

Article 19.

Revenue Bonds for Student Housing.

**§ 116-175. Definitions.**

As used in this Article, the following words and terms shall have the following meanings, unless the context shall indicate another or different meaning or intent.

- (1) The word "Board" shall mean the Board of Governors of the University of North Carolina.
- (2) The word "cost" as applied to a project shall include the cost of acquisition or construction, the cost of all labor, materials and equipment, the cost of all lands, property, rights and easements acquired, financing charges, interest prior to and during construction and, if deemed advisable by the Board, for one year after completion of construction, cost of plans and specifications, surveys and estimates of cost and/or revenues, cost of engineering and legal services, and all other expenses necessary or incident to such acquisition or construction, administrative expense and such other expenses, including reasonable provision for initial operating expenses, as may be necessary or incident to the financing herein authorized. Any obligation or expense incurred by the Board prior to the issuance of bonds under the provisions of this Article in connection with any of the foregoing items of cost may be regarded as a part of such cost.
- (3) The word "institution" shall mean each of the institutions enumerated in G.S. 116-2.
- (4) The word "project" shall mean and shall include any one or more buildings for student housing of any size or type approved by the Board of Governors of the University of North Carolina, and the Director of the Budget, and any enlargements or improvements thereof or additions thereto, so approved for the housing of students at either institution, together with the necessary land and equipment. The approval of a project by the Board of Governors of the University of North Carolina and the Director of the Budget shall specify a time within which construction contracts shall be awarded. (1957, c. 1131, s. 1; 1963, cc. 421, 422; c. 448, s. 20.1; c. 1158, ss. 1, 11/2; 1965, c. 31, s. 3; 1967, c. 1038; 1969, c. 297, s. 7; c. 388; c. 608, s. 1; c. 801, ss. 2-4; 1971, c. 1244, s. 16; 1983, c. 577, s. 6.)

**§ 116-175.1:** Repealed, effective July 1, 2007, and applicable to the budget for the 2007-2009 biennium and each subsequent biennium thereafter, by **Session Laws 2006-203**, s. 52.

**§ 116-176. Issuance of bonds.**

The Board is hereby authorized to issue, subject to the approval of the Director of the Budget, at one time or from time to time, revenue bonds of the Board for the purpose of acquiring or constructing any project or projects. The bonds of each issue shall be dated, shall mature at such time or times not exceeding 50 years from their date or dates, shall bear interest at such rate or rates as may be determined by the Board, and may be redeemable before maturity, at the option of the Board, at such price or prices and under terms and conditions as may be fixed by the Board prior to the issuance of the bonds. The Board shall determine the form and manner of execution of the bonds, including any interest coupons to be attached thereto, and shall fix the denomination or denominations of the bonds and the place or places of payment of principal and interest, which may

be at any bank or trust company within or without the State. In case any officer whose signature or a facsimile of whose signature shall appear on any bonds or coupons shall cease to be such officer before the delivery of such bonds, such signature or such facsimile shall nevertheless be valid and sufficient for all purposes the same as if he had remained in office until such delivery. Notwithstanding any of the other provisions of this Article or any recitals in any bonds issued under the provisions of this Article, all such bonds shall be deemed to be negotiable instruments under the laws of this State. The bonds may be issued in coupon or registered form or both, as the Board may determine, and provision may be made for the registration of any coupon bonds as to principal alone and also as to both principal and interest, and for the reconversion into coupon bonds of any bonds registered as to both principal and interest. The Board may sell such bonds in such manner, at public or private sale, and for such price, as it may determine to be in the best interest of the Board.

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

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

Prior to the preparation of definitive bonds, the Board may, under like restrictions, issue interim receipts or temporary bonds, with or without coupons, exchangeable for definitive bonds when such bonds shall have been executed and are available for delivery. The Board may also provide for the replacement of any bonds which shall become mutilated or be destroyed or lost.

Bonds may be issued by the Board under the provisions of this Article, subject to the approval of the Director of the Budget, but without obtaining the consent of any other commission, board, bureau or agency of the State, and without any other proceedings or the happening of any other conditions or things than those consents, proceedings, conditions or things which are specifically required by this Article.

