

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

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

1           Section 1. Short title.--Sections 1-28 of this act may  
2 be cited as the "Higher Educational Facilities Financing Act."

3           Section 2. Findings and declarations.--It is the  
4 purpose of sections 1-28 of this act to provide a measure of  
5 assistance and an alternative method enabling private  
6 institutions of higher education of this state to provide the  
7 facilities and structures that they need and to enable those  
8 institutions to coordinate their budgetary needs with the  
9 timing of receipt of tuition revenues.

10          Section 3. Definitions.--As used in sections 1-28 of  
11 this act, the term:

12           (1) "Authority" or "educational facilities authority"  
13 means the public corporation created by sections 1-28 of this  
14 act.

15           (2) "Real property" includes all lands, including  
16 improvements and fixtures thereon, and any such property  
17 appurtenant thereto, or used in connection therewith, and  
18 every estate, interest, and right, legal or equitable,  
19 therein, including terms for years and liens by way of  
20 judgment, mortgage, or otherwise and the indebtedness secured  
21 by such liens. This definition does not affect the  
22 classification of property as real property or tangible  
23 personal property for purposes of ad valorem taxation under  
24 chapters 192 and 193, Florida Statutes, or sales and use  
25 taxation under chapter 212, Florida Statutes.

26           (3) "Project" means a dormitory, student service  
27 facility, parking facility, administration building, academic  
28 building, or library and includes a loan in anticipation of  
29 tuition revenues by an institution of higher education, as  
30 defined in subsection (6).

31

1           (4) "Cost," as applied to a project or any portion  
2 thereof financed under sections 1-28 of this act, includes all  
3 or any part of the cost of construction and acquisition of all  
4 lands, structures, real property, rights, rights-of-way,  
5 franchises, easements, and interests acquired or used for a  
6 project; the cost of demolishing or removing any buildings or  
7 structures on land so acquired, including the cost of  
8 acquiring any lands to which the buildings or structures may  
9 be removed; the cost of all machinery and equipment, financing  
10 charges, and interest before, during, and for a period of 30  
11 months after completion of the construction; provisions for  
12 working capital, reserves for principal, interest, and rebate;  
13 provisions for extensions, enlargements, additions, and  
14 improvements; the cost of engineering, financial, and legal  
15 services; the cost of plans, specifications, studies, surveys,  
16 estimates of costs and revenues, administrative expenses,  
17 expenses necessary to determining the feasibility or  
18 practicability of constructing the project; and other expenses  
19 necessary for constructing and acquiring the project,  
20 financing the construction, and placing the project in  
21 operation. In the case of a loan in anticipation of tuition  
22 revenues, the term "cost" means the amount of the loan in  
23 anticipation of revenues which does not exceed the amount of  
24 tuition revenues anticipated to be received by the borrowing  
25 institution of higher education in the 1-year period following  
26 the date of the loan, plus costs related to the issuance of  
27 the loan, or the amount of the bonds, the proceeds of which  
28 fund the loans and any related cost of debt service, reserve  
29 funds, and rebate associated therewith.

30           (5) "Bond" or "revenue bond" means a revenue bond of  
31 the authority issued under sections 1-28 of this act,

1 including a revenue refunding bond, notwithstanding that it  
2 may be secured by mortgage or the full faith and credit of a  
3 participating institution of higher education or any other  
4 lawfully pledged security of a participating institution of  
5 higher education.

6 (6) "Institution of higher education" means an  
7 independent nonprofit college or university which is located  
8 in and chartered by the state; which is accredited by the  
9 Commission on Colleges of the Southern Association of Colleges  
10 and Schools; which grants baccalaureate degrees; and which is  
11 not a state university or state community college.

12 (7) "Participating institution" means an institution  
13 of higher education, as defined in subsection (6), that  
14 undertakes the financing and construction or acquisition of a  
15 project or undertakes the refunding or refinancing of  
16 obligations or of a mortgage or of advances as provided in and  
17 permitted by sections 1-28 of this act.

18 (8) "Loan in anticipation of tuition revenues" means a  
19 loan to an institution of higher education under circumstances  
20 in which tuition revenues anticipated to be received by the  
21 institution in any budget year are estimated to be  
22 insufficient at any time during the budget year to pay the  
23 operating expenses or other obligations of the institution in  
24 accordance with the budget of the institution.

25 Section 4. Creation of Higher Educational Facilities  
26 Financing Authority.--

27 (1) There is created a public body corporate and  
28 politic to be known as the Higher Educational Facilities  
29 Financing Authority. The authority is constituted as a public  
30 instrumentality and the exercise by the authority of the  
31 powers conferred by sections 1-28 of this act is considered to

1 be the performance of an essential public function. Chapters  
2 119 and 286, Florida Statutes, apply to the authority.

