

## Chapter 157.

### Housing Authorities and Projects.

#### Article 1.

#### Housing Authorities Law.

##### § 157-1. Title of Article.

This Article may be referred to as the Housing Authorities Law. (1935, c. 456, s. 1.)

##### § 157-2. Finding and declaration of necessity.

(a) It is hereby declared that unsanitary or unsafe dwelling accommodations exist in urban and rural areas throughout the State and that such unsafe or unsanitary conditions arise from overcrowding and concentration of population, the obsolete and poor condition of the buildings, improper planning, excessive land coverage, lack of proper light, air and space, unsanitary design and arrangement, lack of proper sanitary facilities, and the existence of conditions which endanger life or property by fire and other causes; that in such urban and rural areas many persons of low income are forced to reside in unsanitary or unsafe dwelling accommodations; that in such urban and rural areas there is a lack of safe or sanitary dwelling accommodations available to all the inhabitants thereof and that consequently many persons of low income are forced to occupy overcrowded and congested dwelling accommodations; that these conditions cause an increase in and spread of disease and crime and constitute a menace to the health, safety, morals and welfare of the citizens of the State and impair economic values; that these conditions cannot be remedied by the ordinary operation of private enterprise; that the clearance, replanning and reconstruction of such areas and the providing of safe and sanitary dwelling accommodations for persons of low income are public uses and purposes for which public money may be spent and private property acquired; that it is in the public interest that work on such projects be instituted as soon as possible; and that the necessity for the provisions hereinafter enacted is hereby declared as a matter of legislative determination to be in the public interest.

(b) It is hereby further declared that there is a serious shortage of decent, safe and sanitary housing in North Carolina that can be afforded by persons and families of moderate income; that it is in the best interest of the State to encourage programs to provide housing for such persons without imposing on them undue financial hardship; and that in undertaking such programs a housing authority is promoting the health, welfare and prosperity of all citizens of the State and is serving a public purpose for the benefit of the general public. (1935, c. 456, s. 2; 1938, Ex. Sess., c. 2, s. 14; 1941, c. 78, s. 2; 1987, c. 464, s. 1.)

##### § 157-3. Definitions.

The following terms, wherever used or referred to in this Article shall have the following respective meanings, unless a different meaning clearly appears from the context:

- (1) "Authority" or "housing authority" shall mean a public body and a body corporate and politic organized in accordance with the provisions of this Article for the purposes, with the powers and subject to the restrictions hereinafter set forth.
- (2) "Bonds" shall mean any bonds, interim certificates, notes, debentures, obligations, or other evidences of indebtedness issued pursuant to this Article.

- (3) "City" shall mean any city or town having a population of more than 500 inhabitants according to the last federal census or any revision or amendment thereto.
- (4) "City clerk" and "mayor" shall mean the clerk and mayor, respectively, of the city or the officers thereof charged with the duties customarily imposed on the clerk and mayor respectively.
- (5) "Commissioner" shall mean one of the members of an authority appointed in accordance with the provisions of this Article.
- (6) "Community facilities" shall include real and personal property, and buildings and equipment for recreational or social assemblies, for educational, health or welfare purposes and necessary utilities, when designed primarily for the benefit and use of the housing authority and/or the occupants of the dwelling accommodation.
- (7) "Contract" shall mean any agreement of an authority with or for the benefit of an obligee whether contained in a resolution, trust indenture, mortgage, lease, bond or other instrument.
- (8) "Council" shall mean the legislative body, council, board of commissioners, board of trustees, or other body charged with governing the city.
- (9) "Farmers of low income" shall mean persons or families who at the time of their admission to occupancy in a dwelling of the authority:
  - a. Live under unsafe or unsanitary housing conditions;
  - b. Derive their principal income from operating or working upon a farm; and
  - c. Had an aggregate average annual net income for the three years preceding their admission that was less than the amount that shall be determined by the authority to be necessary, within its area of operation, to enable them, without financial assistance, to obtain decent, safe and sanitary housing, without overcrowding.
- (10) "Federal government" shall include the United States of America, the Federal Emergency Administration of Public Works or any agency, instrumentality, corporate or otherwise, of the United States of America.
- (11) "Government" shall include the State and federal governments and any subdivision, agency or instrumentality, corporate or otherwise, of either of them.
- (12) "Housing project" shall include all real and personal property, buildings and improvements, stores, offices, lands for farming and gardening, and community facilities acquired or constructed or to be acquired or constructed pursuant to a single plan or undertaking:
  - a. To demolish, clear, remove, alter or repair unsanitary or unsafe housing; and/or
  - b. To provide safe and sanitary dwelling accommodations for persons of low income, or moderate income, or low and moderate income; and/or
  - c. To provide safe and sanitary housing for persons of low income, through payment of rent subsidies from any source; and/or
  - d. To provide grants, loans, interest supplements and other programs of financial assistance (including rent subsidies in furtherance of a

- program of home ownership) to persons of low income, or moderate income, or low and moderate income, so that such persons may become owners of their own housing or rehabilitate their own housing; and/or
- e. To provide grants, loans, interest supplements and other programs of financial assistance to public or private developers of housing for persons of low income, or moderate income, or low and moderate income.

"Housing project" also includes any project that provides 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 the exclusive use of persons of low income.

The term "housing project" may also be applied to the planning of the buildings and improvements, the acquisition of property, the demolition of existing structures, the construction, reconstruction, alteration and repair of the improvements and all other work in connection therewith.

- (13) "Mortgage" shall include deeds of trust, mortgages, building and loan contracts or other instruments conveying real or personal property as security for bonds and conferring a right to foreclose and cause a sale thereof.
- (14) "Municipality" shall mean any city, town, incorporated village or other municipality in the State.
- (15) "Obligee of the authority" or "obligee" shall include any bondholder, trustee or trustees for any bondholders, any lessor demising property to the authority used in connection with a housing project or any assignee or assignees of such lessor's interest or any part thereof, and the United States of America, when it is a party to any contract with the authority.
- (15a) "Persons of low income" means persons in households the annual income of which, adjusted for family size, is not more than sixty percent (60%) of the local area median family income as defined by the most recent figures published by the U.S. Department of Housing and Urban Development.
- (15b) "Persons of moderate income" means persons deemed by the authority to require the assistance made available pursuant to this Chapter on account of insufficient personal or family income taking into consideration, without limitation, (i) the amount of the total income of such persons and families available for housing needs, (ii) the size of the person's family, (iii) the cost and condition of housing facilities available, and (iv) the eligibility of such persons and families for federal housing assistance of any type predicated upon a moderate or low and moderate income basis.
- (16) "Real property" shall include lands, lands under water, structures, and any and all easements, franchises and incorporeal hereditaments and every estate and right therein, legal and equitable, including terms for years and liens by way of judgment, mortgage or otherwise.
- (17) "State" shall mean the State of North Carolina.
- (18) "Trust indenture" shall include instruments pledging the revenues of real or personal properties but not conveying such properties or conferring a right to foreclose and cause a sale thereof. (1935, c. 456, s. 3; 1938, Ex. Sess., c. 2,

s. 14; 1941, c. 78, s. 2; 1943, c. 636, s. 1; 1959, cc. 321, 641, 1281; 1961, c. 200, s. 1; 1977, c. 924; 1987, c. 464, ss. 2, 3.)

**§ 157-4. Notice, hearing and creation of authority; cancellation of certificate of incorporation.**

Any 25 residents of a city and of the area within 10 miles from the territorial boundaries thereof may file a petition with the city clerk setting forth that there is a need for an authority to function in the city and said surrounding area. Upon the filing of such a petition the city clerk shall give notice of the time, place and purposes of a public hearing at which the council will determine the need for an authority in the city and said surrounding area. Such notice shall be given at the city's expense by publishing a notice, at least 10 days preceding the day on which the hearing is to be held, in a newspaper having a general circulation in the city and said surrounding area, or, if there be no such newspaper, by posting such notice in at least three public places within the city, at least 10 days preceding the day on which the hearing is to be held.

Upon the date fixed for said hearing held upon notice as provided herein, an opportunity to be heard shall be granted to all residents and taxpayers of the city and said surrounding area and to all other interested persons. After such a hearing, the council shall determine:

- (1) Whether insanitary or unsafe inhabited dwelling accommodations exist in the city and said surrounding area, and/or
- (2) Whether there is a lack of safe or sanitary dwelling accommodations in the city and said surrounding area available for all the inhabitants thereof.

In determining whether dwelling accommodations are unsafe or insanitary, the council shall take into consideration the following: the physical condition and age of the buildings; the degree of overcrowding; the percentage of land coverage; the light and air available to the inhabitants of such dwelling accommodations; the size and arrangement of the rooms; the sanitary facilities; and the extent to which conditions exist in such buildings which endanger life or property by fire or other causes.

If it shall determine that either or both of the above enumerated conditions exist, the council shall adopt a resolution so finding (which need not go into any detail other than the mere finding) and shall cause notice of such determination to be given to the mayor who shall thereupon appoint, as hereinafter provided, not less than five nor more than nine commissioners to act as an authority. Said commission shall be a public body and a body corporate and politic upon the completion of the taking of the following proceedings:

The commissioners shall present to the Secretary of State an application signed by them, which shall set forth (without any detail other than the mere recital):

- (1) That a notice has been given and public hearing has been held as aforesaid, that the council made the aforesaid determination after such hearing, and that the mayor has appointed them as commissioners;
- (2) The name and official residence of each of the commissioners, together with a certified copy of the appointment evidencing their right to office, the date and place of induction into and taking oath of office, and that they desire the housing authority to become a public body and a body corporate and politic under this Article;
- (3) The term of office of each of the commissioners;
- (4) The name which is proposed for the corporation; and
- (5) The location of the principal office of the proposed corporation.

The application shall be subscribed and sworn to by each of said commissioners before an officer authorized by the laws of the State to take and certify oaths, who shall certify upon the application that he personally knows the commissioners and knows them to be the officers as asserted in the application, and that each subscribed and swore thereto in the officer's presence. The Secretary of State shall examine the application and if he finds that the name proposed for the corporation is not identical with that of a person or of any other corporation of this State or so nearly similar as to lead to confusion and uncertainty he shall receive and file it and shall record it in an appropriate book of record in his office.

When the application has been made, filed and recorded, as herein provided, the authority shall constitute a public body and a body corporate and politic under the name proposed in the application; the Secretary of State shall make and issue to the said commissioners a certificate of incorporation pursuant to this Article, under the seal of the State, and shall record the same with the application.

If the council, after a hearing as aforesaid, shall determine that neither of the above enumerated conditions exist, it shall adopt a resolution denying the petition. After three months shall have expired from the date of the denial of any such petitions, subsequent petitions may be filed as aforesaid and new hearings and determinations made thereon.

In any suit, action or proceeding involving the validity or enforcement of or relating to any contract of the authority, the authority shall be conclusively deemed to have been established in accordance with the provisions of this Article upon proof of the issuance of the aforesaid certificate by the Secretary of State. A copy of such certificate, duly certified by the Secretary of State, shall be admissible in evidence in any such suit, action or proceeding, and shall be conclusive proof of the filing and contents thereof.

The Secretary of State is authorized and empowered to revoke or to cancel a certificate of incorporation previously issued to an authority or housing authority upon filing in his office a petition and resolution of the council and a petition and resolution of the authority and its members requesting such revocation or cancellation and when the Secretary of State is satisfied that no indebtedness has been incurred or property acquired by said housing authority. (1935, c. 456, s. 4; 1943, c. 636, s. 7; 1961, c. 987; 1971, c. 362, s. 1; c. 599.)

#### **§ 157-4.1. Alternative organization – any city.**

(a) In lieu of creating a housing authority as authorized herein, the council of any city may, if it deems wise, either designate a redevelopment commission created under the provisions of Chapter 160 of the General Statutes to exercise the powers, duties, and responsibilities of a housing authority as prescribed herein, or may itself exercise such powers, duties, and responsibilities. Any such designation shall be by passage of a resolution adopted in accordance with the procedure and pursuant to the finding specified in the first and second paragraphs of G.S. 157-4. In the event the council of any city designates itself to exercise the powers, duties, and responsibilities of a housing authority, then where any act, proceeding, or approval is required to be done, recommended, or approved both by a housing authority and by the council of the city, then the performance, recommendation, or approval thereof once by the council of the city shall be sufficient to make such performance, recommendation, or approval valid and legal. In the event the council of the city designates itself to exercise the powers, duties, and responsibilities of a housing authority, it may assign the administration of the housing programs, projects, and policies to any existing or new department of the city.

(b) The council of any city which has prior to July 1, 1969, created, or which may hereafter create, a housing authority may, in its discretion, by resolution abolish such housing authority, such abolition to be effective on a day set in such resolution not less than 90 days after its adoption. Upon the adoption of such a resolution, the housing authority of the city is hereby authorized and directed to take such actions and to execute such documents as will carry into effect the provisions and the intent of the resolution, and as will effectively transfer its authority, responsibilities, obligations, personnel, and property, both real and personal, to the city. Any city which abolishes a housing authority pursuant to this subsection may, at any time subsequent to such abolition or concurrently therewith, exercise the authority granted by subsection (a) of this section.

On the day set in the resolution of the council:

- (1) The housing authority shall cease to exist as a body politic and corporate and as a public body;
- (2) All property, real and personal and mixed, belonging to the housing authority shall vest in, belong to, and be the property of the city;
- (3) All judgments, liens, rights of liens, and causes of action of any nature in favor of the housing authority shall remain, vest in, and inure to the benefit of the city;
- (4) All rentals, taxes, assessments, and any other funds, charges or fees, owing to the housing authority shall be owed to and collected by the city;
- (5) Any actions, suits, and proceedings, pending against, or having been instituted by the housing authority shall not be abated by such abolition, but all such actions, suits, and proceedings shall be continued and completed in the same manner as if abolition had not occurred, and the city shall be a party to all such actions, suits, and proceedings in the place and stead if the housing authority and shall pay or cause to be paid any judgments rendered against the housing authority in any such actions, suits, or proceedings, and no new process need be served in any such action, suit, or proceeding;
- (6) All obligations of the housing authority, including outstanding indebtedness, shall be assumed by the city, and all such obligations and outstanding indebtedness shall be constituted obligations and indebtedness of the city;
- (7) All ordinances, rules, regulations and policies of the housing authority shall continue in full force and effect until repealed or amended by the council of the city.

