

1 A bill to be entitled
2 An act relating to financing for private
3 not-for-profit institutions of higher
4 education; providing findings and declarations;
5 creating the Higher Educational Facilities
6 Financing Authority; providing for its powers;
7 providing for criteria for and covenants
8 relating to the authorization of the issuance
9 of notes and revenue bonds not obligating the
10 full faith and credit of the authority, any
11 municipality, the state, or any political
12 subdivision thereof; providing for loans from
13 revenue bonds to participating institutions;
14 requiring bond-validation proceedings;
15 providing for trust funds and remedies of
16 bondholders; providing for a tax exemption;
17 providing for agreement of the state; providing
18 other powers and authorities incident thereto;
19 requiring reports and audits; amending s.
20 196.012, F.S.; providing that institutions
21 funded by this act are educational institutions
22 for purposes of state taxation; amending s.
23 196.198, F.S.; maintaining exemption from
24 taxation for property leased from a
25 governmental agency if the agency continues to
26 use the property exclusively for educational
27 purposes; providing an effective date.

28
29 Be It Enacted by the Legislature of the State of Florida:
30
31

1 Section 1. Short title.--This act may be referred to
2 as the "Higher Educational Facilities Financing Act."

3 Section 2. Findings and declarations.--It is declared
4 that for the benefit of the people of the state, the increase
5 of their commerce, welfare, and prosperity, and the
6 improvement of their health and living conditions, it is
7 essential that this and future generations of youth be given
8 the fullest opportunity to learn and to develop their
9 intellectual and mental capacities; that it is essential for
10 private institutions of higher education in the state to be
11 provided with appropriate additional means to assist such
12 youth in achieving the required levels of learning and
13 development of their intellectual and mental capacities; that
14 it is the purpose of this act to provide a measure of
15 assistance and an alternative method enabling private
16 institutions of higher education of this state to provide the
17 facilities and structures that are sorely needed to accomplish
18 the purposes of this act; and that it is essential to provide
19 additional assistance to private institutions of higher
20 education by enabling those institutions to coordinate their
21 budgetary needs with the timing of receipt of tuition
22 revenues.

23 Section 3. Definitions.--As used in this act, the
24 term:

25 (1) "Authority" or "educational facilities authority"
26 means the public corporation created by this act.

27 (2) "Real property" includes all lands, including
28 improvements and fixtures thereon, and any such property
29 appurtenant thereto, or used in connection therewith and every
30 estate, interest and right, legal or equitable, therein,
31 including terms for years and liens by way of judgment,

1 mortgage, or otherwise and the indebtedness secured by such
2 liens. This definition does not affect the classification of
3 property as real property or tangible personal property for
4 purposes of ad valorem taxation under chapters 192 and 193,
5 Florida Statutes, or sales and use taxation under chapter 212,
6 Florida Statutes.

7 (3) "Project" means a structure suitable for use as a
8 dormitory or other housing facility, dining hall, student
9 union, administration building, academic building, library,
10 laboratory, research facility, classroom, athletic facility,
11 health care facility, and maintenance, storage, or utility
12 facility, and other structures or facilities related thereto,
13 or required thereby, or required or useful for the instruction
14 of students, or the conducting of research, or the operation
15 of an institution of higher education, including parking and
16 other facilities or structures, essential for the orderly
17 conduct of an institution of higher education and shall also
18 include equipment and machinery and other similar items
19 necessary for the operation of a particular facility or
20 structure in the manner for which its use is intended, but the
21 term does not include such items as books, fuel, supplies, or
22 other items that are customarily considered to result in a
23 current operating charge. The term also includes a loan in
24 anticipation of tuition revenues by a private institution of
25 higher education.

26 (4) "Cost," as applied to a project or any portion
27 thereof financed under this act, embraces all or any part of
28 the cost of construction and acquisition of all lands,
29 structures, real or personal property, rights, rights-of-way,
30 franchises, easements, and interests acquired or used for a
31 project, the cost of demolishing or removing any buildings or

1 structures on land so acquired, including the cost of
2 acquiring any lands to which the buildings or structures may
3 be removed, the cost of all machinery and equipment, financing
4 charges, interest before, during, and for a period of 30
5 months after completion of the construction, provisions for
6 working capital, reserves for principal, interest and rebate,
7 and for extensions, enlargements, additions and improvements,
8 cost of engineering, financial and legal services, plans,
9 specifications, studies, surveys, estimates of cost and of
10 revenues, administrative expenses, expenses necessary to
11 determining the feasibility or practicability of constructing
12 the project and other expenses as may be necessary to the
13 construction and acquisition of the project, the financing of
14 the construction and acquisition and the placing of the
15 project in operation. In the case of a loan in anticipation of
16 tuition revenues, the term "cost" means the amount of the loan
17 in anticipation of revenues which does not exceed the amount
18 of tuition revenues anticipated to be received by the
19 borrowing institution of higher education in the 1-year period
20 following the date of the loan, plus costs related to the
21 issuance of the loans, or bonds, the proceeds of which fund
22 the loans, and any related cost of debt service reserve funds
23 and rebate associated therewith.

24 (5) "Bond" or "revenue bond" means a revenue bond of
25 the authority issued under this act, including a revenue
26 refunding bond, notwithstanding that it may be secured by
27 mortgage or the full faith and credit of a participating
28 institution of higher education or any other lawfully pledged
29 security of a participating institution of higher education.

30 (6) "Institution of higher education" means an
31 educational institution that by virtue of law or charter is a

1 nonprofit educational institution empowered to provide a
2 project of education beyond the high school level; is not
3 owned or controlled by the state or any political subdivision,
4 agency, instrumentality, district, or municipality of the
5 state; and otherwise meets the requirements of section 196.012
6 (5), Florida Statutes.

7 (7) "Participating institution" means an institution
8 of higher education that undertakes the financing and
9 construction or acquisition of a project or undertakes the
10 refunding or refinancing of obligations or of a mortgage or of
11 advances as provided in and permitted by this act.