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

21 (3) The authority shall annually elect one of its  
22 members as chair and one as vice chair, and shall also appoint  
23 an executive director who is not a member of the authority and  
24 who serves at the pleasure of the authority and receives  
25 compensation as fixed by the authority. The authority may  
26 contract for the services of an executive director.

27 (4) The executive director shall keep a record of the  
28 proceedings of the authority and shall be custodian of all  
29 books, documents, and papers filed with the authority and of  
30 the minute book or journal of the authority and of its  
31 official seal. He or she may cause copies to be made of all

1 minutes and other records and documents of the authority and  
2 may give certificates under the official seal of the authority  
3 to the effect that the copies are true copies, and all persons  
4 dealing with the authority may rely upon those certificates.

5 (5) A majority of the members of the authority  
6 constitutes a quorum, and the affirmative vote of a majority  
7 of the members present at a meeting of the authority is  
8 necessary for any action taken by the authority. A vacancy in  
9 the membership of the authority does not impair the right of a  
10 quorum to exercise all the rights and perform all the duties  
11 of the authority. Any action taken by the authority under  
12 sections 1-28 of this act may be authorized by resolution at  
13 any regular or special meeting, and each resolution shall take  
14 effect immediately and need not be published or posted.

15 (6) The members of the authority shall receive no  
16 compensation for the performance of their duties, but each  
17 member is entitled to reimbursement as provided in s. 112.061,  
18 Florida Statutes, for necessary expenses incurred while  
19 engaged in the performance of his or her duties.

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

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

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

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

1           (3) Adopt an official seal and alter the same at its  
2 pleasure.

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

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

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

21           (7) Determine the location and character of any  
22 project to be financed under sections 1-28 of this act and  
23 may:

24           (a) Construct, reconstruct, maintain, repair, and  
25 lease the project as lessee or lessor.

26           (b) Enter into contracts for any of those purposes.

27           (c) Designate a participating institution as its agent  
28 to determine the location and character of a project  
29 undertaken by a participating institution under sections 1-28  
30 of this act and, as the agent of the authority, construct,  
31

1 reconstruct, maintain, repair, own, and lease the project as  
2 lessee or lessor.

3 (8) Issue bonds, bond anticipation notes, and other  
4 obligations of the authority for any of its corporate  
5 purposes, including the provision of funds to pay all or any  
6 part of the cost of any project and to fund or refund the cost  
7 of any project as provided in sections 1-28 of this act.

8 (9) Establish rules for the use of a project or any  
9 portion thereof and designate a participating institution as  
10 its agent to establish rules for the use of a project  
11 undertaken by the participating institution.

12 (10) Employ consulting engineers, architects,  
13 attorneys, accountants, construction and financial experts,  
14 superintendents, managers, and other employees and agents as  
15 necessary, and fix their compensation.

16 (11) Receive and accept from any public agency loans  
17 or grants for or in aid of the construction of a project or  
18 any portion thereof, and receive and accept loans, grants,  
19 aid, or contributions from any source of money, property,  
20 labor, or other things of value, to be held, used, and applied  
21 only for the purposes for which the loans, grants, aid, and  
22 contributions are made.

23 (12) Mortgage any project and the site thereof for the  
24 benefit of the holders of revenue bonds issued to finance  
25 projects or those providing credit for that purpose.

26 (13) Make loans to any participating institution for  
27 the cost of a project, including a loan in anticipation of  
28 tuition revenues, in accordance with an agreement between the  
29 authority and the participating institution. However, a loan  
30 may not exceed the total cost of the project as determined by  
31 the participating institution and approved by the authority.



1           (14) Make loans to a participating institution to  
2 refund outstanding obligations, mortgages, or advances issued,  
3 made, or given by the participating institution for the cost  
4 of a project.

5           (15) Charge to and equitably apportion among  
6 participating institutions its administrative costs and  
7 expenses incurred in the exercise of the powers and duties  
8 conferred by sections 1-28 of this act.

9           (16) Contract with an entity as its agent to assist  
10 the authority in screening applications of institutions of  
11 higher education for loans under sections 1-28 of this act and  
12 receive any recommendations the entity may make.

13           (17) Do all things necessary or convenient to carry  
14 out the purposes of sections 1-28 of this act.

15           Section 6. Payment of expenses.--All expenses incurred  
16 in carrying out sections 1-28 of this act are payable solely  
17 from funds provided under the authority of sections 1-28 of  
18 this act, and the authority may not incur any liability or  
19 obligation beyond the extent to which moneys have been  
20 provided under sections 1-28 of this act.

