

\*\*\* Current through the 2010 Regular Session \*\*\*

TITLE 31. HEALTH  
CHAPTER 7. REGULATION AND CONSTRUCTION OF HOSPITALS AND OTHER HEALTH CARE FACILITIES  
ARTICLE 5. RESIDENTIAL CARE FACILITIES FOR THE ELDERLY AUTHORITIES

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O.C.G.A. § 31-7-110 (2010)

§ 31-7-110. Short title

This article shall be known and may be cited as the "Residential Care Facilities for the Elderly Authorities Act."

**HISTORY:** Ga. L. 1980, p. 1466, § 1.

O.C.G.A. § 31-7-111 (2010)

§ 31-7-111. Findings; declaration of policy

(a) It is found, determined, and declared that:

(1) There exists in this state a seriously inadequate supply of and a critical need for facilities which can furnish the comprehensive services required by elderly persons in a single location, including, without limitation, residential care and the types of services provided in skilled nursing homes, intermediate care homes, and personal care homes (hereinafter referred to as "residential care facilities for the elderly");

(2) The aforesaid shortage of residential care facilities for the elderly is threatening to the safety, health, convenience, and welfare of certain elderly citizens; and

(3) An adequate supply of residential care facilities for the elderly to provide the special facilities and services needed by elderly persons cannot be provided through the ordinary operation of private enterprise, and therefore the involvement of a public agency, as is contemplated in this article, in such an undertaking would not be competitive with private enterprise.

Accordingly, it is determined that it is a valid public purpose, as a matter of public health, safety, convenience, and welfare, to assist in providing residential care facilities for the elderly.

(b) It is further found and declared that the creation of the authorities, as provided in this article, in the cities and counties of this state and the carrying out by such authorities of the corporate powers conferred in this article in connection with providing an adequate supply of residential care facilities for the elderly are in all respects for the benefit of the people of this state and a public purpose within the meaning of the Constitution of Georgia in that:

(1) Providing an adequate supply of residential care facilities for the elderly for the people of this state is necessary to the public health and welfare; and

(2) The development and stimulation of trade and commerce in this state is vital to the public welfare, creates employment opportunities, and lessens unemployment and underemployment.

**HISTORY:** Ga. L. 1980, p. 1466, § 2.

O.C.G.A. § 31-7-112 (2010)

§ 31-7-112. Definitions

As used in this article, the term:

(1) "Authority" means each public corporation created pursuant to this article.

(2) "Cost of project" includes:

(A) All costs of construction, purchase, or other form of acquisition;

(B) All costs of real or personal property required for the purposes of the project and of all facilities related thereto and the cost of extinguishing any liens or security interests related to the property so acquired, including land and any rights or undivided interest therein; easements, franchises, water rights, fees, permits, approvals, licenses, and certificates; the securing of such franchises, permits, approvals, licenses, and certificates; and the preparation of applications therefor;

(C) Costs of all machinery, equipment, initial fuel, and other supplies required for the project;

(D) Financing charges, interest prior to and during construction and for six months thereafter;

(E) Costs of engineering, architectural, and legal services;

(F) Fees paid to fiscal agents for financial and other advice or supervision;

(G) Costs of plans and specifications and all expenses necessary or incidental to the construction, purchase, or acquisition of the project or to determining the feasibility or practicability of the project; and

(H) Administrative expenses and such other expenses as may be necessary or incidental to the financing authorized in this article.

There may also be included, as part of the cost of a project, the repayment of any loans made for the advance payment of any part of such cost, including interest thereon at rates to be determined by the authority, which loans are authorized if made payable solely from the proceeds of the authority's bonds or notes or revenues to be received in connection with the leasing, sale, or financing of the project. The cost of a project may also include a fund or funds for the creation of a debt service reserve, a renewal and replacement reserve, and such other reserves as may be reasonably required by the authority with respect to the financing and operation of any project and as may be authorized by any bond resolution or trust agreement or indenture pursuant to the provisions of which the issuance of any such bonds may be authorized. Any obligation or expense incurred for any of the foregoing purposes shall be paid or reimbursed as a part of the cost of the project out of the proceeds of revenue bonds or notes issued under this article.

(3) "County" means any county of this state.

(4) "Eligible persons" means persons who have reached the age of 62 years and who have need for housing which provides the special facilities and services required by elderly persons and who meet the criteria for eligibility set forth in rules and regulations which are from time to time promulgated by the authority pursuant to the grant of authority so to do which is contained in subsection (b) of Code Section 31-7-114.

