

House Bill 1028 (COMMITTEE SUBSTITUTE)

By: Representative Powell of the 23<sup>rd</sup>

A BILL TO BE ENTITLED  
AN ACT

1 To amend Title 31 of the Official Code of Georgia Annotated, relating to health, so as to  
2 provide for legislative findings; to create the Georgia Hospital Insurance Authority; to  
3 provide a short title; to provide for definitions; to provide for the members of the authority  
4 and their selection, service, and terms of office; to provide for the filling of vacancies; to  
5 provide for the powers, duties, operations, and financial affairs of the authority; to provide  
6 for the general purpose of the authority; to provide for other related matters; to repeal  
7 conflicting laws; and for other purposes.

8 **BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:**

9 **SECTION 1.**

10 Title 31 of the Official Code of Georgia Annotated, relating to health, is amended by adding  
11 at its end a new Chapter 46 to read as follows:

12 **"CHAPTER 46**

13 31-46-1.

14 The General Assembly finds that there presently exists a crisis in the field of hospital  
15 liability insurance. Hospitals in this state are having increasing difficulty in locating  
16 liability insurance and, when such hospitals are able to locate such insurance, the insurance  
17 is extremely costly. The result of this crisis is the potential for a diminution of the  
18 availability of access to health care services and the resultant effect on the health and  
19 well-being of the citizens of this state. The General Assembly finds that the state has a  
20 significant interest in ensuring the availability of liability insurance for hospitals which  
21 provide indigent care in this state at reasonable cost to the facilities. The General  
22 Assembly further finds that the provision of such insurance to the hospitals will result in  
23 the increased availability of health care services for the citizens of this state which is of  
24 substantial benefit to the state and its citizens.

H. B. 1028 (SUB)

1 31-46-2.

2 This chapter shall be known and may be cited as the 'Georgia Hospital Insurance Authority  
3 Act.'

4 31-46-3.

5 This chapter, being for the health and welfare of the state and its inhabitants, shall be  
6 liberally construed to effect its purposes.

7 31-46-4.

8 (a) There is created a body corporate and politic to be known as the Georgia Hospital  
9 Insurance Authority which shall be deemed to be a public corporation of the State of  
10 Georgia by that name, style, and title. Said body may contract and be contracted with, sue  
11 and be sued, implead and be impleaded, and complain and defend in all courts of law and  
12 equity.

13 (b) The authority shall consist of 13 members as follows:

14 (1) Three members shall be appointed by the Governor. The terms of the initial  
15 members appointed by the Governor shall begin July 1, 2004, and one such member shall  
16 serve for a term of two years, one such member shall serve for a term of three years, and  
17 one such member shall serve for a term of four years. Thereafter, all members appointed  
18 by the Governor shall serve for terms of four years;

19 (2) Three members shall be appointed by the President of the Senate. The terms of the  
20 initial members appointed by the President of the Senate shall begin July 1, 2004, and one  
21 such member shall serve for a term of two years, one such member shall serve for a term  
22 of three years, and one such members shall serve for a term of four years. Thereafter all  
23 members appointed by the President of the Senate shall serve for terms of four years;

24 (3) Three members shall be appointed by the Speaker of the House of Representatives  
25 for terms concurrent with the Speaker's term as Speaker; and

26 (4) The following shall serve ex officio: the state auditor, the commissioner of  
27 community health, the Commissioner of Insurance, and the director of the Risk  
28 Management Division of the Department of Administrative Services.

29 All members shall serve until their successors are appointed and qualified. All members  
30 shall be residents of Georgia.

31 (c) The members of the authority shall elect one of their members as chairperson and  
32 another as vice chairperson. They shall also elect a secretary and a treasurer who need not  
33 be members. The offices of secretary and treasurer may be combined in one person.

34 (d) The authority may make such bylaws for its government as is deemed necessary but  
35 is under no obligation to do so.

1 (e) Any nine members of the authority shall constitute a quorum necessary for the  
2 transaction of business, and a majority vote of those present at any meeting at which there  
3 is a quorum shall be sufficient to do and perform any action permitted to the authority by  
4 this chapter, except that the votes of a majority of the total membership of the authority  
5 shall be required in order for the authority to incur any obligation or indebtedness or enter  
6 into any contract or agreement. No person shall be entitled to exercise or cast a proxy vote  
7 for any member. No vacancy on the authority shall impair the right of a quorum to transact  
8 any and all business.