(c) Where the governing body of any municipality has in its discretion, by resolution abolished a housing authority, pursuant to subsection (b) above, the governing body of such municipality may, at any time subsequent to the passage of a resolution abolishing a housing authority, or concurrently therewith, by the passage of a resolution adopted in accordance with the procedures and pursuant to the finding specified in G.S. 157-4.1, designate an existing redevelopment commission created pursuant to Article 37 of Chapter 160 of the General Statutes, to exercise the powers, duties, and responsibilities of a housing authority. Where the governing body of any municipality designates, pursuant to this subsection, an existing redevelopment commission created pursuant to Article 37 of Chapter 160 of the General Statutes to exercise the powers, duties, and responsibilities of a housing authority, on the day set in the resolution of the governing body passed pursuant to subsection (b) of this section, or pursuant to subsection (c) of this section:

- (1) The housing authority shall cease to exist as a body politic and corporate and as a public body;

- (2) All property, real and personal and mixed, belonging to the housing authority or to the municipality as hereinabove provided in subsections (a) or (b), shall vest in, belong to, and be the property of the existing redevelopment commission of the municipality;
- (3) All judgments, liens, rights of liens, and causes of action of any nature in favor of the housing authority or in favor of the municipality as hereinabove provided in subsections (a) or (b), shall remain, vest in, and inure to the benefit of the existing redevelopment commission of the municipality;
- (4) All rentals, taxes, assessments, and any other funds, charges, or fees owing to the housing authority or owing to the municipality as hereinabove provided in subsections (a) or (b), shall be owed to and collected by the existing redevelopment commission of the municipality;
- (5) Any actions, suits, and proceedings pending against or having been instituted by the housing authority or the municipality, or to which the municipality has become a party as hereinabove provided in subsections (a) or (b), shall not be abated by such abolition but all such actions, suits, and proceedings shall be continued and completed in the same manner as if abolition had not occurred, and the existing redevelopment commission of the municipality shall be a party to all such actions, suits, and proceedings in the place and stead of the housing authority or the municipality, and shall pay or cause to be paid any judgments rendered in such actions, suits, or proceedings, and no new processes need be served in such action, suit, or proceeding;
- (6) All obligations of the housing authority or the municipality as hereinabove provided in subsections (a) or (b), including outstanding indebtedness, shall be assumed by the existing redevelopment commission of the municipality; and all such obligations and outstanding indebtedness shall be constituted obligations and indebtedness of the existing redevelopment commission of the municipality;
- (7) All ordinances, rules, regulations, and policies of the housing authority or the municipality as hereinabove provided in subsections (a) or (b), shall continue in full force and effect until repealed and amended by the existing redevelopment commission of the municipality.

(d) A redevelopment commission designated by the governing body of any municipality to exercise the powers, duties and responsibilities of a housing authority shall, when exercising the same, do so in accordance with Chapter 157 of the General Statutes. Otherwise the redevelopment commission shall continue to exercise the powers, duties and responsibilities of a redevelopment commission in accordance with Article 37 of Chapter 160 of the General Statutes. (1969, c. 1217, s. 2; 1971, c. 116, ss. 3, 4.)

**§ 157-4.1A. Alternative organization – cities under 250,000 only.**

(a) In lieu of creating a housing authority as authorized herein, the council of any city may, if it deems wise, designate a redevelopment commission created under the provisions of Chapter 160A of the General Statutes, or a regional council of government created pursuant to Part 2 of Article 20 of Chapter 160A of the General Statutes, to exercise the powers, duties, and responsibilities of a housing authority as prescribed herein, or may itself exercise such powers, duties, and responsibilities. Any such designation shall be by passage of a resolution adopted in

accordance with the procedure and pursuant to the finding specified in the first and second paragraphs of G.S. 157-4. In the event the council of any city designates itself to exercise the powers, duties, and responsibilities of a housing authority, then where any act, proceeding, or approval is required to be done, recommended, or approved both by a housing authority and by the council of the city, then the performance, recommendation, or approval thereof once by the council of the city shall be sufficient to make such performance, recommendation, or approval valid and legal. In the event the council of the city designates itself to exercise the powers, duties, and responsibilities of a housing authority, it may assign the administration of the housing programs, projects, and policies to any existing or new department of the city.

(b) The council of any city which has prior to July 1, 1969, created, or which may hereafter create, a housing authority may, in its discretion, by resolution abolish such housing authority, such abolition to be effective on a day set in such resolution that will allow sufficient time to wind down the operations of the housing authority. Upon the adoption of such a resolution, the housing authority of the city is hereby authorized and directed to take such actions and to execute such documents as will carry into effect the provisions and the intent of the resolution, and as will effectively transfer its authority, responsibilities, obligations, personnel, and property, both real and personal, to the city. Any city which abolishes a housing authority pursuant to this subsection may, at any time subsequent to such abolition or concurrently therewith, exercise the authority granted by subsection (a) of this section.

On the day set in the resolution of the council, all of the following apply:

- (1) The housing authority shall cease to exist as a body politic and corporate and as a public body.
- (2) All property, real and personal and mixed, belonging to the housing authority shall vest in, belong to, and be the property of the city.
- (3) All judgments, liens, rights of liens, and causes of action of any nature in favor of the housing authority shall remain, vest in, and inure to the benefit of the city.
- (4) All rentals, taxes, assessments, and any other funds, charges or fees, owing to the housing authority shall be owed to and collected by the city.
- (5) Any actions, suits, and proceedings, pending against, or having been instituted by the housing authority shall not be abated by such abolition, but all such actions, suits, and proceedings shall be continued and completed in the same manner as if abolition had not occurred, and the city shall be a party to all such actions, suits, and proceedings in the place and stead if the housing authority and shall pay or cause to be paid any judgments rendered against the housing authority in any such actions, suits, or proceedings, and no new process need be served in any such action, suit, or proceeding.
- (6) All obligations of the housing authority, including outstanding indebtedness, shall be assumed by the city, and all such obligations and outstanding indebtedness shall be constituted obligations and indebtedness of the city.
- (7) All ordinances, rules, regulations and policies of the housing authority shall continue in full force and effect until repealed or amended by the council of the city.

(c) Where the governing body of any municipality has in its discretion, by resolution abolished a housing authority, pursuant to subsection (b) of this section, the governing body of such municipality may, at any time subsequent to the passage of a resolution abolishing a housing authority, or concurrently therewith, by the passage of a resolution adopted in accordance with the

procedures and pursuant to the finding specified in G.S. 157-4.1, designate an existing redevelopment commission created pursuant to Article 22 of Chapter 160A of the General Statutes, or a regional council of government created pursuant to Part 2 of Article 20 of Chapter 160A of the General Statutes, to exercise the powers, duties, and responsibilities of a housing authority. Where the governing body of any municipality designates, pursuant to this subsection, an existing redevelopment commission or a regional council of government to exercise the powers, duties, and responsibilities of a housing authority, on the day set in the resolution of the governing body passed pursuant to subsection (b) of this section, or pursuant to subsection (c) of this section, all of the following apply:

- (1) The housing authority shall cease to exist as a body politic and corporate and as a public body.
- (2) All property, real and personal and mixed, belonging to the housing authority or to the municipality as hereinabove provided in subsections (a) or (b), shall vest in, belong to, and be the property of the existing redevelopment commission or regional council of government.
- (3) All judgments, liens, rights of liens, and causes of action of any nature in favor of the housing authority or in favor of the municipality as hereinabove provided in subsections (a) or (b), shall remain, vest in, and inure to the benefit of the existing redevelopment commission or regional council of government.
- (4) All rentals, taxes, assessments, and any other funds, charges, or fees owing to the housing authority or owing to the municipality as hereinabove provided in subsections (a) or (b), shall be owed to and collected by the existing redevelopment commission or regional council of government.
- (5) Any actions, suits, and proceedings pending against or having been instituted by the housing authority or the municipality, or to which the municipality has become a party as hereinabove provided in subsections (a) or (b), shall not be abated by such abolition but all such actions, suits, and proceedings shall be continued and completed in the same manner as if abolition had not occurred, and the existing redevelopment commission or regional council of government shall be a party to all such actions, suits, and proceedings in the place and stead of the housing authority or the municipality, and shall pay or cause to be paid any judgments rendered in such actions, suits, or proceedings, and no new processes need be served in such action, suit, or proceeding.
- (6) All obligations of the housing authority or the municipality as hereinabove provided in subsections (a) or (b), including outstanding indebtedness, shall be assumed by the existing redevelopment commission or regional council of government; and all such obligations and outstanding indebtedness shall be constituted obligations and indebtedness of the existing redevelopment commission or regional council of government.
- (7) All rules, regulations, and policies of the housing authority as hereinabove provided in subsections (a) or (b), shall continue in full force and effect until repealed and amended by the existing redevelopment commission or regional council of government.
- (8) Notwithstanding G.S. 157-5 and G.S. 157-8, the term of office for all commissioners shall expire.

(d) A redevelopment commission or regional council of government designated by the governing body of any municipality to exercise the powers, duties, and responsibilities of a housing authority shall, when exercising the same, do so in accordance with Chapter 157 of the General Statutes. Otherwise, the redevelopment commission shall continue to exercise its powers, duties, and responsibilities in accordance with Article 22 of Chapter 160A of the General Statutes, and the regional council of governments shall continue to exercise its powers, duties, and responsibilities in accordance with Part 2 of Article 20 of Chapter 160A of the General Statutes.

(e) Upon passage of a resolution pursuant to subsection (b) or (c) of this section, the city council may appoint an interim executive director who will work with the housing authority to facilitate any transfer to the city, redevelopment commission, or regional council of government, and who will serve in that capacity until the transfer is complete. The interim executive director shall have all the powers and duties granted to an executive director pursuant to G.S. 157-5(e) along with the rules, regulations, and policies of the housing authority.

(f) This section does not apply to cities with a population of greater than 250,000 according to the latest federal decennial census. (1969, c. 1217, s. 2; 1971, c. 116, ss. 3, 4; 2017-178, ss. 1, 3.)

#### **§ 157-4.2. Authority budgeting and accounting systems as a part of city or county budgeting and accounting systems.**

The council of a city or the board of commissioners of a county may by resolution provide that the budgeting and accounting systems of the city's or county's housing authority (or, if the city's redevelopment commission is exercising the powers, duties, and responsibilities of a housing authority, the budgeting and accounting systems of the redevelopment commission) shall be an integral part of the budgeting and accounting systems of the city or county. If such a resolution is adopted:

- (1) For purposes of the Local Government Budget and Fiscal Control Act, the authority (or commission) shall not be considered a "public authority," as that phrase is defined in G.S. 159-7(b), but rather shall be considered a department or agency of the city or county. The operations of the authority (or commission) shall be budgeted and accounted for as if the operations were those of a public enterprise of the city or county.
- (2) The budget of the authority (or commission) shall be prepared and submitted in the same manner and according to the same procedures as are the budgets of other departments and agencies of the city or county; and the budget ordinance of the city or county shall provide for the operations of the authority (or commission).
- (3) The budget officer and finance officer of the city or county shall administer and control that portion of the city or county budget ordinance relating to the operations of the authority (or commission). (1971, c. 780, s. 37.1; 1973, c. 474, s. 29.)

#### **§ 157-5. Appointment, qualifications and tenure of commissioners.**

(a) An authority shall consist of not less than five nor more than eleven commissioners appointed by the mayor and the mayor shall designate the first chair. No commissioner may be a city official. At least one of the commissioners appointed shall be a person who is directly assisted by the public housing authority. However, there shall be no requirement to appoint such a person if

the authority: (i) operates less than 300 public housing units, (ii) provides reasonable notice to the resident advisory board of the opportunity for at least one person who is directly assisted by the authority to serve as a commissioner, and (iii) within a reasonable time after receipt of the notice by the resident advisory board, has not been notified of the intention of any such person to serve. The mayor shall appoint the person directly assisted by the authority unless the authority's rules require that the person be elected by other persons who are directly assisted by the authority. If the commissioner directly assisted by the public housing authority ceases to receive such assistance, the commissioner's office shall be abolished and another person who is directly assisted by the public housing authority shall be appointed by the mayor.

(b) No commissioner who is also a person directly assisted by the public housing authority shall be qualified to vote on matters affecting his or her official conduct or matters affecting his or her own individual tenancy, as distinguished from matters affecting tenants in general. No more than one third of the members of any housing authority commission shall be tenants of the authority or recipients of housing assistance through any program operated by the authority.

(c) The council may at any time by resolution or ordinance increase or decrease the membership of an authority, within the limitations herein prescribed.

(d) The mayor shall designate overlapping terms of not less than one nor more than five years for the commissioners first appointed. Thereafter, the term of office shall be five years. A commissioner shall hold office until his or her successor has been appointed and has qualified. Vacancies shall be filled for the unexpired term. A majority of the commissioners shall constitute a quorum. The mayor shall file with the city clerk a certificate of the appointment or reappointment of any commissioner and such certificate shall be conclusive evidence of the due and proper appointment of such commissioner. A commissioner shall receive no compensation for his or her services but he or she shall be entitled to the necessary expenses including traveling expenses incurred in the discharge of his or her duties.

(e) When the office of the first chair of the authority becomes vacant, the authority shall select a chair from among its members. An authority shall select from among its members a vice-chair, and it may employ a secretary (who shall be executive director), technical experts and such other officers, agents, and employees, permanent and temporary, as it may require, and shall determine their qualifications, duties, and compensation. An authority may call upon the corporation counsel or chief law officer of the city for such legal services as it may require or it may employ its own counsel and legal staff. An authority may delegate to one or more of its agents or employees such powers or duties as it may deem proper. (1935, c. 456, s. 5; 1971, c. 362, ss. 2-5; 1981, c. 864; 1999-146, s. 1.)

#### **§ 157-6. Duty of authority.**

The authority shall be under a statutory duty to comply or to cause compliance strictly with all provisions of this Article and the laws of the State and in addition thereto, with each and every term, provision and covenant in any contract of the authority on its part to be kept or performed. (1935, c. 456, s. 6; 1997-455, s. 1.)

#### **§ 157-7. Interested commissioners or employees.**

No commissioner or employee of an authority shall acquire any interest direct or indirect in any housing project or in any property included or planned to be included in any project, nor shall he have any interest direct or indirect in any contract or proposed contract for materials or services to be furnished or used in connection with any housing project. If any commissioner or employee of

an authority owns or controls an interest direct or indirect in any property included or planned to be included in any housing project, he shall immediately disclose the same in writing to the authority and such disclosure shall be entered upon the minutes of the authority. Failure to so disclose such interest shall constitute misconduct in office. (1935, c. 456, s. 7.)

#### **§ 157-8. Removal of commissioners.**

The mayor may remove a commissioner for inefficiency or neglect of duty or misconduct in office, but only after the commissioner shall have been given a copy of the charges against him (which may be made by the mayor) at least 10 days prior to the hearing thereon and had an opportunity to be heard in person or by counsel.

Any obligee of the authority may file with the mayor written charges that the authority is violating willfully any law of the State or any term, provision or covenant in any contract to which the authority is a party. The mayor shall give each of the commissioners a copy of such charges at least 10 days prior to the hearing thereon and an opportunity to be heard in person or by counsel and shall within 15 days after receipt of such charges remove any commissioners of the authority who shall have been found to have acquiesced in any such willful violation.

A commissioner shall be deemed to have acquiesced in a willful violation by the authority of a law of this State or of any term, provision or covenant contained in a contract to which the authority is a party, if, before a hearing is held on the charges against him, he shall not have filed a written statement with the authority of his objections to, or lack of participation in, such violation.

In the event of the removal of any commissioner, the mayor shall file in the office of the city clerk a record of the proceedings together with the charges made against the commissioners and the findings thereon. (1935, c. 456, s. 8.)