(5) "Governing body" means the elected or duly appointed officials constituting the governing body of each municipal corporation and county in this state.

(6) "Municipal corporation" means each city and town in this state.

(7) "Project" or "residential care facility for the elderly" means:

(A) Any one or more buildings or structures to be used in providing at a single location the comprehensive services required by the elderly, including, without limitation, residential care and the types of services provided in skilled nursing homes, intermediate care homes, and personal care homes supplied with all necessary or useful furnishings, machinery, equipment, parking facilities, landscaping, and facilities for outdoor storage, all as determined by the authority, which determination shall be final and not subject to review; provided, however, that no single project or residential care facility shall be required to render all types of services and levels of care referred to above. There may be included as part of any such project all improvements necessary to the full utilization thereof, including, without limitation, site preparation; roads and streets; sidewalks; water supply; outdoor lighting; belt line railroad; railroad sidings and lead tracks; bridges; causeways; terminals for railroad, automotive, and air transportation; transportation facilities incidental to the project; and the dredging and improving of harbors and waterways. However, none of the aforementioned improvements shall be the primary purpose of any project;

(B) The acquisition, construction, leasing, or equipping of new residential care facilities for the elderly or the improvement, modification, acquisition, expansion, modernization, leasing, equipping, or remodeling of existing residential care facilities for the elderly located or to be located within the area of operation of the authority; and

(C) The acquisition, construction, improvement, or modification of any property, real or personal, which any qualified sponsor might desire to use, acquire, or lease in connection with the operation of any project located or to be located within the area of operation of the authority.

(8) "Qualified sponsor" means any nonprofit corporation which has met criteria established by the authority and which has undertaken to provide residential care facilities for the elderly which will be available for sale or rent to eligible persons.

**HISTORY:** Ga. L. 1980, p. 1466, § 3.

O.C.G.A. § 31-7-113 (2010)

§ 31-7-113. Creation of Residential Care Facilities for the Elderly Authority in each county and municipality; board of directors

(a) There is created in and for each county and municipal corporation in this state a public body corporate and politic to be known as the "Residential Care Facilities for the Elderly Authority" of such county or municipal corporation.

(b) Each authority shall consist of a board of seven directors to be appointed by resolution of the governing body of such county or municipal corporation for initial terms of two, four, and six years and thereafter for staggered terms of six years. The governing body of the municipality or county shall initially elect two directors for two years, two directors for four years, and three directors for six years; and thereafter the terms of all directors shall be six years. If at the end of any term of office of any director a successor thereto shall not have been elected, the director whose term of office shall have expired shall continue to hold office until his successor shall be so elected. A majority of the directors shall constitute a quorum but no action may be taken by the board without the affirmative vote of a majority of the full membership of the board.

(c) The directors shall be taxpayers residing in the county or municipal corporation for which the authority is created, and their successors shall be appointed as provided by the resolution described in subsection (b) of this Code section. No director shall be an officer or employee of the county or municipal corporation. The directors shall elect one of their number as chairman and another as vice-chairman and shall also elect a secretary and a treasurer or a secretary-treasurer, any of whom may but need not be a director. The directors shall receive no compensation for their services but shall be reimbursed for their actual expenses incurred in the performance of their duties.

(d) No authority shall transact any business or exercise any powers under this article until the governing body of the county or municipal corporation shall, by proper resolution, declare that there is a need for an authority to function in such county or municipal corporation. A copy of the resolution shall be filed with the Secretary of State, who shall maintain a record of all authorities activated under this article.

(e) The authority may make bylaws and regulations for its governance and may delegate to one or more of its officers, agents, and employees such powers and duties as may be deemed necessary and proper. The authority shall have perpetual existence.

**HISTORY:** Ga. L. 1980, p. 1466, §§ 4, 5.

O.C.G.A. § 31-7-114 (2010)

§ 31-7-114. Powers of authorities

(a) Each authority shall have all of the powers necessary or convenient to carry out and effectuate the purposes and provisions of this article, including, but without limiting the generality of the foregoing, the power:

(1) To bring and defend an action;

(2) To adopt and amend a corporate seal;

(3) To make and execute contracts and other instruments necessary to exercise the powers of the authority, any of which contracts may be made with the county in which the authority is located or with any one or more municipal corporations in such county; and each such county and all municipal corporations therein are authorized to enter into contracts with each authority;

(4) To receive and administer gifts, grants, and devises of any property and to administer trusts;