9 (f) The members shall receive no compensation for their services; but all members shall  
10 be entitled to be reimbursed from funds of the authority for actual expenses, including  
11 travel and any other expenses, incurred while in the performance of their duties.  
12 Employees of the authority shall receive reasonable compensation, to be determined by the  
13 members of the authority, for their services.

14 (g) A vacancy in one of the appointive positions shall be filled in the same manner as the  
15 original appointment for the remainder of the unexpired term.

16 31-46-5.

17 As used in this chapter, the term:

18 (1) 'Authority' means the Georgia Hospital Insurance Authority created in Code Section  
19 31-46-4.

20 (2) 'Bond,' 'bonds,' or 'revenue bonds' means revenue bonds, refunding notes, notes,  
21 interim certificates, bond anticipation notes, and other evidences of indebtedness of the  
22 authority issued under this chapter.

23 (3) 'Medical facility' means any hospital in this state having less than 200 licensed beds  
24 and its credentialed physicians and where such hospital, as of January 1, 2004, did not  
25 participate in a captive or self-insurance trust program established for liability insurance  
26 purposes.

27 31-46-6.

28 (a) The authority shall have power:

29 (1) To have a seal and alter the same at pleasure;

30 (2) To adopt, amend, and repeal bylaws and rules consistent with this chapter to regulate  
31 its affairs, to carry into effect the powers and purposes of the authority, and to conduct  
32 its business;

33 (3) To acquire by purchase, lease, or otherwise, with the exception of eminent domain,  
34 and to hold, lease, and dispose of real and personal property of every kind and character  
35 for its corporate purposes;

1 (4) To acquire in its own name by purchase, on such terms and conditions and in such  
2 manner as it may deem proper, real property or rights of easements therein or franchises  
3 necessary or convenient for its corporate purposes and to use the same so long as its  
4 corporate existence shall continue; to lease or make contracts with respect to the use of  
5 the same; or to dispose of the same in any manner it deems to the best advantage of the  
6 authority;

7 (5) To appoint, select, and employ officers, agents, consultants, and employees,  
8 including, but not limited to, fiscal agents, actuaries, accountants, risk managers, health  
9 care and financial experts, and attorneys, and fix their respective compensations;

10 (6) To appoint, select, and employ an executive director;

11 (7) To make contracts and leases and to execute all instruments necessary or convenient  
12 and to dispose by conveyance of its title in fee simple of real and personal property of  
13 every kind and character. Any and all persons, firms, and corporations; the state; and any  
14 and all political subdivisions, departments, institutions, or agencies of the state are  
15 authorized to enter into contracts, leases, or agreements with the authority upon such  
16 terms and for such purposes as they deem advisable. The authority is specifically  
17 authorized to convey title, in fee simple, to any and all of its lands and any improvements  
18 thereon to any persons, firms, corporations, municipalities, the State of Georgia, or the  
19 United States government, or any agency or department thereof;

20 (8) To invest and reinvest funds;

21 (9) To provide, obtain, or purchase insurance or reinsurance agreements or both under  
22 such terms and conditions as the authority deems appropriate;

23 (10) To settle and pay claims under such insurance agreements under such conditions  
24 and terms as the authority deems appropriate;

25 (11) To accept loans or grants of money or materials or property of any kind from the  
26 United States of America or any agency or instrumentality thereof upon such terms and  
27 conditions as the United States of America or such agency or instrumentality may  
28 impose;

29 (12) To accept loans or grants of money or materials or property of any kind from the  
30 State of Georgia or any agency or instrumentality or political subdivision thereof upon  
31 such terms and conditions as the State of Georgia or such agency or instrumentality or  
32 political subdivision may impose;

33 (13) To exercise any power usually possessed by private corporations performing similar  
34 functions which is not in conflict with the Constitution and laws of this state;

35 (14) To sell, convey, mortgage, pledge, assign, lease, exchange, transfer, or otherwise  
36 dispose of all or any part of its property or assets;

