

By Senator Martin

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1 A bill to be entitled
 2 An act relating to health facilities authorities;
 3 amending s. 154.205, F.S.; revising the definition of
 4 the term "health facility" to include other entities
 5 and associations organized not for profit; amending s.
 6 154.209, F.S.; revising the powers of health
 7 facilities authorities to include the power to issue
 8 certain loans and execute related loan agreements;
 9 amending s. 154.213, F.S.; specifying requirements for
 10 projects financed by loan agreements issued by a
 11 health facilities authority; specifying provisions
 12 that may be included in such loan agreements; amending
 13 ss. 154.219, 154.221, 154.225, 154.235, and 154.247,
 14 F.S.; conforming provisions to changes made by the
 15 act; providing an effective date.

16
 17 Be It Enacted by the Legislature of the State of Florida:

18
 19 Section 1. Subsection (8) of section 154.205, Florida
 20 Statutes, is amended to read:

21 154.205 Definitions.—The following terms, whenever used in
 22 this part, shall have the following meanings unless a different
 23 meaning clearly appears from the context:

24 (8) "Health facility" means any private corporation or
 25 other entity or association organized not for profit, including,
 26 but not limited to, a limited liability company controlled
 27 directly or indirectly by one or more not-for-profit
 28 organizations, and authorized by law to provide:

29 (a) Hospital services in accordance with chapter 395;

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- 30 (b) Nursing home care services in accordance with chapter
31 400;
- 32 (c) Life care services in accordance with chapter 651;
- 33 (d) Services for the developmentally disabled under chapter
34 393;
- 35 (e) Services for the mentally ill under chapter 394;
- 36 (f) Assisted living services in accordance with chapter
37 429; or
- 38 (g) Hospice services in accordance with chapter 400.

39

40 The term also includes any private corporation or other entity
41 or association organized not for profit which offers independent
42 living facilities and services as part of a retirement community
43 that provides nursing home care services or assisted living
44 services on the same campus.

45 Section 2. Present subsection (19) of section 154.209,
46 Florida Statutes, is redesignated as subsection (21), a new
47 subsection (19) and subsection (20) are added to that section,
48 and subsections (6), (8), (9), (13), and (18) of that section
49 are amended, to read:

50 154.209 Powers of authority.—The purpose of the authority
51 shall be to assist health facilities in the acquisition,
52 construction, financing, and refinancing of projects in any
53 incorporated or unincorporated area within the geographical
54 limits of the local agency. For this purpose, the authority is
55 authorized and empowered:

- 56 (6) To make and execute agreements of lease, contracts,
57 deeds, loan agreements, mortgages, notes, and other instruments
58 necessary or convenient in the exercise of its powers and

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59 functions under this part.

60 (8) To pledge or assign any money, rents, loan payments,
61 charges, fees, or other revenues and any proceeds derived from
62 sales of property, insurance, or condemnation awards.

63 (9) To fix, charge, and collect rents, loan payments, fees,
64 and charges for the use of any project.

65 (13) To acquire existing projects and to refund outstanding
66 bonds, obligations, mortgages, or advances issued, made, or
67 given by or on behalf of a health facility for the cost of such
68 project.

69 (18) To participate in and issue bonds and other forms of
70 indebtedness for the purpose of establishing and maintaining an
71 accounts receivable program on behalf of a health facility or
72 group of health facilities. Notwithstanding any other provisions
73 of this part, the structuring and financing of an accounts
74 receivable program pursuant to this subsection shall constitute
75 a project and may be structured for the benefit of health
76 facilities within or outside the geographical limits of the
77 local agency. An accounts receivable program may include the
78 financing of accounts receivable acquired by a health facility
79 from other not-for-profit health care organizations
80 ~~corporations,~~ whether or not controlled by or affiliated with
81 the health facility and regardless of location within or outside
82 the geographical limits of this state.