(5) To acquire by purchase, gift, or construction any real or personal property desired to be acquired by the authorities as part of any project or for the purpose of improving, extending, adding to, reconstructing, renovating, or remodeling any project or part thereof already acquired, or for the purpose of demolition to make room for such project or any part thereof;

(6) To purchase, sell, lease, exchange, transfer, assign, pledge, mortgage, or dispose of, or grant options for any such purposes, any real or personal property or interest therein;

(7) To mortgage, convey, pledge, or assign any properties, revenues, income, tolls, charges, or fees owned, received, or to be received by the authority;

(7.1) To invest and reinvest the funds of the authority in any investment which a domestic insurer may lawfully invest in, to determine the allocation of funds among investments, and to purchase, hold, sell, assign, transfer, and dispose of any securities and other investments in which funds of the authority have been invested, any proceeds of any investments, and any money belonging to the authority;

(7.2) To provide grants, scholarships, loans, or other assistance to students pursuing a course of study relating to gerontology with particular emphasis on residential care and housing facilities for the elderly, subject to such bylaws and regulations as may be made by the authority;

(8) To appoint officers and retain agents, engineers, attorneys, fiscal agents, accountants, and employees and to provide for their compensation and duties;

(9) To extend credit or make loans to any qualified sponsor for the planning, design, construction, acquisition, or carrying out of any project, which credit or loans shall be secured by loan agreements, mortgages, security agreements, contracts, and all other instruments or fees or charges, upon such terms and conditions as the authority shall determine to be reasonable, including provision for the establishment and maintenance of reserves and insurance funds; and, in the exercise of powers granted by this Code section in connection with a project for a qualified sponsor, to require the inclusion in any contract, loan agreement, security agreement, or other instrument such provisions for guaranty, insurance, construction, use, operation, maintenance, and financing of the project as the authority may deem necessary or desirable;

(10) To acquire, accept, or retain equitable interests, security interests, or other interest in any property, real or personal, by mortgage, assignment, security agreement, pledge, conveyance, contract, lien, loan agreement, or other consensual transfer in order to secure the repayment of any moneys loaned or credit extended by the authority;

(11) To construct, acquire, own, repair, remodel, maintain, extend, improve, and equip projects located on land owned or leased by the authority or land owned or leased by others and to pay all or part of the cost of any such project from the proceeds of revenue bonds of the authority or from any contribution or loans by a qualified sponsor, all of which the authority is authorized to receive, accept, and use;

(12) To borrow money and to issue its revenue bonds and bond anticipation notes from time to time and use the proceeds thereof for the purpose of paying all or part of the cost of any project, including the cost of extending, adding to, or improving such project or for the purpose of refunding or refinancing any such bonds of the authority theretofore issued or any other outstanding obligations of the authority; and otherwise to carry out the purposes of this article and to pay all other costs of the authority incident to, or necessary and appropriate to, such purposes, including the provision of moneys to be paid into any fund or funds to secure such bonds and notes; provided, however, that all such bonds and notes shall be issued in accordance with the procedures and subject to the limitations set forth in subsections (a) through (h) of Code Section 31-7-116;

(13) To pledge, mortgage, convey, assign, hypothecate, or otherwise encumber any property, real or personal, of the authority as security for repayment of authority obligations and to execute any trust agreement, indenture, or security agreement containing any provisions not in conflict with law, which trust agreement, indenture, or security agreement may provide for foreclosure or forced sale of any property of the authority upon default on such obligations either in payment of principal or interest or in the performance of any term or condition contained in the agreement or indenture. The state on behalf of itself and each county, municipal corporation, political subdivision, or taxing district therein waives any right that it or such county, municipal corporation, political subdivision, or taxing district may have to prevent the forced sale or foreclosure of any property of the authority so mortgaged or encumbered; and any such mortgage or encumbrance may be foreclosed in accordance with law and the terms thereof; and

(14) To do all things necessary or convenient to carry out the powers expressly conferred by this article.

(b) The authority shall adopt and promulgate rules and regulations which establish and prescribe criteria for determining eligible persons and qualified sponsors for the purposes of this article.