1 (15) To borrow money for any corporate purposes from any bank, banks, or other  
2 lending institutions and to execute evidences of such indebtedness and to secure the  
3 same;

4 (16) To fix, alter, charge, and collect premiums from participating medical facilities for  
5 insurance provided by or procured by the authority, such rates to be at least sufficient to  
6 provide for payment of all expenses of the authority, the conservation, maintenance, and  
7 operation of the authority on a sound actuarial basis, the payment of principal and interest  
8 on its notes, bonds, and other evidences of indebtedness or obligation, and to fulfill the  
9 terms and provisions of any agreement made with the purchasers and holders of any such  
10 notes, bonds, or other evidences of indebtedness or obligation; and

11 (17) To do all things necessary or convenient to carry out the powers expressly given in  
12 this chapter.

13 (b) No part of the revenues or assets of the authority may inure to the benefit of or be  
14 distributable to its members or officers or other private persons. Any net earnings of the  
15 authority beyond that necessary for retirement of authority indebtedness or to implement  
16 the public purposes of this chapter shall inure to the benefit of the state. Upon termination  
17 or dissolution, all rights and properties of the authority shall pass to and are vested in the  
18 state, subject to the rights of lienholders and other creditors.

19 31-46-7.

20 (a) The executive director shall approve all accounts for salaries, allowable expenses, and  
21 expenses incidental to the operation of the authority.

22 (b) The executive director shall manage the staff and employees of the authority under the  
23 direction and approval of the authority.

24 (c) The executive director shall attend the meetings of the authority and shall maintain a  
25 record of the proceedings of the authority along with all books, documents, and papers filed  
26 with the authority, the minutes of the authority, and its official seal. The executive director  
27 may cause copies to be made of all minutes and other records and documents of the  
28 authority and may give certificates under seal of the authority to the effect that such copies  
29 are true copies, and all persons dealing with the authority may rely upon such certificates.

30 31-46-8.

31 (a) Without limiting the generality of any provisions of this chapter, the general purpose  
32 of the authority is declared to be that of providing or procuring insurance for public and  
33 private medical facilities which provide any indigent health care services in this state. The  
34 authority may develop, market, finance, and maintain one or more programs of insurance  
35 for such public and private medical facilities that desire to participate in such program and

1 the authority shall be authorized to do any and all things deemed by the authority to be  
2 necessary, convenient, or desirable for and incident to the efficient and proper development  
3 and operation of such types of undertakings.

4 (b) The authority and its activities shall not be subject to Title 33. The Commissioner of  
5 Insurance may, however, adopt and enforce rules, regulations, and standards to ensure the  
6 fiscal and actuarial soundness of the authority and its activities; and all records of the  
7 authority shall be open at any time to inspection by the Commissioner of Insurance or his  
8 or her authorized agents.

9 31-46-9.

10 In developing a program of insurance for those medical facilities that desire to participate  
11 in such program, the authority may establish such eligibility standards and underwriting  
12 criteria for participating medical facilities as the authority deems appropriate, including but  
13 not limited to: (1) requirements that participating medical facilities assume a part or parts  
14 of any insured risks; and (2) contractual requirements for payment of premiums or  
15 assessments or both.

16 31-46-10.

17 (a) All meetings of the authority shall be open to the public at all times. Ample notice  
18 shall be given to all members of the authority and to the public of any special or called  
19 meeting of the authority. The minutes of all meetings and all actions taken by the authority  
20 shall likewise be open to public inspection.

21 (b) Each purchase made on behalf of the authority of personal property or services in  
22 excess of \$20,000.00 shall be accomplished pursuant to competitive bids, after having  
23 published invitations to bid in one or more newspapers in general circulation in the state  
24 prior to the award of any contract. All bids shall be opened during meetings of the  
25 authority, and the rejection or acceptance thereof shall be entered upon the minutes of the  
26 authority.

27 (c) Any surplus or unserviceable property of the authority shall be disposed of pursuant  
28 to competitive bids which shall be advertised in one or more newspapers in general  
29 circulation in the state. All bids for the disposal of such property shall be opened during  
30 public meetings of the authority, and the acceptance or rejection thereof shall be entered  
31 upon the minutes of the authority.

