding challenging the regularity or validity of this bond referendum must be begun within 30 days after

(date of publication)

(title of governing board)"

The statement of results shall be filed in the clerk's office and inserted in the minutes of the board. (1917, c. 138, s. 22; 1919, c. 178, s. 3(22); c. 291; C.S., s. 2948; 1921, c. 8, s. 1; Ex. Sess. 1921, c. 106, s. 1; 1927, c. 81, ss. 22, 23, 25-27, 29; 1949, c. 497, ss. 2, 4; 1953, c. 1065, ss. 1, 2; 1971, c. 780, s. 1; 1973, c. 494, s. 9; 2013-200, s. 4; 2013-381, s. 10.26; 2017-6, s. 3; 2018-146, ss. 3.1(a), (b), 6.1.)

§ 159-62. Limitation on actions contesting validity of bond referenda.

Any action or proceeding in any court to set aside a bond referendum, or to obtain any other relief, upon the ground that the referendum is invalid or was irregularly conducted, must be begun within 30 days after the publication of the statement of the results of the referendum. After the expiration of this period of limitation, no right of action or defense based upon the invalidity of or any irregularity in the referendum shall be asserted, nor shall the validity of the referendum be open to question in any court upon any ground whatever, except in an action or proceeding begun within the period of limitation prescribed in this section. (1917, c. 138, s. 22; 1919, c. 178, s. 3(22); c. 291; C.S., s. 2948; 1921, c. 8, s. 1; Ex. Sess. 1921, c. 106, s. 1; 1927, c. 81, s. 30; 1949, c. 497, s. 4; 1953, c. 1065, s. 2; 1971, c. 780, s. 1.)

§ 159-63. Repeal of bond orders.

A bond order may be repealed at any time before bonds or bond anticipation notes are issued thereunder. No referendum is required on the repeal of any bond order, nor is a petition for any such referendum permitted. (1971, c. 780, s. 1.)

§ 159-64. Within what time bonds may be issued.

Bonds may be issued under a bond order at any time within seven years after the bond order takes effect. Such period may be extended prior to the expiration of such period from seven years to 10 years as hereinafter provided. The board of the issuing unit shall file an application for Commission approval of such extension with the secretary of the Commission. The application shall state such facts and have attached to it such documents concerning such extension as the secretary may require. The Commission may prescribe the form of such application. In determining whether to approve such extension, the Commission may inquire into and give consideration to any matters which it believes may relate to such extension.

The Commission may enter an order approving a proposed extension of the maximum time period for issuing bonds under a bond order from seven to 10 years if, upon the basis of the

information and evidence it receives, it finds and determines that governmental approvals relative to the purpose to be financed in whole or in part with the proceeds of the bonds cannot be obtained within seven years after the bond order has taken effect, that funds to be applied together with the proceeds of the bonds to finance the purpose for which the bonds are to be issued will not be available within seven years after the bond order has taken effect or that the proposed extension is necessary for other reasons that are not within the direct control of the issuing unit other than any order of any court. If the Commission enters an order denying such extension, then the proceedings under this section shall be at an end.

If the Commission enters an order approving a proposed extension of the maximum time period for issuing bonds under a bond order as provided in this section, then the board shall fix the time and place for a public hearing on such extension and the clerk shall publish such bond order once with the following statement appended:

"The foregoing order took effect on _____, _____. Anyone who wishes to be heard on the question of whether the maximum time period for issuing bonds under such order should be extended from seven years to 10 years after such date may appear at a public hearing or an adjournment thereof to be held at _____ on _____ at _____ (time) (date) (place)

Clerk"

On the date fixed for such hearing, which shall be not earlier than six days after the date of publication of the bond order with appended statement as provided in this section, the board shall hear anyone who might wish to be heard on the question of whether the maximum time period for issuing bonds under the bond order should be extended from seven years to 10 years. The hearing may be adjourned from time to time.

After such hearing, the board may adopt an order providing that the maximum time period for issuing bonds under the bond order has been extended from seven to 10 years after the bond order has taken effect. Such order shall provide that it will take effect 30 days after its publication following adoption.

After adoption, the clerk shall publish once an order extending the maximum time period for issuing bonds under a bond order with the following statement appended:

"The foregoing order was adopted on the ____ day of _____, _____, and is hereby published this ____ day of _____, _____. Any action or proceeding questioning the validity of such order must be begun within 30 days after the date of publication of this notice.

