

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2001**

**SESSION LAW 2001-181
SENATE BILL 311**

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

The General Assembly of North Carolina enacts:

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

"§ 122A-11. Trust funds.

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

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

- (1) As provided in G.S. 159-30, except that for purposes of G.S. 159-30(b) the Agency may deposit moneys at interest in banks or trust companies outside as well as in this State, as long as any moneys at deposit outside this State are collateralized to the same extent and manner as if at deposit in this State;
- (2) In evidences of ownership of, or fractional undivided interests in, future interest and principal payments on either direct obligations of the United States government or obligations the principal of and the interest on which are guaranteed by the United States government, which obligations are held by a bank or trust company organized and existing under the laws of the United States of America or any state in the capacity of custodian;
- (3) In obligations which are collateralized by mortgage pass-through securities guaranteed by the Government National Mortgage Association, the Federal Home Loan Mortgage Corporation, or ~~the Federal National Mortgage Association;~~ Fannie Mae;
- (4) In a trust certificate or similar instrument evidencing an equity investment in a trust or other similar arrangement which is formed for the purpose of issuing obligations which are collateralized by mortgage pass-through or participation certificates guaranteed by the Government National Mortgage Association, the Federal Home Loan Mortgage Corporation or ~~the Federal National Mortgage Association;~~ Fannie Mae; and
- (5) In repurchase agreements with respect to ~~either (i) direct obligations of the United States government or government,~~ (i) direct obligations of the United States government or government, (ii) obligations the principal of and the interest on which are guaranteed by the United

States government government, or (iii) obligations described in G.S. 159-30(c)(2), (3), (6), or (7), if all of the following conditions are met:

- a. The repurchase agreement is entered into with an institution whose ability to pay its unsecured long-term obligations (including, if the institution is an insurance company, its claims paying ability) is rated in one of the two highest ratings categories by a nationally recognized securities rating agency. If the term of the repurchase agreement is for a period of one year or less, however, the repurchase agreement may be entered into with an institution that does not have such a long-term rating if its ability to pay its unsecured short-term obligations is rated in one of the two highest ratings categories by a nationally recognized securities rating agency. If the institution with which the agreement is to be entered does not meet the ratings requirement of this subparagraph, the repurchase agreement may nevertheless be entered into with the institution if the obligations of the institution under the repurchase agreement are fully guaranteed by another institution that does meet the ratings requirement of this subparagraph.
- b. The repurchase agreement provides that it shall be terminated, without penalty, if the institution with which the repurchase agreement is entered or by whom the institution's obligations are guaranteed fails to maintain (i) in the event that the repurchase agreement was entered into in reliance upon the rating of the institution's long-term obligations, a rating of its long-term obligations in one of the three highest ratings categories by at least one nationally recognized securities rating agency, or (ii) in the event that the repurchase agreement was entered into in reliance upon the rating of the institution's short-term obligations, a rating of its short-term obligations in one of the two highest ratings categories by at least one nationally recognized securities rating agency. The repurchase agreement does not have to be terminated, however, if a new guarantor meeting the rating requirement set forth in subparagraph a. as the requirement necessary for the Agency to enter the repurchase agreement agrees to fully guarantee the obligations of the institution under the repurchase agreement.
- c. The obligations that are subject to the repurchase agreement are delivered (in physical or in book entry form) to the Agency, or any financial institution serving either as trustee for obligations issued by the Agency or as fiscal agent for the Agency or the State Treasurer or are supported by a safekeeping receipt issued by a depository satisfactory to the Agency. The repurchase agreement must provide that the value of the underlying obligations shall be maintained at a current market value, calculated at least daily, of not less than one hundred percent (100%) of the repurchase price. The financial institution serving either as trustee or as fiscal agent for the Agency holding the obligations subject to the repurchase agreement hereunder or the depository issuing the safekeeping receipt shall not be the provider of the repurchase agreement.
- d. A valid and perfected first security interest in the obligations which are the subject of the repurchase agreement has been granted to the Agency or its assignee or book entry procedures, conforming, to the extent practicable, with federal regulations

and satisfactory to the agency have been established for the benefit of the Agency or its assignee.

- e. The securities are free and clear of any adverse third-party claims.
- f. The repurchase agreement is in a form satisfactory to the Agency."

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

In the General Assembly read three times and ratified this the 31st day of May, 2001.

s/ Beverly E. Perdue
President of the Senate

s/ James B. Black
Speaker of the House of Representatives

s/ Michael F. Easley
Governor

Approved 12:10 p.m. this 7th day of June, 2001