32 (d) At the conclusion of each fiscal year of the authority, the affairs of the authority shall  
33 be audited by a certified public accounting firm and a report of such audit shall be  
34 submitted to the General Assembly for review.

1 31-46-11.

2 (a) Every member of the authority and every employee of the authority who knowingly  
3 has any interest, direct or indirect, in any contract to which the authority is or is about to  
4 become a party, in any other business of the authority, or in any firm or corporation doing  
5 business with the authority shall make full disclosure of such interest to the authority.  
6 Failure to disclose such an interest shall constitute cause for which an authority member  
7 may be removed or an employee discharged or otherwise disciplined at the discretion of  
8 the authority.

9 (b) Any contract or transaction of the authority involving a conflict of interest not  
10 disclosed under subsection (a) of this Code section or involving a violation of any other  
11 provision of law regulating conflicts of interest which is applicable to the authority or its  
12 members, officers, or employees shall be voidable by the authority.

13 31-46-12.

14 The Attorney General shall provide legal services for the authority and Code Sections  
15 45-15-13 through 45-15-16 shall apply with respect to such provision of legal services.

16 31-46-13.

17 (a) The authority may issue bonds for the purposes of this chapter, including without  
18 limitation the provision of initial capital or reserves or both needed for the provision or  
19 procurement of insurance services by the authority.

20 (b) The authority shall have the power to borrow money and to issue bonds, regardless of  
21 whether the interest payable by the authority incident to such loans or bonds or income  
22 derived by the holders of the evidence of such indebtedness or bonds is, for purposes of  
23 federal taxation, includable in the taxable income of the recipients of such payments or is  
24 otherwise not exempt from the imposition of such taxation on the recipient.

25 (c) No bonds, notes, or other obligations of, and no indebtedness incurred by, the authority  
26 shall constitute an indebtedness or obligation or a pledge of the faith and credit of the State  
27 of Georgia or its agencies; nor shall any act of the authority in any manner constitute or  
28 result in the creation of an indebtedness of the state or its agencies or a cause of action  
29 against the state or its agencies.

30 (d) It is found, determined, and declared that the creation of the authority and the carrying  
31 out of its corporate purpose are in all respects for the benefit of the people of this state and  
32 are a public purpose and the authority will be performing an essential government function  
33 in the exercise of the powers conferred upon it by this chapter. The state covenants with  
34 the holders of the bonds that the authority shall not be required to pay any taxes or  
35 assessments upon any of the property acquired or leased by the authority or under the

1 jurisdiction, control, possession, or supervision of the authority or upon the activities of the  
2 authority in the financing of the activities financed by the authority or upon any principal,  
3 interest, premium, fees, charges, or other income received by the authority and that the  
4 bonds of the authority, their transfer, and the income therefrom shall at all times be exempt  
5 from taxation within the state. The exemption from taxation is declared to specifically  
6 extend to any subsidiary corporation created by the board of directors of the authority but  
7 shall not extend to tenants or lessees of the authority unless otherwise exempt from  
8 taxation. The exemption from taxation shall include exemptions from sales and use taxes  
9 on property purchased by the authority or for use by the authority.

10 (e) The state does pledge to and agree with the holders of any bonds issued by the  
11 authority pursuant to this chapter that the state will not alter or limit the rights vested in the  
12 authority to fulfill the terms of any agreement made with or for the benefit of the holders  
13 of bonds or in any way impair the rights and remedies of bondholders until the bonds,  
14 together with the interest thereon, with interest on any unpaid installments of interest, and  
15 all costs and expenses in connection with any action or proceeding by or on behalf of such  
16 holders, are fully met and discharged or funds for the payment of such are fully provided.  
17 The authority is authorized to include this pledge and agreement of the state in any  
18 agreement with bondholders.

19 31-46-14.

20 (a) The offer, sale, or issuance of bonds, notes, or other obligations by the authority shall  
21 not be subject to regulation under Chapter 5 of Title 10, the 'Georgia Securities Act of  
22 1973.' No notice, proceeding, or publication except those required in this chapter is  
23 necessary to the performance of any act authorized in this chapter; nor is any such act  
24 subject to referendum.

