

PENNSYLVANIA HIGHER EDUCATIONAL FACILITIES AUTHORITY ACT 1967,
THE
Act of Dec. 6, 1967, P.L. 678, No. 318 **Cl. 64**
AN ACT

To promote the education and welfare of the people of the Commonwealth of Pennsylvania; to provide educational facilities at nonprofit institutions of higher education in the Commonwealth of Pennsylvania; to provide short-term loans for working capital; and creating the Pennsylvania Higher Educational Facilities Authority as a body corporate and politic with power to acquire, construct, improve, equip, furnish, operate, lease, and dispose of projects and provide short-term loans; authorizing and regulating the issuance of notes and bonds and the payment thereof by said authority; and providing that no debt, obligation, or credit of the Commonwealth shall be incurred in the exercise of any powers granted by this act. (Title amended Oct. 12, 1984, P.L.948, No.185)

Compiler's Note: Section 1 of Act 165 of 1970 provided that the limits heretofore imposed by Act 318 upon the rates of interest and interest costs permitted to be paid upon bonds, obligations and indebtedness issued by the Commonwealth or its agencies or instrumentalities or authorities, and by local political subdivisions or their agencies or authorities, are hereby removed for such bonds, obligations or indebtedness.

Compiler's Note: Section 5(b) of Act 75 of 1969 provided that Act 318 is repealed insofar as it provides or authorizes the incurring of Commonwealth debt subject to the limitation set forth in section 7(a)(4) of Article VIII of the Constitution of Pennsylvania or is otherwise inconsistent with Act 217 of 1968.

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The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. Short Title.--This act shall be known and may be cited as "The Pennsylvania Higher Educational Facilities Authority Act of 1967."

Section 2. Legislative Findings and Policy.--(a) The Senate and the House of Representatives hereby find that the commerce, prosperity, welfare and security of the Commonwealth require that this and future generations of youth be assured ample opportunity to develop their intellectual capacities and that this opportunity is and will continue to be jeopardized unless the institutions of higher education in this Commonwealth are encouraged and assisted in their efforts to accommodate rapidly mounting numbers of youth who desire and require higher education. The Senate and the House of Representatives further find that all institutions of higher education in this Commonwealth are an essential and integral part of the total educational resources and effort required to be employed to meet the tremendous need for higher education; that a serious public emergency exists from the lack of financial resources by such institutions with which to provide required educational facilities; and that it is necessary and proper for the Commonwealth to provide a measure of assistance and an alternative method to enable such institutions to provide educational facilities which are solely needed to accomplish the purposes of this act, all to the public benefit and good, to the extent and manner provided herein.

(b) The Senate and the House of Representatives further find that, because of seasonal fluctuations in revenues received in the form of tuitions, fees and appropriations by such institutions, it is often necessary for such institutions to obtain short-term loans at considerable interest expense to provide necessary working capital; that the availability of short-term revenue anticipation loans financed under this act for such purposes would reduce the interest expense of such institutions, thereby permitting such institutions to better serve the interests of the Commonwealth in promoting commerce, prosperity, security and general welfare; and that it is, therefore, necessary and proper for the Commonwealth to assist such institutions in obtaining short-term loans to fund their working capital requirements.

(2 amended Oct. 12, 1984, P.L.948, No.185)

Section 3. Definitions.--As used in this act:

(1) "Authority" means the body politic and corporate created by this act;

(2) "Educational facility" means any site, structure, or equipment suitable for use in academic, research and cultural activities at a college, including, but not limited to, class rooms, laboratories, libraries, research facilities, academic buildings, dormitory and housing units, dining halls, student unions, administration buildings, athletic and health care facilities, parking, maintenance, storage and utility facilities, and all the facilities, equipment, materials and furnishings necessary and usually attendant thereto: Provided, That "education facility" shall not include any facility used or to be used for sectarian instruction or study, or as a place for devotional activities or religious worship;

(3) "College" means any nonprofit educational institution situated within the Commonwealth empowered to provide a program of education beyond the high school level and which, by virtue of governing law and regulation, is recognized by the State

Board of Education as an institution of higher education and which places no restrictions upon the admission of students based upon race, creed, or national origin;

(4) "Project" means any educational facility which the authority is authorized to acquire, construct, finance, improve, install, maintain or operate under the provisions of this act; ((4) amended Mar. 23, 1984, P.L.145, No.27)

(5) "Bonds" mean and include the notes (other than revenue anticipation notes), bonds, and other evidences of indebtedness or obligations, which the authority is authorized to issue pursuant to this act; ((5) amended Oct. 12, 1984, P.L.948, No.185)

(6) "Construction" means and includes acquisition, construction, improvement, equipping and furnishing and the term "to construct" means and includes to acquire, to construct, to improve, to equip, and to furnish in such manner as may be deemed desirable;