12 (8) "Loan in anticipation of tuition revenues" means a
13 loan to an institution of higher education under circumstances
14 in which tuition revenues anticipated to be received by the
15 institution in any budget year are estimated to be
16 insufficient at any time during the budget year to pay the
17 operating expenses or other obligations of the institution in
18 accordance with the budget of the institution.

19 Section 4. Creation of Higher Educational Facilities
20 Financing Authority.--

21 (1) There is created a public body corporate and
22 politic to be known as the Higher Educational Facilities
23 Financing Authority. The authority is constituted as a public
24 instrumentality and the exercise by the authority of the
25 powers conferred by this act is considered to be the
26 performance of an essential public function. Chapters 119 and
27 286, Florida Statutes, shall apply to the authority.

28 (2) The authority shall consist of five members to be
29 appointed by the Governor, subject to confirmation by the
30 Senate. One member shall be a trustee, director, officer, or
31 employee of an institution of higher education. Of the members

1 first appointed, one shall serve for 1 year, one for 2 years,
2 one for 3 years, one for 4 years, and one for 5 years, and in
3 each case until his or her successor is appointed and has
4 qualified. Thereafter, the Governor shall appoint for terms of
5 5 years each a member or members to succeed those whose terms
6 expire. The Governor shall fill any vacancy for an unexpired
7 term. A member of the authority is eligible for reappointment.
8 Any member of the authority may be removed by the Governor for
9 misfeasance, malfeasance, or willful neglect of duty. Each
10 member of the authority before entering upon his or her duties
11 shall take and subscribe to the oath or affirmation required
12 by the State Constitution. A record of each oath must be filed
13 in the office of the Department of State and with the
14 authority.

15 (3) The authority shall annually elect one of its
16 members as chair and one as vice chair, and shall also appoint
17 an executive director who is not a member of the authority and
18 who serves at the pleasure of the authority and receives
19 compensation as fixed by the authority. The duties of the
20 executive director may be discharged under a contract with the
21 Independent Colleges and Universities of Florida, a
22 not-for-profit corporation representing the independent
23 colleges and universities of the state, or any successor
24 corporation or other such entity providing similar
25 representation, chosen by the authority, or an agency or other
26 entity representing independent colleges and universities
27 providing such services, in which case the entity shall
28 designate a person to perform those duties.

29 (4) The executive director shall keep a record of the
30 proceedings of the authority and shall be custodian of all
31 books, documents, and papers filed with the authority and of

1 the minute book or journal of the authority and of its
2 official seal. He or she may cause copies to be made of all
3 minutes and other records and documents of the authority and
4 may give certificates under the official seal of the authority
5 to the effect that the copies are true copies, and all persons
6 dealing with the authority may rely upon the certificates.

7 (5) A majority of the members of the authority
8 constitutes a quorum, and the affirmative vote of a majority
9 of the members present at a meeting of the authority is
10 necessary for any action taken by the authority. A vacancy in
11 the membership of the authority may not impair the right of a
12 quorum to exercise all the rights and perform all the duties
13 of the authority. Any action taken by the authority under this
14 act may be authorized by resolution at any regular or special
15 meeting, and each resolution shall take effect immediately and
16 need not be published or posted.

17 (6) The members of the authority shall receive no
18 compensation for the performance of their duties, but each
19 member shall be paid his or her necessary expenses incurred
20 while engaged in the performance of his or her duties.

21 (7) The authority is assigned to the Department of
22 Education for administrative purposes.

23 Section 5. Powers of authority.--The purpose of the
24 authority is to assist institutions of higher education in the
25 construction, financing, and refinancing of projects
26 throughout the state and for this purpose the authority may:

27 (1) Exercise all powers granted to corporations under
28 the Florida Business Corporation Act, chapter 607, Florida
29 Statutes.

30

31

1 (2) Have perpetual succession as a body politic and
2 corporate and adopt bylaws for the regulation of its affairs
3 and the conduct of its business.

4 (3) Adopt an official seal and alter the same at its
5 pleasure.

6 (4) Maintain an office at any place in the state that
7 it may designate.

8 (5) Sue and be sued in its own name, and plead and be
9 impleaded.

10 (6) Make and execute financing agreements, leases, as
11 lessee or as lessor, contracts, deeds, and other instruments
12 necessary or convenient in the exercise of the powers and
13 functions of the authority under this act, including contracts
14 with persons, firms, corporations, federal and state agencies,
15 and other authorities, which state agencies and other
16 authorities are hereby authorized to enter into contracts and
17 otherwise cooperate with the authority to facilitate the
18 financing, construction, leasing, or sale of any project or
19 the institution of any program; engage in sale-leaseback,
20 lease-purchase, lease-leaseback, or other undertakings and
21 provide for the sale of certificates of participation incident
22 thereto; enter into interlocal agreements in the manner
23 provided in section 163.01, Florida Statutes.

24 (7) Determine the location and character of any
25 project to be financed under this act and may:

26 (a) Construct, reconstruct, maintain, repair, operate,
27 lease as lessee or lessor, and regulate the project;

28 (b) Enter into contracts for any of those purposes;

29 (c) Enter into contracts for the management and
30 operation of a project; and

31

1 (d) Designate a participating institution of higher
2 education as its agent to determine the location and character
3 of a project undertaken by a participating institution of
4 higher education under this act and, as the agent of the
5 authority, construct, reconstruct, maintain, repair, operate,
6 own, lease as lessee or lessor, and regulate the project, and,
7 as the agent of the authority, enter into contracts for any of
8 those purposes, including contracts for the management and
9 operation of the project.

10 (8) Issue bonds, bond anticipation notes, and other
11 obligations of the authority for any of its corporate
12 purposes, including the providing of funds to pay all or any
13 part of the cost of any project, and to fund or refund the
14 cost of any project as provided in this act.

15 (9) Generally fix and revise and charge and collect
16 rates, rents, fees, and charges for the use of and for the
17 services furnished or to be furnished by a project or any
18 portion thereof and to contract with any person, partnership,
19 association, or corporation or other body public or private in
20 respect thereof.