25 (b) The authority shall fix such rates, fees, and charges for use of its services and facilities  
26 as is sufficient in the aggregate, when added to any other grants or funds available to the  
27 authority, to provide funds for the payment of the interest on and principal of all bonds  
28 payable from said revenues and to meet all other encumbrances upon such revenues as  
29 provided by any agreement executed by the authority in connection with the exercise of its  
30 powers under this chapter and for the payment of all operating costs and expenses which  
31 shall be incurred by the authority, including provisions for appropriate reserves.

32 (c) The use and disposition of the authority's revenue is subject to the provisions of the  
33 resolutions authorizing the issuance of any bonds payable therefrom or of the trust  
34 agreement or indenture, if any, securing the same. The authority may designate any of its  
35 bonds as general obligations or may limit the source of repayment pursuant to the  
36 resolution authorizing the issuance of the bonds.



1 (d) The making of any loan commitment or loan, and the issuance, in anticipation of the  
2 collection of the revenues from such loan or loans, of bonds to provide funds therefor, may  
3 be authorized under this chapter by resolution of the authority. Unless otherwise provided  
4 therein, such resolution shall take effect immediately and need not be published or posted.  
5 The authority, in determining the amount of such bonds, may include all costs and  
6 estimated costs of the issuance of the bonds; all fiscal, legal, and trustee expenses; and all  
7 costs of the project. Such bonds may also be issued to pay off, refund, or refinance any  
8 outstanding bonds or other obligations of any nature, whether or not such bonds or other  
9 obligations are then subject to redemption; and the authority may provide for such  
10 arrangements as it may determine for the payment and security of the bonds being issued  
11 or for the payment and security of the bonds or other obligations to be paid off, refunded,  
12 or refinanced.

13 (e) Bonds may be issued under this chapter in one or more series; may bear such date or  
14 dates; may mature at such time or times, not exceeding 40 years from their respective  
15 dates; may bear interest at such rate or rates, payable at such time or times; may be payable  
16 in such medium of payment at such place or places; may be in such denomination or  
17 denominations; may be in such form, either coupon or registered or book entry; may be  
18 issued in such specific amounts; may carry such registration, conversion, and  
19 exchangeability privileges; may be declared or become due before the maturity date  
20 thereof; may provide such call or redemption privileges; may have such rank or priority;  
21 may be the subject of a put or agreement to repurchase by the authority or others; may be  
22 resold by the authority, once acquired, without the acquisition being considered the  
23 extinguishment of the bonds; may be issued for a project or for more than one project,  
24 whether or not such project is identified at the time of bond issuance; and may contain such  
25 other terms, covenants, assignments, and conditions as the bond resolution authorizing the  
26 issuance of such bonds or any indenture or trust agreement may provide. The authority may  
27 sell such bonds in such manner, at such price or prices, and on such terms and conditions  
28 as the authority determines.

29 (f) The bonds must be signed by the chairperson or vice chairperson of the authority; the  
30 corporate seal of the authority must be impressed, imprinted, or otherwise reproduced on  
31 the bonds; and the bonds must be attested by the signature of the secretary or assistant  
32 secretary of the authority. The signatures of the officers of the authority and the seal of the  
33 authority on any bond issued by the authority may be facsimile if the instrument is  
34 authenticated or countersigned by a trustee other than the authority itself or an officer or  
35 employee of the authority. All bonds issued under authority of this chapter bearing  
36 signatures or facsimiles of signatures of officers of the authority in office on the date of the  
37 signing thereof are valid and binding, notwithstanding that before the delivery thereof and

1 payment therefor such officers whose signatures appear thereon have ceased to be officers  
2 of the authority. Pending the preparation of the definitive bonds, interim certificates, in  
3 such form and with such provisions as the authority may determine, may be issued to the  
4 purchasers of bonds to be issued under this chapter.

5 (g) The provisions of this chapter and of any bond resolution, indenture, or trust agreement  
6 entered into pursuant to this chapter are a contract with every holder of the bonds; and the  
7 duties of the authority under this chapter and under any such bond resolution, indenture,  
8 or trust agreement are enforceable by any bondholder by mandamus or other appropriate  
9 action or proceeding at law or in equity.