(7) "Improvement" means and includes extension, enlargement, equipping, reconstruction, rehabilitation, furnishing and improvement, and the term "to improve" means and includes to extend, to enlarge, to equip, to reconstruct, to rehabilitate, to furnish and to improve in such manner as may be deemed desirable;

(8) "Cost of a project" means and includes, but shall not be limited to, all or any part of the cost of construction, acquisition, alteration, enlargement, reconstruction and rehabilitation of a project, including all lands, structures, real or personal property, rights, rights of way, roads, franchises, easements and interests acquired or used for or in connection with a project, the cost of demolishing or removing any buildings or structures on land so acquired, including the cost of acquiring any lands to which such buildings or structures may be moved or relocated, the cost of all utility lines, structures or equipment, the charges, interest prior to, during and for a period of six months after completion of such construction and acquisition, provisions for reserves for principal and interest and for extensions, enlargements, additions and improvements, cost of architectural, engineering, financial and legal services, plans, specifications, studies, surveys, estimates of cost and of revenues, administrative expenses, expenses necessary or incident to determining the feasibility or practicability of constructing the project and such other expense as may be necessary or incident to the construction, acquisition or financing of the project and the placing of the project in operation; ((8) amended Mar. 23, 1984, P.L.145, No.27)

(9) "Financing" or "to finance" means and includes the lending or providing of funds to a college for payment of the cost of a project; ((9) amended Oct. 12, 1984, P.L.948, No.185)

(10) "Working capital" means and includes, but shall not be limited to, funds for supplies, materials, services, salaries, pensions and any other proper operating expenses; ((10) added Oct. 12, 1984, P.L.948, No.185)

(11) "Revenue anticipation notes" mean the revenue anticipation notes, and other evidence of indebtedness or obligations, which the authority is authorized to issue pursuant to this act for the purpose of providing short-term loans to colleges to fund their working capital requirements. ((11) added Oct. 12, 1984, P.L.948, No.185)

Section 4. Pennsylvania Higher Educational Facilities Authority.--The Governor, the State Treasurer, the Auditor General, the Superintendent of Public Instruction, the Secretary

of Property and Supplies, the President pro tempore of the Senate, the Speaker of the House of Representatives, the Minority Leader of the Senate, the Minority Leader of the House of Representatives and their respective successors in office are hereby created as a body corporate and politic, constituting a public corporation and public instrumentality by the name of the "Pennsylvania Higher Educational Facilities Authority." The President pro tempore of the Senate and Minority Leader of the Senate and the Speaker of the House of Representatives and Minority Leader of the House of Representatives may designate any member of the Senate or House, respectively, to act in their stead to serve at the discretion of the respective President pro tempore and Speaker of the House of Representatives or Minority Leader. Said members shall be entitled to reimbursement for all necessary expenses incurred in connection with the performance of their duties as members. The President pro tempore of the Senate, the Speaker of the House of Representatives, the Minority Leader of the Senate and the Minority Leader of the House of Representatives shall continue as members of the authority until their respective successors in office assume such office, regardless of whether or not they shall have ceased to be members of the Senate or the House of Representatives. The members of the authority may authorize by written proxy or authorization a personal deputy to appear and act for them at a meeting and for the purposes specified in such written proxy or authorization, provided that a separate written authorization or proxy shall be required for each separate meeting.

(4 amended Feb. 18, 1970, P.L.48, No.19)

Section 5. Purposes and General Powers.--The authority is created for the purpose of (i) acquiring, constructing, financing, improving, maintaining and operating any educational facility; and (ii) assisting colleges in financing on a short-term basis their working capital requirements. (Par. amended Oct. 12, 1984, P.L.948, No.185)

The authority is hereby granted and shall have and may exercise all the powers necessary or convenient for the carrying out of the aforesaid purposes, including but without limiting the generality of the foregoing, the following rights and powers:

- (1) To have perpetual existence as a corporation;
- (2) To sue and be sued, implead and be impleaded, complain and defend, in all courts;
- (3) To adopt, use and alter at will a corporate seal;
- (4) To acquire, purchase, hold, lease as lessee, and use any property, real, personal or mixed, tangible or intangible, any educational facility, or any interest therein, or any contract for the acquisition, construction, furnishing or equipping thereof, necessary or desirable for carrying out the purposes of the authority, and, with respect to a college, lease as lessor, transfer, sell, grant options for, and dispose of any educational facility, property or any interest therein at any time acquired by it. Any lease to a college of any educational facility or any instrument of transfer, sale or option to a college of any educational facility hereby authorized may contain provisions, which shall be a part of the contract with the holders of the bonds of the authority issued with respect to such educational facility; (i) pledging or granting a security interest in all or any part of the present and future accounts, contract rights and general intangibles of the college, consisting of fees, rates, and other charges billed to and payable by all occupants of such educational