21 (10) Establish rules and regulations for the use of a
22 project or any portion thereof and designate a participating
23 institution of higher education as its agent to establish
24 rules and regulations for the use of a project undertaken by
25 the participating institution of higher education.

26 (11) Employ consulting engineers, architects,
27 attorneys, accountants, construction and financial experts,
28 superintendents, managers, and other employees and agents as
29 may be necessary in its judgment, and fix their compensation.

30 (12) Receive and accept from any public agency loans
31 or grants for or in aid of the construction of a project or

1 any portion thereof, and receive and accept loans, grants,
2 aid, or contributions from any source of either money,
3 property, labor, or other things of value, to be held, used,
4 and applied only for the purposes for which the loans, grants,
5 aid, and contributions are made.

6 (13) Mortgage any project and the site thereof for the
7 benefit of the holders of revenue bonds issued to finance
8 projects or those providing credit for that purpose.

9 (14) Make loans to any participating institution of
10 higher education for the cost of a project, including a loan
11 in anticipation of tuition revenues, in accordance with an
12 agreement between the authority and the participating
13 institution of higher education; but no loan may exceed the
14 total cost of the project as determined by the participating
15 institution of higher education and approved by the authority.

16 (15) Make loans to a participating institution of
17 higher education to refund outstanding obligations, mortgages,
18 or advances issued, made, or given by the participating
19 institution of higher education for the cost of a project.

20 (16) Charge to and equitably apportion among
21 participating institutions of higher education its
22 administrative costs and expenses incurred in the exercise of
23 the powers and duties conferred by this act.

24 (17) Contract with an entity representing independent
25 colleges and universities as its agent to assist the authority
26 in screening applications of institutions of higher education
27 for loans under this act and receive any recommendations the
28 entity may make.

29 (18) Do all things necessary or convenient to carry
30 out the purposes of this act.

31

1 Section 6. Payment of expenses.--All expenses incurred
2 in carrying out this act are payable solely from funds
3 provided under the authority of this act, and no liability or
4 obligation may be incurred by the authority beyond the extent
5 to which moneys have been provided under this act.

6 Section 7. Acquisition of real property.--The
7 authority may directly, or by and through a participating
8 institution of higher education as its agent, acquire by
9 purchase or lease solely from funds provided under this act,
10 or by gift or devise, any lands, structures, property, real or
11 personal, rights, rights-of-way, franchises, easements, and
12 other interests in lands, including lands lying underwater,
13 and riparian rights, which are located within or outside the
14 state as it may consider necessary or convenient for the
15 construction or operation of a project, upon terms and at
16 prices as are considered by it to be reasonable and that can
17 be agreed upon between it and the owner thereof, and to take
18 title thereto in the name of the authority or in the name of a
19 participating institution of higher education as its agent or
20 as an owner and borrower.

21 Section 8. Conveyance of title or interest to
22 participating institutions.--When the principal of and
23 interest on revenue bonds of the authority issued to finance
24 the cost of a particular project or projects at a
25 participating institution of higher education, including any
26 revenue refunding bonds issued to refund and refinance the
27 revenue bonds, have been fully paid and retired, or when
28 adequate provision has been made to pay fully and retire them,
29 and all other conditions of the resolution or trust agreement
30 authorizing and securing the revenue bonds have been satisfied
31 and the lien of the resolution or trust agreement has been

1 released in accordance with the provisions thereof, the
2 authority shall promptly execute deeds and conveyances
3 necessary and required to convey title to the project or
4 projects to the participating institution of higher education,
5 free and clear of all liens and encumbrances.

6 Section 9. Criteria and requirements.--In undertaking
7 any project under this act, the authority shall be guided by
8 and shall observe the following criteria and requirements;
9 however, the determination of the authority as to compliance
10 with the criteria and requirements is final and conclusive:

11 (1) The project, in the determination of the
12 authority, is appropriate to the needs and circumstances of,
13 and shall make a significant contribution to the purposes of,
14 the authority and this act as set forth in the findings and
15 declarations, and shall serve a public purpose by advancing
16 the prosperity and general welfare of the state and its
17 people.

18 (2) A financing agreement for a project may not be
19 entered into with a participating institution that is not
20 financially responsible and fully capable of and willing to
21 fulfill its obligations under the financing agreement,
22 including the obligations to make payments in the amounts and
23 at the times required; to operate, repair, and maintain at its
24 own expense the project owned or leased; and to serve the
25 purposes of this act and any other responsibilities that may
26 be imposed under the financing agreement. In determining the
27 financial responsibility of the participating institution,
28 consideration must be given to the party's ratio of current
29 assets to current liabilities; net worth; endowments; pledges;
30 earning trends; coverage of all fixed charges; the nature of
31 the project involved; its inherent stability; any guarantee of

1 the obligations by some other financially responsible
2 corporation, firm, or person; means by which the bonds are to
3 be marketed to the public; and other factors determinative of
4 the capability of the participating institution, financially
5 and otherwise, to fulfill its obligations consistently with
6 the purposes of this act. In making findings and
7 determinations, the authority may rely upon the
8 recommendations of the entity representing independent
9 colleges and universities.

10 (3) Adequate provision must be made for the operation,
11 repair, and maintenance of the project at the expense of the
12 owner or lessee and for the payment of principal of and
13 interest on the bonds.

14 (4) The costs to be paid from the proceeds of the
15 bonds are costs of a project within the meaning of this act,
16 except for payments included in the purposes for which revenue
17 refunding bonds may be issued under this act.

18 Section 10. Approval required to issue bonds.--The
19 authority is created for the purpose of promoting higher
20 education and issuing bonds on behalf of the state, and the
21 Governor may approve any bonds issued by the authority which
22 require approval under federal law.

23 Section 11. Agreements of sale, lease, or loan.--

24 (1) A project financed under this act may not be
25 operated by the authority or any other governmental agency,
26 except that the authority may temporarily operate or cause to
27 be operated all or any part of a project to protect its
28 interest therein, pending any leasing or sale of the project.
29 A project acquired or constructed by the authority, unless
30 sold or contracted to be sold, must be leased to one or more
31 persons, firms, or private corporations for operation and

1 maintenance in a manner as will effectuate the purposes of
2 this act, under an agreement of sale, installment sale, lease
3 or loan, in form and substance not inconsistent herewith. Any
4 agreement may provide, among other provisions, that:

5 (a) The owner or lessee shall at its own expense
6 operate, repair, and maintain the project sold or leased
7 thereunder.