21           Section 7. Acquisition of real property.--The  
22 authority may directly, or by and through a participating  
23 institution as its agent, acquire by purchase or lease solely  
24 from funds provided under sections 1-28 of this act, or by  
25 gift or devise, any lands, structures, real property, rights,  
26 rights-of-way, franchises, easements, and other interests in  
27 lands, including lands lying underwater and riparian rights,  
28 which are located within the state as it considers necessary  
29 or convenient for the construction or operation of a project,  
30 upon terms and at prices that are considered by it to be  
31 reasonable and that can be agreed upon between it and the

1 owner thereof, and to take title thereto in the name of the  
2 authority or in the name of a participating institution as its  
3 agent or as an owner and borrower.

4 Section 8. Conveyance of title or interest to  
5 participating institutions.--When the principal of and  
6 interest on revenue bonds of the authority issued to finance  
7 the cost of a particular project or projects at a  
8 participating institution, including any revenue refunding  
9 bonds issued to refund and refinance the revenue bonds, have  
10 been fully paid and retired, or when adequate provision has  
11 been made to pay fully and retire them, and all other  
12 conditions of the resolution or trust agreement authorizing  
13 and securing the revenue bonds have been satisfied and the  
14 lien of the resolution or trust agreement has been released in  
15 accordance with the provisions thereof, the authority shall  
16 promptly execute deeds and conveyances necessary and required  
17 to convey title to the project or projects to the  
18 participating institution, free and clear of all liens and  
19 encumbrances.

20 Section 9. Criteria and requirements.--In undertaking  
21 any project under sections 1-28 of this act, the authority  
22 shall be guided by and shall observe the following criteria  
23 and requirements:

24 (1) The project, in the determination of the  
25 authority, is appropriate to the needs and circumstances of,  
26 and shall make a significant contribution to the purposes of,  
27 the authority and sections 1-28 of this act as set forth in  
28 the findings and declarations, and shall serve a public  
29 purpose by advancing the prosperity and general welfare of the  
30 state and the public.

31

1           (2) A financing agreement for a project may not be  
2 entered into with a participating institution that is not  
3 financially responsible and fully capable of and willing to  
4 fulfill its obligations under the financing agreement,  
5 including the obligations to make payments in the amounts and  
6 at the times required; to operate, repair, and maintain at its  
7 own expense the project owned or leased; and to serve the  
8 purposes of sections 1-28 of this act and any other  
9 responsibilities that may be imposed under the financing  
10 agreement. In determining the financial responsibility of the  
11 participating institution, consideration must be given to the  
12 party's ratio of current assets to current liabilities; net  
13 worth; endowments; pledges; earning trends; coverage of all  
14 fixed charges; the nature of the project involved; its  
15 inherent stability; any guarantee of the obligations by some  
16 other financially responsible corporation, firm, or person;  
17 means by which the bonds are to be marketed to the public; and  
18 other factors determinative of the capability of the  
19 participating institution, financially and otherwise, to  
20 fulfill its obligations consistently with the purposes of  
21 sections 1-28 of this act.

22           (3) Adequate provision must be made for the operation,  
23 repair, and maintenance of the project at the expense of the  
24 participating institution and for the payment of principal of  
25 and interest on the bonds.

26           (4) The costs to be paid from the proceeds of the  
27 bonds are costs of a project within the meaning of sections  
28 1-28 of this act, except for payments included in the purposes  
29 for which revenue refunding bonds may be issued under sections  
30 1-28 of this act.

31

1           Section 10. Approval required to issue bonds.--The  
2 authority is created for the purpose of promoting higher  
3 education and issuing bonds on behalf of the state, and the  
4 Governor may approve any bonds issued by the authority which  
5 require approval under federal law.

6           Section 11. Notes of authority.--The authority may  
7 issue its negotiable notes for any corporate purpose and renew  
8 any notes by the issuance of new notes, whether the notes to  
9 be renewed have or have not matured. The authority may issue  
10 notes partly to renew notes or to discharge other obligations  
11 then outstanding and partly for any other purpose. The notes  
12 may be authorized, sold, executed, and delivered in the same  
13 manner as bonds. Any resolution authorizing notes of the  
14 authority or any issue thereof may contain any provisions that  
15 the authority is authorized to include in any resolution  
16 authorizing revenue bonds of the authority or any issue  
17 thereof, and the authority may include in any notes any terms,  
18 covenants, or conditions that it is authorized to include in  
19 any bonds. All the notes must be payable solely from the  
20 revenues of the project to be financed, subject only to any  
21 contractual rights of the holders of any of its notes or other  
22 obligations then outstanding.