facility, and all or any part of present and future tuition fees billed to and payable by all full-time and part-time students enrolled in such college to secure payments required under the terms of such lease or instrument; (ii) specifying or regulating the minimum rates, rentals, fees, tuitions, and other charges to be fixed and collected by the college, the amounts to be raised in each year thereby, and the use and disposition of such moneys, earnings, income and revenues, including the setting aside of reserves and the creation of special funds and the collection and disposition thereof for the protection of the authority or its bondholders; and (iii) any other matters of like or different character which may be deemed necessary or desirable for the security or protection of the authority or its bondholders. Any pledge of present and future accounts, contract rights and general intangibles hereinbefore authorized shall be valid, binding, and perfected pledges and security interests from the time when such pledge is made or such security interest granted. The accounts, contract rights and general intangibles so pledged and the moneys, earnings, income and revenues derived therefrom when thereafter received by the pledgor shall immediately be subject to the lien of such pledge or security interest without any physical delivery thereof or further act. The lien of any such pledge of security interest shall be valid and binding as against all parties claiming liens upon such accounts, contract rights and general intangibles as a result of legal or equitable proceedings based on claims of any kind in tort, contract or otherwise against the pledgor irrespective of whether such parties have notice thereof. No instrument by which such pledge is created or security interest granted need be recorded or otherwise filed of record. All colleges are hereby authorized to enter into leases or other instruments containing the provisions herein authorized, anything in the charters of such colleges or in any other law to the contrary notwithstanding; ((4) amended Nov. 25, 1970, P.L.730, No.235)

(5) To acquire by purchase, lease, gift or otherwise, and to acquire, construct, improve, maintain, repair and operate projects;

(5.1) To finance projects by making loans to colleges, which loans may be evidenced by, and secured as may be provided in, loan agreements, mortgages, security agreements or any other contracts, instruments or agreements, which contracts, instruments or agreements may contain such provisions as are referred to in clause (4) or such other provisions as the authority shall determine necessary or desirable for the security or protection of the authority or its bondholders. All such provisions shall be a part of the contract with the holders of the bonds of the authority issued with respect to such project, and all colleges are hereby authorized to enter into such contracts, instruments or agreements containing the provisions herein authorized, anything in the charters of such colleges or in any other law to the contrary notwithstanding; ((5.1) added Mar. 23, 1984, P.L.145, No.27)

(5.2) To make short-term loans to colleges for the purpose of funding their working capital requirements, which loans may be evidenced by, and secured as may be provided in, loan agreements or similar instruments entered into by the authority and the college or colleges. Loans may be secured by a pledge of or security interest in revenues receivable by the participating college or colleges during the term of the loan and by such additional security as the authority deems necessary. For the purpose of this subsection, the term

"revenues receivable" shall mean all revenues reasonably estimated to be receivable by a college during the term of the loan and shall include, without limitation, to the extent not previously received, funds appropriated for the use of the college by the Commonwealth or the Federal Government or any agency thereof, revenues estimated to be receivable under the college's current schedules of tuitions and fees and all other revenues reasonably committed to the use of the college: Provided, That such term shall not include funds receivable subject to restrictions as to use and which may not be applied to or pledged for the repayment of such loans. All provisions contained in a loan agreement or similar instrument relating to the security or protection of the authority shall be a part of the contract with the holders of the revenue anticipation notes of the authority issued with respect to such loans and all colleges are hereby authorized to enter into agreements or instruments containing such provisions, anything in the charters of such colleges or in any other law to the contrary notwithstanding; ((5.2) added Oct. 12, 1984, P.L.948, No.185)

(6) To make bylaws for the management and regulation of its affairs;

(7) To obtain from the State Public School Building Authority, for a fee, those executive, fiscal, and administrative services, which are not available from the college for whose use the project is being constructed or financed, as may be required to carry out functions of the authority under this act; ((7) amended Mar. 23, 1984, P.L.145, No.27)

(8) To fix, alter, charge and collect rentals and other charges in respect of any educational facility or for the services rendered by the authority, at reasonable rates to be determined by it for the purpose of providing for the payment of the expenses of the authority, not provided for otherwise, the acquisition, construction, financing, improvement, repair, equipping and furnishing, maintenance and operation of any educational facility, the payment of the principal of, and interest on, its obligations, and to fulfill the terms and provisions of any agreements made with the purchasers or holders of any such obligations; ((8) amended Mar. 23, 1984, P.L.145, No.27)

(9) To borrow money for the purpose of paying the cost of any project, make and issue negotiable notes, bonds, refunding bonds and other evidences of indebtedness or obligations (hereinafter called "bonds"), of the authority, and to secure the payment of such bonds, or any part thereof, by pledge or deed of trust of all, or any, of its revenues, rentals, receipts and contract rights, and to make such agreements with the purchasers or holders of such bonds or with others in connection with any such bonds, whether issued or to be issued as the authority shall deem advisable, and in general to provide for the security for said bonds and the rights of the holders thereof;