#### **§ 157-9. Powers of authority.**

(a) An authority shall constitute a public body and a body corporate and politic, exercising public powers, and having all the powers necessary or convenient to carry out and effectuate the purposes and provisions of this Article, including the following powers in addition to others herein granted:

To investigate into living, dwelling and housing conditions and into the means and methods of improving such conditions; to determine where unsafe, or insanitary dwelling or housing conditions exist; to study and make recommendations concerning the plan of any city or municipality located within its boundaries in relation to the problem of clearing, replanning and reconstruction of areas in which unsafe or insanitary dwelling or housing conditions exist, and the providing of dwelling accommodations for persons of low income, and to cooperate with any city municipal or regional planning agency; to prepare, carry out and operate housing projects; to approve, assist, and cooperate with, as its instrumentality, a nonprofit corporation in providing financing by the issuance by such nonprofit corporation's obligations (which obligations shall not be or be deemed to be indebtedness of a housing authority) for one or more housing projects, pursuant to the United States Housing Act of 1937, as amended, and applicable regulations thereunder, specifically including, but not limited to, programs to make construction and other loans to developers or owners of residential housing, and to acquire, operate or manage such a housing project, and to administer federal housing assistance subsidy payments for such projects; to provide for the construction, reconstruction, improvement, alteration or repair of any housing project or any part thereof; to take over by purchase, lease or otherwise any housing project located within its boundaries undertaken by any government, or by any city or municipality located in

whole or in part within its boundaries; to manage as agent of any city or municipality located in whole or in part within its boundaries any housing project constructed or owned by such city; to act as agent for the federal government in connection with the acquisition, construction, operation and/or management of a housing project or any part thereof; to arrange with any city or municipality located in whole or in part within its boundaries or with a government for the furnishing, planning, replanning, installing, opening or closing of streets, roads, roadways, alleys, sidewalks or other places or facilities or for the acquisition by such city, municipality, or government of property, options or property rights or for the furnishing of property or services in connection with a project; to arrange with the State, its subdivisions and agencies, and any county, city or municipality of the State, to the extent that it is within the scope of each of their respective functions, (i) to cause the services customarily provided by each of them to be rendered for the benefit of such housing authority and/or the occupants of any housing projects and (ii) to provide and maintain parks and sewage, water and other facilities adjacent to or in connection with housing projects and (iii) to change the city or municipality map, to plan, replan, zone or rezone any part of the city or municipality; to lease or rent any of the dwelling or other accommodations or any of the lands, buildings, structures or facilities embraced in any housing project and to establish and revise the rents or charges therefor; to enter upon any building or property in order to conduct investigations or to make surveys or soundings; to purchase, lease, obtain options upon, acquire by gift, grant, devise, or otherwise any property real or personal or any interest therein from any person, firm, corporation, city, municipality, or government; to acquire by eminent domain any real property, including improvements and fixtures thereon; to sell, exchange, transfer, assign, or pledge any property real or personal or any interest therein to any person, firm, corporation, municipality, city, or government; to own, hold, clear and improve property; to insure or provide for the insurance of the property or operations of the authority against such risks as the authority may deem advisable; to procure insurance or guarantees from a federal government of the payment of any debts or parts thereof secured by mortgages made or held by the authority on any property included in any housing project; to borrow money upon its bonds, notes, debentures or other evidences of indebtedness and to secure the same by pledges of its revenues, and by mortgages upon property held or to be held by it, or in any other manner; in connection with any loan, to agree to limitations upon its right to dispose of any housing project or part thereof or to undertake additional housing projects; in connection with any loan by a government, to agree to limitations upon the exercise of any powers conferred upon the authority by this Article; to invest any funds held in reserves or sinking funds, or any funds not required for immediate disbursement, in property or securities in which savings banks may legally invest funds subject to their control; to sue and be sued; to have a seal and to alter the same at pleasure; to have perpetual succession; to make and execute contracts and other instruments necessary or convenient to the exercise of the powers of the authority; to make and from time to time amend and repeal bylaws, rules and regulations not inconsistent with this Article, to carry into effect the powers and purposes of the authority; to conduct examinations and investigations and to hear testimony and take proof under oath at public or private hearings on any matter material for its information; to issue subpoenas requiring the attendance of witnesses or the production of books and papers and to issue commissions for the examination of witnesses who are out of the State or unable to attend before the authority, or excused from attendance; and to make available to such agencies, boards or commissions as are charged with the duty of abating or requiring the correction of nuisances or like conditions, or of demolishing unsafe or insanitary structures within its territorial limits, its findings and recommendations with regard to any building or property where conditions exist which are

dangerous to the public health, morals, safety or welfare. Any of the investigations or examinations provided for in this Article may be conducted by the authority or by a committee appointed by it, consisting of one or more commissioners, or by counsel, or by an officer or employee specially authorized by the authority to conduct it. Any commissioner, counsel for the authority, or any person designated by it to conduct an investigation or examination shall have power to administer oaths, take affidavits and issue subpoenas or commissions. An authority may exercise any or all of the powers herein conferred upon it, either generally or with respect to any specific housing project or projects, through or by an agent or agents which it may designate, including any corporation or corporations which are or shall be formed under the laws of this State, and for such purposes an authority may cause one or more corporations to be formed under the laws of this State or may acquire the capital stock of any corporation or corporations. Any corporate agent, (i) all of the stock of which shall be owned by the authority or its nominee or nominees or (ii) the board of directors of which shall be elected or appointed by the authority or is composed of the commissioners of the authority or (iii) which is otherwise subject to the control of the authority or the governmental entity which created the authority, may to the extent permitted by law exercise any of the powers conferred upon the authority herein. In addition to all of the other powers herein conferred upon it, an authority may do all things necessary and convenient to carry out the powers expressly given in this Article. No provisions with respect to the acquisition, operation or disposition of property by other public bodies shall be applicable to an authority unless the legislature shall specifically so state.

(b) Notwithstanding anything to the contrary contained in this Article or in any other provision of law an authority may include in any contract let in connection with a project, stipulations requiring that the contractor and any subcontractors comply with requirements as to minimum wages and maximum hours of labor, and comply with any conditions which the federal government may have attached to its financial aid of the project.

(c) To the extent not inconsistent with the Constitution or statutes of this State or the United States, an authority may adopt and enforce rules governing the lawful entry of guests and visitors to its properties, including the visitors and guests of its tenants. Prior to adopting such rules, an authority shall make reasonable efforts to consult with or obtain comments from its tenants or their representatives. Persons who enter or remain on the property of an authority in violation of such rules shall be subject to prosecution as applicable under G.S. 14-159.12 or G.S. 14-159.13.

(d) A housing authority shall not erect or maintain around any lawfully occupied housing units any fence or gate structure that is electrified or that includes spikes or barbed wire. (1935, c. 456, s. 9; 1939, c. 150; 1977, c. 784, s. 1; 1979, c. 690, s. 1; c. 805; 1995, c. 520, s. 2; 2004-199, s. 40; 2011-284, s. 109.)

#### **§ 157-9.1. Moderate income.**

(a) Whenever the words "low income" appear in this Chapter, they shall be construed to mean "low and moderate income."

(b) This section applies only to the housing authority of the largest city in a county which has two or more cities with a population of 60,000 or over, according to the most recent decennial federal census.

(c) This section shall apply only to existing, non-federally subsidized structures.

(d) Notwithstanding the provisions of subsections (b) and (c), subsection (a) of this section applies to all counties with an area of 250 square miles or less, and a population of more than [than]

100,000 according to the most recent decennial federal census, and applies to all cities within such counties.

(e) Notwithstanding the provisions of subsections (b), (c), and (d) of this section, subsection (a) of this section applies to the housing authorities of all cities that have a population of less than 20,000 according to the most recent decennial federal census and are the location of a constituent institution of The University of North Carolina that has a student enrollment of more than 10,000 students and applies to the housing authorities of all counties that have a population of less than 80,000 according to the most recent decennial federal census and are the location of a constituent institution of The University of North Carolina that has a student enrollment of more than 10,000 students. (1983, c. 769, s. 1; 1985 (Reg. Sess., 1986), c. 1004, s. 1; 2009-218, s. 1.)

### **§ 157-9.2. Additional powers.**

(a) The findings and purposes set forth in the first three paragraphs of G.S. 122A-2 and in G.S. 122A-5.4(a) are hereby restated and incorporated herein by reference, except that for purposes of incorporating such findings and purposes herein, the phrases "North Carolina Housing Finance Agency" and "Agency" shall read "authority" and the word "Chapter" shall read "Section".

(b) Words and phrases used in this section and not otherwise defined in this Chapter shall be defined as provided in Chapter 122A of the General Statutes, except that for purposes of incorporating such definitions into this section, the phrases "North Carolina Housing Finance Agency" and "Agency" shall read "authority" and the "Chapter" shall read "Section".

(c) An authority shall have all of the powers necessary or convenient to carry out and effectuate the purposes and provisions of this section, including, without limiting the generality of the foregoing, the power:

- (1) To make or participate in the making of mortgage loans to sponsors of residential housing; provided, however, that such loans shall be made only upon the determination by the authority that mortgage loans are not otherwise available wholly or in part from public or private lenders upon equivalent terms and conditions;
- (2) To make or participate in the making of mortgage loans to persons and families of lower income and persons and families of moderate income for residential housing; provided, however, that such loans shall be made only upon the determination by the authority that mortgage loans are not otherwise available wholly or in part from public or private lenders upon equivalent terms and conditions;
- (3) To make loans to mortgage lenders on terms and conditions requiring the proceeds thereof to be used by such mortgage lenders to originate new mortgage loans to (i) sponsors of residential housing for persons and families of lower income and persons and families of moderate income and (ii) persons and families of lower income and persons and families of moderate income for residential housing. The loans to mortgage lenders and the loans to be made by such mortgage lenders shall be made on such applicable terms and conditions as are set forth in rules and regulations of the authority or otherwise established by the authority; provided, however, that loans shall be made by such mortgage lenders only upon the determination by the authority that such financing is not

otherwise available, wholly or in part, from public or private lenders upon equivalent terms and conditions;

- (4) To collect and pay reasonable fees and charges in connection with making, purchasing and servicing of its loans, notes, bonds, commitments and other evidences of indebtedness; and
- (5) To borrow money to carry out and effectuate its corporate purposes and to issue its obligations as evidence of any such borrowing.

(d) Notwithstanding the provisions of G.S. 157-17.1, the approval of the Local Government Commission shall not be necessary for the issuance of bonds or the incurrence of indebtedness pursuant to this section, and the provisions of the Local Government Finance Act shall not be applicable with respect to bonds issued or indebtedness incurred pursuant to this section. Provided further that notwithstanding any other provision of State law or local ordinance, the approval of the governing body of the county or city in which the housing authority is located shall be necessary for the issuance of bonds or the incurrence of indebtedness pursuant to this section.

(e) This section applies only to housing authorities in any county with an area of 250 square miles or less and a population of more than 100,000 according to the most recent decennial federal census, and applies to all housing authorities of all cities within such counties.

(f) Not later than 30 days prior to making its determination, pursuant to subsections (c)(1), (2) or (3) of this section, that mortgage loans are not otherwise available wholly or in part from public or private lenders upon equivalent terms and conditions, an authority shall give written notice of a proposed financing, including the proposed terms and conditions of the mortgage loans to be made, to the North Carolina Housing Finance Agency. Within 20 days following receipt of such notice, the North Carolina Housing Finance Agency shall respond, in writing, to the authority, and provide the authority with any terms and conditions of mortgage loans which the Agency can make available and which the Agency believes are reasonably relevant to said determination. (1987, c. 423.)

### **§ 157-9.3. Mixed income projects owned or operated by authorities.**

If an authority is the owner or operator of a housing project that includes units for persons of other than low or moderate income, the operating expenses of that project (or of all such projects, together, owned or operated by the authority) shall be met entirely from rents from the project (or projects) together with any rent subsidies provided to low income tenants in the project (or projects). No rent subsidy may be provided to any tenant who is not a person of low income, and no rent subsidy may be paid from bond proceeds. (1987, c. 464, s. 4.)

### **§ 157-9.4. Multi-family rental housing projects.**

(a) If an authority owns, operates, or provides financial assistance to a multi-family rental housing project, at least twenty percent (20%) of the units in the project shall be set aside for the exclusive use of persons of low income. An authority may group projects being developed concurrently in order to meet the requirement of this subsection.

(b) If an authority provides financial assistance to a multi-family rental housing project, the authority shall establish, as a condition of the assistance, requirements and procedures that insure that all units initially set aside for the exclusive use of persons of low income continue to be so used for at least 15 years after the initial date on which at least fifty percent (50%) of the units in the project are occupied. (1987, c. 464, s. 4.1.)

**§ 157-10. Cooperation of authorities.**

Any two or more authorities may join or cooperate with one another in the exercise, either jointly or otherwise, of any or all of their powers for the purpose of financing (including the issuance of bonds, notes or other obligations and giving security therefor), planning, undertaking, owning, constructing, operating or contracting with respect to a housing project or projects located within the boundaries of any one or more of said authorities. For such purpose an authority may by resolution prescribe and authorize any other housing authority or authorities, so joining or cooperating with it, to act on behalf with respect to any or all of such powers. Any authorities joining or cooperating with one another may by resolutions appoint from among the commissioners of such authorities an executive committee with full power to act on behalf of such authorities with respect to any or all of their powers, as prescribed by resolutions of such authorities. (1935, c. 456, s. 10; 1943, c. 636, s. 2.)

**§ 157-11. Eminent domain.**

The authority shall have the right to acquire by eminent domain any real property, including fixtures and improvements, which it may deem necessary to carry out the purposes of this Article after the adoption by it of a resolution declaring that the acquisition of the property described therein is in the public interest and necessary for public use. The authority may exercise the power of eminent domain pursuant to the provisions of Chapter 40A.

Property already devoted to a public use may be acquired, provided, that no property belonging to any city or municipality or to any government may be acquired without its consent and that no property belonging to a public utility corporation may be acquired without the approval of the commission or other officer or tribunal, if any there be, having regulatory power over such corporation. (1935, c. 456, s. 11; 1981, c. 919, s. 25.)

**§ 157-12. Acquisition of land for government.**

The authority may acquire by purchase or by the exercise of its power of eminent domain, as aforesaid, any property real or personal for any housing project being constructed or operated by a government. The authority upon such terms and conditions, with or without consideration, as it shall determine, may convey title or deliver possession of such property so acquired or purchased to such government for use in connection with such housing project. (1935, c. 456, s. 12.)

**§ 157-13. Zoning and building laws.**

All housing projects of an authority shall be subject to the planning, zoning, sanitary and building laws, ordinances and regulations applicable to the locality in which the housing project is situated. (1935, c. 456, s. 13.)

**§ 157-14. Types of bonds authority may issue.**

An authority shall have power to issue bonds from time to time in its discretion for any of its corporate purposes. An authority shall also have power to issue or exchange refunding bonds for the purpose of paying, retiring, extending or renewing bonds previously issued by it. An authority may issue such types of bonds as it may determine, including (without limiting the generality of the foregoing) bonds on which the principal and interest are payable from income and revenues of the authority and from grants or contributions from the federal government or other source. Such income and revenues securing the bonds may be:

- (1) Exclusively the income and revenues of the housing project financed in whole or in part with the proceeds of such bonds;
- (2) Exclusively the income and revenues of certain designated housing projects, whether or not they are financed in whole or in part with the proceeds of such bonds; or
- (3) The income and revenues of the authority generally.

Any such bonds may be additionally secured by a pledge of any income or revenues of the authority, or a mortgage of any housing project, projects or other property of the authority.

Neither the commissioners of an authority nor any person executing the bonds shall be liable personally on the bonds by reason of the issuance thereof. The bonds and other obligations of an authority (and such bonds and obligations shall so state in their face) shall not be a debt of any city or municipality and neither the State nor any such city or municipality shall be liable thereon, nor in any event shall such bonds or obligations be payable out of any funds or properties other than those of said authority. The bonds shall not constitute an indebtedness within the meaning of any constitutional or statutory debt limitation of the laws of the State. Bonds may be issued under this Article notwithstanding any debt or other limitation prescribed in any statute.