Clerk"

Any action or proceeding in any court to set aside an order extending the maximum time period for issuing bonds under a bond order, or to obtain any other relief, upon the ground that such order is invalid, must be begun within 30 days after the date of publication of such order as adopted. After the expiration of this period of limitation, no right of action or defense based upon the invalidity of such order shall be asserted nor shall the validity of such order be open to question in any court upon any ground whatever, except in an action or proceeding begun within the period of limitation prescribed in this section.

When the issuance of bonds under any bond order is prevented or prohibited by any order of any court, the period of time within which bonds may be issued under the bond order in litigation shall be extended by the length of time elapsing between the date of institution of the action or proceeding and the date of its final disposition.

When the issuance of bonds under any bond order, to finance public improvements in an area to be annexed, is prevented or prohibited by reason of litigation respecting the annexation and the Local Government Commission shall certify to such effect, the period of time within which bonds may be issued under the bond order shall be extended by the length of time elapsing between the date of institution of the litigation and the date of its final disposition.

The General Assembly may at any time prior to the expiration of the maximum time period herein provided extend the time for issuing bonds under bond orders.

When any such extension is effected or granted pursuant to this section, no further approval of the voters shall be required. (1917, c. 138, s. 24; 1919, c. 178, s. 3(24); C.S., s. 2950; 1921, c. 8, s. 1; Ex. Sess. 1921, c. 106, s. 1; 1927, c. 81; s. 32; 1939, c. 231, ss. 1, 2(d); 1947, c. 510, ss. 1, 2; 1949, c. 190, ss. 1, 2; 1951, c. 439, ss. 1, 2; 1953, c. 693, ss. 1, 3; 1955, c. 704, ss. 1, 2; 1969, c. 99; 1971, c. 780, s. 1; 1975, c. 545, s. 1; 1977, 2nd Sess., c. 1219, s. 36; 1979, c. 444, s. 1.)

§ 159-65. Resolution fixing the details of the bonds.

(a) After the bond order has been adopted, the board shall adopt a resolution fixing the details of the bonds. In fixing details of the bonds, the board is subject to these restrictions and directions:

- (1) The dates for payment of installments of principal shall not exceed the maximum periods of usefulness prescribed by the Commission pursuant to G.S. 159-122.
- (2) Bonds authorized by two or more bond orders may be consolidated into a single issue.
- (3) Bonds of each issue shall have principal paid in annual installments, the first of which shall be payable not more than three years after the date of the bonds, and the last within the maximum maturity period prescribed by regulation of the Commission under G.S. 159-122.
- (4) No installment of principal for any issue may be more than four times as great in amount as the smallest prior installment of principal for the same issue.
- (5) Bonds of each issue may be issued from time to time in series with different provisions for each series. Each series shall be deemed a separate issue for the purposes of this section, except that two or more series may be considered to be a single issue under subdivisions (3) and (4) of this subsection if issued on the same day or two consecutive days.
- (6) Any bond may be made payable on demand or tender for purchase as provided in G.S. 159-79, and any bond may be made subject to redemption prior to maturity, with or without premium, on such notice and at such time or times and with such redemption provisions as may be stated therein. When any such bond has been validly called for redemption and provision has been made for the payment of the principal thereof, any redemption premium, and the interest thereon accrued to the date of redemption, interest thereon shall cease.
- (7) The bonds may bear interest at such rate or rates, payable semiannually or otherwise, may be in such denominations, and may be made payable in such

kind of money and in such place or places within or without the State of North Carolina, as the board may determine.

(b) Subdivisions (a)(3) and (4) of this section do not apply to refunding bonds or to bonds purchased by a State or federal agency. Subdivisions (a)(3) and (4) also do not apply to bonds the interest on which is or may be includable in gross income for purposes of federal income tax, as long as the dates for payment of principal on these bonds have been approved by the Commission. For the purposes of subdivisions (a)(3) and (4) of this section and for bonds the interest on which is or may be includable in gross income for purposes of federal income tax, payment of an installment of principal may be provided for by the maturity of a bond, mandatory redemption of principal prior to maturity, a sinking fund, a credit facility as defined in G.S. 159-79, or any other means satisfactory to the Commission. (1917, c. 138, s. 25; 1919, c. 178, s. 3(25); C.S., s. 2951; 1921, c. 8, s. 1; Ex. Sess. 1921, c. 106, s. 1; 1933, c. 259, s. 1; 1951, c. 440, s. 1; 1953, c. 1206, s. 3; 1969, c. 686; 1971, c. 780, s. 1; 1973, c. 494, s. 10; cc. 883, 995; 1987, c. 585, s. 2; c. 586; 2003-388, s. 2.)