(9.1) To borrow money for the purpose of providing short-term loans to colleges to fund their working capital requirements and paying the expenses incident to the provision of such loans, to make and issue negotiable revenue anticipation notes of the authority, and to secure the payment of such revenue anticipation notes, or any part thereof, by pledge or assignment of the income and revenues receivable by the authority under loan agreements or similar instruments entered into by the authority and the college or colleges, and to make such agreements with the purchasers or holders of such revenue

anticipation notes or with others in connection with any such revenue anticipation notes, whether issued or to be issued as the authority shall deem advisable, and in general to provide for the security of such revenue anticipation notes and the rights of the holders thereof; ((9.1) added Oct. 12, 1984, P.L.948, No.185)

(10) To invest moneys not required for current expenditures, pending such expenditures, in any securities eligible for the investment of funds in the Commonwealth;

(11) To make contracts of every name and nature, and to execute all instruments necessary or convenient for the carrying on of its business;

(12) Without limitation of the foregoing, to borrow money, and accept grants from, and to enter into contracts, leases or other transactions with, any Federal or other governmental agency;

(13) To pledge, hypothecate or otherwise encumber, all of any of the revenues, receipts or contract rights, of the authority as security for all, or any of, the obligations of the authority;

(14) Notwithstanding any other provisions contained in this act, to combine for financing purposes, with the consent of all colleges involved, the project or the projects and some or all future projects of any two or more colleges, and to provide reserves, out of lease rentals or other funds made available for the purpose, for debt service, maintenance, repairs and replacements and to combine, with the consent of all colleges involved, separately secured financings of working capital of two or more colleges; ((14) amended Oct. 12, 1984, P.L.948, No.185)

(15) To do all acts and things necessary or convenient to carry out the powers granted to it by this act or any other acts: Provided, however, That the authority shall have no power, at any time or in any manner, to pledge the credit or taxing power of the Commonwealth, nor shall any of its obligations or debts be deemed to be obligations of the Commonwealth, nor shall the Commonwealth be liable for the payment of principal or interest on such obligations.

Section 6. Purposes and Powers; Bonds and Revenue Anticipation Notes.--(a) (1) The bonds of the authority hereinabove referred to and authorized to be issued to pay the cost of a project under section 5(9) hereof, shall be authorized by resolution of the board thereof or by the terms of a trust indenture authorized by such board, and shall be of such series, shall bear such date or dates, shall mature at such time or times, not exceeding forty years from their respective dates, shall bear interest at such rate or rates, shall be in such denominations, shall be in such form, either coupon or fully registered without coupons, shall carry such registration, exchangeability and interchangeability privileges, shall be payable in such medium of payment and at such place or places, shall be subject to such terms of redemption, not exceeding one hundred five percent of the principal amount thereof and shall be entitled to such priorities in the revenues, rentals or receipts of the authority as such trust, indenture, resolution or resolutions may provide. The bonds shall be signed by such officers, either manually or by facsimile as the authority shall determine, and coupon bonds shall have attached thereto interest coupons bearing the facsimile signature of the treasurer of the authority, all as may be prescribed in such resolution or resolutions. Any such bonds may be issued and delivered, notwithstanding that one or more of the officers signing such

bonds or the treasurer whose facsimile signature shall be upon the coupons or any thereof, shall have ceased to be such officer or officers at the time when such bonds actually shall be delivered. Said bonds may be sold at public or private sale for such price or prices as the authority shall determine, with the approval of the college for whose use the project is being constructed. The net interest cost to maturity of the money received for any issue of bonds, whether sold at public or private sale, shall not exceed six percent per annum, except that for a period of one year following the effective date of this act, the net interest may exceed six percent per annum but shall not exceed seven percent per annum. The interest on bonds issued with an interest rate of between six and seven percent shall be paid during the term for which the bonds were issued.

(2) For the purposes of this section, net interest cost shall be determined by ascertaining the total amount of interest payable with respect to the bonds, computed from the date of the bonds to the stated maturity dates thereof, plus the amount of any discount from the principal amount of the bonds or less the amount of any premium in excess of the principal amount of the bonds. Pending the preparation of the definitive bonds, interim receipts may be issued to the purchaser or purchasers of such bonds, and may contain such terms and conditions as the authority may determine.

(3) The revenue anticipation notes of the authority authorized to be issued to fund the working capital requirements of colleges under section 5(9.1) shall be authorized by resolution of the board of the authority or by the terms of a trust indenture authorized by such board, and shall be of such series, shall bear such date or dates, shall mature at such time or times, but not more than thirteen months from the date on which they were issued, shall bear interest at such rate or rates, payable at maturity or at such other specified times, shall be in such denominations, shall be in such form, shall carry such registration, exchangeability and interchangeability privileges, shall be payable in such medium of payment and at such place or places, shall be subject to such terms of redemption, with or without premium and be entitled to such priorities in the revenues or receipts of the authority as such resolution or indenture may provide. The revenue anticipation notes shall be signed by such officers, either manually or by facsimile as the authority shall determine, all as may be prescribed in such resolution or indenture. The revenue anticipation notes may be issued and delivered, notwithstanding that one or more of the officers signing such revenue anticipation notes shall have ceased to be an officer or officers at the time when such revenue anticipation notes actually shall be delivered. The revenue anticipation notes may be sold at public or private sale for such price or prices as the authority shall determine.