This Article without reference to other statutes of the State shall constitute full and complete authority for the authorization, issuance, delivery and sale of bonds hereunder and such authorization, issuance, delivery and sale shall not be subject to any conditions, restrictions or limitations imposed by any other law whether general, special or local. (1935, c. 456, s. 14; 1939, c. 150, s. 2.)

#### **§ 157-15. Form and sale of bonds.**

The bonds of the authority shall be authorized by its resolution and shall be issued in one or more series and shall bear such date or dates, mature at such time or times, not exceeding 60 years from their respective dates, bear interest at such rate or rates, be in such denominations (which may be made interchangeable), be in such form, either coupon or registered, carry such registration privileges, be executed in such manner, be payable in such medium of payment, at such place or places, and be subject to such terms of redemption (with or without premium) as such resolution or its trust indenture or mortgage may provide.

The bonds may be sold at public or private sale; provided, however, that no public sale shall be held unless notice thereof is published once at least 10 days prior to such sale in a newspaper having a general circulation in the city in which the authority is located and in a financial newspaper published in the City of New York, New York, or in the City of Chicago, Illinois. The bonds may be sold at such price or prices as the authority shall determine.

Pending the authorization, preparation, execution or delivery of definitive bonds, the authority may issue interim certificates, or other temporary obligations, to the purchaser of such bonds. Such interim certificates, or other temporary obligations, shall be in such form, contain such terms, conditions and provisions, bear such date or dates, and evidence such agreements relating to their discharge or payment or the delivery of definitive bonds as the authority may by resolution, trust indenture or mortgage determine.

In case any of the officers whose signatures appear on any bonds or coupons shall cease to be such officers before the delivery of such bonds, such signatures shall, nevertheless, be valid and sufficient for all purposes, the same as if they had remained in office until such delivery.

The authority shall have power out of any funds available therefor to purchase any bonds issued by it at a price not more than the principal amount thereof and the accrued interest; provided,

however, that bonds payable exclusively from the revenues of a designated project or projects shall be purchased out of any such revenues available therefor. All funds so purchased shall be cancelled. This paragraph shall not apply to the redemption of bonds.

Any provision of any law to the contrary notwithstanding, any bonds, interim certificates, or other obligations issued pursuant to this Article shall be fully negotiable. (1935, c. 456, s. 15; 1971, c. 87, s. 1; 1977, c. 784, s. 2.)

**§ 157-16. Provisions of bonds, trust indentures, and mortgages.**

In connection with the issuance of bonds and/or the incurring of any obligation under a lease and in order to secure the payment of such bonds and/or obligations, the authority shall have power:

- (1) To pledge by resolution, trust indenture, mortgage, or other contract, all or any part of its rents, fees, or revenues.
- (2) To covenant against mortgaging all or any part of its property, real or personal, then owned or thereafter acquired, or against permitting or suffering any lien thereon.
- (3) To covenant with respect to limitations on its right to sell, lease or otherwise dispose of any housing project or any part thereof, or with respect to limitations on its right to undertake additional housing projects.
- (4) To covenant against pledging all or any part of its rents, fees and revenues to which its right then exists or the right to which may thereafter come into existence or against permitting or suffering any lien thereon.
- (5) To provide for the release of property, rents, fees and revenues from any pledge or mortgage, and to reserve rights and powers in, or the right to dispose of, property which is subject to a pledge or mortgage.
- (6) To covenant as to the bonds to be issued pursuant to any resolution, trust indenture, mortgage or other instrument and as to the issuance of such bonds in escrow or otherwise, and as to the use and disposition of the proceeds thereof.
- (7) To covenant as to what other, or additional debt, may be incurred by it.
- (8) To provide for the terms, form, registration, exchange, execution and authentication of bonds.
- (9) To provide for the replacement of lost, destroyed or mutilated bonds.
- (10) To covenant that the authority warrants the title to the premises.
- (11) To covenant as to the rents and fees to be charged, the amount (calculated as may be determined) to be raised each year or other period of time by rents, fees, and other revenues and as to the use and disposition to be made thereof.
- (12) To covenant as to the use of any or all of its property, real or personal.
- (13) To create or to authorize the creation of special funds in which there shall be segregated
  - a. The proceeds of any loan and/or grant;
  - b. All of the rents, fees and revenues of any housing project or projects or parts thereof;
  - c. Any moneys held for the payment of the costs of operation and maintenance of any such housing projects or as a reserve for the meeting of contingencies in the operation and maintenance thereof;

- d. Any moneys held for the payment of the principal and interest on its bonds or the sums due under its leases and/or as a reserve for such payments; and
  - e. Any moneys held for any other reserves or contingencies; and to covenant as to the use and disposal of the moneys held in such funds.
- (14) To redeem the bonds, and to covenant for their redemption and to provide the terms and conditions thereof.
  - (15) To covenant against extending the time for the payment of its bonds or interest thereon, directly or indirectly, by any means or in any manner.
  - (16) To prescribe the procedure, if any, by which the terms of any contract with bondholders may be amended or abrogated, the amount of bonds the holders of which must consent thereto and the manner in which such consent may be given.
  - (17) To covenant as to the maintenance of its property, the replacement thereof, the insurance to be carried thereon and the use and disposition of insurance moneys.
  - (18) To vest in an obligee of the authority the right, in the event of the failure of the authority to observe or perform any covenant on its part to be kept or performed, to cure any such default and to advance any moneys necessary for such purpose, and the moneys so advanced may be made an additional obligation of the authority with such interest, security and priority as may be provided in any trust indenture, mortgage, lease or contract of the authority with reference thereto.
  - (19) To covenant and prescribe as to the events of default and terms and conditions upon which any or all of its bonds shall become or may be declared due before maturity and as to the terms and conditions upon which such declaration and its consequences may be waived.
  - (20) To covenant as to the right, liabilities, powers and duties arising upon the breach by it of any covenant, condition, or obligation.
  - (21) To covenant to surrender possession of all or any part of any housing project or projects upon the happening of an event of default (as defined in the contract) and to vest in an obligee the right without judicial proceedings to take possession and to use, operate, manage and control such housing projects or any part thereof, and to collect and receive all rents, fees and revenues arising therefrom in the same manner as the authority itself might do and to dispose of the moneys collected in accordance with the agreement of the authority with such obligee.
  - (22) To vest in a trustee or trustees the right to enforce any covenant made to secure, to pay, or in relation to the bonds, to provide for the powers and duties of such trustee or trustees, to limit liabilities thereof and to provide the terms and conditions upon which the trustee or trustees or the holders of bonds or any proportion of them may enforce any such covenant.
  - (23) To make covenants other than in addition to the covenants herein expressly authorized, of like or different character.
  - (24) To execute all instruments necessary or convenient in the exercise of the powers herein granted or in the performance of its covenants or duties, which may contain such covenants and provisions, in addition to those above specified as

the government or any purchaser of the bonds of the authority may reasonably require.

- (25) To make such covenants and to do any and all such acts and things as may be necessary or convenient or desirable in order to secure its bonds, or in the absolute discretion of the authority tend to make the bonds more marketable; notwithstanding that such covenants, acts or things may not be enumerated herein; it being the intention hereof to give the authority power to do all things in the issuance of bonds, in the provisions for their security that are not inconsistent with the Constitution of the State and no consent or approval of any judge or court shall be required thereof. (1935, c. 456, s. 16; 1979, c. 690, ss. 2, 3.)

**§ 157-17. Power to mortgage when project financed with governmental aid.**

In connection with the interim or permanent financing of any project to be permanently financed in whole or in part by a government, or the permanent financing of which is to be secured by a pledge of a government commitment for rental assistance payments, the authority shall also have the power, subject to the consent or approval of any government providing such financing or making such commitment for rental assistance payments, to mortgage all or any part of its property, real or personal, then owned or thereafter acquired, and thereby:

- (1) To vest in a government the right, upon the happening of an event of default (as defined in such mortgage), to foreclose such mortgage through judicial proceedings or through the exercise of a power of sale without judicial proceedings, so long as a government shall be the holder of any of the bonds secured by such mortgage.
- (2) To vest in a trustee or trustees the right, upon the happening of an event of default (as defined in such mortgage), to foreclose such mortgage through judicial proceedings or through the exercise of a power of sale without judicial proceedings.
- (3) To vest in other obligees the right to foreclose such mortgage by judicial proceedings.
- (4) To vest in an obligee, including a government, the right in foreclosing any mortgage as aforesaid, to foreclose such mortgage as to all or such part or parts of the property covered thereby as such obligee (in its absolute discretion) shall elect; the institution, prosecution and conclusion of any such foreclosure proceedings and/or the sale of any such parts of the mortgaged property shall not affect in any manner or to any extent the lien of the mortgage on the parts of the mortgaged property not included in such proceedings or not sold as aforesaid. (1935, c. 456, s. 17; 1977, c. 784, s. 3.)

**§ 157-17.1. Approval of mortgages by Local Government Commission; considerations; rules and regulations.**

(a) With the exception of mortgages under G.S. 157-17, no housing authority may execute any mortgage authorized by this Chapter without the approval of the Local Government Commission.

(b) The Local Government Commission shall consider, in any application by a housing authority for approval of a mortgage, the following issues:

- (1) The value of the property, and any other secured indebtedness upon the property;
- (2) The ability of the authority to repay the indebtedness secured by the mortgage;
- (3) Any other issues it deems necessary to insure the financial soundness of the housing authority.

(c) The Local Government Commission shall adopt rules and regulations to implement this section. (1979, c. 690, s. 5.)

**§ 157-18. Remedies of an obligee of authority.**

An obligee of the authority shall have the right in addition to all other rights which may be conferred on such obligee subject only to any contractual restrictions binding upon such obligee:

- (1) By mandamus, suit, action or proceeding in law or equity (all of which may be joined in one action) to compel the authority, and the commissioners, officers, agents or employees thereof to perform each and every term, provision and covenant contained in any contract of the authority, and to require the carrying out of any or all covenants and agreements of the authority and the fulfillment of all duties imposed upon the authority by this Article.
- (2) By suit, action or proceeding in equity to enjoin any acts or things which may be unlawful, or the violation of any of the rights of such obligee of the authority.
- (3) By suit, action or proceeding in any court of competent jurisdiction to cause possession of any housing project or any part thereof to be surrendered to any obligee having the right to such possession pursuant to any contract of the authority. (1935, c. 456, s. 18.)

**§ 157-19. Additional remedies conferrable by mortgage or trust indenture.**

Any authority shall have power by its trust indenture, mortgage, lease or other contract to confer upon any obligee holding or representing a specified amount in bonds, lease or other obligations the right upon the happening of an "event of default" as defined in such instrument:

- (1) By suit, action or proceeding in any court of competent jurisdiction to obtain the appointment of a receiver of any housing project of the authority or any part or parts thereof. If such receiver be appointed, he may enter and take possession of such housing project or any part or parts thereof and operate and maintain same, and collect and receive all fees, rents, revenues, or other charges thereafter arising therefrom in the same manner as the authority itself might do and shall keep such moneys in a separate account or accounts and apply the same in accordance with the obligations of the authority as the court shall direct.
- (2) By suit, action or proceeding in any court of competent jurisdiction to require the authority and the commissioners thereof to account as if it and they were the trustees of an express trust. (1935, c. 456, s. 19.)

**§ 157-20. Remedies cumulative.**

All the rights and remedies hereinabove conferred shall be cumulative and in addition to all other rights and remedies that may be conferred upon such obligee of the authority by law or by any contract with the authority. (1935, c. 456, s. 20.)

**§ 157-21. Limitations on remedies of obligee.**

All property of the authority shall be exempt from levy and sale by virtue of an execution, and no execution shall issue against the same. No judgment against the authority shall be a charge or lien against its property, real or personal. The provisions of this section shall not apply to or limit the right of obligees of any mortgage of the authority provided for in G.S. 157-17, after foreclosure sale thereunder, to obtain a judgment or decree for any deficiency due on the indebtedness secured thereby and to issue execution on the credit of the authority. Such deficiency judgment or decree shall be a lien and charge upon the property of the authority, which may be levied on and sold by virtue of an execution or other judicial process for the purpose of satisfying such deficiency judgment or decree. (1935, c. 456, s. 21; 1979, c. 690, s. 4.)

**§ 157-22. Title obtained at foreclosure sale subject to agreement with government.**

Notwithstanding anything in this Article to the contrary, any purchaser or purchasers at a sale of real or personal property of the authority whether pursuant to any foreclosure of a mortgage, pursuant to judicial process or otherwise, shall obtain title subject to any contract between the authority and a government relating to the supervision by a government of the operation and maintenance of such property and the construction of improvements thereon. (1935, c. 456, s. 22.)

**§ 157-23. Contracts with federal government.**

In addition to the powers conferred upon the authority by other provisions of this Article, the authority is empowered to borrow money and/or accept grants from the federal government for or in aid of the construction of any housing project which such authority is authorized by this Article to undertake, to take over any land acquired by the federal government for the construction of a housing project, to take over or lease or manage any housing project constructed or owned by the federal government, and to these ends, to enter into such contracts, mortgages, trust indentures, leases or other agreements as the federal government may require including agreements that the federal government shall have the right to supervise and approve the construction, maintenance and operation of such housing project. It is the purpose and intent of this Article to authorize every authority to do any and all things necessary to secure the financial aid and the cooperation of the federal government in the construction, maintenance and operation of any housing project which the authority is empowered by this Article to undertake. (1935, c. 456, s. 23.)

**§ 157-24. Security for funds deposited by authorities.**

The authority may by resolution provide that

- (1) All moneys deposited by it shall be secured by obligations of the United States or of the State of a market value equal at all times to the amount of such deposits or
- (2) By any securities in which savings banks may legally invest funds within their control or
- (3) By an undertaking with such sureties as shall be approved by the authority faithfully to keep and pay over upon the order of the authority any such deposits and agreed interest thereon, and all banks and trust companies are authorized to give any such security for such deposits. (1935, c. 456, s. 24.)

**§ 157-25. Housing bonds, legal investments and security.**

The State and all public officers, municipal corporations, political subdivisions, and public bodies, all banks, bankers, trust companies, savings banks and institutions, building and loan associations, savings and loan associations, investment companies and other persons carrying on a banking business, all insurance companies, insurance associations, and other persons carrying on an insurance business, and all executors, administrators, guardians, trustees and other fiduciaries may legally invest any sinking funds, moneys or other funds belonging to them or within their control in any bonds issued by a housing authority established (or hereafter established) pursuant to this Article or issued by any public housing authority or agency in the United States, when such bonds are secured by a pledge of annual contributions to be paid by the United States government or any agency thereof, or bonds which may be issued notwithstanding any other limitations of this Chapter, by a not-for-profit corporate agency of a housing authority secured by rentals payable pursuant to section 23 of the United States Housing Act of 1937, as amended, or by rental assistance payments under any other section of said act, as amended, and any such bonds shall be authorized security for all public deposits and shall be fully negotiable in this State; it being the purpose of this Article to authorize any persons, firms, corporations, associations, political subdivisions, bodies and officers, public or private, to use any funds owned or controlled by them, including (but not limited to) sinking, insurance, investment, retirement, compensation, pension and trust funds, and funds held on deposit, for the purchase of any such bonds and that any such bonds shall be authorized security for all public deposits and shall be fully negotiable in this State: Provided, however, that nothing contained in this Article shall be construed as relieving any person, firm or corporation from any duty of exercising reasonable care in selecting securities. (1935, c. 456, s. 25; 1941, c. 78, s. 3; 1971, c. 1161; 1977, c. 784, s. 4.)