10 (h) The authority may provide for the replacement of any bond which becomes mutilated,  
11 lost, or destroyed in the manner provided by the resolution, indenture, or trust agreement.

12 (i) Any limitations with respect to interest rates or any maximum interest rate or rates  
13 found in Article 3 of Chapter 82 of Title 36, the 'Revenue Bond Law,' the usury laws of this  
14 state, or any other laws of this state do not apply to bonds of the authority.

15 (j) All bonds issued by the authority under this chapter shall be issued and shall be  
16 validated by the Superior Court of Fulton County, Georgia, under and in accordance with  
17 the procedures set forth in Code Sections 36-82-73 through 36-82-83, which comprise a  
18 portion of the 'Revenue Bond Law,' as now or hereafter in effect, except as provided in this  
19 chapter. Notes and other obligations of the authority may be, but are not required to be, so  
20 validated.

21 (k) All bonds must bear a certificate of validation signed by the clerk of the Superior Court  
22 of Fulton County, Georgia. Such signature may be made on the certificate of validation of  
23 such bonds by facsimile or by manual execution, stating the date on which such bonds were  
24 validated; and such entry is original evidence of the fact of judgment and shall be received  
25 as original evidence in any court in this state.

26 (l) The authority shall reimburse the district attorney for his or her actual costs, if any,  
27 associated with the bond validation proceedings. The fees payable to the clerk of the  
28 Superior Court of Fulton County for validation and confirmation shall be as follows for  
29 each bond, regardless of the denomination of such bond: \$1.00 for each bond for the first  
30 100 bonds; 25¢ for each of the next 400 bonds; and 10¢ for each bond over 500.

31 (m) In lieu of specifying the rate or rates of interest which bonds to be issued by the  
32 authority are to bear, the notice to the district attorney or the Attorney General; the notice  
33 to the public of the time, place, and date of the validation hearing; and the petition and  
34 complaint for validation may state that the bonds when issued will bear interest at a rate not  
35 exceeding a maximum per annum rate of interest, which may be fixed or may fluctuate or  
36 otherwise change from time to time, specified in such notices and the petition and  
37 complaint or may state that, if the bonds are to bear different rates of interest for different

1 maturity dates, none of such rates will exceed the maximum rate, which may be fixed or  
 2 may fluctuate or otherwise change from time to time, so specified; provided, however, that  
 3 nothing in this Code section shall be construed as prohibiting or restricting the right of the  
 4 authority to sell such bonds at a discount, even if in doing so the effective interest cost  
 5 resulting therefrom would exceed the maximum per annum interest rate specified in such  
 6 notices and in the petition and complaint.

7 (n) Prior to issuance, all bonds shall be subject to the approval of the Georgia State  
 8 Financing and Investment Commission.

9 (o) Any other law to the contrary notwithstanding, this chapter shall govern all civil  
 10 claims, proceedings, and actions respecting debt of the authority evidenced by bonds.

11 31-46-15.

12 The bonds authorized by this chapter are securities in which:

13 (1) All public officers and bodies of this state;

14 (2) All local governments of this state;

15 (3) All insurance companies and associations and other persons carrying on an insurance  
 16 business;

17 (4) All banks, bankers, trust companies, saving banks, and savings associations,  
 18 including savings and loan associations, building and loan associations, investment  
 19 companies, and other persons carrying on a banking business;

20 (5) All administrators, guardians, executors, trustees, and other fiduciaries; and

21 (6) All other persons whomsoever who are authorized to invest in bonds or other  
 22 obligations of this state

23 may properly and legally invest funds, including capital in their control or belonging to  
 24 them. Such bonds are also securities which may be deposited with and shall be received  
 25 by all public officers and bodies of this state and local governments for any purpose for  
 26 which deposit of the bonds or other obligations of this state is authorized.

27 31-46-16.

28 (a) All or any part of the gross or net revenues and earnings derived from any particular  
 29 loan or loans and any and all revenues and earnings received by the authority, regardless  
 30 of whether such revenues and earnings were produced by a particular loan or loans for  
 31 which bonds have been issued, may be pledged by the authority to the payment of the  
 32 principal of and interest on bonds of the authority as may be provided in any resolution  
 33 authorizing the issuance of such bonds or in any indenture or trust agreement pertaining to  
 34 such bonds.