(b) Bonds and revenue anticipation notes issued under this act are hereby made securities in which all officers of the State and its political subdivisions and municipal officers and administrative departments, boards and commissions of the Commonwealth, all banks, bankers, savings banks, trust companies, saving and loan associations, investment companies, and other persons carrying on a banking business, all insurance companies, insurance associations, and other persons carrying on an insurance business, and all administrators, executors, guardians, trustees, and other fiduciaries, and all other persons whatsoever who now or hereafter may be authorized to invest in bonds or other obligations of the Commonwealth,

properly and legally may invest any funds, including capital, belonging to them or within their control, and said bonds and revenue anticipation notes or other securities or obligations hereby are made securities which properly and legally may be deposited with, and received by, any State or municipal officers or agency of the Commonwealth for any purpose for which the deposit of bonds or other obligations of the Commonwealth now is or hereafter may be authorized by law.

(c) Any trust indenture, resolution or resolutions authorizing any bonds or revenue anticipation notes may contain provisions which shall be part of the contract with the holders thereof as to (i) pledging all or any of the revenues, rentals or receipts and contract rights of the authority from such projects or properties, as the college or colleges owning, using or leasing the same may approve or pledging revenues receivable by the authority under loan agreements or similar instruments entered into by the authority and a college; (ii) the acquisition, construction, financing, improvement, operation, extension, enlargement, maintenance and repair, of any project or projects, and the duties of the authority with reference thereto; (iii) the terms and provisions of the bonds or revenue anticipation notes; (iv) limitations on the purposes to which the proceeds of the bonds or revenue anticipation notes, then or thereafter to be issued, under such indenture or resolution, or of any loan or grant by the United States may be applied; (v) the rate of rentals and other charges for use of any educational facility of, or for the services rendered by the authority, including limitations upon the power of the authority to modify any leases or other agreements, pursuant to which any rentals or other charges are payable; (vi) the setting aside of reserves or sinking funds and the regulation and disposition thereof, provided that any income received from the investment of such reserves or sinking funds shall be applied in reduction of the rentals or other charges payable by the college for whose project or working capital requirements such reserves or sinking fund are created; (vii) limitations on the issuance of additional bonds or revenue anticipation notes; (viii) the terms and provisions of any deed of trust or indenture securing the bonds or revenue anticipation notes, or under which the same may be issued; and (ix) any other or additional agreements with the holders of the bonds or revenue anticipation notes.

(d) (1) The authority may enter into any deeds of trust, indentures or other agreements with any bank or trust company, or other person or persons in the United States having power to enter into the same, including any Federal or other governmental agency, as security for such bonds or revenue anticipation notes, and may assign and pledge all or any of the revenues, rentals, receipts, and contract rights of the authority thereunder. Such deed of trust, indenture or other agreement may contain such provisions as may be customary in such instruments, or as the authority may authorize, including (but without limitation) provisions as to (i) the acquisition, construction, financing, improvement, operation, maintenance, and repair of any project or projects or the provision of working capital requirements for colleges, and the duties of the authority with reference thereto; (ii) the application of funds and the safeguarding of funds on hand or on deposit; (iii) the rights and remedies of said trustee and the holders of the bonds or revenue anticipation notes (which may include restrictions upon the individual right of action of such bondholders or noteholders); and (iv) the terms and provisions of the bonds or revenue anticipation notes, or the resolutions

authorizing the issuance of the same: Provided further, That nothing in this act shall prevent the authority from obtaining temporary financing where necessary or desirable for any project by issuance of negotiable notes or other obligations, the maturity of which shall not exceed five years from the date of issue, and which shall be paid, as to both principal and interest, from proceeds of sale of bonds of the authority, in anticipation of which such notes or obligations were issued.

(2) Said bonds and revenue anticipation notes shall have all the qualities of negotiable instruments under the law merchant, and the negotiable instruments law of the Commonwealth of Pennsylvania.

(6 amended Oct. 12, 1984, P.L.948, No.185)

Section 6.1. Term Bonds.--(6.1 deleted Dec. 17, 1982, P.L.1376, No.315)

Section 6.2. Actions for Nonpayment of Rentals.--In all cases where a college fails to pay or provide for the payment of any rental or rentals or other sums due to the authority in accordance with any lease or other contract entered into between the authority and such college, upon written notice thereof from the authority, the State Treasurer may (i) notify the college of its obligation and of the withholding provisions of this section; (ii) withhold, out of any State appropriations payable to the college an amount equal to the unpaid rentals or other sums owing by such college, and (iii) notify the Auditor General of his actions and request the Auditor General to issue a warrant for payment to the authority of the amount so withheld. Upon receipt of such notice from the State Treasurer, the Auditor General shall issue to the State Treasurer a warrant for payment to the authority and the State Treasurer shall forthwith pay over the amount so withheld to the authority, which shall apply said amount to the rental or other sums due from such college. The authority shall also give written notice of any such nonpayment to the Secretary of Education.