#### **§ 157-26. Tax exemptions.**

An authority is a local government agency and is exempt from taxation to the same extent as a unit of local government. Property owned by an authority is exempt from taxation in accordance with Article V, § 2 of the North Carolina Constitution. Bonds and other obligations issued by an authority or its corporate agent authorized by this Article to exercise its powers are declared to be issued for a public purpose and to be public instrumentalities. These obligations 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 obligations, and franchise taxes. The interest on the obligations is not subject to taxation as income. (1935, c. 456, s. 26; 1953, c. 907; 1973, c. 695, s. 7; 1977, c. 784, s. 5; 1995, c. 46, s. 17; 2015-264, s. 16(i).)

#### **§ 157-26.1. Exemption from real estate licensure requirements.**

The authority and the regular salaried employees of the authority shall be exempt from the requirements of Chapter 93A of the General Statutes as provided in G.S. 93A-2(c)(8). (1999-409, s. 2.)

#### **§ 157-27. Reports.**

The authority shall at least once a year file with the mayor of the city a report of its activities for the preceding year, and shall make any recommendations with reference to any additional legislation or other action that may be necessary in order to carry out the purposes of this Article. (1935, c. 456, s. 27.)

**§ 157-28. Restriction on right of eminent domain; right of appeal preserved; investigation by Utilities Commission.**

Notwithstanding any finding of public convenience and necessity, either in general or specific, by the terms of this Article, the right of eminent domain shall not be exercised unless and until a certificate of public convenience and necessity for such project has been issued by the Utilities Commission of North Carolina, and the proceedings leading up to the issuing of such certificate of public convenience and necessity, and the right to appeal therefrom shall be as now provided by law and said rights are hereby expressly reserved to all interested parties in said proceedings. In addition to the powers now granted by law to the Utilities Commission of North Carolina, the said Utilities Commission is hereby vested with full power and authority to investigate and examine all projects set up or attempted to be set up under the provisions of this Article and determine the question of the public convenience and necessity for said project. (1935, c. 456, s. 28.)

**§ 157-29. Rentals; tenant selections; and summary ejectments.**

(a) It is hereby declared to be the policy of this State that each housing authority shall manage and operate its housing projects in an efficient manner so as to enable it to fix the cost of dwelling accommodations for persons of low income at the lowest possible rates consistent with its providing decent, safe, and sanitary dwelling accommodations. No housing authority may construct or operate its housing projects so as to provide revenues for other activities of the city.

(b) In the operation or management of housing projects, portions of projects, or other housing assistance programs for persons of low income, an authority shall at all times observe the following duties with respect to rentals and tenant selection:

- (1) It may rent or lease dwelling accommodations set aside for persons of low income only to persons who lack the amount of income that is necessary (as determined by the housing authority undertaking the project) to enable them, without financial assistance, to live in decent, safe, and sanitary dwellings, without overcrowding; and
- (2) It may rent or lease dwelling accommodations to persons of low income only at rentals within the financial reach of such persons.
- (3) Repealed by Session Laws 2006-219, s. 1, effective August 8, 2006.
- (3a) It shall comply with the following targeting requirements:
  - a. Not less than forty percent (40%) of the families admitted to its public housing program from its waiting list in its fiscal year shall be extremely low-income families with incomes at or below thirty percent (30%) of the area median income. For purposes of this section, this shall be known as the "basic targeting requirement".
  - b. To the extent provided in sub-subdivisions c. and d. of this subdivision, the admission of extremely low-income families to its Section 8 voucher program during the same fiscal year shall be credited against the basic targeting requirement. For purposes of this section, "Section 8" refers to Section 8 of the U.S. Housing Act of 1937 as amended.
  - c. If admissions of extremely low-income families to its Section 8 voucher program during its fiscal year exceed the seventy-five percent (75%) minimum targeting requirement for its Section 8 voucher program, the excess shall be credited against its basic targeting requirement for the same fiscal year.

- d. The fiscal year credit for Section 8 voucher program admissions that exceeded the minimum Section 8 voucher program targeting requirement shall not exceed the lower of any of the following:
    - 1. Ten percent (10%) of its waiting list admissions during its fiscal year.
    - 2. Ten percent (10%) of waiting list admissions to its Section 8 tenant-based assistance program during its fiscal year.
    - 3. The number of qualifying low-income families who, during the fiscal year, commence occupancy of its public housing units that are located in census tracts with a poverty rate of thirty percent (30%) or more. For purposes of this sub-sub-subdivision, qualifying low-income family means a low-income family other than an extremely low-income family.
- (4) Repealed by Session Laws 2006-219, s. 1, effective August 8, 2006.
- (4a) Its targeting requirement for tenant-based assistance shall ensure that not less than seventy-five percent (75%) of the families admitted to its tenant-based voucher program from its waiting list during its fiscal year shall be extremely low-income families with incomes at or below thirty percent (30%) of the area median income.

(c) An authority may terminate or refuse to renew a rental agreement for a serious or repeated violation of a material term of the rental agreement such as (i) failure to make payments due under the rental agreement, if such payments were properly and promptly calculated according to applicable HUD regulation, whether or not such failure was the fault of the tenant, (ii) failure to fulfill the tenant obligations set forth in 24 C.F.R. Section 966.4(f) or other applicable provisions of federal law as they may be amended from time to time, or (iii) other good cause. Except in the case of failure to make payments due under a rental agreement, fault on the part of a tenant may be considered in determining whether good cause exists to terminate a rental agreement.

(d) The receipt or acceptance of rent by an authority, with or without knowledge of a prior default or failure by the tenant under a rental agreement, shall not constitute a waiver of that default or failure unless (i) the authority expressly agrees to such waiver in writing, or (ii) within 120 days after obtaining knowledge of the default or failure, the authority fails either to notify the tenant that a violation of the rental agreement has occurred or to exercise one of the authority's remedies for such violation.

(e) In any summary ejectment action wherein a housing authority alleges that a tenant's lease has been terminated because the tenant, a household member, or a guest has engaged in a criminal activity that threatens the health and safety of others or the peaceful enjoyment of the premises by others, or has engaged in activity involving illegal drugs, as defined in 24 C.F.R. § 966.4, the housing authority may bring an action under Article 7 of Chapter 42 of the General Statutes. (1939, c. 150; 1985, c. 741, s. 2; 1987, c. 464, s. 5; 1989, c. 272; 1995, c. 520, s. 1; 1997-473, s. 1; 2005-423, s. 8; 2006-219, s. 1; 2006-259, s. 39.)

#### **§ 157-29.1. Fraudulent misrepresentation.**

(a) Any person whether provider or recipient, or person representing himself as such, who willfully and knowingly and with intent to deceive makes a false statement or representation or who willfully and knowingly and with intent to deceive fails to disclose a material fact and as a result of making a false statement or representation or failing to disclose a material fact obtains, for

himself or another person, attempts to obtain for himself or another person, or continues to receive housing assistance in the amount or value of not more than four hundred dollars (\$400.00) is guilty of a Class 1 misdemeanor.

(b) Any person whether provider or recipient, or person representing himself as such, who willfully and knowingly and with intent to deceive makes a false statement or representation or who willfully and knowingly and with intent to deceive fails to disclose a material fact and as a result of making a false statement or representation or failing to disclose a material fact obtains, for himself or another person, or continues to receive housing assistance in the amount or value of more than four hundred dollars (\$400.00) is guilty of a Class I felony.

(c) As used in this section the word "person" means person, association, consortium, body politic, partnership, or other group, entity, or organization. (1985, c. 741, s. 1; 1993, c. 539, s. 1080; 1994, Ex. Sess., c. 24, s. 14(c).)

### **§ 157-30. Creation and establishment validated.**

The creation and establishment of housing authorities under the provisions of Chapter 456, Public Laws of 1935, as amended by Chapter 2, Public Laws of 1938, Extra Session, and as further amended by Chapter 150, Public Laws of 1939, and any additional amendments thereto, known as the Housing Authorities Law [G.S. 157-1 et seq.], together with all proceedings, acts and things heretofore undertaken, performed or done with reference thereto, are hereby validated, ratified, confirmed, approved and declared legal in all respects, notwithstanding any want of statutory authority or any defect or irregularity therein. (1939, c. 118, s. 1; 1941, c. 62, s. 1.)

### **§ 157-31. Contracts, agreements, etc., validated.**

All contracts, agreements, obligations and undertakings of such housing authorities heretofore entered into relating to financing or aiding in the development, construction, maintenance or operation of any housing project or projects or to obtaining aid therefor from the United States Housing Authority, including (without limiting the generality of the foregoing) loan and annual contributions contracts and leases with the United States Housing Authority, agreements with municipalities or other public bodies (including those which are pledged or authorized to be pledged for the protection of the holders of any notes or bonds issued by such housing authorities or which are otherwise made a part of the contract with such holders of notes or bonds) relating to cooperation and contributions in aid of housing projects, payments (if any) in lieu of taxes, furnishing of municipal services and facilities, and the elimination of unsafe and insanitary dwellings, and contracts for the construction of housing projects, together with all proceedings, acts and things heretofore undertaken, performed or done with reference thereto, are hereby validated, ratified, confirmed, approved and declared legal in all respects, notwithstanding any want of statutory authority or any defect or irregularity therein. (1939, c. 118, s. 2; 1941, c. 62, s. 2.)

### **§ 157-32. Proceedings for issuance, etc., of bonds and notes validated.**

All proceedings, acts and things heretofore undertaken, performed or done in or for the authorization, issuance, execution and delivery of notes and bonds by housing authorities for the purpose of financing or aiding in the development or construction of a housing project or projects, and all notes and bonds heretofore issued by housing authorities are hereby validated, ratified, confirmed, approved and declared legal in all respects, notwithstanding any want of statutory authority or any defect or irregularity therein. (1939, c. 118, s. 3; 1941, c. 62, s. 3.)

**§ 157-32.1. Other validation of creation, etc.**

The creation, establishment and organization of housing authorities under the provisions of the Housing Authorities Law (Chapter 456, Public Laws of 1935, as amended, codified as G.S. 157-1 et seq.), together with all proceedings, acts and things heretofore undertaken or done with reference thereto, are hereby validated and declared legal in all respects. (1943, c. 89, s. 1.)

**§ 157-32.2. Other validation of contracts, agreements, etc.**

All contracts, agreements and undertakings of such housing authorities heretofore entered into relating to financing, or aiding in the development or operation of any housing projects, including (without limiting the generality of the foregoing) loan and annual contributions contracts, agency contracts and leases, agreements with municipalities or other public bodies (including those which are pledged or authorized to be pledged for the protection of the holders of any notes or bonds issued by such housing authorities or which are otherwise made a part of the contract with such holders of notes or bonds) relating to cooperation in aid of housing projects, payments to public bodies in the State, furnishing of municipal services and facilities and the elimination of unsafe and insanitary dwellings, and contracts for the construction of housing projects, together with all proceedings, acts and things heretofore undertaken or done with reference thereto, are hereby validated and declared legal in all respects. (1943, c. 89, s. 2.)

**§ 157-32.3. Other validation of bonds and notes.**

All proceedings, acts and things heretofore undertaken or done in or for the authorization, issuance, execution and delivery of notes and bonds by housing authorities for the purpose of financing or aiding in the development or construction of a housing project or projects, and all notes and bonds heretofore issued by housing authorities are hereby validated and declared legal in all respects. (1943, c. 89, s. 3.)

**§ 157-32.4. Further validation of contracts, agreements, etc.**

All contracts or agreements of housing authorities heretofore entered into with the federal government or its agencies, and with municipalities or others relating to financial assistance for housing projects in which it was required that loans or advances shall bear an interest rate in excess of six per centum (6%) per annum, or in which a municipality or others had agreed to pay funds equal to the interest in excess of six per centum (6%) per annum are hereby validated, ratified, confirmed, approved and declared legal with respect to the payment of interest in excess of six per centum (6%), and all things done or performed in reference thereto. The housing authorities are hereby authorized to assume the full obligation of the municipalities under the contracts or agreements with reference to interest in excess of six per centum (6%), and to reimburse any municipality which has made any interest payment under such contracts or agreements. (1971, c. 87, s. 2.)

**§ 157-33. Notice, hearing and creation of authority for a county.**

Any 25 residents of a county may file a petition with the clerk of the board of county commissioners setting forth that there is a need for an authority to function in the county. Upon the filing of such a petition such clerk shall give notice of the time, place and purposes of a public hearing at which the board of county commissioners will determine the need for an authority in the county. Such notice shall be given at the county's expense by publishing a notice, at least 10 days

preceding the day on which the hearing is to be held, in a newspaper having a general circulation in the county or, if there be no such newspaper, by posting such a notice in at least three public places within the county, at least 10 days preceding the day on which the hearing is to be held.

Upon the date fixed for said hearing to be held upon notice as provided herein, an opportunity to be heard shall be granted to all residents and taxpayers of the county and to all other interested persons. After such a hearing, the board of county commissioners shall determine (i) whether insanitary or unsafe inhabited dwelling accommodations exist in the county and/or (ii) whether there is a lack of safe or sanitary dwelling accommodations in the county available for all the inhabitants thereof. In determining whether dwelling accommodations are unsafe or insanitary, the board of county commissioners shall take into consideration the following: the physical condition and age of the buildings; the degree of overcrowding; the percentage of the land coverage; the light and air available to the inhabitants of such dwelling accommodations; the size and arrangement of the rooms; the sanitary facilities; and the extent to which conditions exist in such buildings which endanger life or property by fire or other causes.

If it shall determine that either or both of the above enumerated conditions exist, the board of county commissioners shall adopt a resolution so finding (which need not go into any detail other than the mere finding) and shall thereupon either (i) determine that the board of county commissioners shall itself constitute and act ex officio as an authority or (ii) appoint, as hereinafter provided, not less than five nor more than nine commissioners to act as an authority. Said authority shall be a public body and a body corporate and politic upon the completion of the taking of the following proceedings:

The commissioners shall present to the Secretary of State an application signed by them, which shall set forth (without any detail other than the mere recital)

- (1) That a notice has been given and public hearing has been held as aforesaid, that the board of county commissioners made the aforesaid determination after such hearing and appointed them as commissioners;
- (2) The name, and official residence of each of the commissioners, together with a certified copy of the appointment evidencing their right to office, the date and place of induction into and taking oath of office, and that they desire the housing authority to become a public body and a body corporate and politic under this Article;
- (3) The term of office of each of the commissioners, except where the authority consists of the board of county commissioners ex officio;
- (4) The name which is proposed for the corporation; and
- (5) The location of the principal office of the proposed corporation.

The application shall be subscribed and sworn to by each of said commissioners before an officer authorized by the laws of the State to take and certify oaths, who shall certify upon the application that he personally knows the commissioners and knows them to be the officers as asserted in the application, and that each subscribed and swore thereto in the officer's presence. The Secretary of State shall examine the application and if he finds that the name proposed for the corporation is not identical with that of a person or of any other corporation of this State or so nearly similar as to lead to confusion and uncertainty he shall receive and file it and shall record it in an appropriate book of record in his office.

When the application has been made, filed and recorded, as herein provided, the authority shall constitute a public body and a body corporate and politic under the name proposed in the application; the Secretary of State shall make and issue to the said commissioners, a certificate of

incorporation pursuant to this Article, under the seal of the State, and shall record the same with the application.

If the board of county commissioners, after a hearing as aforesaid, shall determine that neither of the above enumerated conditions exist, it shall adopt a resolution denying the petition. After three months shall have expired from the date of the denial of any such petitions, subsequent petitions may be filed as aforesaid and new hearings and determinations made thereon.