8 (b) The payments or rent payable under the agreement
9 will in the aggregate be not less than an amount sufficient to
10 pay all of the interest, principal, and redemption premiums,
11 if any, on the bonds that will be issued by the authority to
12 pay the cost of the project sold or leased thereunder.

13 (c) The owner or lessee shall pay all other costs
14 incurred by the authority in connection with the financing,
15 construction, and administration of the project sold or
16 leased, except as may be paid out of the proceeds of bonds or
17 otherwise, including, but without being limited to, insurance
18 costs, the cost of administering the bond resolution
19 authorizing the bonds and any trust agreement securing the
20 bonds, and the fees and expenses of the authority, trustees,
21 paying agents, attorneys, consultants, and others.

22 (d) The term of an agreement will terminate not
23 earlier than the date on which all bonds and all other
24 obligations incurred by the authority in connection with the
25 project sold or leased thereunder are paid in full, including
26 interest, principal, and redemption premiums, if any, or on
27 which adequate funds for payment are deposited in trust.

28 (e) The owner or lessee's obligation to pay payments
29 or rent is not subject to cancellation, termination, or
30 abatement until payment of the bonds or provision for payment
31 is made.

1 (2) An agreement may contain additional provisions
2 that in the determination of the authority are necessary to
3 effectuate the purposes of this act, including provisions for
4 extensions of the term and renewals of the sale or the lease
5 and vesting in the lessee an option to purchase the project
6 leased thereunder pursuant to any terms and conditions
7 consistent with this act that are prescribed in the lease;
8 however, except as is otherwise expressly stated in the
9 agreement and except to provide for any contingencies
10 involving the damaging, destruction, or condemnation of the
11 project or any substantial portion thereof, an option to
12 purchase may not be exercised unless all bonds issued for the
13 project, including all principal, interest, and redemption
14 premiums, if any, and all other obligations incurred by the
15 authority in connection with the project have been paid in
16 full or sufficient funds have been deposited in trust or
17 sufficient arrangements have been made for payment. However,
18 the purchase price of the project may not be less than an
19 amount sufficient to pay in full all of the bonds, including
20 all principal, interest, and redemption premium, if any,
21 issued for the project then outstanding and all other
22 obligations incurred by the authority in connection with the
23 project.

24 Section 12. Notes of authority.--The authority may
25 issue its negotiable notes for any corporate purpose and renew
26 any notes by the issuance of new notes, whether the notes to
27 be renewed have or have not matured. The authority may issue
28 notes partly to renew notes or to discharge other obligations
29 then outstanding and partly for any other purpose. The notes
30 may be authorized, sold, executed, and delivered in the same
31 manner as bonds. Any resolution authorizing notes of the

1 authority or any issue thereof may contain any provisions that
2 the authority is authorized to include in any resolution
3 authorizing revenue bonds of the authority or any issue
4 thereof, and the authority may include in any notes any terms,
5 covenants, or conditions that it is authorized to include in
6 any bonds. All the notes must be payable solely from the
7 revenues of the project to be financed, subject only to any
8 contractual rights of the holders of any of its notes or other
9 obligations then outstanding.

10 Section 13. Revenue bonds.--

11 (1) The authority may issue its negotiable revenue
12 bonds for any corporate purpose, including the provision of
13 funds to pay all or any part of the cost of any project. In
14 anticipation of the sale of revenue bonds, the authority may
15 issue negotiable bond anticipation notes and may renew them
16 from time to time, but the maximum maturity of any note,
17 including renewals thereof, may not exceed 5 years from the
18 date of issue of the original note. The notes must be paid
19 from any revenues of the authority therefor or of
20 the project and not otherwise pledged, or from the proceeds of
21 sale of the revenue bonds of the authority in anticipation of
22 which they were issued. The notes must be issued in the same
23 manner as the revenue bonds. The notes and the resolution
24 authorizing them may contain any provisions, conditions, or
25 limitations that a bond resolution of the authority may
26 contain.

27 (2) The revenue bonds and notes of every issue must be
28 payable solely out of revenues of the authority, including the
29 provision of funds of the participating institution to pay all
30 or any part of the cost of any project, subject only to any
31 agreements with the holders of particular revenue bonds or

1 notes pledging any particular revenues. Notwithstanding that
2 revenue bonds and notes may be payable from a special fund,
3 they are for all purposes negotiable instruments, subject only
4 to the provisions of the revenue bonds and notes for
5 registration.

6 (3) The revenue bonds may be issued as serial bonds or
7 as term bonds; or the authority may issue bonds of both types.
8 The revenue bonds must be authorized by resolution of the
9 authority; must bear the date of issuance, the date of
10 maturity, not exceeding 50 years from issuance, and the
11 interest rate of the bonds, which may be a variable rate,
12 notwithstanding any limitation in other laws relating to
13 maximum interest rates; must be payable at a specified time;
14 must be in specified denominations; must be in specified form,
15 carry registration privileges, be executed in a specified
16 manner, be payable in lawful money of the United States at a
17 specified place, and be subject to the terms of redemption, as
18 the resolution may provide. The revenue bonds or notes may be
19 sold at public or private sale for the price the authority
20 determines. Pending preparation of the definitive bonds, the
21 authority may issue interim receipts or certificates that may
22 be exchanged for the definitive bonds. In case any officer
23 whose signature, or a facsimile of whose signature, appears on
24 any bonds or coupons ceases to be that officer before the
25 delivery of the bonds, the signature or facsimile is
26 nevertheless valid and sufficient for all purposes as if he or
27 she had remained in office until delivery. The authority may
28 also provide for the authentication of the bonds by a trustee
29 or fiscal agent. The bonds may be issued in coupon form or in
30 registered form, or both, as the authority may determine, and
31 provision may be made for the registration of any coupon bonds

1 as to principal alone and also as to both principal and
2 interest; for the reconversion into coupon bonds of any bonds
3 registered as to both principal and interest; and for the
4 interchange of registered and coupon bonds. The authority may
5 sell the bonds either at public or private sale, and for the
6 price it determines will best effectuate the purpose of this
7 act, notwithstanding any limitation in other laws relating to
8 the maximum interest rate permitted for bonds or limitations
9 on the manner by which bonds are sold.