§ 159-66. Validation of former proceedings and actions.

(a) All proceedings and actions heretofore taken by the governing boards of units of local government and by the Local Government Commission to fix the details of bonds and to provide for the advertisement and sale thereof are hereby ratified, approved, confirmed and in all respects validated, notwithstanding the provisions of G.S. 159-65(4).

(b) This section shall apply to all bonds sold by the Local Government Commission between July 1, 1973, and February 18, 1974. (1973, c. 872, ss. 1, 2.)

§ 159-67. Procedures if a county votes to relocate the county seat.

Whenever the citizens of a county, by referendum, decide that the county's county seat, along with the courthouse and other county buildings and agencies, should be relocated, the board of county commissioners of that county shall forthwith begin discussions with the Local Government Commission concerning financing of the relocation. If bonds are to be issued for the relocation, or a financing agreement entered into, the board of commissioners shall apply to the Local Government Commission no later than 10 months after the day of the referendum. If a bond election is necessary, it shall be held no later than 22 months after the day of the referendum. (1975, c. 324, s. 5.)

§ 159-68. Certain provisions not applicable to refunding bonds.

The provisions of G.S. 159-56 and the provisions of this Article related to the holding of a public hearing prior to the adoption of the bond order do not apply to refunding bonds issued by a unit of local government so long as the refunding bonds do not extend the final maturity of the debt or obligation to be refunded and so long as the aggregate debt service over the life of the refunding bonds is less than the aggregate debt service on the debt or obligation to be refunded. When the conditions of this section are satisfied, a unit of local government may introduce a bond order, adopt a bond order, and adopt a sale resolution with respect to refunding bonds in one or more meetings of the unit's governing body. (2005-238, s. 3.)

§ 159-69. Reserved for future codification purposes.

§ 159-70. Reserved for future codification purposes.

§ 159-71. Reserved for future codification purposes.

Part 3. Funding and Refunding Bonds.

§ 159-72. Purposes for which funding and refunding bonds may be issued; when such bonds may be issued.

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 G.S. 159-78. Money in any such trust fund may be invested in (i) direct obligations of the United States government, or (ii) obligations the principal of and interest on which are guaranteed by the United States government, or (iii) to the extent then permitted by law in obligations of any agency or instrumentality of the United States government, or (iv) 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 (i), (ii), or (iii) 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. (1917, c. 138, s. 16; 1919, c. 178, s. 3(16); C.S., s. 2937; 1921, c. 8, s. 1; Ex. Sess. 1921, c. 106, s. 1; 1927, c. 81, s. 8; 1929, c. 171, s. 1; 1931, c. 60, ss. 48, 54; 1933, c. 257, ss. 2-4; c. 259, ss. 1, 2; 1935, c. 302, ss. 1, 2; c. 484; 1939, c. 231, ss. 1, 2(c), 4(b); 1941, c. 147; 1943, c. 13; 1945, c. 403; 1947, cc. 520, 931; 1949, c. 354; c. 766, s. 3; c. 1270; 1953, c. 1065, s. 1; 1957, c. 266, s. 1; c. 856, s. 1; c. 1098, s. 16; 1959, c. 525; c. 1250, s. 2; 1961, c. 293; c. 1001, s. 2; 1965, c. 307, s. 2; 1967, c. 987, s. 2; c. 1001, s. 1; 1971, c. 780, s. 1; 1973, c. 494, s. 11; 1977, c. 201, s. 1.)

§ 159-73. Financing or refinancing agreements.

Each unit of local government is authorized to enter into agreements with the holders of its outstanding debts for the settlement, adjustment, funding, refunding, financing, or refinancing of the debt. Such an agreement may contain any provisions not inconsistent with law and before the unit may enter into it, it must be approved by the Commission. (1971, c. 780, s. 1.)

