

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2001**

H

1

HOUSE BILL 1383*

Short Title: Housing Finance Agency Bonds.

(Public)

Sponsors: Representatives Allen; and Owens.

Referred to: Finance.

April 26, 2001

A BILL TO BE ENTITLED

1
2 AN ACT TO AMEND THE PROVISIONS OF THE NORTH CAROLINA HOUSING
3 FINANCE AGENCY ACT TO MAKE TECHNICAL AMENDMENTS AND TO
4 AUTHORIZE THE INVESTMENT OF MONEY HELD BY THE AGENCY IN
5 CERTAIN BONDS.

6 The General Assembly of North Carolina enacts:

7 **SECTION 1.** G.S. 122A-11 reads as rewritten:

8 "**§ 122A-11. Trust funds.**

9 Notwithstanding any other provisions of law to the contrary, all moneys received
10 pursuant to the authority of this Chapter shall be deemed to be trust funds to be held and
11 applied solely as provided in this Chapter. The resolution authorizing any obligations or
12 the trust agreement securing the same may provide that any of such moneys may be
13 temporarily invested pending the disbursement thereof and shall provide that any officer
14 with whom, or any bank or trust company with which, such moneys shall be deposited
15 shall act as trustee of such moneys and shall hold and apply the same for the purposes
16 hereof, subject to such regulations as this Chapter and such resolution or trust agreement
17 may provide.

18 Any moneys received pursuant to the authority of this Chapter and any other moneys
19 available to the Agency for investment may be invested:

- 20 (1) As provided in G.S. 159-30, except that for purposes of G.S. 159-30(b)
21 the Agency may deposit moneys at interest in banks or trust companies
22 outside as well as in this State, as long as any moneys at deposit
23 outside this State are collateralized to the same extent and manner as if
24 at deposit in this State;
- 25 (2) In evidences of ownership of, or fractional undivided interests in,
26 future interest and principal payments on either direct obligations of
27 the United States government or obligations the principal of and the
28 interest on which are guaranteed by the United States government,

1 which obligations are held by a bank or trust company organized and
2 existing under the laws of the United States of America or any state in
3 the capacity of custodian;

4 (3) In obligations which are collateralized by mortgage pass-through
5 securities guaranteed by the Government National Mortgage
6 Association, the Federal Home Loan Mortgage Corporation, or ~~the~~
7 ~~Federal National Mortgage Association;~~ Fannie Mae;

8 (4) In a trust certificate or similar instrument evidencing an equity
9 investment in a trust or other similar arrangement which is formed for
10 the purpose of issuing obligations which are collateralized by
11 mortgage pass-through or participation certificates guaranteed by the
12 Government National Mortgage Association, the Federal Home Loan
13 Mortgage Corporation or ~~the Federal National Mortgage Association;~~
14 Fannie Mae; and

15 (5) In repurchase agreements with respect to ~~either~~ (i) direct obligations of
16 the United States ~~government~~ or ~~government,~~ (ii) obligations the
17 principal of and the interest on which are guaranteed by the United
18 States ~~government~~ ~~government,~~ or (iii) obligations described in G.S.
19 159-30(c)(2), (3), (6), or (7), if all of the following conditions are met:

20 a. The repurchase agreement is entered into with an institution
21 whose ability to pay its unsecured long-term obligations
22 (including, if the institution is an insurance company, its claims
23 paying ability) is rated in one of the two highest ratings
24 categories by a nationally recognized securities rating agency. If
25 the term of the repurchase agreement is for a period of one year
26 or less, however, the repurchase agreement may be entered into
27 with an institution that does not have such a long-term rating if
28 its ability to pay its unsecured short-term obligations is rated in
29 one of the two highest ratings categories by a nationally
30 recognized securities rating agency. If the institution with which
31 the agreement is to be entered does not meet the ratings
32 requirement of this subparagraph, the repurchase agreement
33 may nevertheless be entered into with the institution if the
34 obligations of the institution under the repurchase agreement
35 are fully guaranteed by another institution that does meet the
36 ratings requirement of this subparagraph.

37 b. The repurchase agreement provides that it shall be terminated,
38 without penalty, if the institution with which the repurchase
39 agreement is entered or by whom the institution's obligations
40 are guaranteed fails to maintain (i) in the event that the
41 repurchase agreement was entered into in reliance upon the
42 rating of the institution's long-term obligations, a rating of its
43 long-term obligations in one of the three highest ratings
44 categories by at least one nationally recognized securities rating

1 agency, or (ii) in the event that the repurchase agreement was
2 entered into in reliance upon the rating of the institution's
3 short-term obligations, a rating of its short-term obligations in
4 one of the two highest ratings categories by at least one
5 nationally recognized securities rating agency. The repurchase
6 agreement does not have to be terminated, however, if a new
7 guarantor meeting the rating requirement set forth in
8 subparagraph a. as the requirement necessary for the Agency to
9 enter the repurchase agreement agrees to fully guarantee the
10 obligations of the institution under the repurchase agreement.

11 c. The obligations that are subject to the repurchase agreement are
12 delivered (in physical or in book entry form) to the Agency, or
13 any financial institution serving either as trustee for obligations
14 issued by the Agency or as fiscal agent for the Agency or the
15 State Treasurer or are supported by a safekeeping receipt issued
16 by a depository satisfactory to the Agency. The repurchase
17 agreement must provide that the value of the underlying
18 obligations shall be maintained at a current market value,
19 calculated at least daily, of not less than one hundred percent
20 (100%) of the repurchase price. The financial institution serving
21 either as trustee or as fiscal agent for the Agency holding the
22 obligations subject to the repurchase agreement hereunder or
23 the depository issuing the safekeeping receipt shall not be the
24 provider of the repurchase agreement.

25 d. A valid and perfected first security interest in the obligations
26 which are the subject of the repurchase agreement has been
27 granted to the Agency or its assignee or book entry procedures,
28 conforming, to the extent practicable, with federal regulations
29 and satisfactory to the agency have been established for the
30 benefit of the Agency or its assignee.

31 e. The securities are free and clear of any adverse third-party
32 claims.

33 f. The repurchase agreement is in a form satisfactory to the
34 Agency."

35 **SECTION 2.** This act becomes effective October 1, 2001.