10 (4) Any resolution authorizing any revenue bonds may
11 contain provisions, which are a part of the contract with the
12 holders of the revenue bonds to be authorized, as to:

13 (a) Pledging of all or any part of the revenues of a
14 project or any revenue-producing contract made by the
15 authority with any individual, partnership, corporation, or
16 association or other body, public or private, to secure the
17 payment of the revenue bonds or of any particular issue of
18 revenue bonds, subject to any agreements with bondholders as
19 may then exist.

20 (b) The rentals, fees, and other charges to be
21 charged, and the amounts to be raised in each year thereby,
22 and the use and disposition of the revenues.

23 (c) The setting aside of reserves or sinking funds and
24 the regulation and disposition thereof.

25 (d) Limitations on the right of the authority or its
26 agent to restrict and regulate the use of the project.

27 (e) Limitations on the purpose to which the proceeds
28 of sale of any issue of revenue bonds then or thereafter to be
29 issued may be applied and pledging the proceeds to secure the
30 payment of the revenue bonds or any issue of the revenue
31 bonds.

1 (f) Limitations on the issuance of additional bonds,
2 the terms upon which additional bonds may be issued and
3 secured, and the refunding of outstanding bonds.

4 (g) The procedure, if any, by which the terms of any
5 contract with bondholders may be amended or abrogated,
6 including the amount of bonds the holders of which must
7 consent thereto and the manner in which consent may be given.

8 (h) Limitations on the amount of moneys derived from
9 the project to be expended for operating, administrative, or
10 other expenses of the authority.

11 (i) The acts or omissions to act that constitute a
12 default in the duties of the authority to holders of its
13 obligations and providing the rights and remedies of the
14 holders in the event of a default.

15 (j) The mortgaging of or granting of a security
16 interest in the project or the site thereof for the purpose of
17 securing the bondholders.

18 (5) Neither the members of the authority nor any
19 person executing the revenue bonds or notes is liable
20 personally on the revenue bonds or notes or is subject to any
21 personal liability or accountability by reason of the issuance
22 thereof.

23 (6) The authority may purchase its bonds or notes out
24 of any funds available therefor. The authority may hold,
25 pledge, cancel, or resell the bonds, subject to and in
26 accordance with agreements with bondholders.

27 (7) Incident to its powers to issue bonds and notes,
28 the authority may enter into interest rate swap agreements,
29 collars, caps, forward securities purchase agreements, delayed
30 delivery bond purchase agreements, and any other financial
31

1 agreements considered to be in the best interest of the
2 authority.

3 (8) Bonds may be issued under this act without
4 obtaining, except as otherwise expressly provided in this act,
5 the consent of any department, division, commission, board,
6 body, bureau, or agency of the state or any local government,
7 and without any other proceedings or the happening of any
8 conditions or things other than those proceedings, conditions,
9 or things that are specifically required by this act and the
10 resolution authorizing the issuance of bonds or the trust
11 agreement securing them.

12 Section 14. Authority reporting requirement.--

13 (1) Any authority that issues any revenue bonds under
14 this act shall supply the Division of Bond Finance of the
15 State Board of Administration with a copy of the report
16 required in s. 103 of the Internal Revenue Code of 1954, as
17 amended, at the times required under that section.

18 (2) The Division of Bond Finance shall, upon receipt,
19 provide a copy of the information supplied under subsection
20 (1) to the Department of Education.

21 Section 15. Covenants.--Any resolution authorizing the
22 issuance of bonds may contain any covenants the authority
23 considers advisable, including those provisions set forth in
24 section 13(4), and all those covenants constitute valid and
25 legally binding and enforceable contracts between the
26 authority and the bondholders, regardless of the time of
27 issuance thereof. The covenants may include, without
28 limitation, covenants concerning the disposition of the bond
29 proceeds, the use and disposition of project revenues, the
30 pledging of revenues and assessments, the obligations of the
31 authority with respect to the operation of the project and the

1 maintenance of adequate project revenues, the issuance of
2 additional bonds, the appointment, powers, and duties of
3 trustees and receivers, the acquisition of outstanding bonds
4 and obligations, restrictions on the establishing of competing
5 projects or facilities, restrictions on the sale or disposal
6 of the assets and property of the authority, the maintenance
7 of deposits to assure the payment of the bonds issued
8 hereunder, acceleration upon default, the execution of
9 necessary instruments, the procedure for amending or
10 abrogating covenants with the bondholders, and any other
11 covenants considered necessary for the security of the
12 bondholders.

13 Section 16. Validity of bonds; validation
14 proceedings.--Any bonds issued by the authority are
15 incontestable in the hands of bona fide purchasers or holders
16 for value and are not invalid because of any irregularity or
17 defect in the proceedings for the issue and sale thereof.
18 Before the issuance of any bonds, the authority shall publish
19 a notice at least once in a newspaper or newspapers published
20 or of general circulation in the county or counties in the
21 state in which the project will be located, stating the date
22 of adoption of the resolution authorizing the obligations, the
23 amount, maximum rate of interest, and maturity of the
24 obligations, and the purpose in general terms for which the
25 obligations are to be issued, and further stating that no
26 action or proceeding questioning the validity of the
27 obligations or of the proceedings authorizing the issuance
28 thereof, or of any covenants made therein, must be instituted
29 within 20 days after the first publication of the notice, or
30 the validity of the obligations, proceedings, and covenants
31 may not be thereafter questioned in any court. If no action or

1 proceeding is instituted within the 20-day period, then the
2 validity of the obligations, proceedings, and covenants is
3 conclusive, and all persons or parties whatsoever are forever
4 barred from questioning the validity of the obligations,
5 proceedings, or covenants in any court. Notwithstanding this
6 section, the bonds, notes, or other obligations issued by the
7 authority and the obligations of any participating
8 institution, or others providing credit for the obligations,
9 who may be before the jurisdiction of the court, must be
10 validated in the manner provided by chapter 75, Florida
11 Statutes, and the jurisdiction of the action may be in the
12 jurisdiction of the circuit court where the project is to be
13 located, or in the discretion of the authority, in the county
14 seat of state government.

