

GENERAL ASSEMBLY OF NORTH CAROLINA
1989 SESSION

CHAPTER 708
HOUSE BILL 960

AN ACT TO AMEND THE LAW CONCERNING PURCHASE MONEY SECURITY INTERESTS FOR CITIES, COUNTIES, AND WATER AND SEWER AUTHORITIES.

The General Assembly of North Carolina enacts:

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

"§ 160A-20. ~~Purchase money security~~ Security interests.

(a) Cities, counties, and water and sewer authorities created under Article 1 of Chapter 162A of the General Statutes may purchase or finance the purchase of real or personal property by installment contracts which that create in the property purchased a security interest to secure payment of the purchase money-price to the seller or to an individual or entity advancing moneys or supplying financing for the purchase transaction.

(b) Cities, counties, and water and sewer authorities created under Article 1 of Chapter 162A of the General Statutes may finance the construction or repair of fixtures or improvements on real property by contracts that create in the fixtures or improvements, or in all or some portion of the property on which the fixtures or improvements are located, or in both, a security interest to secure repayment of moneys advanced or made available for such construction or repair.

(c) Cities, counties, and water and sewer authorities created under Article 1 of Chapter 162A of the General Statutes may use escrow accounts in connection with the advance funding of transactions authorized by this section, whereby the proceeds of such advance funding are invested pending disbursement.

(d) No contract entered into under this section may contain a nonsubstitution clause that restricts the right of a city, a county, or a water and sewer authority created under Article 1 of Chapter 162A of the General Statutes to:

- (1) Continue to provide a service or activity; or
- (2) Replace or provide a substitute for any fixture, improvement, project, or property financed or purchased pursuant to such contract.

(e) A contract entered into under this section is subject to the applicable provisions of approval by the Local Government Commission under Article 8 of Chapter 159 of the General Statutes if it:

- (1) Meets the standards set out in G.S. 159-148(a)(1), 159-148(a)(2), and 159-148(a)(3), or involves the construction or repair of fixtures or improvements on real property; and

(2) Is not exempted from the provisions of that Article by one of the exemptions contained in G.S. 159-148(b).

(f) No deficiency judgment may be rendered against any city, county, or water and sewer authority created under Article 1 of Chapter 162A of the General Statutes in any action for breach of a contractual obligation authorized by this section, and the taxing power of a city or county is not and may not be pledged directly or indirectly to secure any moneys due ~~to the seller.~~ under a contract authorized by this section. Any contract made or entered into by a city or county before June 1, 1979, which would have been valid hereunder is hereby validated, ratified and confirmed.

(g) Before entering into a contract under this section involving real property, a city, a county, or a water and sewer authority created under Article 1 of Chapter 162A of the General Statutes shall hold a public hearing on the contract. A notice of the public hearing shall be published once at least 10 days before the date fixed for the hearing."

Sec. 2. (a) Any contract made or entered into, prior to the date of ratification of this act, by a city, a county, or a water and sewer authority created under Article 1 of Chapter 162A of the General Statutes which would have been valid under G.S. 160A-20, subsections (a), (b), (c), and (f), as rewritten by this act, is hereby validated, ratified, and confirmed. Furthermore, such a contract may not be held invalid because it contains a nonsubstitution clause, or because no public hearing was advertised and held on the contract, or both.

(b) Any contract made or entered into, prior to the date of ratification of this act, by a city, a county, or a water and sewer authority created under Article 1 of Chapter 162A of the General Statutes which would have been valid under subsection (a) of this Section 2 or under G.S. 160A-20 as it existed prior to the ratification of this act or as rewritten by this act, except that the Local Government Commission did not approve the contract, is hereby validated, ratified, and confirmed.

Sec. 3. Nothing in this act shall be interpreted to limit or restrict the authority of cities, counties, or water and sewer authorities created under Article 1 of Chapter 162A of the General Statutes to purchase, improve, or finance the purchase or improvement of real or personal property pursuant to any other applicable law, whether general, special, or local.

Sec. 4. This act is effective upon ratification.

In the General Assembly read three times and ratified this the 1st day of August, 1989.