23           Section 12. Revenue bonds.--

24           (1) The authority may issue its negotiable revenue  
25 bonds for any corporate purpose, including the provision of  
26 funds to pay all or any part of the cost of any project. In  
27 anticipation of the sale of revenue bonds, the authority may  
28 issue negotiable bond anticipation notes and may renew them  
29 from time to time, but the maximum maturity of any note,  
30 including renewals thereof, may not exceed 5 years following  
31 the date of issue of the original note. The notes must be paid

1 from any revenues of the authority available therefor or of  
2 the project and not otherwise pledged, or from the proceeds of  
3 sale of the revenue bonds of the authority in anticipation of  
4 which they were issued. The notes must be issued in the same  
5 manner as the revenue bonds. The notes and the resolution  
6 authorizing them may contain any provisions, conditions, or  
7 limitations that a bond resolution of the authority may  
8 contain.

9 (2) The revenue bonds and notes of every issue must be  
10 payable solely out of revenues of the authority, including the  
11 provision of funds of the participating institution to pay all  
12 or any part of the cost of any project, subject only to any  
13 agreements with the holders of particular revenue bonds or  
14 notes pledging any particular revenues. Notwithstanding that  
15 revenue bonds and notes may be payable from a special fund,  
16 they are for all purposes negotiable instruments, subject only  
17 to the provisions of the revenue bonds and notes for  
18 registration.

19 (3) The revenue bonds may be issued as serial bonds or  
20 as term bonds, or the authority may issue bonds of both types.  
21 The revenue bonds must be authorized by resolution of the  
22 authority; must bear the date of issuance, the date of  
23 maturity, not exceeding 30 years from issuance, and the  
24 interest rate of the bonds, which may be a variable rate, must  
25 be payable at a specified time; must be in specified  
26 denominations; and must be in specified form, carry  
27 registration privileges, be executed in a specified manner, be  
28 payable in lawful money of the United States at a specified  
29 place, and be subject to the terms of redemption, as the  
30 resolution provides. Pending preparation of the definitive  
31 bonds, the authority may issue interim receipts or

1 certificates that may be exchanged for the definitive bonds.  
2 In case any officer whose signature, or a facsimile of whose  
3 signature, appears on any bonds or coupons ceases to be that  
4 officer before the delivery of the bonds, the signature or  
5 facsimile is nevertheless valid and sufficient for all  
6 purposes as if he or she had remained in office until  
7 delivery. The authority may also provide for the  
8 authentication of the bonds by a trustee or fiscal agent. The  
9 bonds may be issued in coupon form or in registered form, or  
10 both, as the authority determines. Provision may be made for  
11 the registration of any coupon bonds as to principal alone and  
12 also as to both principal and interest; for the reconversion  
13 into coupon bonds of any bonds registered as to both principal  
14 and interest; and for the interchange of registered and coupon  
15 bonds.

16 (4)(a) The authority may sell such bonds at such price  
17 or prices as it may determine to be in the best interest of  
18 the state or of the participating institution on behalf of  
19 which such bonds are issued, but no such sale shall be made at  
20 an average net interest cost rate in excess of the interest  
21 rate limitation set forth in s. 215.84(3), Florida Statutes,  
22 provided, however, that such bonds may be sold at a reasonable  
23 discount to par not to exceed 3 percent. This limitation on  
24 discount does not apply to the portion of the discount that  
25 constitutes original issue discount.

26 (b) All of such bonds shall be sold at public sale at  
27 such place or places within the state as the authority shall  
28 determine to receive proposals for the purchase of such bonds.  
29 Notice of such sale shall be published at least once at least  
30 10 days prior to the date of sale in one or more newspapers or  
31 financial journals published within or without the state and

1 shall contain such terms as the authority shall deem advisable  
2 and proper under the circumstances, provided that if no bids  
3 are received at the time and place called for by such notice  
4 of sale, or if all bids received are rejected, such bonds may  
5 again be offered for public sale by competitive bid or  
6 negotiated sale, as provided herein, upon a shorter period of  
7 reasonable notice provided for by resolution of the authority.  
8 However, unless the public sale by competitive bid of such  
9 bonds is required by law, the authority may, by resolution  
10 adopted at a public meeting, determine that a negotiated sale  
11 of such bonds is in the best interest of the authority, and  
12 may negotiate for sale of such bonds to any underwriter  
13 designated by the authority.

14 1. In the resolution authorizing the negotiated sale,  
15 the authority shall provide specific findings as to the  
16 reasons requiring the negotiated sale.

17 2. A resolution authorizing a negotiated bond sale may  
18 be the same resolution as that authorizing the issuance of  
19 such bonds.

20 (c) All proposals for the purchase of any bonds  
21 offered for sale by the authority shall be opened in public.  
22 When competitively bid, bonds shall be awarded to the lowest  
23 bidder by the official of the authority as provided in the  
24 resolution authorizing the issuance of the bonds. The basis  
25 of award of a competitive bid may be either the lowest net  
26 interest cost or the lowest true interest cost, as set forth  
27 in the resolution authorizing the issuance or sale of the  
28 bonds.