(6.2 added Dec. 17, 1982, P.L.1376, No.315)

Section 7. Refunding Bonds and Revenue Anticipation Notes.--The authority is hereby authorized to provide, by resolution of the board, for the issuance of refunding bonds for the purpose of refunding any bonds or revenue anticipation notes of the authority issued under the provisions of this act and then outstanding, either by voluntary exchange with the holders of such outstanding bonds or revenue anticipation notes or to provide funds to redeem and retire such outstanding bonds or revenue anticipation notes, with accrued interest, and any premium payable thereon at maturity or at any call date. The issuance of such refunding bonds or revenue anticipation notes, the maturities and other details thereof, the rights of the holders thereof, and the duties of the authority in respect to the same, shall be governed by the foregoing provisions of this act in so far as the same may be applicable. Refunding bonds or revenue anticipation notes may be issued by the authority to refund bonds or revenue anticipation notes originally issued or to refund bonds or revenue anticipation notes of the authority previously issued for refunding purposes.

(7 amended Oct. 12, 1984, P.L.948, No.185)

Section 8. Remedies of Bondholders and Noteholders.--(a) The rights and the remedies herein conferred upon, or granted to the holders of bonds or revenue anticipation notes, shall be in addition to, and not in limitation of, any rights and remedies lawfully granted to such holders, by the resolution or resolutions providing for the issuance of bonds or revenue

anticipation notes, or by any deed of trust, indenture or other agreement under which the same shall be issued. In the event that the authority shall default in the payment of principal of, or interest on, any of the bonds or revenue anticipation notes after said principal or interest shall become due, whether at maturity or upon call for redemption, and such default shall continue for a period of thirty days, or in the event that the authority shall fail or refuse to comply with the provisions of this act, or shall default in any agreement made with the holders of the bonds or revenue anticipation notes, the holders of twenty-five percent in aggregate principal amount of the bonds or revenue anticipation notes then outstanding, by instrument or instruments filed in the office of the recorder of deeds of the county, and proved or acknowledged in the same manner as a deed to be recorded may (except as such right may be limited under the provisions of any deed of trust, indenture or other agreement as aforesaid), appoint a trustee to represent the bondholders or noteholders for the purposes herein provided. Such trustee and any trustee under any deed of trust, indenture or other agreement may, and upon written request of the holders of twenty-five percent (or such other percentage as may be specified in any deed of trust, indenture or other agreement aforesaid) in principal amount of the bonds or revenue anticipation notes then outstanding, shall, in his or its own name:

(1) By mandamus or other suit, action or proceeding at law or in equity, enforce, all rights of the bondholders or noteholders, including the right to require the authority to collect rates, rentals, charges and other pledged assets adequate to carry out any agreements as to, or pledge of the revenues, rentals, receipts and contract rights of, the authority, and to require the authority to carry out any other agreements with or for the benefit of the bondholders or noteholders, and to perform its and their duties under this act;

(2) Bring suit upon the bonds or revenue anticipation notes;

(3) By action or suit in equity, require the authority to account as if it were the trustee of an express trust for the bondholders or noteholders;

(4) By action or suit in equity, enjoin any acts or things which may be unlawful or in violation of the rights of the bondholders or noteholders;

(5) By notice in writing to the authority, declare all bonds or revenue anticipation notes due and payable, and if all defaults shall be made good, then with the consent of the holders of twenty-five percent (or such other percentage as may be specified in any deed of trust, indenture or other agreement aforesaid) of the principal amount of the bonds or revenue anticipation notes then outstanding, to annul such declaration and its consequences.

(b) Any trustee, whether appointed as aforesaid or acting under a deed of trust, indenture or other agreement, and whether or not all bonds or revenue anticipation notes have been declared due and payable, shall be entitled, as of right, to the appointment of a receiver, who (to the same extent that the authority itself could do so) may enter and take possession of the facilities of the authority or any parts thereof, the revenues, rentals, receipts or pledges from which are, or may be, applicable to, the payment of the bonds or revenue anticipation notes so in default, and operate and maintain the same and collect and receive all rentals and other revenues thereafter arising therefrom in the same manner as the authority

might do, and shall deposit all such moneys in a separate account and apply the same in such manner as the court shall direct. In any suit, action or proceeding by the trustee, the fees, counsel fees and expenses of the trustee, and of the receiver, if any, and all costs and disbursements allowed by the court, shall be a first charge on any revenues, rentals and receipts derived from the facilities of the authority, the revenues, rentals, receipts or pledges from which are or may be applicable to the payment of the bonds or revenue anticipation notes so in default. Said trustee, in addition to the foregoing, shall have and possess all of the powers necessary or appropriate for the exercise of any functions specifically set forth herein or incident to the general representation of the bondholders or noteholders in the enforcement and protection of their rights.