15 Section 17. Act furnishes full authority for issuance
16 of bonds.--This act constitutes full authority for the
17 issuance of bonds and the exercise of the powers of the
18 authority provided in this act. Any bonds issued by the
19 authority are not secured by the full faith and credit of the
20 state and do not constitute an obligation, either general or
21 special, of the state.

22 Section 18. Security of bondholders.--In the
23 discretion of the authority any revenue bonds issued under
24 this act may be secured by a trust agreement by and between
25 the authority and a corporate trustee or trustees, which may
26 be any trust company or bank having the powers of a trust
27 company within or without the state. The trust agreement or
28 the resolution providing for the issuance of revenue bonds may
29 pledge or assign the revenues to be received or the proceeds
30 of any contract or contracts pledged and may convey or
31 mortgage the project or any portion thereof. The trust

1 agreement or resolution providing for the issuance of revenue
2 bonds may contain provisions for protecting and enforcing the
3 rights and remedies of the bondholders as may be reasonable
4 and proper and not in violation of law, including particularly
5 those provisions specifically authorized by this act to be
6 included in any resolution of the authority authorizing
7 revenue bonds. Any bank or trust company incorporated under
8 the laws of this state or of any other state or the United
9 States which may legally act as depository of the proceeds of
10 bonds or of revenues or other moneys or security may furnish
11 indemnifying bonds or pledge securities required by the
12 authority, if any. Any trust agreement may set forth the
13 rights and remedies of the bondholders and of the trustee or
14 trustees, and may restrict the individual right of action by
15 bondholders. In addition any trust agreement or resolution may
16 contain any other provisions the authority may consider
17 reasonable and proper for the security of the bondholders. All
18 expenses incurred in carrying out the trust agreement or
19 resolution may be treated as a part of the cost of the
20 operation of a project.

21 Section 19. Payment of bonds.--Revenue bonds issued
22 under this act may not be considered to constitute a debt or
23 liability of the authority, any municipality, the state or any
24 political subdivision thereof or a pledge of the faith and
25 credit of the state, of the authority, of any municipality or
26 of any political subdivision, but are payable solely from
27 revenues of the authority pertaining to the project relating
28 to the issue; payments by participating institutions of higher
29 education, banks, insurance companies, or others under letters
30 of credit or purchase agreements; investment earnings from
31 funds or accounts maintained under the bond resolution;

1 insurance proceeds; loan funding deposits; proceeds of sales
2 of education loans; proceeds of refunding obligations; and
3 fees, charges, and other revenues of the authority from the
4 project. All revenue bonds must contain on the face thereof a
5 statement to the effect that neither the authority, any
6 municipality, the state, nor any political subdivision thereof
7 is obligated to pay the bond or the interest thereon except
8 from revenues of the project or the portion thereof for which
9 they are issued, and that neither the faith and credit nor the
10 taxing power of the authority, any municipality, the state, or
11 any political subdivision thereof is pledged to the payment of
12 the principal of or the interest on the bonds. The issuance of
13 revenue bonds under this act may not directly or indirectly or
14 contingently obligate the authority, any municipality, the
15 state, or any political subdivision thereof to levy or to
16 pledge any form of taxation therefor or to make any
17 appropriation for their payment.

18 Section 20. Rates, rents, fees, and charges.--

19 (1) The authority may fix, revise, charge, and collect
20 rates, rents, fees, and charges for the use of and for the
21 services furnished or to be furnished by each project and may
22 contract with any person, partnership, association or
23 corporation, or other body, public or private, in respect
24 thereof. The rates, rents, fees, and charges must be fixed and
25 adjusted in respect of the aggregate of rates, rents, fees,
26 and charges from the project so as to provide funds sufficient
27 with other revenues, if any:

28 (a) To pay the cost of maintaining, repairing, and
29 operating the project and each portion thereof, to the extent
30 that the payment of the cost has not otherwise been adequately
31 provided for.

1 (b) To pay the principal of and the interest on
2 outstanding revenue bonds of the authority issued in respect
3 of the project as the bonds become due and payable.

4 (c) To create and maintain reserves required or
5 provided for in any resolution authorizing, or trust agreement
6 securing, the revenue bonds of the authority. The rates,
7 rents, fees, and charges are not subject to supervision or
8 regulation by any department, commission, board, body, bureau,
9 or agency of this state other than the authority.

10 (2) A sufficient amount of the revenues derived in
11 respect of a project, except the part of the revenues
12 necessary to pay the cost of maintenance, repair, and
13 operation and to provide reserves and for renewals,
14 replacements, extensions, enlargements, and improvements
15 provided for in the resolution authorizing the issuance of any
16 revenue bonds of the authority or in the trust agreement
17 securing them must be set aside at regular intervals as
18 provided in the resolution or trust agreement in a sinking or
19 other similar fund that is hereby pledged to, and charged
20 with, the payment of the principal of and the interest on the
21 revenue bonds as they become due and the redemption price or
22 the purchase price of bonds retired by call or purchase as
23 therein provided. The pledge must be valid and binding from
24 the time when the pledge is made; the rates, rents, fees,
25 charges, and other revenues or other moneys so pledged and
26 thereafter received by the authority must immediately be
27 subject to the lien of the pledge without any physical
28 delivery thereof or further act, and the lien of any pledge is
29 valid and binding as against all parties having claims of any
30 kind in tort, contract, or otherwise against the authority,
31 irrespective of whether the parties have notice thereof.