29 (5) Any resolution authorizing any revenue bonds may  
30 contain provisions, which are a part of the contract with the  
31 holders of the revenue bonds to be authorized, as to:

1           (a) Pledging of all or any part of the revenues of a  
2 project or any revenue-producing contract made by the  
3 authority with any individual, partnership, corporation, or  
4 association or other body, public or private, to secure the  
5 payment of the revenue bonds or of any particular issue of  
6 revenue bonds, subject to any agreements with bondholders as  
7 may then exist.

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

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

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

15           (e) Limitations on the purpose to which the proceeds  
16 of sale of any issue of revenue bonds then or thereafter to be  
17 issued may be applied and the pledging of the proceeds to  
18 secure the payment of the revenue bonds or any issue of the  
19 revenue bonds.

20           (f) Limitations on the issuance of additional bonds,  
21 the terms upon which additional bonds may be issued and  
22 secured, and the refunding of outstanding bonds.

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

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

30           (i) The acts or omissions to act that constitute a  
31 default in the duties of the authority to holders of its



1 obligations and provisions for the rights and remedies of the  
2 holders in the event of a default.

3 (j) The mortgaging of or granting of a security  
4 interest in the project or the site thereof for the purpose of  
5 securing the bondholders.

6 (6) Neither the members of the authority nor any  
7 person executing the revenue bonds or notes is liable  
8 personally on the revenue bonds or notes or is subject to any  
9 personal liability or accountability by reason of the issuance  
10 thereof.

11 (7) The authority may purchase its bonds or notes out  
12 of any funds available therefor. The authority may hold,  
13 pledge, cancel, or resell the bonds, subject to and in  
14 accordance with agreements with bondholders.

15 (8) Incident to its powers to issue bonds and notes,  
16 the authority may enter into interest rate swap agreements,  
17 collars, caps, forward securities purchase agreements, delayed  
18 delivery bond purchase agreements, and any other financial  
19 agreements considered to be in the best interest of the  
20 authority.

21 Section 13. 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 12(5), 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 establishment of  
5 competing projects or facilities; restrictions on the sale or  
6 disposal of the assets and property of the authority; the  
7 maintenance of deposits to assure the payment of the bonds  
8 issued under sections 1-28 of this act; acceleration upon  
9 default; the execution of necessary instruments; the procedure  
10 for amending or abrogating covenants with the bondholders; and  
11 any other covenants considered necessary for the security of  
12 the bondholders.

13       Section 14. Validation.--Bonds issued pursuant to this  
14 act may be validated in the manner provided by law through  
15 proceedings instituted by the authority under chapter 75,  
16 Florida Statutes. In actions to validate bonds to be issued  
17 pursuant to this act, the complaint shall be filed in the  
18 circuit court of the county where the seat of state government  
19 is situated or, in the discretion of the authority, in the  
20 circuit court of the county where the project is to be  
21 situated. The notice required to be published by s. 75.06,  
22 Florida Statutes, shall be published only in the county where  
23 the complaint is filed, and the complaint and order of the  
24 circuit court shall be served only on the state attorney of  
25 the circuit in which the action is pending.

26       Section 15. Act furnishes full authority for issuance  
27 of bonds.--Sections 1-28 of this act constitute full authority  
28 for the issuance of bonds and the exercise of the powers of  
29 the authority provided in sections 1-28 of this act. Any bonds  
30 issued by the authority are not secured by the full faith and  
31

1 credit of the state and do not constitute an obligation,  
2 either general or special, of the state.

3       Section 16. Security of bondholders.--In the  
4 discretion of the authority, any revenue bonds issued under  
5 sections 1-28 of this act may be secured by a trust agreement  
6 by and between the authority and a corporate trustee or  
7 trustees, which may be any trust company or bank having the  
8 powers of a trust company within or without the state. The  
9 trust agreement or the resolution providing for the issuance  
10 of revenue bonds may pledge or assign the revenues to be  
11 received or the proceeds of any contract or contracts pledged  
12 and may convey or mortgage the project or any portion thereof.  
13 The trust agreement or resolution providing for the issuance  
14 of revenue bonds may contain provisions for protecting and  
15 enforcing the rights and remedies of the bondholders as may be  
16 reasonable and proper and not in violation of law, including  
17 particularly those provisions specifically authorized by  
18 sections 1-28 of this act to be included in any resolution of  
19 the authority authorizing revenue bonds. Any bank or trust  
20 company incorporated under the laws of this state or of any  
21 other state or the United States which may legally act as  
22 depository of the proceeds of bonds or of revenues or other  
23 moneys or security may furnish indemnifying bonds or pledge  
24 securities required by the authority, if any. Any trust  
25 agreement may set forth the rights and remedies of the  
26 bondholders and of the trustee or trustees, and may restrict  
27 the individual right of action by bondholders. In addition,  
28 any trust agreement or resolution may contain any other  
29 provisions the authority considers reasonable and proper for  
30 the security of the bondholders. All expenses incurred in

31

1 carrying out the trust agreement or resolution may be treated  
2 as a part of the cost of the operation of a project.