In any suit, action or proceeding involving the validity or enforcement of, or relating to any contract of the authority, the authority shall be conclusively deemed to have been established in accordance with the provisions of this Article upon proof of the issuance of the aforesaid certificate by the Secretary of State. A copy of such certificate, duly certified by the Secretary of State, shall be admissible in evidence in any such suit, action or proceeding, and shall be conclusive proof of the filing and contents thereof. (1941, c. 78, s. 4; 1943, c. 636, s. 7; 1969, c. 785, s. 1; 1981, c. 21, s. 1.)

#### **§ 157-34. Commissioners and powers of authority for a county.**

The commissioners of a housing authority created for a county may be appointed and removed by the board of county commissioners of the county in the same manner as the commissioners of a housing authority created for a city may be appointed and removed by the mayor; provided, that the board of county commissioners may determine in the case of any authority for its county that the board of county commissioners itself shall constitute and act ex officio as the authority. The board of county commissioners may at any time by resolution or ordinance increase or decrease the membership of an authority, within the limitations prescribed in G.S. 157-33. Except as otherwise provided herein, each housing authority created for a county and the commissioners thereof shall have the same functions, rights, powers, duties and limitations provided for housing authorities created for cities and the commissioners of such housing authorities: Provided, that for such purposes the term "mayor" or "council" as used in the housing authorities law and any amendments thereto shall be construed as meaning "board of county commissioners," the term "city clerk" as used therein shall be construed as meaning "clerk of the board of county commissioners" and the term "city" as used therein shall be construed as meaning "county" unless a different meaning clearly appears from the context: Provided, further, that a housing authority created for a county shall not be subject to the limitations provided in subdivision (4) of G.S. 157-29 of the housing authorities law with respect to housing projects for farmers of low income. (1941, c. 78, s. 4; 1969, c. 785, s. 2; 1981, c. 21, s. 2.)

#### **§ 157-35. Creation of regional housing authority.**

If the board of county commissioners of each of two or more contiguous counties having an aggregate population of more than 60,000 by resolution declares that there is a need for one housing authority to be created for all of such counties to exercise powers and other functions herein prescribed for a housing authority in such counties, a public body corporate and politic to be known as a regional housing authority for all of such counties shall (after the commissioners thereof file an application with the Secretary of State as hereinafter provided) thereupon exist for and exercise its powers and other functions in such counties; and thereupon any housing authority created for any of such counties shall cease to exist except for the purpose of winding up its affairs and executing a deed to the regional housing authority as hereinafter provided: Provided, that the board of county commissioners shall not adopt a resolution as aforesaid if there is a county housing authority created for such county which has any bonds or notes outstanding unless first, all holders

of such bonds and notes consent in writing to the substitution of such regional housing authority in lieu of such county housing authority on all such bonds and notes; and second, the commissioners of such county housing authority adopt a resolution consenting to the transfer of all the rights, contracts, obligations, and property, real and personal, of such county housing authority to such regional housing authority as hereinafter provided: Provided, further, that when the above conditions are complied with and such regional housing authority is created and authorized to exercise its powers and other functions, all rights, contracts, agreements, obligations, and property, real and personal, of such county housing authority shall be in the name of and vest in such regional housing authority, and all obligations of such county housing authority shall be the obligations of such regional housing authority and all rights and remedies of any person against such county housing authority may be asserted, enforced, and prosecuted against such regional housing authority to the same extent as they might have been asserted, enforced, and prosecuted against such county housing authority. When any real property of a county housing authority vests in a regional housing authority as provided above, the county housing authority shall execute a deed of such property to the regional housing authority which thereupon shall file such deed in the office provided for the filing of deeds: Provided, that nothing contained in this sentence shall affect the vesting of property in the regional housing authority as provided above.

The board of county commissioners of each of two or more said contiguous counties shall by resolution declare that there is a need for one regional housing authority to be created for all of such counties to exercise powers and other functions herein prescribed in such counties, if such board of county commissioners finds (and only if it finds)

- (1) Insanitary or unsafe dwelling accommodations exist in the area of its respective county and/or there is a lack of safe or sanitary dwelling accommodations in the county available for all the inhabitants thereof and
- (2) That a regional housing authority for the proposed region would be a more efficient or economical administrative unit than a housing authority for an area having a smaller population to carry out the purposes of the housing authorities law and any amendments thereto, in such county.

In determining whether dwelling accommodations are unsafe or insanitary, the board of county commissioners shall take into consideration the following: the physical condition and age of the buildings; the degree of overcrowding; the percentage of land coverage; the light and air available to the inhabitants of such dwelling accommodations; the size and arrangement of the rooms; the sanitary facilities; and the extent to which conditions exist in such buildings which endanger life or property by fire or other causes.

If it shall determine that both (1) and (2) of the above enumerated conditions exist, the board of county commissioners shall adopt a resolution so finding (which need not go into any detail other than the mere finding). After the appointment, as hereinafter provided, of the commissioners to act as the regional housing authority, said authority shall be a public body and a body corporate and politic upon the completion of the taking of the following proceedings:

The commissioners shall present to the Secretary of State an application signed by them, which shall set forth (without any detail other than the mere recital)

- (1) That the boards of county commissioners made the aforesaid determination and that they have been appointed as commissioners;
- (2) The name, and official residence of each of the commissioners, together with a certified copy of the appointment evidencing their right to office, the date and place of induction into and taking oath of office, and that they desire the housing

authority to become a public body and a body corporate and politic under this Article;

- (3) The term of office of each of the commissioners;
- (4) The name which is proposed for the corporation; and
- (5) The location of the principal office of the proposed corporation.

The application shall be subscribed and sworn to by each of said commissioners before an officer authorized by the laws of the State to take and certify oaths, who shall certify upon the application that he personally knows the commissioners and knows them to be the officers as asserted in the application, and that each subscribed and swore thereto in the officer's presence. The Secretary of State shall examine the application and if he finds that the name proposed for the corporation is not identical with that of a person or of any other corporation of this State or so nearly similar as to lead to confusion and uncertainty he shall receive and file it and shall record it in an appropriate book of record in his office.

When the application has been made, filed and recorded, as herein provided, the authority shall constitute a public body and a body corporate and politic under the name proposed in the application; the Secretary of State shall make and issue to the said commissioners, a certificate of incorporation pursuant to this Article, under the seal of the State, and shall record the same with the application.

In any suit, action or proceeding involving the validity or enforcement of, or relating to any contract of the regional housing authority, the regional housing authority shall be conclusively deemed to have been established in accordance with the provisions of this Article upon proof of the issuance of the aforesaid certificate by the Secretary of State. A copy of such certificate, duly certified by the Secretary of State, shall be admissible in evidence in any such suit, action or proceeding, and shall be conclusive proof of the filing and contents thereof. (1941, c. 78, s. 4; 1943, c. 636, ss. 3, 7; 1998-217, s. 20.)

#### **§ 157-36. Commissioners of regional housing authority.**

(a) The board of county commissioners of each county included in a regional housing authority shall appoint one person as a commissioner of such authority, and each such commissioner to be first appointed by the board of county commissioners of a county may be appointed at or after the time of the adoption of the resolution declaring the need for such regional housing authority or declaring the need for the inclusion of such county in the area of operation of such regional housing authority. When the area of operation of a regional housing authority is increased to include an additional county or counties as provided in this Article, the board of county commissioners of each such county shall thereupon appoint one additional person as a commissioner of the regional housing authority. The board of county commissioners of each county shall appoint the successor of the commissioner appointed by it.

(b) The commissioners of the regional housing authority shall appoint as a commissioner at least one person who is directly assisted by the authority unless the authority's rules require that the person be elected by other persons who are assisted by the authority. However, there shall be no requirement to appoint such a person if the authority: (i) operates less than 300 public housing units, (ii) provides reasonable notice to all resident advisory boards within the authority's area of operation of the opportunity for at least one person who is directly assisted by the authority to serve as a commissioner, and (iii) within a reasonable time after receipt of the notice by the resident advisory boards, has not been notified of the intention of any such person to serve. The commissioners of the regional housing authority shall appoint successors of the commissioner

appointed by them and shall fill any vacancies. A certificate of the appointment signed by the chair of the commissioners of the regional housing authority shall be conclusive evidence of the due and proper selection of the commissioner. If the commissioner directly assisted by the regional housing authority ceases to receive such assistance, the commissioner's office shall be abolished and another person who is directly assisted by the regional housing authority shall be appointed by the commissioners of the regional housing authority.

(c) No commissioner who is also a person directly assisted by the regional housing authority shall be qualified to vote on matters affecting his or her official conduct or matters affecting his or her own individual tenancy, as distinguished from matters affecting tenants in general.

(d) If any county is excluded from the area of operation of a regional housing authority, the office of the commissioner of such regional housing authority appointed by the board of county commissioners of such county shall be thereupon abolished. If the person appointed as a commissioner under subsection (b) of this section resides in a county that is excluded from the authority's area of operation, the office of that commissioner shall be abolished and another person residing within the authority's area of operation shall be appointed.

(e) A certificate of the appointment of any commissioner signed by the chair of the board of county commissioners (or the appointing officer) shall be conclusive evidence of the due and proper appointment of such commissioner.

(f) If the area of operation of a regional housing authority consists at any time of an even number of counties, except as provided in subsection (g) of this section, the Governor shall appoint one additional commissioner to such regional housing authority whose term of office shall be as herein provided for a commissioner of a regional housing authority, except that such term shall end at any earlier time that the area of operation of the regional housing authority shall be changed to consist of an odd number of counties. The Governor shall likewise appoint each person to succeed such additional commissioner. A certificate of the appointment of any such additional commissioner shall be signed by the Governor and filed with the Secretary of State. A copy of such certificate, duly certified by the Secretary of State, shall be conclusive evidence of the due and proper appointment of such additional commissioner.

(g) If the membership of the board of commissioners consists of an even number as a result of the appointment of a person who is directly assisted by the regional housing authority, the Governor shall appoint one additional commissioner to the authority whose term of office shall be as herein provided for a commissioner of an authority, except that such term shall end at any earlier time that the area of operation of the authority shall be changed to consist of an even number of counties. A certificate of the appointment shall be signed and filed as provided in subsection (f) of this section. The Governor shall appoint successors to the additional commissioner and shall fill any vacancies.

(h) The commissioners of a regional housing authority shall be appointed for terms of five years except that all vacancies shall be filled for the unexpired terms. Each commissioner shall hold office until his or her successor has been appointed and has qualified.

(i) For inefficiency or neglect of duty or misconduct in office, a commissioner of a regional housing authority may be removed by the appointing authority. The commissioner shall have been given a copy of the charges against him or her at least 10 days prior to the hearing thereon and shall have had an opportunity to be heard in person or by counsel.

(j) The commissioners appointed as aforesaid shall constitute the regional housing authority, and the powers of such authority shall be vested in such commissioners in office from time to time.

(k) The commissioners of a regional housing authority shall elect a chair from among the commissioners and shall have power to select or employ such other officers and employees as the regional housing authority may require. A majority of the commissioners of a regional housing authority shall constitute a quorum of such authority for the purpose of conducting its business and exercising its powers and for all other purposes. (1941, c. 78, s. 4; 1943, c. 636, s. 4; 1999-146, s. 2.)

**§ 157-37. Powers of regional housing authority.**

Except as otherwise provided herein, a regional housing authority and the commissioners thereof shall, within the area of operation of such regional housing authority, have the same functions, rights, powers, duties and limitations provided for housing authorities created for cities or counties and the commissioners of such housing authorities: Provided, that for such purposes the term "mayor" or "council" as used in the Housing Authorities Law and any amendments thereto shall be construed as meaning "board of county commissioners," the term "city clerk" as used therein shall be construed as meaning "clerk of the board of county commissioners" and the term "city" as used therein shall be construed as meaning "county" unless a different meaning clearly appears from the context: Provided, further, that a regional housing authority shall not be subject to the limitations provided in subdivision (4) of G.S. 157-29 of the Housing Authorities Law with respect to housing projects for farmers of low income. Except as otherwise provided in this Article, all the provisions of law applicable to housing authorities created for counties and the commissioners of such authorities shall be applicable to regional housing authorities and the commissioners thereof. (1941, c. 78, s. 4; 1943, c. 636, s. 6.)

**§ 157-38. Rural housing projects.**

Housing authorities created for counties and regional housing authorities are specifically empowered and authorized to borrow money, accept grants and exercise their other powers to provide housing for farmers of low income. In connection with such projects, such housing authorities may enter into such lease or purchase agreements, accept such conveyances and rent or sell dwellings forming part of such projects to or for farmers of low income, as such housing authority deems necessary in order to assure the achievement of the objectives of this Article. Such leases, agreements or conveyances may include such covenants as the housing authority deems appropriate regarding such dwellings and the tracts of land described in any such instrument, which covenants shall be deemed to run with the land where the housing authority deems it necessary and the parties to such instrument so stipulate. Nothing contained in this section shall be construed as limiting any other powers of any housing authority. (1941, c. 78, s. 4.)

**§ 157-39. Housing applications by farmers.**

The owner of any farm operated, or worked upon, by farmers of low income in need of safe and sanitary housing may file an application with a housing authority of a county or a regional housing authority requesting that it provide for a safe and sanitary dwelling or dwellings for occupancy by such farmers of low income. Such applications shall be received and examined by housing authorities in connection with the formulation of projects or programs to provide housing for farmers of low income. (1941, c. 78, s. 4.)

**§ 157-39.1. Area of operation of city, county and regional housing authorities.**

(a) The boundaries or area of operation of a housing authority created for a city shall include said city and the area within 10 miles from the territorial boundaries of said city, but in no event shall it include the whole or a part of any other city, except as otherwise provided herein. Notwithstanding the previous sentence, a housing authority created for a city may operate and perform any of its lawful functions within any other city that has a common boundary with a city creating an authority when requested to do so by resolution of the governing body of such other city. The area of operation or boundaries of a housing authority created for a county shall include all of the county for which it is created and the area of operation or boundaries of a regional housing authority shall include (except as otherwise provided elsewhere in this Article) all of the counties for which such regional housing authority is created and established: Provided, that a county or regional housing authority shall not undertake any housing project or projects within the boundaries of any city unless a resolution shall have been adopted by the governing body of such city (and also by any housing authority which shall have been theretofore established and authorized to exercise its powers in such city) declaring that there is a need for the county or regional housing authority to exercise its power within such city: Provided, that the jurisdiction of any rural housing authority to which the Secretary of State has heretofore issued a certificate of incorporation shall extend to within a distance of one mile of the town or city limits of any town or city having a population in excess of 500, located in any county now or hereafter constituting a part of the territory of such rural housing authority: Provided, further, that this provision shall not affect the jurisdiction of any city housing authority to which the Secretary of State has heretofore issued a certificate of incorporation. A housing authority created for a county may operate and perform any of its lawful functions anywhere within the municipal boundaries of any city located in whole or in part within the county for which it is created, when requested to do so by resolution of the governing body of such city.

(b) In any county in which a city housing authority has been established, but where there are portions of the county in which the city is located which are more than 10 miles from the territorial boundaries of the city, the city housing authority is authorized to operate in areas of the county beyond such limit, which are not within another city, upon the adoption of a joint resolution by the city council and the board of county commissioners. Such joint resolution must find that in such additional area, that insanitary or unsafe inhabited dwelling accommodations exist in such area or there is a shortage of safe or sanitary dwelling accommodations in such county available to persons of low income at rentals they can afford. A public hearing on such resolution need be held only by the board of county commissioners.

