

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005**

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**HOUSE BILL 1004
Committee Substitute Favorable 4/26/05**

Short Title: Mortgage Hospital Facilities.

(Public)

Sponsors:

Referred to:

March 31, 2005

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

The General Assembly of North Carolina enacts:

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

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

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

"(f) Notwithstanding any other provision of law to the contrary, a municipality may mortgage, pledge, assign, grant a security interest in, or otherwise encumber all or a portion of its hospital or other health-related facility real and tangible personal property, whether owned or leased, in connection with the issuance of revenue bonds under this Article for the purpose of financing or refinancing hospital or other health-related facility real and tangible personal property. Property subject to a mortgage, deed of trust, security interest, or similar lien pursuant to this subsection may be sold at foreclosure in any manner permitted by the instrument creating the encumbrance, without compliance with any other provision of law regarding the disposition of publicly owned property. The granting of a lien on, or security interest in, hospital or health-related real or tangible personal property and the conveyance of this property pursuant to the provisions of the lien or security interest are not subject to the provisions of G.S. 131E-8, 131E-13, or 131E-14."

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

1 **"§ 131A-3. Definitions.**

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

4 ...

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

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

13 ...

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

22 "

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

24 **"§ 131A-6. Additional powers of public agencies.**

25 For the purposes of this Chapter, public agencies are authorized and empowered to
26 enter into contracts and agreements, including loan agreements and agreements of sale
27 or lease, with the Commission to facilitate the financing or refinancing, acquiring,
28 constructing, equipping, providing, operating and maintaining of health care facilities
29 and pursuant to any such loan agreement or agreement of sale or lease to operate, repair
30 and maintain any health care facilities and, subject to the provisions of G.S. 131A-8, to
31 pay the cost thereof and the loan repayments, purchase price payments or rent therefor
32 from any funds available for such purposes. In addition, public agencies may mortgage,
33 pledge, assign, grant a security interest in, or otherwise encumber a health care facility,
34 whether owned or leased, to secure obligations under a loan agreement or similar debt
35 instrument in connection with the issuance of bonds or notes by the Commission under
36 this Chapter. Property subject to a mortgage, deed of trust, security interest, or similar
37 lien pursuant to this section may be sold at foreclosure in any manner permitted by the
38 instrument creating the encumbrance, without compliance with any other provision of
39 law regarding the disposition of publicly owned property. The granting of a lien on, or
40 security interest in, a health care facility and the conveyance of this property pursuant to
41 the provisions of the lien or security interest are not subject to the provisions of
42 G.S. 131E-8, 131E-13, or 131E-14."

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

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

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