83 (19) To make mortgage or other secured or unsecured loans
84 to or for the benefit of any health facility for the cost of a
85 project in accordance with an agreement between the authority
86 and the health facility. Such loans may be made to any entity
87 affiliated with a health facility that undertakes such

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88 financing, if the proceeds of such loan are made available to or
89 applied for the benefit of such health facility.

90 (20) To make mortgage or other secured or unsecured loans
91 to or for the benefit of a health facility in accordance with an
92 agreement between the authority and the health facility to
93 refund or refinance outstanding bonds, obligations, loans,
94 indebtedness, or advances issued, made, given, or incurred by or
95 for the benefit of such health facility for the cost of a
96 project. Such loans may be made to any entity affiliated with a
97 health facility that undertakes such refunding or refinancing,
98 if the proceeds of such loan are made available to or applied
99 for the benefit of such health facility.

100 Section 3. Section 154.213, Florida Statutes, is amended to
101 read:

102 154.213 Agreements of lease; loan agreements.—In
103 undertaking any project pursuant to this part, the authority
104 shall first obtain a valid certificate of need evidencing need
105 for the project and a statement that the project serves a public
106 purpose by advancing the commerce, welfare, and prosperity of
107 the local agency and its people. A ~~No~~ project financed under ~~the~~
108 ~~provisions of this part~~ may not shall be operated by the
109 authority or any other governmental agency; however, the
110 authority may temporarily operate or cause to be operated all or
111 any part of a project to protect its interest therein pending
112 any leasing of such project in accordance with ~~the provisions of~~
113 this part. The authority may lease a project or projects to a
114 health facility for operation and maintenance in such manner as
115 to effectuate the purposes of this part under an agreement of
116 lease in form and substance not inconsistent herewith. Projects

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117 financed or refinanced by the authority with the proceeds of
118 bonds issued for the benefit of a health facility pursuant to s.
119 154.209(19) or (20) shall be governed by one or more loan
120 agreements made between the authority and a health facility, or
121 between the authority and an entity affiliated with a health
122 facility that undertakes such financing, if the proceeds of such
123 loan are made available to or applied for the benefit of such
124 health facility.

125 (1) Any such agreement of lease or loan agreement may
126 provide, among other provisions, that:

127 (a) The lessee under an agreement of lease or an obligor
128 under a loan agreement shall at its own expense operate, repair,
129 and maintain the project or projects financed or refinanced
130 ~~leased~~ thereunder.

131 (b) The rent payable under the agreement of lease or the
132 loan payments made pursuant to the loan agreement shall in the
133 aggregate be not less than an amount sufficient to pay all of
134 the interest, principal, and redemption premiums, if any, on the
135 bonds that are ~~shall be~~ issued by the authority to pay the cost
136 of the project or projects financed or refinanced ~~leased~~
137 thereunder.

138 (c) The lessee under an agreement of lease or the obligor
139 under a loan agreement shall pay all costs incurred by the
140 authority in connection with the acquisition, financing,
141 construction, and administration of the project or projects
142 financed or refinanced ~~leased~~, except as may be paid out of the
143 proceeds of bonds or otherwise, including, but not ~~without being~~
144 limited to, ÷ insurance costs, the cost of administering the bond
145 resolution authorizing such bonds and any trust agreement

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146 securing the bonds, and the fees and expenses of trustees,
147 paying agents, attorneys, consultants, and others.

148 (d) The terms of the agreement of lease or loan agreement
149 shall terminate not earlier than the date on which all such
150 bonds and all other obligations incurred by the authority in
151 connection with the project or projects financed or refinanced
152 ~~leased thereunder are~~ shall be paid in full, including interest,
153 principal, and redemption premiums, if any, or adequate funds
154 for such payment are ~~shall be~~ deposited in trust.