(c) A joint resolution adopted under subsection (b) of this section may, in lieu of the appointment provisions of G.S. 157-5, provide that the board of commissioners of the housing authority shall be composed of nine members, with a number (not less than five) to be appointed by the mayor, and the remainder to be appointed by the board of county commissioners. Such housing authority commissioners shall be subject to removal by the appointing person or board under the procedural requirements of G.S. 157-8. (1943, c. 636, s. 5; 1961, c. 200, s. 2; 1979, 2nd Sess., c. 1108, ss. 1, 2; 1993, c. 458.)

**§ 157-39.2. Increasing area of operation of regional housing authority.**

The area of operation or boundaries of a regional housing authority shall be increased from time to time to include one or more additional contiguous counties not already within a regional

housing authority if the board of county commissioners of each of the counties then included in the area of operation of such regional housing authority, the commissioners of the regional housing authority and the board of county commissioners of each such additional county or counties each adopts a resolution declaring that there is a need for the inclusion of such additional county or counties in the area of operation of such regional housing authority. Upon the adoption of such resolutions, any county housing authority created for any such additional county shall cease to exist except for the purpose of winding up its affairs and executing a deed to the regional housing authority as hereinafter provided. Provided, however, that such resolutions shall not be adopted unless the commissioners of such county housing authority adopt a resolution consenting to the transfer of all the rights, contracts, bonds, and property, real and personal, of such county housing authority to such regional housing authority as hereinafter provided: Provided, further, that when the above condition is complied with and the area of operation of such regional housing authority is increased to include such additional county, as hereinabove provided, all rights, contracts, bonds, and property, real and personal, of such county housing authority shall be in the name of and vested in such regional housing authority, all contracts and bonds of such county housing authority shall be the contracts and bonds of such regional housing authority and all rights and remedies of any person against such county housing authority may be asserted, enforced, and prosecuted against such regional housing authority to the same extent as they might have been asserted, enforced, and prosecuted against such county housing authority.

When any real property of a county housing authority vests in a regional housing authority as provided above, the county housing authority shall execute a deed of such property to the regional housing authority which thereupon shall file such deed in the office provided for the filing of deeds: Provided, that nothing contained in this sentence shall affect the vesting of property in the regional housing authority as provided above.

The board of county commissioners of each of the counties in the regional housing authority, the commissioners of the regional housing authority and the board of county commissioners of each such additional county or counties shall by resolution declare that there is a need for the inclusion of such county or counties in the area of operation of the regional housing authority, only if:

- (1) The board of county commissioners of each such additional county or counties find that insanitary or unsafe inhabited dwelling accommodations exist in such county or there is a shortage of safe or sanitary dwelling accommodations in such county available to persons of low income at rentals they can afford, and
- (2) The board of county commissioners of each of the counties then included in the area of operation of the regional housing authority, the commissioners of the regional housing authority and the board of county commissioners of each such additional county or counties find that the regional housing authority would be a more efficient or economical administrative unit if the area of operation of the regional housing authority is increased to include such additional county or counties. (1943, c. 636, s. 5; 1971, c. 431, s. 1.)

### **§ 157-39.3. Decreasing area of operation of regional housing authority.**

The area of operation or boundaries of a regional housing authority shall be decreased from time to time to exclude one or more counties from such area if the board of county commissioners of each of the counties in such area and the commissioners of the regional housing authority each adopt a resolution declaring that there is a need for excluding such county or counties from such

area: Provided, that if such action decreases the area of operation of the regional housing authority to only one county, such authority shall thereupon constitute and become a housing authority for such county, in the same manner as though such authority were created, and constituted a public and corporate body for such county pursuant to other provisions of this housing authority law, and the commissioners of such authority shall be thereupon appointed as provided for the appointment of commissioners of a housing authority created for a county.

The board of county commissioners of each of the counties in the area of operation of the regional housing authority and the commissioners of the regional housing authority shall adopt a resolution declaring that there is a need for excluding a county or counties from such area only if:

- (1) Each such board of county commissioners of the counties to remain in the area of operation of the regional housing authority and the commissioners of the regional housing authority find that, because of facts arising or determined subsequent to the time when such area first included the county or counties to be excluded, the regional housing authority would be a more efficient or economical administrative unit if such county or counties were excluded from such area, and
- (2) The board of county commissioners of each county or counties to be excluded and the commissioners of the regional housing authority each also find that another housing authority for such county or counties would be a more efficient or economical administrative unit to function in such county or counties.

Nothing contained herein shall be construed as preventing a county or counties excluded from the area of operation of a regional housing authority, as provided above, from thereafter being included within the area of operation of any housing authority in accordance with this Article.

Any property held by a regional housing authority within a county or counties excluded from the area of operation of such authority as herein provided, shall, as soon as practicable after the exclusion of said county or counties, respectively, be disposed of by such authority in the public interest. (1943, c. 636, s. 5; 1971, c. 431, s. 2.)

#### **§ 157-39.4. Requirements of public hearings.**

The board of county commissioners of a county shall not adopt any resolution authorized by G.S. 157-35, 157-39.1, 157-39.2 or 157-39.3 unless a public hearing has first been held which shall conform (except as otherwise provided herein) to the requirements of this Housing Authorities Law for hearings to determine the need for a housing authority of a county: Provided, that such hearings may be held by the board of county commissioners without a petition therefor.

In connection with the issuance of bonds, a regional housing authority may covenant as to limitations on its right to adopt resolutions relating to the increase or decrease of its area of operation. (1943, c. 636, s. 5; 1979, 2nd Sess., c. 1108, s. 3.)

#### **§ 157-39.5. Consolidated housing authority.**

If the governing body of each of two or more municipalities (with a population of less than 500, but having an aggregate population of more than 500) by resolution declares that there is a need for one housing authority for all of such municipalities to exercise in such municipalities the powers and other functions prescribed for a housing authority, a public body corporate and politic to be known as a consolidated housing authority (with such corporate name as it selects) shall thereupon exist for all of such municipalities and exercise its powers and other functions within its area of operation (as herein defined), including the power to undertake projects therein; and thereupon any

housing authority created for any of such municipalities shall cease to exist except for the purpose of winding up its affairs and executing a deed of its real property to the consolidated housing authority: Provided, that the creation of a consolidated housing authority and the finding of need therefor shall be subject to the same provisions and limitations of this Housing Authorities Law as are applicable to the creation of a regional housing authority and that all of the provisions of this Housing Authorities Law applicable to regional housing authorities and the commissioners thereof shall be applicable to consolidated housing authorities and the commissioners thereof: Provided, further that the area of operation or boundaries of a consolidated housing authority shall include all of the territory within the boundaries of each municipality joining in the creation of such authority together with the territory within 10 miles of the boundaries of each such municipality, except that such area of operation may be changed to include or exclude any municipality or municipalities (with its aforesaid surrounding territory) in the same manner and under the same provisions as provided in this Article for changing the area of operation of a regional housing authority by including or excluding a contiguous county or counties: Provided, further, that for all such purposes the term "board of county commissioners" shall be construed as meaning "governing body" except in G.S. 157-36, where it shall be construed as meaning "mayor" or other executive head of the municipality, the term "county" shall be construed as meaning "municipality," the term "clerk" shall be construed as meaning "clerk of the municipality or officer with similar duties," the term "region" shall be construed as meaning "area of operation of the consolidated housing authority" and the terms "county housing authority" and "regional housing authority" shall be construed as meaning "housing authority of the city" and "consolidated housing authority," respectively, unless a different meaning clearly appears from the context.

The governing body of any such municipality for which a housing authority has not been created may adopt the above resolution if it first determines that there is a need for a housing authority to function in said municipality, which determination shall be made in the same manner and subject to the same conditions as the determination required by G.S. 157-4 for the creation of a housing authority for a city: Provided, that after notice given by the clerk (or officer with similar duties) of the municipality, the governing body of the municipality may, without a petition therefor, hold a hearing to determine the need for a housing authority to function therein.

Except as otherwise provided herein, a consolidated housing authority and the commissioners thereof shall, within the area of operation of such consolidated housing authority have the same functions, rights, powers, duties, privileges, immunities and limitations as those provided for housing authorities created for cities, counties, or groups of counties and the commissioners of such housing authorities, in the same manner as though all the provisions of law applicable to housing authorities created for cities, counties, or groups of counties were applicable to consolidated housing authorities. (1943, c. 636, s. 5; 1961, c. 200, s. 3; 1965, c. 431, s. 3.)

#### **§ 157-39.6. Findings required for authority to operate in municipality.**

No governing body of a city or other municipality shall adopt a resolution as provided in G.S. 157-39.1 declaring that there is a need for a housing authority (other than a housing authority established by such municipality) to exercise its powers within such municipality, unless a public hearing has first been held by such governing body and unless such governing body shall have found in substantially the following terms: (i) that insanitary or unsafe inhabited dwelling accommodations exist in such municipality or that there is a shortage of safe or sanitary dwelling accommodations in such municipality available to persons of low income at rentals they can afford; and (ii) that these conditions can be best remedied through the exercise of the aforesaid

housing authority's powers within the territorial boundaries of such municipality: Provided, that such findings shall not have the effect of thereafter preventing such municipality from establishing a housing authority or joining in the creation of a consolidated housing authority or the increase of the area of operation of a consolidated housing authority. The clerk (or the officer with similar duties) of the city or other municipality shall give notice of the public hearing and such hearing shall be held in the manner provided in G.S. 157-4 for a public hearing by a council to determine the need for a housing authority in the city.

During the time that, pursuant to these findings, a housing authority has outstanding (or is under contract to issue) any evidences of indebtedness for a project within the city or other municipality, no other housing authority may undertake a project within such municipality without the consent of said housing authority which has such outstanding indebtedness or obligation. (1943, c. 636, s. 5.)

**§ 157-39.7. Meetings and residence of commissioners.**

Nothing contained in this Housing Authorities Law shall be construed to prevent meetings of the commissioners of a housing authority anywhere within the perimeter boundaries of the area of operation of the authority or within any additional area where the housing authority is authorized to undertake a housing project, nor to prevent the appointment of any person as a commissioner of the authority who resides within such boundaries or such additional area, and who is otherwise eligible for such appointment under this Housing Authorities Law. (1943, c. 636, s. 5.)

**§ 157-39.8. Agreement to sell as security for obligations to federal government.**

In any contract or amendatory or superseding contract for a loan and annual contributions heretofore or hereafter entered into between a housing authority and the federal government with respect to any housing project undertaken by said housing authority, any such housing authority is authorized to make such covenants (including covenants with holders of bonds issued by such authority for purposes of the project involved), and to confer upon the federal government such rights and remedies, as said housing authority deems necessary to assure the fulfillment of the purposes for which the project was undertaken. In any such contract, the housing authority may, notwithstanding any other provisions of law, agree to sell and convey the project (including all lands appertaining thereto) to which such contract relates to the federal government upon the occurrence of such conditions, or upon such defaults on bonds for which any of the annual contributions provided in said contract are pledged, as may be prescribed in such contract, and at a price (which may include the assumption by the federal government of the payment, when due, of the principal of and interest on outstanding bonds of the housing authority issued for purposes of the project involved) determined as prescribed therein and upon such other terms and conditions as are therein provided. Any such housing authority is hereby authorized to enter into such supplementary contracts, and to execute such conveyances, as may be necessary to carry out the provisions hereof. Notwithstanding any other provisions of law, any contracts or supplementary contracts or conveyances made or executed pursuant to the provisions of this section shall not be or constitute a mortgage within the meaning or for the purposes of any of the laws of the State. (1943, c. 636, s. 5.)

Article 2.

Municipal Cooperation and Aid.

**§ 157-40. Finding and declaration of necessity.**

It is hereby declared that insanitary or unsafe dwelling accommodations exist in various areas of the State, and that consequently many persons of low income are forced to reside in such dwelling accommodations; that these conditions cause an increase in and spread of disease and crime and constitute a menace to the health, safety, morals and welfare of the citizens of the State and impair economic values; that the clearance, replanning and reconstruction of the areas in which insanitary or unsafe housing conditions exist and the providing of safe and sanitary dwelling accommodations for persons of low income are public uses and purposes for which private property may be acquired; that it is in the public interest that work on such projects be instituted as soon as possible in order to relieve unemployment which now constitutes an emergency; and the necessity in the public interest for the provisions hereinafter enacted, is hereby declared as a matter of legislative determination. (1935, c. 408, s. 1.)

**§ 157-41. Definitions.**

The following terms, whenever used or referred to in this Article, shall have the following respective meanings, unless a different meaning clearly appears from the context:

- (1) "City" shall mean any city or town of the State having a population of more than 500 inhabitants according to the last federal census or any revision or amendment thereto.
- (2) "Housing authority" shall mean any housing authority organized pursuant to the Housing Authorities Law of this State.
- (3) "Housing project" shall mean any undertaking (i) to demolish, clear, remove, alter or repair unsafe or insanitary housing, and/or (ii) to provide dwelling accommodations for persons of low income, and said term may also include such buildings and equipment for recreational or social assemblies for educational, health or welfare purposes, and such necessary utilities as are designed primarily for the benefit and use of the housing authority and/or the occupants of such dwelling accommodations.
- (4) "Municipality" shall mean any city, town or incorporated village of the State. (1935, c. 408, s. 2; 1961, c. 200, s. 4.)

**§ 157-42. Conveyance, lease or agreement in aid of housing project.**

For the purpose of aiding and cooperating in the planning, construction and operation of housing projects located within their respective territorial boundaries, the State, its subdivisions and agencies, and any county, city or municipality of the State may, upon such terms, with or without considerations as it may determine:

- (1) Dedicate, release, sell, convey, or lease any of its interest in any property, or grant easements, licenses or any other rights or privileges therein to a housing authority or the United States of America or any agency thereof;
- (2) Cause parks, playgrounds, recreational, community, educational, water, sewer or drainage facilities, or any other works, which it is otherwise empowered to undertake, to be furnished adjacent to or in connection with housing projects;
- (3) Furnish, dedicate, close, pave, install, grade, regrade, plan or replan streets, roads, roadways, alleys, sidewalks or other places, which it is otherwise empowered to undertake;
- (4) Plan or replan, zone, or rezone; make exceptions from building regulations and ordinances; any city or town also may change its map;

- (5) Cause services to be furnished to the housing authority of the character which it is otherwise empowered to furnish;
- (6) Enter into agreements with respect to the exercise by it of its powers relating to the repair, closing or demolition of unsafe, insanitary or unfit dwellings;
- (7) Enter into agreements (which may extend over any period, notwithstanding any provision or rule of law to the contrary) with a housing authority respecting action to be taken pursuant to any of the powers granted by this Article. Any law or statute to the contrary notwithstanding, any sale, conveyance, lease or agreement provided for in this section may be made by the State, a city, county, municipality, subdivision or agency of the State without appraisal, public notice, advertisement or public bidding.
- (8) With respect to any housing project which a housing authority has acquired or taken over from the United States of America or any agency thereof and which the housing authority by resolution has found and declared to have been constructed in a manner that will promote the public interest and afford necessary safety, sanitation and other protection, no city or county shall require any changes to be made in the housing project or the manner of its construction or take any other action relating to such construction. (1935, c. 408, s. 3; 1939, c. 137.)