Revenue bonds issued under the provisions of this Article shall not be deemed to constitute a debt of the State of North Carolina or a pledge of the faith and credit of the State, but such bonds shall be payable solely from the funds herein provided therefor and a statement to that effect shall be recited on the face of the bonds.

The Board may enter into or negotiate a note with an acceptable bank or trust company in lieu of issuing bonds for the financing of projects covered under this Article. The terms and conditions of any note of this nature shall be in accordance with the terms and conditions surrounding issuance of bonds. (1957, c. 1131, s. 2; 1969, c. 1158, s. 1; 1971, c. 511, s. 1; 1975, c. 233, s. 1; 1983, c. 577, s. 6.)

## **§ 116-177. Revenues for payment of bonds; rules for use of facilities.**

So long as any bonds issued under this Article shall be outstanding the Board shall fix, and may revise from time to time, rentals for the facilities to be furnished by any project financed under this Article or for the right to use any such facilities or to receive any such services. Such rentals shall be fixed and revised so that the revenues received by the Board from any project or projects, together with any other available funds, will be sufficient at all times

- (1) To pay the cost of maintaining, repairing and operating such project or projects, including reserves for such purposes, and
- (2) To pay when added to increased rentals from existing facilities the principal of and the interest on the bonds for the payment of which such revenues are pledged and to provide reserves therefor.

The Board shall increase the rentals for the facilities furnished by any existing dormitories at any institution to provide, to the extent necessary, additional funds to liquidate in full any revenue bonds issued under this Article.

The Board is further authorized to make and enforce and to contract to make and enforce parietal rules that shall insure the maximum use of any project or existing facilities. (1957, c. 1131, s. 3.)

#### **§ 116-178. Trust agreement.**

In the discretion of the Board and subject to the approval of the Director of the Budget, each or any issue of revenue bonds may be secured by a trust agreement by and between the Board and a corporate trustee, which may be any trust company or bank having the powers of a trust company within or without the State. The resolution authorizing the issuance of the bonds or such trust agreement may pledge to the extent necessary the revenues to be received from any project or projects at any institution and from any similar existing facilities described in G.S. 116-175(4) at the same institution, in excess of amounts now charged to each occupant of such project, but shall not convey or mortgage any such project or existing facilities, and may contain such provisions for protecting and enforcing the rights and remedies of the bondholders as may be reasonable and proper and not in violation of law, including covenants setting forth the duties of the Board in relation to the acquisition or construction of such project or projects and in relation to the maintenance, repair, operation and insurance of such project or projects and such existing facilities, the fixing and revising of rentals and other charges; and, the custody, safeguarding and application of all moneys, and for the employment of consulting engineers or architects in connection with such acquisition, construction or operation. Notwithstanding the provisions of any other law the Board may carry insurance on any such project or projects in such amounts and covering such risks as it may deem advisable. It shall be lawful for any bank or trust company incorporated under the laws of the State of North Carolina which may act as depository of the proceeds of bonds or of revenues to furnish such indemnifying bonds or to pledge such securities as may be required by the Board. Such resolution or trust agreement may set forth the rights and remedies of the bondholders and of the trustees, if any, and may restrict the individual right of action by bondholders. Such resolution or trust agreement may contain such other provisions in addition to the foregoing as the Board may deem reasonable and proper for the security of the bondholders.

The Board may provide for the payment of the proceeds of the sale of the bonds and the revenues of any project or existing facilities or part thereof to such officer, board or depository as it may designate for the custody thereof, and for the method of disbursement thereof, with such safeguards and restrictions as it may determine. All expenses incurred in carrying out the provisions of such resolution or trust agreement may be treated as a part of the cost of operation.

All pledges of revenues under the provisions of this Article shall be valid and binding from the time when such pledges are made. All such revenues so pledged and thereafter received by the Board shall immediately be subject to the lien of such pledges without any physical delivery thereof or further action, and the lien of such pledges shall be valid and binding as against all parties having claims of any kind in tort, contract or otherwise against the Board, irrespective of whether such parties have notice thereof. (1957, c. 1131, s. 4; 1983, c. 577, s. 6.)