155 (e) The lessee's obligation to pay rent under the agreement
156 of lease and the obligor's obligation to make loan payments
157 under a loan agreement may ~~shall~~ not be subject to cancellation,
158 termination, or abatement by the lessee or the obligor until
159 such payment of the bonds or provision for such payment is ~~shall~~
160 ~~be~~ made.

161 (2) Such agreement of lease or loan agreement may contain
162 such additional provisions as in the determination of the
163 authority are necessary or convenient to effectuate the purposes
164 of this part, including provisions for extensions of the term
165 and renewals of the lease or loan agreement and vesting in the
166 lessee an option to purchase the project leased thereunder
167 pursuant to such terms and conditions consistent with this part
168 as shall be prescribed in the lease. Except as may otherwise be
169 expressly stated in the agreement of lease or loan agreement, to
170 provide for any contingencies involving the damaging,
171 destruction, or condemnation of the project financed or
172 refinanced ~~leased~~ or any substantial portion thereof, such
173 option to purchase may not be exercised unless all bonds issued
174 for such project, including all principal, interest, and

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175 redemption premiums, if any, and all other obligations incurred
176 by the authority in connection with such project, shall have
177 been paid in full or sufficient funds shall have been deposited
178 in trust for such payment. The purchase price of such project
179 shall not be less than an amount sufficient to pay in full all
180 of the bonds, including all principal, interest, and redemption
181 premiums, if any, issued for the project then outstanding and
182 all other obligations incurred by the authority in connection
183 with such project.

184 Section 4. Paragraph (b) of subsection (4) of section
185 154.219, Florida Statutes, is amended to read:

186 154.219 Revenue bonds.—

187 (4) Any resolution or resolutions authorizing any revenue
188 bonds or any issue of revenue bonds may contain provisions which
189 shall be a part of the contract with the holders of the revenue
190 bonds to be authorized, as to:

191 (b) The rentals, loan payments, fees, and other charges to
192 be charged, the amounts to be raised in each year thereby, and
193 the use and disposition of the revenues.

194 Section 5. Section 154.221, Florida Statutes, is amended to
195 read:

196 154.221 Security of bondholders.—In the discretion of the
197 authority, any bonds issued under ~~the provisions of~~ this part
198 may be secured by a trust agreement by and between the authority
199 and a corporate trustee, which may be any trust company or bank
200 having the powers of a trust company within or outside ~~without~~
201 the state. Such trust agreement or resolution providing for the
202 issuance of such bonds may pledge or assign the fees, rents,
203 charges, or proceeds from the sale of any project or part

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204 thereof, insurance proceeds, condemnation awards, and other
205 funds and revenues to be received therefor, and may provide for
206 the mortgaging of any project or any part thereof as security
207 for repayment of the bonds. Such trust agreement or resolution
208 providing for the issuance of such bonds shall contain such
209 provisions for protecting and enforcing the rights and remedies
210 of the bondholders as may be reasonable and proper and not in
211 violation of law, including covenants setting forth the duties
212 of the authority in relation to the acquisition of property and
213 the construction, improvement, maintenance, repair, operation,
214 and insurance of the project or projects in connection with
215 which such bonds shall have been authorized; the fees, rents,
216 loan payments, and other charges to be fixed and collected; the
217 sale of any project, or part thereof, or other property; the
218 terms and conditions for the issuance of additional bonds; and
219 the custody, safeguarding, and application of all moneys. It
220 shall be lawful for any bank or trust company incorporated under
221 the laws of the state which may act as depositary of the
222 proceeds of bonds, revenues, or other money hereunder to furnish
223 such indemnifying bonds or to pledge such securities as may be
224 required by the authority. Any such trust agreement or
225 resolution shall set forth the rights and remedies of the
226 bondholders and of the trustee and may restrict the individual
227 right of action by bondholders. In addition to the foregoing,
228 any such trust agreement or resolution may contain such other
229 provisions as the authority may deem reasonable and proper for
230 the security of the bondholders. All expenses incurred in
231 carrying out the provisions of such trust agreement or
232 resolution may be treated as a part of the cost of the project

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233 or projects in connection with which bonds are issued or as an
234 expense of administration of such projects, as the case may be.