(c) In addition to all other rights and all other remedies, any holder of bonds or revenue anticipation notes of the authority shall have the right by mandamus or other suit, action or proceeding at law, or in equity, to enforce his rights against the authority, including the right to require the authority to collect fees, rentals and other charges adequate to carry out any agreement as to, or pledge of, such fees, rentals, or other charges or income, revenues and receipts, and to require the authority to carry out any of its covenants and agreements with the bondholders or noteholders and to perform its and their duties under this act.

(8 amended Oct. 12, 1984, P.L.948, No.185)

Section 9. Governing Body.--The powers of the authority shall be exercised by a governing body consisting of the members of the authority acting as a board. Within ninety days after this act shall become effective, the board shall meet and organize by electing from their number a president, a treasurer and a secretary. At the first regular meeting in each year thereafter they shall elect from their number a president, a secretary and a treasurer.

Five members shall constitute a quorum of the board for the purpose of organizing the authority and conducting the business thereof, and for all other purposes, and all action shall only be taken by vote of a majority of the members of the authority, unless in any case the bylaws shall require a larger number: Provided, That any action which may be taken at a meeting of the board may be taken without a meeting after public announcement of the proposed action shall have been made, if a consent in writing setting forth the action so taken shall be signed by all members of the board, and shall be filed with the secretary of the authority. The board shall have full authority to manage the properties and business of the authority, to prescribe, amend and repeal bylaws, rules and regulations governing the manner in which the business of the authority may be conducted, and the powers granted to it may be exercised and embodied. The board shall fix and determine the number of officers, agents and employees of the authority and their respective compensation and duties, and may delegate to one or more of their number, or to one or more of said officers, agents or employees, such power and duties as it may deem proper.

Section 10. Moneys of the Authority.--All moneys of the authority from whatever source derived shall be paid to such depositories and in such manner as the authority shall direct. Said moneys shall be deposited in the first instance by the treasurer in one or more banks or trust companies in one or more special accounts, and each of such special accounts shall be continuously secured by a pledge to the extent such moneys

are not insured by a Federal agency, of direct obligations of the United States of America, or of the Commonwealth, having an aggregate market value, exclusive of accrued interest, at all times at least equal to the balance on deposit in such account, demand or time or represented by certificates of deposit. Such securities either shall be deposited with the treasurer, or shall be held by a trustee or agent satisfactory to the authority. All banks and trust companies are authorized to give such security for such deposits. The moneys in said accounts shall be paid out by check or on the warrant or other order of the treasurer of the authority, or of other person or persons as it may authorize, to execute such checks, warrants or orders.

The authority shall file an annual report with the Department of Revenue. The authority shall have its books, accounts and records audited annually by a certified public accountant and a copy of his audit shall be attached to and be made a part of the aforesaid annual report. A concise financial statement shall be published annually by the authority and shall be available for public inspection at the office of the authority. The Attorney General of the Commonwealth shall have the right to examine the books, accounts and records of the authority.

Section 11. Issuance of Bonds or Revenue Anticipation Notes.--The bonds and revenue anticipation notes of the authority may be issued pursuant to one or more resolutions or one or more trust indentures and, as provided in such resolution or trust indenture, the moneys set aside in any fund or funds pledged for any particular bonds or revenue anticipation notes or series of bonds or revenue anticipation notes shall be held for the sole benefit of such bonds or revenue anticipation notes, separate and apart from the moneys pledged for any other bonds or revenue anticipation notes of the authority issued under any other resolution or trust indenture.

(11 amended Oct. 12, 1984, P.L.948, No.185)

Section 12. Competition in Award of Contracts.--If any project or any portion thereof, or any improvement thereof, shall be constructed pursuant to a contract, and the estimated cost thereof exceeds twelve thousand dollars (\$12,000), such contract shall be awarded to the lowest responsible bidder after due advertisement and subject to the provisions of law applicable to the Department of General Services. The authority may, to the same extent, and under the same rules and regulations applicable to the Department of General Services, make rules and regulations for the submission of bids and the construction or improvement of any project or portion thereof: Provided, however, That where there exists an agreement whereby the college may acquire legal title to the said project, contracts for construction, reconstruction, repair or work of any nature, or purchase of furnishings, machinery or equipment shall, if the college so requests, be awarded without regard to the limitations of this section 12 or any other statutory provision or regulation requiring competitive bidding. No contract shall be entered into for the construction or improvement of any project or portion thereof, or for the purchase of materials, unless the contractor shall give an undertaking with a sufficient surety or sureties approved by the authority, and in an amount fixed by the authority, for the faithful performance of the contract, and such contract shall be accompanied by an additional bond for the protection of those who furnish labor and materials, for such amount and subject to the same terms and conditions as required by the authority. All construction contracts shall provide, among other things,

that the person or corporation entering into such contract with the authority will pay for all materials furnished and services rendered, for the performance of the contract, and that any person or corporation furnishing such materials or rendering such services may maintain an action to recover for the same against the obligor in the undertaking as though such person or corporation was named therein, provided the action is brought within one year after the time the cause of action accrued. Nothing in this section shall be construed to limit the power of the authority to acquire or construct any project or portion thereof or any addition, betterment, or extension thereto, directly by the officers, agents and employees of the authority, or otherwise than by contract.