3       Section 17. Payment of bonds.--Revenue bonds issued  
4 under sections 1-28 of this act are not a debt or liability of  
5 the authority, any municipality, the state, or any political  
6 subdivision thereof, and are not a pledge of the faith and  
7 credit of the state, the authority, any municipality, or any  
8 political subdivision thereof, but are payable solely from  
9 revenues of the authority pertaining to the project relating  
10 to the issue; payments by participating institutions of higher  
11 education, banks, insurance companies, or others under letters  
12 of credit or purchase agreements; investment earnings from  
13 funds or accounts maintained under the bond resolution;  
14 insurance proceeds; loan funding deposits; proceeds of sales  
15 of education loans; proceeds of refunding obligations; and  
16 fees, charges, and other revenues of the authority from the  
17 project. All revenue bonds must contain on the face thereof a  
18 statement to the effect that neither the authority nor any  
19 municipality, the state, or any political subdivision thereof  
20 is obligated to pay the bond or the interest thereon except  
21 from revenues of the project or the portion thereof for which  
22 they are issued, and that neither the faith and credit nor the  
23 taxing power of the authority, any municipality, the state, or  
24 any political subdivision thereof is pledged to the payment of  
25 the principal of or the interest on the bonds. The issuance of  
26 revenue bonds under sections 1-28 of this act may not  
27 directly, indirectly, or contingently obligate the authority,  
28 any municipality, the state, or any political subdivision  
29 thereof to levy or to pledge any form of taxation therefor or  
30 to make any appropriation for their payment.

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

1           (1) The participating institution may fix, revise,  
2 charge, and collect rates, rents, fees, and charges for the  
3 use of and for the services furnished or to be furnished by  
4 each project and may contract with any person, partnership,  
5 association, corporation, or other body, public or private, in  
6 respect thereof. The rates, rents, fees, and charges must be  
7 fixed and adjusted in respect of the aggregate of rates,  
8 rents, fees, and charges from the project so as to provide  
9 funds sufficient with other revenues, if any, to:

10           (a) Pay the cost of maintaining, repairing, and  
11 operating the project and each portion thereof, to the extent  
12 that the payment of the cost has not otherwise been adequately  
13 provided for.

14           (b) Pay the principal of and the interest on  
15 outstanding revenue bonds of the authority issued in respect  
16 of the project as the bonds become due and payable.

17           (c) Create and maintain reserves required or provided  
18 for in any resolution authorizing, or trust agreement  
19 securing, the revenue bonds of the authority.

20           (2) A sufficient amount of the revenues derived in  
21 respect of a project, except the part of the revenues  
22 necessary to pay the cost of maintenance, repair, and  
23 operation and to provide reserves and provide for renewals,  
24 replacements, extensions, enlargements, and improvements  
25 provided for in the resolution authorizing the issuance of any  
26 revenue bonds of the authority or in the trust agreement  
27 securing them, must be set aside at regular intervals as  
28 provided in the resolution or trust agreement in a sinking or  
29 other similar fund that is hereby pledged to, and charged  
30 with, the payment of the principal of and the interest on the  
31 revenue bonds as they become due and the redemption price or

1 the purchase price of bonds retired by call or purchase as  
2 therein provided. The pledge must be valid and binding from  
3 the time when the pledge is made. The rates, rents, fees,  
4 charges, and other revenues or other moneys so pledged and  
5 thereafter received by the participating institution must  
6 immediately be subject to the lien of the pledge without any  
7 physical delivery thereof or further act, and the lien of any  
8 pledge is valid and binding as against all parties having  
9 claims of any kind in tort, contract, or otherwise against the  
10 authority, irrespective of whether the parties have notice  
11 thereof. Neither the resolution nor any trust agreement by  
12 which a pledge is created need be filed or recorded except in  
13 the records of the authority.

14 (3) The use and disposition of moneys to the credit of  
15 a sinking or other similar fund must be subject to the  
16 resolution authorizing the issuance of the bonds or of the  
17 trust agreement. Except as otherwise provided in the  
18 resolution or the trust agreement, the sinking or other  
19 similar fund must be a fund for all revenue bonds issued to  
20 finance projects at a particular institution of higher  
21 education without distinction or priority of one over another.  
22 However, the authority in any resolution or trust agreement  
23 may provide that the sinking or other similar fund be the fund  
24 for a particular project at a participating institution and  
25 for payment of the revenue bonds issued to finance that  
26 project, and may, additionally, permit and provide for the  
27 issuance of revenue bonds having a subordinate lien in respect  
28 of the security authorized to other revenue bonds of the  
29 authority, and, in such case, the authority may create  
30 separate sinking or other similar funds in respect of the  
31 subordinate lien bonds.

