

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1993

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SENATE BILL 687

Short Title: Trans. Auth. Installment Contracts.

(Public)

Sponsors: Senators Gulley; and Lee.

Referred to: Transportation.

April 5, 1993

A BILL TO BE ENTITLED

1 AN ACT TO CLARIFY THE METHOD BY WHICH A REGIONAL PUBLIC
2 TRANSPORTATION AUTHORITY MAY PURCHASE PERSONAL PROPERTY
3 BY AN INSTALLMENT CONTRACT THAT CREATES IN THE PROPERTY A
4 SECURITY INTEREST.
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6 The General Assembly of North Carolina enacts:

7 Section 1. G.S. 160A-20 reads as rewritten:

8 "**§ 160A-20. Security interests.**

9 (a) Units of local government, as defined in subsection (h), may purchase or
10 finance the purchase of real or personal property by installment contracts that create in
11 the property purchased a security interest to secure payment of the purchase price to the
12 seller or to an individual or entity advancing moneys or supplying financing for the
13 purchase transaction.

14 (b) Units of local government, as defined in subsection (h), may finance the
15 construction or repair of fixtures or improvements on real property by contracts that
16 create in the fixtures or improvements, or in all or some portion of the property on
17 which the fixtures or improvements are located, or in both, a security interest to secure
18 repayment of moneys advanced or made available for such construction or repair.

19 (c) Units of local government, as defined in subsection (h), may use escrow
20 accounts in connection with the advance funding of transactions authorized by this
21 section, whereby the proceeds of such advance funding are invested pending
22 disbursement.

23 (d) No contract entered into under this section may contain a nonsubstitution
24 clause that restricts the right of a unit of local government to:

- 1 (1) Continue to provide a service or activity; or
2 (2) Replace or provide a substitute for any fixture, improvement, project,
3 or property financed or purchased pursuant to such contract.
- 4 (e) A contract entered into under this section is subject to approval by the Local
5 Government Commission under Article 8 of Chapter 159 of the General Statutes if it:
6 (1) Meets the standards set out in G.S. 159-148(a)(1), 159-148(a)(2), and
7 159-148(a)(3), or involves the construction or repair of fixtures or
8 improvements on real property; and
9 (2) Is not exempted from the provisions of that Article by one of the
10 exemptions contained in G.S. 159-148(b).
- 11 (f) No deficiency judgment may be rendered against any unit of local
12 government in any action for breach of a contractual obligation authorized by this
13 section, and the taxing power of a unit of local government is not and may not be
14 pledged directly or indirectly to secure any moneys due under a contract authorized by
15 this section.
- 16 (g) Before entering into a contract under this section involving real property, a
17 unit of local government shall hold a public hearing on the contract. A notice of the
18 public hearing shall be published once at least 10 days before the date fixed for the
19 hearing.
- 20 (h) As used in this section, the term 'unit of local government' means any of the
21 following:
22 (1) A county.
23 (2) A city.
24 (3) A water and sewer authority created under Article 1 of Chapter 162A
25 of the General Statutes.
26 (4) An airport authority whose situs is entirely within a county that has (i)
27 a population of over 120,000 according to the most recent federal
28 decennial census and (ii) an area of less than 200 square miles.
29 (5) An airport authority in a county in which there are two incorporated
30 municipalities with a population of more than 65,000 according to the
31 most recent federal decennial census.
32 (6) A local school administrative unit (i) that is located in a county that
33 has a population of over 90,000 according to the most recent federal
34 decennial census and (ii) whose board of education is authorized to
35 levy a school tax.
36 (7) In the case of personal property only, a regional public transportation
37 authority created under Article 26 of Chapter 160A of the General
38 Statutes."
- 39 Sec 2. This act becomes effective October 1, 1993.