Subject to the aforesaid, the authority (but without intending by this provision to limit any powers of the authority), may enter into and carry out such contracts, or establish or comply with such rules and regulations concerning labor and materials and other related matters in connection with any project or portion thereof as the authority may deem desirable, or as may be requested by any Federal agency that may assist in the financing of such project or any part thereof.

Nothing in this section 12 shall be construed as precluding the transfer to the authority by purchase or otherwise of any completed project, or any project in course of construction and the assignment to the authority of the relevant contracts for constructing, furnishing or equipping such projects and the acceptance thereof by the authority.

(12 amended Mar. 23, 1984, P.L.145, No.27)

Compiler's Note: Section 6(c) of Act 57 of 1998 provided that section 12 is repealed insofar as it is inconsistent with Act 57.

Section 13. Use of Projects.--The use of the facilities of the authority and the operation of its business shall be subject to the rules and regulations from time to time adopted by the authority: Provided, however, That the authority shall not be authorized to do anything which will impair the security of the holders of the obligations of the authority or violate any agreements with them or for their benefit

Section 14. Limitation of Powers.--The Commonwealth does hereby pledge to, and agree with, any person, firm or corporation or Federal or other governmental agency subscribing to, or acquiring, the bonds to be issued by the authority for the acquisition, construction, extension, financing, improvement, or enlargement of any project, or part thereof, or for refunding purposes, or the revenue anticipation notes to be issued by the authority for the funding of working capital requirements of colleges, that the Commonwealth will not limit or alter the rights hereby vested in the authority, or limit or alter any provisions for the security and protection of the authority and its bondholders and noteholders contained in this act or as now provided by law, until all bonds and revenue anticipation notes at any time issued, together with the interest thereon, fully are met and discharged. The Commonwealth further does pledge to and agree with the United States and any other Federal or other governmental agency that, in the event that any such agency shall construct or contribute any funds for the acquisition, construction, extension, financing, improvement or enlargement of any project or any portion thereof, the Commonwealth will not alter or limit the rights and powers of the authority in any manner which would be inconsistent with the continued maintenance and operation of

the project, or the improvement thereof, or which would be inconsistent with the due performance of any agreements between the authority and any such agency, and the authority shall continue to have and may exercise all power herein granted so long as the same shall be necessary or desirable for the carrying out of the purposes of this act and the purposes of the United States and any Federal or other governmental agency in the construction or improvement or enlargement of any project or such portion thereof.

(14 amended Oct. 12, 1984, P.L.948, No.185)

Section 15. Exemption from Taxation.--The effectuation of the authorized purposes of the authority created under this act in all respects shall and will be for the benefit of the people of the Commonwealth, for the increase of their welfare and prosperity and for the improvement of their education and educational facilities, and since the authority will be performing essential public functions in effectuating such purposes, the authority shall be exempt from payment of any taxes or assessments upon any property acquired, held, owned, leased or used by it for such purposes, and the bonds and revenue anticipation notes issued by the authority, their transfer and the income therefrom (including any profits made on the sale thereof) at all times shall be free from the taxation, other than inheritance and estate taxation, within the Commonwealth of Pennsylvania.

(15 amended Oct. 12, 1984, P.L.948, No.185)

Section 16. Scope of Act.--This act shall be deemed to provide an additional and alternative method for the doing of things authorized thereby and shall be regarded as supplemental and additional to powers conferred by other laws and shall not be regarded as in derogation of any powers now existing.

Section 17. Construction of Act.--(a) This act, being necessary for the welfare of the Commonwealth and its inhabitants, shall be liberally construed to effect the purposes thereof.

(b) If any provision of the title or any section or clause of this act, or the application thereof to any person, party, corporation, public or private, shall be judged invalid by a court of competent jurisdiction, such order or judgment shall be confirmed in its operation to the controversy in which it was rendered, and shall not affect or invalidate the remainder of any provision of the title or any section or clause of this act, or the application of any part thereof to any other person, party, corporation, public or private, or circumstance and, to this end, the provisions of the title, or any section or clause of this act, hereby are declared to be severable. It hereby is declared as the legislative intent that this act would have been adopted had any provision declared unconstitutional not been included herein.

Section 18. Effective Date.--The provisions of this act shall take effect immediately.