1           Section 19. Trust funds.--All moneys received under  
2 sections 1-28 of this act, whether as proceeds from the sale  
3 of bonds or as revenues, are considered to be trust funds to  
4 be held and applied solely as provided in sections 1-28 of  
5 this act. Any officer with whom, or any bank or trust company  
6 with which, the moneys are deposited shall act as trustee of  
7 the moneys and shall hold and apply them for the purposes of  
8 sections 1-28 of this act, subject to the provisions of  
9 sections 1-28 of this act and the resolution authorizing the  
10 bonds of any issue or the trust agreement securing the bonds.

11           Section 20. Remedies of bondholders.--Any holder of  
12 revenue bonds issued under sections 1-28 of this act or any of  
13 the coupons appertaining thereto, and the trustee or trustees  
14 under any trust agreement, except to the extent the rights  
15 given may be restricted by any resolution authorizing the  
16 issuance of, or any such trust agreement securing, the bonds  
17 may, either at law or in equity, by suit, action, mandamus, or  
18 other proceedings, protect and enforce any rights under the  
19 laws of the state or granted hereunder or under the resolution  
20 or trust agreement, and may enforce and compel the performance  
21 of all duties required by sections 1-28 of this act or by the  
22 resolution or trust agreement to be performed by the authority  
23 or by any officer, employee, or agent thereof, including the  
24 fixing, charging, and collecting of the rates, rents, fees,  
25 and charges authorized and required by the provisions of the  
26 resolution or trust agreement to be fixed, established, and  
27 collected.

28           Section 21. Tax exemption.--The exercise of the powers  
29 granted by sections 1-28 of this act is in all respects for  
30 the benefit of the people of this state. Because the operation  
31 and maintenance of a project by the authority or a

1 participating institution constitutes the performance of an  
 2 essential public function, neither the authority nor a  
 3 participating institution is required to pay any taxes or  
 4 assessments upon or in respect of a project or any property  
 5 acquired or used by the authority or a participating  
 6 institution under sections 1-28 of this act or upon the income  
 7 therefrom, and any bonds issued under sections 1-28 of this  
 8 act, any security therefor, their transfer, and the income  
 9 therefrom, including any profit made on the sale thereof, and  
 10 all notes, mortgages, security agreements, letters of credit,  
 11 or other instruments that arise out of or are given to secure  
 12 the repayment of bonds issued in connection with a project  
 13 financed under sections 1-28 of this act, shall at all times  
 14 be free from taxation by the state or any local unit,  
 15 political subdivision, or other instrumentality of the state.  
 16 The exemption granted by this section is not applicable to any  
 17 tax imposed by chapter 220, Florida Statutes, on interest,  
 18 income, or profits or on debt obligations owned by  
 19 corporations.

20 Section 22. Refunding bonds.--

21 (1) The authority may provide for the issuance of  
 22 revenue bonds of the authority for the purpose of refunding  
 23 any revenue bonds of the authority then outstanding, including  
 24 the payment of any redemption premium thereon and any interest  
 25 accrued or to accrue to the earliest or subsequent date of  
 26 redemption, purchase, or maturity of the revenue bonds, and,  
 27 if considered advisable by the authority, for the additional  
 28 purpose of paying all or any part of the cost of constructing  
 29 and acquiring additions, improvements, extensions, or  
 30 enlargements of a project or any portion thereof.



1           (2) The proceeds of any revenue bonds issued for the  
2 purpose of refunding outstanding revenue bonds may be applied  
3 to the purchase or retirement at maturity or redemption of the  
4 outstanding revenue bonds on their earliest or any subsequent  
5 redemption date or upon the purchase or at the maturity  
6 thereof and may, pending the application, be placed in escrow  
7 to be applied to the purchase or retirement at maturity or  
8 redemption on the date determined by the authority.

9           (3) Any escrowed proceeds, pending use, may be  
10 invested and reinvested in direct obligations of the United  
11 States, or in certificates of deposit or time deposits secured  
12 by direct obligations of the United States, or in other  
13 investments as the resolution authorizing the issuance and  
14 sale of the bonds or the trust agreement provides, maturing at  
15 the time or times as is appropriate to assure the prompt  
16 payment, as to principal, interest, and redemption premium, if  
17 any, of the outstanding revenue bonds to be refunded. The  
18 interest, income, and profits, if any, earned or realized on  
19 any such investment may also be applied to the payment of the  
20 outstanding revenue bonds to be so refunded. After the terms  
21 of the escrow have been fully satisfied and carried out, any  
22 balance of the proceeds and interest, income, and profits, if  
23 any, earned or realized on the investments thereof may be  
24 returned to the authority or to the participating institution  
25 for use by it in any lawful manner.