235 Section 6. Section 154.225, Florida Statutes, is amended to
236 read:

237 154.225 Revenues.—

238 (1) The authority is hereby authorized to fix and to
239 collect fees, rents, loan payments, and charges for the use of
240 any project or projects and any part or section thereof. The
241 authority may require that the health facility operating any
242 project or any part thereof financed or refinanced under this
243 chapter or the lessee of any project or part thereof shall
244 operate, repair, and maintain the project and bear the cost
245 thereof and other costs of the authority in connection with the
246 project or projects financed or refinanced ~~leased~~ as may be
247 provided in the agreement of lease, loan agreement, or other
248 contract with the authority, in addition to other obligations
249 imposed under such agreement or contract.

250 (2) The fees, rents, loan payments, and charges shall be so
251 fixed as to provide a fund sufficient to pay the principal of,
252 and the interest on, such bonds as the same shall become due and
253 payable and to create reserves, if any, deemed by the authority
254 to be necessary for such purposes. The fees, rents, loan
255 payments, charges, and all other revenues and proceeds derived
256 from the project or projects in connection with which the bonds
257 of any issue shall have been issued, except such part thereof as
258 may be necessary for such reserves or any expenditures as may be
259 provided in the resolution authorizing the issuance of such
260 bonds or in the trust agreement securing the same, shall be set
261 aside at such regular intervals as may be specified in such

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262 resolution or such trust agreement in a sinking fund which is
263 hereby pledged to, and charged with, the payment of the
264 principal of and the interest on such bonds as the same shall
265 become due and the redemption price or the purchase price of
266 bonds retired by call or purchase as therein provided. Such
267 pledge shall be valid and binding from the time when the pledge
268 is made. The fees, rents, loan payments, charges, and other
269 revenues and moneys so pledged and thereafter received by the
270 authority shall immediately be subject to the lien of such
271 pledge without any physical delivery thereof or further act, and
272 the lien of any such pledge shall be valid and binding as
273 against all parties having claims of any kind in tort, contract,
274 or otherwise against the authority, irrespective of whether such
275 parties have notice thereof. The use and disposition of money to
276 the credit of such sinking fund shall be subject to the
277 provisions of the resolution authorizing the issuance of such
278 bonds or of such trust agreement. Except as may otherwise be
279 provided in the resolution or the trust agreement, the sinking
280 fund shall be a fund for all such bonds without distinction or
281 priority of one over another.

282 Section 7. Subsection (1) of section 154.235, Florida
283 Statutes, is amended to read:

284 154.235 Refunding bonds.—

285 (1) The authority is hereby authorized to provide for the
286 issuance of revenue bonds for the purpose of refunding:

287 (a) Any of its revenue bonds then outstanding; and

288 (b) Revenue bonds of other issuers, the proceeds of which
289 were used to finance or refinance projects of one or more health
290 facilities.

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292 Such refunds may include,~~including~~ the payment of any
293 redemption premium thereon and any interest accrued or to accrue
294 to the earliest or subsequent date of redemption, purchase, or
295 maturity of such revenue bonds.

296 Section 8. Section 154.247, Florida Statutes, is amended to
297 read:

298 154.247 Financing of projects located outside of local
299 agency.~~Notwithstanding any provision of this part to the~~
300 ~~contrary,~~ an authority may, if it finds that there will be a
301 benefit or a cost savings to a health facility located within
302 its jurisdiction, issue bonds for such health facility to
303 finance projects for such health facility, or for another
304 private corporation or other entity or association organized
305 not-for-profit corporation~~corporation~~ under common control with such health
306 facility, located outside the geographical limits of the local
307 agency or outside this state.

308 Section 9. This act shall take effect July 1, 2025.