§ 159-74. Test cases testing validity of funding or refunding bonds.

At any time after the procedure for authorizing the issuance of funding or refunding bonds has been completed, but before the issuance of the bonds, the issuing unit may institute an action in the Superior Court Division of the General Court of Justice in the county in which all or any part of the unit lies, to determine the validity of the bonds and the validity of the means of payment provided therefor. The action shall be in rem, and shall be against all of the owners of taxable property within the unit and all citizens residing in the unit, but it shall not be necessary to name each such owner or citizen in the summons or complaint. Jurisdiction of all parties defendant shall be acquired by publication of a summons once a week for three successive weeks, and jurisdiction shall be complete within 20 days after the date of the last publication. Any interested party may intervene in the action. Except as otherwise provided by this section, the action shall be governed by the Rules of Civil Procedure. (1931, c. 186, ss. 4, 5; 1935, c. 290, ss. 1, 2; 1937, c. 80; 1971, c. 780, s. 1.)

§ 159-75. Judgment validating issue; costs of the action.

A final decree of the General Court of Justice validating funding or refunding bonds or the financing or refinancing agreement shall be conclusive as to the validity of the bonds or the agreement.

The costs of any action brought under G.S. 159-74 shall be borne by the issuing unit, including a reasonable attorney's fee for the attorney assigned by the court to defend the interests of the citizens and taxpayers in general. (1931, c. 186, ss. 6, 7; 1935, c. 290, s. 3; 1971, c. 780, s. 1; 1973, c. 494, s. 12.)

§ 159-76. Validation of bonds and notes issued before March 26, 1931.

All bonds and notes issued before March 26, 1931, for which the issuing unit received an amount of money not less than the face amount of the bonds or notes and the proceeds of which have been spent for public purposes, and all bonds and notes subsequently issued to refund all or any portion of those bonds or notes, are hereby validated notwithstanding any lack of statutory authority or failure to observe any statutory provisions concerning the issuance of the bonds or notes. This section shall not validate any bonds or notes, the proceeds of which have been lost because of the failure of a bank. (1931, c. 186, s. 2; 1971, c. 780, s. 1; 1973, c. 494, s. 13.)

§ 159-77. Validation of all proceedings in connection with the authorization of bonds taken before April 28, 1975.

All proceedings heretofore taken by the governing boards of units of local government in connection with the authorization of bonds are hereby ratified, approved, confirmed and in all respects validated, notwithstanding the provisions of G.S. 159-61(c); provided that the issuance of said bonds shall have been approved at an election by a majority of the qualified voters of the unit voting thereon and that notice of said referendum shall have been published. (1975, c. 178.)

§ 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 5 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: (i) the principal amount of the obligations being refinanced, (ii) applicable redemption premiums thereon, (iii) unpaid interest on such obligations to the date of delivery or exchange of the refunding bonds, (iv) 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 (v) expenses, including bond discount, deemed by the governing body to be necessary for the issuance of the refunding bonds. (1977, c. 201, s. 2.)

§ 159-79. Variable rate demand bonds and notes.

(a) **(See note)** Notwithstanding any provisions of this Chapter to the contrary, including particularly, but without limitation, the provisions of G.S. 159-65, G.S. 159-123 to G.S. 159-127, inclusive, G.S. 159-130, G.S. 159-138, G.S. 159-162, G.S. 159-164 and G.S. 159-172, a unit of local government, in fixing the details of general obligation bonds to be issued pursuant to this Article or general obligation notes to be issued pursuant to Article 9 of this Chapter, may provide that such bonds or notes

- (1) May be made payable from time to time on demand or tender for purchase by the owner provided a Credit Facility supports such bonds or notes, unless the Commission specifically determines that a Credit Facility is not required upon a finding and determination by the Commission that the proposed bonds or notes will satisfy the conditions set forth in G.S. 159-52;
- (2) May be additionally supported by a Credit Facility;
- (3) May be made subject to redemption prior to maturity, with or without premium, on such notice, at such time or times, at such price or prices and with such other redemption provisions as may be stated in the resolution fixing the details of

such bonds or notes or with such variations as may be permitted in connection with a Par Formula provided in such resolution;

- (4) May bear interest at a rate or rates that may vary as permitted pursuant to a Par Formula and for such period or periods of time, all as may be provided in such resolution; and
- (5) May be made the subject of a remarketing agreement whereby an attempt is made to remarket the bonds to new purchases prior to their presentment for payment to the provider of the Credit Facility or to the issuing unit.