**§ 157-43. Advances and donations by the city and municipality.**

The council or other governing body of the city included within the territorial boundaries of such authority is authorized to make an estimate of the amount of money necessary for the administrative expenses and overhead of the housing authority during the first year following the incorporation of such housing authority, and to appropriate such amount to the authority out of any moneys in the city treasury not appropriated to some other purposes, and to cause the moneys so appropriated to be paid the authority as a donation, and moneys so appropriated and paid to a housing authority by a city shall be deemed to be a necessary expense of such city. In addition thereto, the city and any municipality located in whole or in part within the boundaries of a housing authority shall have the power annually and from time to time to make donations or advances to the authority of such sums as the city or municipality in its discretion may determine. The authority, when it has money available therefor, shall reimburse the city or municipality for all advances by way of loan made to it. (1935, c. 408, s. 5.)

**§ 157-44. Action of city or municipality by resolution.**

Except as otherwise provided in this Article or by the Constitution of the State, all action authorized to be taken under this Article by the council or other governing body of any city or of any municipality may be by resolution adopted by a majority of all the members of its council or other governing body, which resolution may be adopted at the meeting of the council or other governing body at which such resolution is introduced and shall take effect immediately upon such adoption, and no such resolution need be published or posted. (1935, c. 408, s. 5.)

**§ 157-45. Restrictions on exercise of right of eminent domain; duties of Utilities Commission; investigation of projects.**

Notwithstanding any finding of public convenience and necessity, either in general or specific, by the terms of this Article, the right of eminent domain shall not be exercised unless and until a

certificate of public convenience and necessity for such project has been issued by the Utilities Commission of North Carolina, and the proceedings leading up to the issuing of such certificate of public convenience and necessity, and the right to appeal therefrom shall be as now provided by law and said rights are hereby expressly reserved to all interested parties in said proceedings. In addition to the powers now granted by law to the Utilities Commission of North Carolina, the said Utilities Commission is hereby vested with full power and authority to investigate and examine all projects set up or attempted to be set up under the provisions of this Article and determine the question of public convenience and necessity for said project. (1935, c. 408, s. 6.)

**§ 157-46. Purpose of Article.**

It is the purpose and intent of this Article that the State, its subdivisions and agencies, and any county, city or municipality of the State shall be authorized, and are hereby authorized, to do any and all things necessary to aid and cooperate in the planning, construction and operation of housing projects by the United States of America and by housing authorities. (1935, c. 408, s. 7.)

**§ 157-47. Supplemental nature of Article.**

The powers conferred by this Article shall be in addition and supplemental to the powers conferred by any other law. (1935, c. 408, s. 8.)

Article 3.

Eminent Domain.

**§ 157-48. Finding and declaration of necessity.**

It is hereby declared that insanitary or unsafe dwelling accommodations exist in various areas of the State and that consequently many persons of low income are forced to reside in such dwelling accommodations; that these conditions cause an increase in and spread of disease and crime and constitute a menace to the health, safety, morals and welfare of the citizens of the State and impair economic values; that the clearance, replanning and reconstruction of the areas in which insanitary or unsafe housing conditions exist and the providing of safe and sanitary dwelling accommodations for persons of low income are public uses and purposes for which private property may be acquired; that it is in the public interest that work on such projects be instituted as soon as possible in order to relieve unemployment which now constitutes an emergency; and the necessity in the public interest for the provision hereinafter enacted, is hereby declared as a matter of legislative determination. (1935, c. 409, s. 1.)

**§ 157-49. Housing project.**

The term "housing project" whenever used in this Article shall mean any undertaking (i) to demolish, clear, remove, alter or repair unsafe or insanitary housing and/or (ii) to provide dwelling accommodations for persons of low income, and said term may also include such buildings and equipment for recreational or social assemblies for educational, health or welfare purposes, and such necessary utilities as are designed primarily for the benefit and use of the occupants of such dwelling accommodations. (1935, c. 409, s. 2.)

**§ 157-50. Eminent domain for housing projects.**

Any corporation which is an agency of the United States of America shall have the right to acquire by eminent domain any real property, including improvements and fixtures thereon, which it may deem necessary for a housing project being constructed, operated or aided by it or the United

States of America. Any corporation borrowing money or receiving other financial assistance from the United States of America or any agency thereof for the purpose of financing the construction or operation of any housing project or projects, the operation of which will be subject to public supervision or regulation, shall have the right to acquire by eminent domain any real property, including fixtures and improvements thereon, which it may deem necessary for such project. A housing project shall be deemed to be subject to public supervision or regulation within the meaning of this Article if the rents to be charged by it are in any way subject to the supervision, regulation or approval of the United States of America, the State or any of their subdivisions or agencies, or by a housing authority, city, municipality or county, whether such right to supervise, regulate or approve be by virtue of any law, statute, contract or otherwise.

Any such corporate agency of the United States of America or any such corporation, upon the adoption of a resolution declaring that the acquisition of the property described therein is in the public interest and necessary for public use, may exercise the power of eminent domain pursuant to the provisions of Chapter 40A. (1935, c. 409, s. 3; 1981, c. 919, s. 26.)

**§ 157-51: Repealed by Session Laws 1983, c. 149.**

Article 4.

National Defense Housing Projects.

**§ 157-52. Purpose of Article.**

It is hereby found and declared that the National Defense Program involves large increases in the military forces and personnel in this State, a great increase in the number of workers in already established manufacturing centers and the bringing of a large number of workers and their families to new centers of defense industries in the State; that there is an acute shortage of safe and sanitary dwellings available to such persons and their families in this State which impedes the National Defense Program; that it is imperative that action be taken immediately to assure the availability of safe and sanitary dwellings for such persons to enable the rapid expansion of national defense activities in this State and to avoid a large labor turnover in defense industries which would seriously hamper their production; that the provisions hereinafter enacted are necessary to assure the availability of safe and sanitary dwellings for persons engaged in national defense activities which otherwise would not be provided at this time, and that such provisions are for the public use and purpose of facilitating the National Defense Program in this State. It is further declared to be the purpose of this Article to authorize housing authorities to do any and all things necessary or desirable to secure the financial aid of the federal government, or to cooperate with or act as agent of the federal government, in the expeditious development and the administration of projects to assure the availability when needed of safe and sanitary dwellings for persons engaged in national defense activities. (1941, c. 63, s. 1.)

**§ 157-53. Definitions.**

(a) "Administration," as used in this Article, shall mean any and all undertakings necessary for management, operation or maintenance, in connection with any project, and shall include the leasing of any project (in whole or in part) from the federal government.

(b) "Development" as used in this Article, shall mean any and all undertakings necessary for the planning, land acquisition, demolition, financing, construction or equipment in connection with a project (including the negotiation or award of contracts therefor), and shall include the acquisition of any project (in whole or in part) from the federal government.

(c) "Federal government," as used in this Article, shall mean the United States of America or any agency or instrumentality, corporate or otherwise, of the United States of America.

(d) "Housing authority," as used in this Article, shall mean any housing authority established or hereafter established pursuant to Article 1 of this Chapter.

(e) The development of a project shall be deemed to be "initiated," within the meaning of this Article, if a housing authority has issued any bonds, notes or other obligations with respect to financing the development of such project of the authority, or has contracted with the federal government with respect to the exercise of powers hereunder in the development of such project of the federal government for which an allocation of funds has been made prior to the termination of the present war.

(f) "Persons engaged in national defense activities," as used in this Article shall include: enlisted personnel in the Armed Forces of the United States and employees of the Defense Department assigned to duty at reservations, posts or bases of the Armed Forces of the United States; and workers engaged or to be engaged in industries connected with and essential to the National Defense Program; and shall include the families of the aforesaid persons who are living with them.

(g) "Persons of low income," as used in this Article, shall mean persons or families who lack the amount of income which is necessary (as determined by the housing authority undertaking the housing project) to enable them, without financial assistance, to live in decent, safe and sanitary dwellings, without overcrowding.

(h) "State public body," as used in this Article, shall include the State, its subdivisions and agencies, and any county, city, town or incorporated village of the State. (1941, c. 63, s. 8; 1943, c. 90, s. 2; 1995, c. 379, s. 4; 2011-183, s. 108.)

#### **§ 157-54. Rights, powers, etc., of housing authorities relative to national defense projects.**

Any housing authority may undertake the development and administration of projects to assure the availability of safe and sanitary dwellings for persons engaged in national defense activities whom the housing authority determines would not otherwise be able to secure safe and sanitary dwellings within the vicinity thereof, but no housing authority shall initiate the development of any such project pursuant to this Article after the termination of the present war.

In the ownership, development or administration of such projects, a housing authority shall have all the rights, powers, privileges and immunities that such authority has under any provision of law relating to the ownership, development or administration of slum clearance and housing projects for persons of low income, in the same manner as though all the provisions of law applicable to slum clearance and housing projects for persons of low income were applicable to projects developed or administered to assure the availability of safe and sanitary dwellings for persons engaged in national defense activities as provided in this Article, and housing projects developed or administered hereunder shall constitute "housing projects" under Article 1 of this Chapter, as that term is used therein: Provided, that during the period (herein called the "national defense period") that a housing authority finds (which finding shall be conclusive in any suit, action or proceeding) that within its authorized area of operation, or any part thereof, there is an acute shortage of safe and sanitary dwellings which impedes the National Defense Program in this State and that the necessary safe and sanitary dwellings would not otherwise be provided when needed for persons engaged in national defense activities, any project developed or administered by such housing authority (or by any housing authority cooperating with it) in such area pursuant to this Article, with the financial aid of the federal government (or as agent for the federal government

as hereinafter provided), shall not be subject to the limitations provided in G.S. 157-29; and provided further, that, during the national defense period, a housing authority may make payments in such amounts as it finds necessary or desirable for any services, facilities, works, privileges or improvements furnished for or in connection with any such projects. After the national defense period, any such projects owned and administered by a housing authority shall be administered for the purposes and in accordance with the provisions of Article 1 of this Chapter. (1941, c. 63, s. 2; 1943, c. 90, s. 1.)

**§ 157-55. Cooperation with federal government; sale to same.**

A housing authority may exercise any or all of its powers for the purpose of cooperating with, or acting as agent for, the federal government in the development or administration of projects by the federal government to assure the availability of safe and sanitary dwellings for persons engaged in national defense activities and may undertake the development or administration of any such project for the federal government. In order to assure the availability of safe and sanitary housing for persons engaged in national defense activities, a housing authority may sell (in whole or in part) to the federal government any housing projects developed for persons of low income but not yet occupied by such persons; such sale shall be at such price and upon such terms as the housing authority shall prescribe and shall include provision for the satisfaction of all debts and liabilities of the authority relating to such project. (1941, c. 63, s. 3.)

**§ 157-56. Cooperation of State public bodies in developing projects.**

Any State public body shall have the same rights and powers to cooperate with housing authorities, or with the federal government, with respect to the development or administration of projects to assure the availability of safe and sanitary dwellings for persons engaged in national defense activities that such State public body has pursuant to Article 2 of this Chapter, for the purpose of assisting the development or administration of slum clearance or housing projects for persons of low income. (1941, c. 63, s. 4.)

**§ 157-57. Obligations issued for projects made legal investments; security for public deposits.**

Bonds or other obligations issued by a housing authority for a project developed or administered pursuant to this Article shall be security for public deposits and legal investments to the same extent and for the same persons, institutions, associations, corporations, bodies and officers as bonds or other obligations issued pursuant to Article 1 of this Chapter for the development of a slum clearance or housing project for persons of low income. (1941, c. 63, s. 5.)

**§ 157-58. Bonds, notes, etc., issued heretofore, validated.**

All bonds, notes, contracts, agreements and obligations of housing authorities heretofore issued or entered into relating to financing or undertaking (including cooperating with or acting as agent of the federal government in) the development or administration of any project to assure the availability of safe and sanitary dwellings for persons engaged in national defense activities, are hereby validated and declared legal in all respects, notwithstanding any defect or irregularity therein or any want of statutory authority. (1941, c. 63, s. 6.)

**§ 157-59. Further declaration of powers granted housing authorities.**

This Article shall constitute an independent authorization for a housing authority to undertake the development or administration of projects to assure the availability of safe and sanitary dwellings for persons engaged in national defense activities as provided in this Article and for a housing authority to cooperate with, or act as agent for, the federal government in the development or administration of similar projects by the federal government. A housing authority may do any and all things necessary or desirable to cooperate with, or act as agent for, the federal government, or to secure financial aid, in the expeditious development or in the administration of projects to assure the availability of safe and sanitary dwellings for persons engaged in national defense activities and to effectuate the purposes of this Article. (1941, c. 63, s. 7.)

**§ 157-60. Powers conferred by Article supplemental.**

The powers conferred by this Article shall be in addition and supplemental to the powers conferred by any other law, and nothing contained herein shall be construed as limiting any other powers of a housing authority. (1941, c. 63, s. 9.)

**§§ 157-61 through 157-65. Reserved for future codification purposes.**

Article 5.

Indian Housing Authority.

**§ 157-66. Authority created.**

There is hereby created and established a public body corporate and politic to be known as the North Carolina Indian Housing Authority which shall be governed by the provisions of law controlling housing authorities as set out in this Chapter as well as other applicable provisions of the General Statutes. It is the intent of the General Assembly that the North Carolina Indian Housing Authority not be treated as a State agency for any purpose, but rather that it be treated as a housing authority as set out above. (1977, c. 1112, s. 1; 1989 (Reg. Sess., 1990), c. 1066, s. 15(b); 1993, c. 201, s. 1.)

**§ 157-67. Powers of Authority; applicability of certain laws; powers of Governor and Commission of Indian Affairs.**

The Indian Housing Authority, hereafter referred to as the Authority, shall exercise its powers to provide housing for Indians of low income. Except as otherwise provided in this Article, all the provisions of law applicable to housing authorities created for municipalities pursuant to Chapter 157 of the General Statutes shall be applicable to this Authority, unless a different meaning clearly appears from the context. The Governor and the Commission of Indian Affairs are hereby authorized to exercise all appointing and other powers with respect to this Authority that are vested pursuant to said Chapter 157 in the chief executive officer and governing body of a municipality. (1977, c. 1112, s. 2; 1993, c. 201, s. 1.)

**§ 157-68. Commissioners of Authority.**

The Authority shall consist of not less than five nor more than 16 commissioners (the number to be set by the North Carolina State Commission of Indian Affairs) who shall be appointed by the Governor, after receiving nominations from the North Carolina State Commission of Indian Affairs. For each vacancy, the Governor must appoint one person from a list of two eligible persons so nominated. Commissioners shall be selected from the major groups of North Carolina Indians that elect members to the North Carolina State Commission of Indian Affairs under G.S.

143B-407. No person shall be barred from serving as a commissioner because he is a tenant or home buyer in an Indian housing project. (1977, c. 1112, s. 3; 1987 (Reg. Sess., 1988), c. 1014; 1998-155, s. 2; 2001-318, s. 2.)

**§ 157-69. Area of operation.**

The area of operation of the Authority shall include the entire State: Provided, that the Authority shall not undertake any housing project or projects within the area of operation of any city, county or regional housing authority unless a resolution shall have been adopted by such city, county or regional housing authority declaring that there is a need for the Indian Housing Authority to exercise its powers within such city, county or regional housing authority's area of operation. (1977, c. 1112, s. 4; 1993, c. 201, s. 1.)

**§ 157-70. Rentals and tenant selection in accordance with § 157-29.**

Rentals and tenant selection in connection with projects of the Authority shall be in accordance with G.S. 157-29. (1977, c. 1112, s. 5; 1983 (Reg. Sess., 1984), c. 1068.)