1 (b) Such funds so pledged, from whatever source received, may include funds received  
2 from one or more of all sources and may be set aside at regular intervals into sinking funds  
3 for which provision may be made in any such resolution or indenture or trust agreement,  
4 which sinking funds may be pledged to and charged with the payment of:

5 (1) The interest on such bonds as such interest becomes due;

6 (2) The principal of the bonds as the same mature;

7 (3) The necessary charges of any trustee, paying agent, or registrar for such bonds;

8 (4) Any premium on bonds retired on call or purchase; and

9 (5) Reimbursement of a credit enhancement provider who has paid principal of or  
10 premium or interest on any bond.

11 (c) The use and disposition of any sinking fund may be subject to regulations for which  
12 provision may be made in the resolution authorizing the issuance of the bonds or in the  
13 trust instrument or indenture securing the payment of the same.

14 31-46-17.

15 (a) Any issue of bonds may be secured by a trust agreement or indenture made by the  
16 authority with a corporate trustee, which may be any trust company or bank having the  
17 power of a trust company inside or outside this state. Such trust agreement or indenture  
18 may pledge or assign all revenue, receipts, and earnings to be received by the authority  
19 from any source and any proceeds which may derive from the disposition of any real or  
20 personal property of the authority or proceeds of insurance carried thereon.

21 (b) The resolution providing for the issuance of bonds and such trust agreement or  
22 indenture may contain provisions for protecting and enforcing the rights and remedies of  
23 the bondholders, including the right of appointment of a receiver on default in the payment  
24 of any principal or interest obligation and the right of any receiver or trustee to enforce  
25 collection of any rates, fees, and charges pertaining to any loan, any overdue principal and  
26 interest on any loan, any overdue principal of and interest on all bonds in the issue, all costs  
27 of collection, and all other costs reasonably necessary to accomplish the collection of such  
28 sums in the event of any default of the authority.

29 (c) Such resolution, trust agreement, or indenture may include covenants setting forth the  
30 duties of the authority regarding the custody, safeguarding, and application of all funds of  
31 the authority, including any proceeds derived from the disposition of any real or personal  
32 property of the authority or proceeds of insurance carried thereon. In addition, such  
33 resolution, trust agreement, or indenture may include covenants providing for the  
34 operation, maintenance, repair, and insurance of any facility or capital improvements  
35 constructed or acquired with loan proceeds.

1 (d) All expenses incurred in carrying out any trust agreement or indenture under this Code  
2 section may be treated as a part of the cost of financing and administering the loans that  
3 will be funded or acquired with the proceeds of the bonds governed by such trust  
4 agreement or indenture.

5 31-46-18.

6 (a) All moneys received pursuant to the provisions of this chapter, whether as proceeds  
7 from the sale of bonds or other obligations, as grants or other contributions, or as revenues  
8 and earnings, shall be deemed to be trust funds to be held and applied solely as provided  
9 in this chapter. The authority shall, in the resolution providing for the issuance of bonds or  
10 in the trust indenture, provide for the payment of the proceeds of the sale of the bonds and  
11 the earnings and revenues to be received to any officer who, or any agency, bank, or trust  
12 company which, shall act as trustee of such funds and shall hold and apply the same to the  
13 purposes expressed in this chapter, subject to such regulations as this chapter and such  
14 resolution or trust indenture may provide.

15 (b) The authority may pledge for the payment of its bonds such assets, funds, and  
16 properties as the resolution providing for the issuance of its bonds may provide. Any such  
17 pledge made by the authority is valid and binding from the time when the pledge is made;  
18 the moneys or properties so pledged and thereafter received by the authority are  
19 immediately subject to the lien of such pledge without any physical delivery thereof or  
20 further act; and the lien of any such pledge is valid and binding as against all parties having  
21 claims of any kind against the authority, irrespective of whether such parties have notice  
22 thereof. No resolution or any other instrument by which a pledge is created need be  
23 recorded."

24 **SECTION 3.**

25 All laws and parts of laws in conflict with this Act are repealed.