26           (4) The portion of the proceeds of any revenue bonds  
27 issued for the additional purpose of paying all or any part of  
28 the cost of constructing and acquiring additions,  
29 improvements, extensions, or enlargements of a project may be  
30 invested and reinvested in direct obligations of the United  
31 States, or in certificates of deposit or time deposits secured

1 by direct obligations of the United States, or other  
2 investments as the resolution authorizing the issuance and  
3 sale of the bonds or the trust agreement provides, maturing  
4 not later than the time or times when the proceeds will be  
5 needed for the purpose of paying all or any part of the cost.  
6 The interest, income, and profits, if any, earned or realized  
7 on the investment may be applied to the payment of all or any  
8 part of the cost or may be used by the authority or the  
9 participating institution in any lawful manner.

10 (5) All refunding revenue bonds are subject to  
11 sections 1-28 of this act in the same manner and to the same  
12 extent as other revenue bonds issued under sections 1-28 of  
13 this act.

14 Section 23. Legal investment.--Bonds issued by the  
15 authority under sections 1-28 of this act are made securities  
16 in which all public officers and public bodies of the state  
17 and its political subdivisions, and all insurance companies,  
18 trust companies, banking associations, investment companies,  
19 executors, administrators, trustees, and other fiduciaries may  
20 properly and legally invest funds, including capital in their  
21 control or belonging to them. The bonds are made securities  
22 that may properly and legally be deposited with and received  
23 by any state or municipal officer or any agency or political  
24 subdivision of the state for any purpose for which the deposit  
25 of bonds or obligations of the state is now or may hereafter  
26 be authorized by law.

27 Section 24. Reports; audits.--

28 (1) The authority shall submit to the Governor and the  
29 presiding officers of each house of the Legislature, within 2  
30 months after the end of its fiscal year, a complete and  
31 detailed report setting forth:

1           (a) Its operations and accomplishments.

2           (b) Its receipts and expenditures during its fiscal  
3 year in accordance with the categories or classifications  
4 established by the authority for its operating and capital  
5 outlay purposes.

6           (c) Its assets and liabilities at the end of its  
7 fiscal year and the status of reserve, special, or other  
8 funds.

9           (d) A schedule of its bonds outstanding at the end of  
10 its fiscal year, together with a statement of the principal  
11 amounts of bonds issued and redeemed during the fiscal year.

12           (e) Any other information the authority deems  
13 appropriate.

14           (2) The authority shall submit, with the annual report  
15 required by this section, a copy of an annual financial audit  
16 of its accounts and records and an annual compliance audit of  
17 its programs conducted by an independent certified public  
18 accountant and performed in accordance with generally accepted  
19 auditing standards and government auditing standards.

20           (3) The Auditor General may, pursuant to his or her  
21 own authority or at the direction of the Legislative Auditing  
22 Committee, conduct an audit of the authority or any programs  
23 or entities created by the authority.

24           Section 25. State agreement.--The state agrees with  
25 the holders of any obligations issued under sections 1-28 of  
26 this act, and with those parties who may enter into contracts  
27 with the authority under sections 1-28 of this act, that the  
28 state will not limit or alter the rights vested in the  
29 authority until the obligations, together with the interest  
30 thereon, are fully met and discharged and the contracts are  
31 fully performed on the part of the authority. However,

1 sections 1-28 of this act do not preclude any limitation or  
2 alteration if adequate provision is made by law for the  
3 protection of the holders of the obligations of the authority  
4 or those entering into contracts with the authority. The  
5 authority may include this pledge and undertaking for the  
6 state in any obligations or contracts.

7       Section 26. Alternative means.--Sections 1-28 of this  
8 act provide an additional and alternative method for the doing  
9 of the things authorized, and shall be regarded as  
10 supplemental and additional to powers conferred by other laws;  
11 but, except as otherwise specifically provided in sections  
12 1-28 of this act, the issuance of notes, certificates of  
13 participation, revenue bonds, and revenue refunding bonds  
14 under sections 1-28 of this act need not comply with the  
15 requirements of any other law applicable to the issuance of  
16 bonds or such obligations. Except as otherwise expressly  
17 provided in sections 1-28 of this act, the powers granted to  
18 the authority under sections 1-28 of this act are not subject  
19 to the supervision or regulation of, and do not require the  
20 approval or consent of, any municipality or political  
21 subdivision or any commission, board, body, bureau, official,  
22 or agency thereof or of the state.

23       Section 27. Liberal construction.--Sections 1-28 of  
24 this act shall be liberally construed to effectively carry out  
25 their purpose.

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

29       Section 29. 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.

20           Section 30. This act shall take effect upon becoming a  
21 law.