**§ 116-179. Sale of bonds; functions performed by executive committee.**

The Board may authorize its executive committee to sell any bonds which the Board has, with the approval of the Director of the Budget, authorized to be issued under this Article in such manner and under such limitations or conditions as the Board shall prescribe and to perform such other functions under this Article as the Board shall determine. (1957, c. 1131, s. 5; 1983, c. 577, s. 6.)

**§ 116-180. Moneys received deemed trust funds.**

All moneys received pursuant to the authority of this Article shall be deemed to be trust funds, to be held and applied solely as provided in this Article. The resolution authorizing the issuance of bonds or the trust agreement securing such bonds shall provide that any officer to whom, or bank, trust company or fiscal agent to which, such moneys shall be paid shall act as trustee of such moneys and shall hold and apply the same for the purposes hereof, subject to such regulations as such resolution or trust agreement may provide. (1957, c. 1131, s. 6.)

**§ 116-181. Remedies.**

Any holder of revenue bonds issued under the provisions of this Article or of any of the coupons appertaining thereto, and the trustee under any trust agreement, except to the extent that the rights herein given may be restricted by the resolution authorizing the issuance of such bonds or by such trust agreement, may, either at law or in equity, by suit, action, mandamus or other proceeding, protect and enforce any and all rights under the laws of the State of North Carolina or granted hereunder or under such resolution or trust agreement, and may enforce and compel the performance of all duties required by this Article or by such resolution or trust agreement to be performed by the Board or by any officer thereof, including the fixing, charging and collecting of fees, rentals and other charges. (1957, c. 1131, s. 7.)

**§ 116-182. Refunding bonds.**

The Board is hereby authorized, subject to the approval of the Director of the Budget, to issue from time to time revenue refunding bonds for the purpose of refunding any revenue bonds issued by the Board in connection with any project or projects at any one institution, including the payment of any redemption premium thereon and any interest accrued or to accrue to the date of redemption of such bonds. The Board is further authorized, subject to the approval of the Director of the Budget, to issue from time to time revenue refunding bonds for the combined purpose of

- (1) Refunding any revenue bonds or revenue refunding bonds issued by the Board in connection with any project or projects at any one institution, including the payment of any redemption premium thereon and any interest accrued or to accrue to the date of redemption of such bonds, and
- (2) Paying all or any part of the cost of acquiring or constructing any additional project or projects at the same institution.

The issuance of such bonds, the maturities and other details thereof, the rights and remedies of the holders thereof, and the rights, powers, privileges, duties and obligations of the Board with respect to the same, shall be governed by the foregoing provisions of this Article insofar as the same may be applicable. (1957, c. 1131, s. 8; 1983, c. 577, s. 6.)

**§ 116-183. Acceptance of grants; exemption from taxation.**

The Board is hereby authorized, subject to the approval of the Director of the Budget, to accept grants of money or materials or property of any kind for any project from a federal agency, private agency, corporation or individual, upon such terms and conditions as such federal agency, private agency, corporation or individual may impose. The bonds issued under this Article 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 the bonds and notes, and franchise taxes. The interest on the bonds and notes is not subject to taxation as income. (1957, c. 1131, s. 9; 1983, c. 577, s. 6; 1995, c. 46, s. 6; 2015-264, s. 16(c).)

**§ 116-184. Article cumulative.**

This Article shall be deemed to provide an additional and alternative method for the doing of the things authorized hereby and shall be regarded as supplemental and additional to powers conferred by other laws, and shall not be regarded as in derogation of or as repealing any powers now existing under any other law, either general, special or local; provided, however, that the issuance of revenue bonds or revenue refunding bonds under the provisions of this Article need not comply with the requirements of any other law applicable to the issuance of bonds. (1957, c. 1131, s. 10.)

**§ 116-185. Inconsistent laws declared inapplicable.**

All general, special or local laws, or parts thereof, inconsistent herewith are hereby declared to be inapplicable to the provisions of this Article. (1957, c. 1131, s. 11.)