(a) **(For effective date, see note)** Notwithstanding any provisions of this Chapter to the contrary, including particularly, but without limitation, the provisions of G.S. 159-65, G.S. 159-112, G.S. 159-123 to G.S. 159-127, inclusive, G.S. 159-130, G.S. 159-138, G.S. 159-162, G.S. 159-164 and G.S. 159-172, a unit of local government, in fixing the details of general obligation bonds to be issued pursuant to this Article, general obligation notes to be issued pursuant to Article 9 of this Chapter, or project development financing debt instruments or notes to be issued pursuant to Article 6 of this Chapter, may provide that the instruments or notes:

- (1) May be made payable from time to time on demand or tender for purchase by the owner provided a Credit Facility supports such bonds or notes, unless the Commission specifically determines that a Credit Facility is not required upon a finding and determination by the Commission that the proposed bonds or notes will satisfy the conditions set forth in G.S. 159-52;
- (2) May be additionally supported by a Credit Facility;
- (3) May be made subject to redemption prior to maturity, with or without premium, on such notice, at such time or times, at such price or prices and with such other redemption provisions as may be stated in the resolution fixing the details of such bonds or notes or with such variations as may be permitted in connection with a Par Formula provided in such resolution;
- (4) May bear interest at a rate or rates that may vary as permitted pursuant to a Par Formula and for such period or periods of time, all as may be provided in such resolution; and
- (5) May be made the subject of a remarketing agreement whereby an attempt is made to remarket the bonds to new purchases prior to their presentment for payment to the provider of the Credit Facility or to the issuing unit.

(b) No Credit Facility, repayment agreement, Par Formula or remarketing agreement shall become effective without the approval of the Commission.

(c) As used in this section, the following terms shall have the following meanings:

- (1) "Credit Facility" means an agreement entered into by an issuing unit with a bank, savings and loan association or other banking institution, an insurance company, reinsurance company, surety company or other insurance institution, a corporation, investment banking firm or other investment institution, or any financial institution providing for prompt payment of all or any part of the principal (whether at maturity, presentment or tender for purchase, redemption or acceleration), redemption premium, if any, and interest on any bonds or notes payable on demand or tender by the owner issued in accordance with this section, in consideration of the issuing unit agreeing to repay the provider of such Credit Facility in accordance with the terms and provisions of a repayment agreement. A bank may include a foreign bank or branch or agency thereof of the

obligations of which bear the highest rating of at least one nationally-recognized rating service and do not bear a rating below the highest rating of any nationally-recognized rating service which rates such particular obligations.

- (2) "Par Formula" shall mean any provision or formula adopted by the issuing unit to provide for the adjustment, from time to time, of the interest rate or rates borne by any such bonds or notes so that the purchase price of such bonds or notes in the open market would be as close to par as possible.

(d) If the aggregate principal amount repayable by the issuing unit under a repayment agreement is in excess of the aggregate principal amount of bonds or notes secured by the related Credit Facility, whether as a result of the inclusion in the Credit Facility of a provision for the payment of interest for a limited period of time or the payment of a redemption premium or for any other reason, then the amount of unissued bonds or notes during the term of such repayment agreement shall not be less than the amount of such excess, unless the payment of such excess is otherwise provided for by agreement of the issuing unit subject to the approval of the Commission. In determining whether or not to grant such approval, the Commission shall consider, in addition to such other factors it may deem relevant, the ability of the issuing unit to pay such excess from other sources without incurring additional indebtedness secured by a pledge of the faith and credit of the issuing unit or levying additional taxes and the adequacy of such other sources to accomplish such purpose.

(e) Any bonds or notes issued pursuant to this section may be sold by the Commission at public or private sale according to such procedures as the Commission may prescribe and at such prices as the Commission determines to be in the best interest of the issuing unit, subject to the approval of the governing board of the issuing unit or one or more persons designated by resolution of the governing board of the issuing unit to approve such prices. (1987, c. 585, s. 1; 2003-403, s. 5.)