

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005**

H

1

HOUSE BILL 1004

Short Title: Mortgage Hospital Facilities. (Public)

Sponsors: Representatives Gibson, Grady (Primary Sponsors); and Faison.

Referred to: Finance.

March 31, 2005

1 A BILL TO BE ENTITLED
2 AN ACT AUTHORIZING LOCAL GOVERNMENTS TO PLEDGE AND
3 ENCUMBER HOSPITAL FACILITIES AND EQUIPMENT IN CONNECTION
4 WITH THE ISSUANCE OF REVENUE BONDS TO FINANCE OR REFINANCE
5 HOSPITAL FACILITIES AND EQUIPMENT.

6 The General Assembly of North Carolina enacts:

7 **SECTION 1.** G.S. 159-83(a)(5) reads as rewritten:

8 "(5) To borrow money for the purpose of acquiring, constructing,
9 reconstructing, extending, bettering, improving, or otherwise paying
10 the cost of revenue bond projects, and to issue its revenue bonds or
11 bond anticipation notes therefor, in the name of the State or a
12 municipality, as the case may be, but no encumbrance, mortgage, or
13 other pledge ~~or~~ of real property of the State or a municipality may be
14 created in any manner."

15 **SECTION 2.** G.S. 159-83 is amended by adding a new subsection to read:

16 "(f) Notwithstanding any other provision of law to the contrary, a municipality
17 may mortgage, pledge, assign, grant a security interest in, or otherwise encumber all or
18 a portion of its hospital or other health-related facility real and tangible personal
19 property, whether owned or leased, in connection with the issuance of revenue bonds
20 under this Article for the purpose of financing or refinancing hospital or other
21 health-related facility real and tangible personal property. The granting of a lien on, or
22 security interest in hospital or health-related real or tangible personal property and the
23 conveyance of this property pursuant to the provisions of the lien or security interest are
24 not subject to the provisions of G.S. 131E-8, 131E-13, or 131E-14."

25 **SECTION 3.** G.S. 131A-3 reads as rewritten:

26 "**§ 131A-3. Definitions.**

27 As used or referred to in this Chapter, the following words and terms shall have the
28 following meanings, unless the context clearly indicates otherwise:

29 ...

1 (5) "Non-profit agency" means any nonprofit ~~private~~-corporation existing
2 or hereafter created and empowered to acquire, by lease or otherwise,
3 operate or maintain health care facilities;

4 (6) "Public agency" means any county, city, town, hospital ~~district~~-district,
5 hospital authority, or other political subdivision of the State existing or
6 hereafter created pursuant to the laws of the State authorized to
7 acquire, by lease or otherwise, operate or maintain health care
8 facilities;

9 ...

10 (9) "Federally insured mortgage note" means any loan secured by a
11 mortgage or deed of trust on any health care facilities owned or leased
12 by any public or nonprofit agency which is insured or guaranteed,
13 directly or indirectly, in whole or in part as to the repayment of
14 principal and interest by the United States of America or any
15 instrumentality thereof, or any commitment by the United States of
16 America or any instrumentality thereof to so insure or guarantee such a
17 loan secured by a mortgage or a deed of trust.

18"

19 **SECTION 4.** G.S. 131A-6 reads as rewritten:

20 "**§ 131A-6. Additional powers of public agencies.**

21 For the purposes of this Chapter, public agencies are authorized and empowered to
22 enter into contracts and agreements, including loan agreements and agreements of sale
23 or lease, with the Commission to facilitate the financing or refinancing, acquiring,
24 constructing, equipping, providing, operating and maintaining of health care facilities
25 and pursuant to any such loan agreement or agreement of sale or lease to operate, repair
26 and maintain any health care facilities and, subject to the provisions of G.S. 131A-8, to
27 pay the cost thereof and the loan repayments, purchase price payments or rent therefor
28 from any funds available for such purposes. In addition, public agencies may mortgage,
29 pledge, assign, grant a security interest in, or otherwise encumber a health care facility,
30 whether owned or leased, to secure obligations under a loan agreement or similar debt
31 instrument in connection with the issuance of bonds or notes by the Commission under
32 this Chapter. The granting of a lien on, or security interest in a health care facility and
33 the conveyance of this property pursuant to the provisions of the lien or security interest
34 are not subject to the provisions of G.S. 131E-8, 131E-13, or 131E-14."

35 **SECTION 5.** The General Assembly finds that the provisions of this act are
36 necessary for the health and welfare of the State and as such finds that the act shall be
37 construed liberally to effect its purposes.

38 **SECTION 6.** If any provision of this act or the application thereof to any
39 person or circumstance is held invalid, the invalidity shall not affect other provisions or
40 applications of the act that can be given effect without the invalid provision or
41 application and to this end the provisions of this act are severable.

42 **SECTION 7.** This act is effective when it becomes law.