1 Neither the resolution nor any trust agreement by which a
2 pledge is created need be filed or recorded except in the
3 records of the authority.

4 (3) The use and disposition of moneys to the credit of
5 a sinking or other similar fund must be subject to the
6 resolution authorizing the issuance of the bonds or of the
7 trust agreement. Except as may otherwise be provided in the
8 resolution or the trust agreement, the sinking or other
9 similar fund must be a fund for all revenue bonds issued to
10 finance projects at a particular institution for higher
11 education without distinction or priority of one over another.
12 However, the authority in any resolution or trust agreement
13 may provide that the sinking or other similar fund be the fund
14 for a particular project at an institution for higher
15 education and for the revenue bonds issued to finance a
16 particular project, and may, additionally, permit and provide
17 for the issuance of revenue bonds having a subordinate lien in
18 respect of the security authorized to other revenue bonds of
19 the authority, and, in such case, the authority may create
20 separate sinking or other similar funds in respect of the
21 subordinate lien bonds.

22 Section 21. Trust funds.--All moneys received under
23 the authority of this act, whether as proceeds from the sale
24 of bonds or as revenues, are considered to be trust funds to
25 be held and applied solely as provided in this act. Any
26 officer with whom, or any bank or trust company with which,
27 the moneys are deposited shall act as trustee of the moneys
28 and shall hold and apply them for the purposes of this act,
29 subject to the regulations this act and the resolution
30 authorizing the bonds of any issue or the trust agreement
31 securing the bonds provides.

1 Section 22. Remedies of bondholders.--Any holder of
2 revenue bonds issued under this act or any of the coupons
3 appertaining thereto, and the trustee or trustees under any
4 trust agreement, except to the extent the rights given may be
5 restricted by any resolution authorizing the issuance of, or
6 any such trust agreement securing, the bonds, may, either at
7 law or in equity, by suit, action, mandamus, or other
8 proceedings, protect and enforce any rights under the laws of
9 the state or granted hereunder or under the resolution or
10 trust agreement, and may enforce and compel the performance of
11 all duties required by this act or by the resolution or trust
12 agreement to be performed by the authority or by any officer,
13 employee, or agent thereof, including the fixing, charging,
14 and collecting of the rates, rents, fees, and charges
15 authorized and required by the provisions of the resolution or
16 trust agreement to be fixed, established, and collected.

17 Section 23. Tax exemption.--The exercise of the powers
18 granted by this act will be in all respects for the benefit of
19 the people of this state, for the increase of their commerce,
20 education, welfare, and prosperity, and for the improvement of
21 their health and living conditions, and because the operation
22 and maintenance of a project by the authority or its agent or
23 the owner or lessee thereof, as authorized in this act, will
24 constitute the performance of an essential public function,
25 neither the authority nor its agent is required to pay any
26 taxes or assessments upon or in respect of a project or any
27 property acquired or used by the authority or its agent under
28 the provisions of this act or upon the income therefrom, and
29 any bonds issued under this act, any security therefor, their
30 transfer, and the income therefrom, including any profit made
31 on the sale thereof, and all notes, mortgages, security

1 agreements, letters of credit, or other instruments that arise
2 out of or are given to secure the repayment of bonds issued in
3 connection with a project financed under this part, shall at
4 all times be free from taxation by the state or any local
5 unit, political subdivision, or other instrumentality of the
6 state. The exemption granted by this section is not applicable
7 to any tax imposed by chapter 220, Florida Statutes, on
8 interest, income, or profits or on debt obligations owned by
9 corporations.

10 Section 24. Refunding bonds.--

11 (1) The authority may provide for the issuance of
12 revenue bonds of the authority for the purpose of refunding
13 any revenue bonds of the authority then outstanding, including
14 the payment of any redemption premium thereon and any interest
15 accrued or to accrue to the earliest or subsequent date of
16 redemption, purchase, or maturity of the revenue bonds, and,
17 if considered advisable by the authority, for the additional
18 purpose of paying all or any part of the cost of constructing
19 and acquiring additions, improvements, extensions, or
20 enlargements of a project or any portion thereof.

21 (2) The proceeds of any revenue bonds issued for the
22 purpose of refunding outstanding revenue bonds may be applied
23 to the purchase or retirement at maturity or redemption of the
24 outstanding revenue bonds either on their earliest or any
25 subsequent redemption date or upon the purchase or at the
26 maturity thereof and may, pending the application, be placed
27 in escrow to be applied to the purchase or retirement at
28 maturity or redemption on the date as may be determined by the
29 authority.

30 (3) Any escrowed proceeds, pending use, may be
31 invested and reinvested in direct obligations of the United

1 States of America, or in certificates of deposit or time
2 deposits secured by direct obligations of the United States,
3 or other investments as the resolution authorizing the
4 issuance and sale of the bonds, or the trust agreement, may
5 provide, maturing at the time or times as shall be appropriate
6 to assure the prompt payment, as to principal, interest, and
7 redemption premium, if any, of the outstanding revenue bonds
8 to be so refunded. The interest, income, and profits, if any,
9 earned or realized on any such investment may also be applied
10 to the payment of the outstanding revenue bonds to be so
11 refunded. After the terms of the escrow have been fully
12 satisfied and carried out, any balance of the proceeds and
13 interest, income and profits, if any, earned or realized on
14 the investments thereof may be returned to the authority or to
15 the participating institution for use by it in any lawful
16 manner.

17 (4) The portion of the proceeds of any revenue bonds
18 issued for the additional purpose of paying all or any part of
19 the cost of constructing and acquiring additions,
20 improvements, extensions, or enlargements of a project may be
21 invested and reinvested in direct obligations of the United
22 States, or in certificates of deposit or time deposits secured
23 by direct obligations of the United States, or other
24 investments as the resolution authorizing the issuance and
25 sale of the bonds, or the trust agreement, may provide,
26 maturing not later than the time or times when the proceeds
27 will be needed for the purpose of paying all or any part of
28 the cost. The interest, income, and profits, if any, earned or
29 realized on the investment may be applied to the payment of
30 all or any part of the cost or may be used by the authority or
31 the participating institution in any lawful manner.

1 (5) All refunding revenue bonds are subject to this
2 act in the same manner and to the same extent as other revenue
3 bonds issued under this act.

4 Section 25. Legal investment.--Bonds issued by the
5 authority under this act are made securities in which all
6 public officers and public bodies of the state and its
7 political subdivisions, all insurance companies, trust
8 companies, banking associations, investment companies,
9 executors, administrators, trustees, and other fiduciaries may
10 properly and legally invest funds, including capital in their
11 control or belonging to them. The bonds are made securities
12 that may properly and legally be deposited with and received
13 by any state or municipal officer or any agency or political
14 subdivision of the state for any purpose for which the deposit
15 of bonds or obligations of the state is now or may hereafter
16 be authorized by law.

17 Section 26. Reports.--Within the first 90 days of each
18 calendar year, the authority shall make a report to the
19 Department of Education of its activities for the preceding
20 calendar year. Each report must set forth a complete operating
21 and financial statement covering its operations during the
22 year. The authority shall cause an audit of its books and
23 accounts to be made at least once each year by a certified
24 public accountant and the cost of the audit shall be paid by
25 the authority from funds available to it under this act.

26 Section 27. State agreement.--The state agrees with
27 the holders of any obligations issued under this act, and with
28 those parties who may enter into contracts with the authority
29 under this act, that the state will not limit or alter the
30 rights vested in the authority until the obligations, together
31 with the interest thereon, are fully met and discharged and

1 the contracts are fully performed on the part of the
2 authority. However, this act does not preclude any limitation
3 or alteration if adequate provision is made by law for the
4 protection of the holders of the obligations of the authority
5 or those entering into contracts with the authority. The
6 authority is authorized to include this pledge and undertaking
7 for the state in any obligations or contracts.

8 Section 28. Alternative means.--This act provides an
9 additional and alternative method for the doing of the things
10 authorized, and shall be regarded as supplemental and
11 additional to powers conferred by other laws; but the issuance
12 of notes, certificates of participation, revenue bonds, and
13 revenue refunding bonds under this act need not comply with
14 the requirements of any other law applicable to the issuance
15 of bonds or such obligations. Except as otherwise expressly
16 provided in this act, the powers granted to the authority
17 under this act are not subject to the supervision or
18 regulation of, or require the approval or consent of, any
19 municipality or political subdivision or any commission,
20 board, body, bureau, official, or agency thereof or of the
21 state.

22 Section 29. Liberal construction.--Sections 1 through
23 30 of this act shall be liberally construed to effectively
24 carry out their purpose.

25 Section 30. Act controlling.--To the extent that
26 sections 1 through 30 of this act are inconsistent with any
27 general statute or special act or parts thereof, sections 1
28 through 30 control.

29 Section 31. Subsection (5) of section 196.012, Florida
30 Statutes, is amended to read:

31

1 196.012 Definitions.--For the purpose of this chapter,
2 the following terms are defined as follows, except where the
3 context clearly indicates otherwise:

4 (5) "Educational institution" means a federal, state,
5 parochial, church, or private school, college, or university
6 conducting regular classes and courses of study required for
7 eligibility to certification by, accreditation to, or
8 membership in the State Department of Education of Florida,
9 Southern Association of Colleges and Schools, or the Florida
10 Council of Independent Schools; a nonprofit private school the
11 principal activity of which is conducting regular classes and
12 courses of study accepted for continuing postgraduate dental
13 education credit by a board of the Division of Medical Quality
14 Assurance; educational direct-support organizations created
15 pursuant to ss. 229.8021, 240.299, and 240.331; and facilities
16 located on the property of eligible entities which will become
17 owned by those entities on a date certain; and institutions of
18 higher education as defined under and participating in the
19 Higher Educational Facilities Financing Act created pursuant
20 to chapter 2000- , Laws of Florida.

21 Section 32. Section 196.198, Florida Statutes, is
22 amended to read:

23 196.198 Educational property exemption.--Educational
24 institutions within this state and their property used by them
25 or by any other exempt entity or educational institution
26 exclusively for educational purposes shall be exempt from
27 taxation. Sheltered workshops providing rehabilitation and
28 retraining of disabled individuals and exempted by a
29 certificate under s. (d) of the federal Fair Labor Standards
30 Act of 1938, as amended, are declared wholly educational in
31 purpose and shall be exempted from certification,

1 accreditation, and membership requirements set forth in s.
2 196.012. Those portions of property of college fraternities
3 and sororities certified by the president of the college or
4 university to the appropriate property appraiser as being
5 essential to the educational process, shall be exempt from ad
6 valorem taxation. The use of property by public fairs and
7 expositions chartered by chapter 616 is presumed to be an
8 educational use of such property and shall be exempt from ad
9 valorem taxation to the extent of such use. Property used
10 exclusively for educational purposes shall be deemed owned by
11 an educational institution if the entity owning 100 percent of
12 the educational institution is owned by the identical persons
13 who own the property. If legal title to property is held by a
14 governmental agency that leases the property to a lessee, the
15 property shall be deemed to be owned by the governmental
16 agency and used exclusively for educational purposes if the
17 governmental agency continues to use such property exclusively
18 for educational purposes pursuant to a sublease or other
19 contractual agreement with that lessee. If the title to land
20 is held by the trustee of an irrevocable inter vivos trust and
21 if the trust grantor owns 100 percent of the entity that owns
22 an educational institution that is using the land exclusively
23 for educational purposes, the land is deemed to be property
24 owned by the educational institution for purposes of this
25 exemption. Property owned by an educational institution shall
26 be deemed to be used for an educational purpose if the
27 institution has taken affirmative steps to prepare the
28 property for educational use. Affirmative steps means
29 environmental or land use permitting activities, creation of
30 architectural plans or schematic drawings, land clearing or
31 site preparation, construction or renovation activities, or

1 other similar activities that demonstrate commitment of the
2 property to an educational use.

3 Section 33. Sections 1 through 30 of this act shall
4 take effect upon becoming a law.

5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31