**HISTORY:** Ga. L. 1980, p. 1466, § 6; Ga. L. 1985, p. 149, § 31; Ga. L. 1997, p. 1501, § 1.

O.C.G.A. § 31-7-115 (2010)

§ 31-7-115. Lease or sale of projects

No project acquired under this article shall be operated by an authority, any municipal corporation, county, or other governmental subdivision; but such projects shall be leased or sold to one or more qualified sponsors. If revenue bonds or other obligations are to be issued to pay all or part of the cost of such project, the project must be so leased or the contract for its sale entered into prior to or simultaneously with the issuance of such bonds or obligations unless the proceeds of the revenue bonds or other obligations are to be loaned to a qualified sponsor in connection with the development of a project, in which case an appropriate loan agreement shall be entered into prior to or simultaneously with the issuance of such bonds or obligations. If the project is sold, the purchase price may be paid at one time or in installments falling due over not more than 40 years from the date of transfer of possession. The lessee or purchaser shall be required to pay all costs of operating and maintaining the leased or purchased property and to pay rentals or installments in amounts sufficient to pay the principal of and interest and premium, if any, on all of its bonds and other obligations as the principal and interest become due.

**HISTORY:** Ga. L. 1980, p. 1466, § 7.

O.C.G.A. § 31-7-116 (2010)

§ 31-7-116. Provisions contained in obligations and security for obligations; procedures for issuance of bonds and bond anticipation notes; interest rates; limitations and conditions

(a) The obligations of any authority evidenced by bonds, bond anticipation notes, trust indentures, deeds to secure obligations, security agreements, or mortgages executed in connection therewith may contain such provisions not inconsistent with law as shall be determined by the board of directors of the authority. Such instruments may provide for the pledging of all or any part of the revenues of the authority and for the mortgaging, encumbering, or conveying of all or any part of its real or personal property; may covenant against pledging any or all of its revenues, income, or charges; and may further provide for the disposition of proceeds realized from the sale of any bonds and bond anticipation notes, for the replacement of lost, destroyed, stolen, or mutilated bonds and notes and for the payment and redemption of such bonds and notes. Undertakings of an authority may prescribe the procedure by which bondholders and noteholders may enforce rights against the authority and may provide for rights upon breach of any covenant, condition, or obligation of the authority. Bonds, resolutions, trust indentures, mortgages, or deeds to secure obligations executed by an authority and bond anticipation notes executed by an authority may contain such provisions not otherwise contrary to law as the authority shall deem necessary or desirable.

(b) The proceeds derived from the sale of any bonds or bond anticipation notes issued by an authority shall be held and used for the ultimate purpose of paying, directly or indirectly as permitted in this article, all or part of the cost of any project or for the purpose of refunding any bond anticipation notes issued in accordance with this article or refunding any previously issued bonds of the authority.

(c) All bonds and bond anticipation notes issued by an authority shall be revenue obligations of such authority and may be made payable out of any revenues or other receipts, funds, or moneys of the authority, subject only to any agreements with the holders of other bonds or bond anticipation notes or to particular security agreements pledging any particular revenues, receipts, funds, moneys, or other property.

(d) Issuance by any authority of one or more series of bonds or bond anticipation notes for one or more purposes shall not preclude the authority from issuing other bonds or notes in connection with the same project or in connection with any other projects; provided, however, that the proceeding wherein any subsequent bonds or bond anticipation notes shall be issued shall recognize and protect any prior pledge or mortgage made in any prior security agreement or made for any prior issue of bonds or bond anticipation notes unless, in the resolution authorizing such prior issue, the right is expressly reserved to the authority to issue subsequent bonds or bond anticipation notes on a parity with such prior issue.

(e) An authority shall have the power and is authorized, whenever revenue bonds of the authority shall have been validated as provided in this article, to issue from time to time its notes in anticipation of the issuance of such bonds as validated and to renew from time to time any such notes by the issuance of new notes, whether the notes to be renewed have or have not matured. The authority may issue notes only to provide funds which would otherwise be provided by the issuance of the bonds as validated. The notes may be authorized, sold, executed, and delivered in the same manner as bonds. As with its bonds, an authority may sell such notes at public or private sale. Any resolution or resolutions authorizing notes of an authority or any issue thereof may contain any provisions which an authority is authorized to include in any resolution or resolutions authorizing bonds of an authority or any issue thereof, and an authority may include in any notes any terms, covenants, or conditions which it is authorized to include in any bonds. Validation of such bonds shall be a condition precedent to the issuance of such notes, but it shall not be required that such notes be judicially validated. Bond anticipation notes shall not be issued in an amount exceeding the par value of the bonds in anticipation of which they are to be issued.

(f) The interest rate on or rates to be borne by any bonds, notes, or obligations issued by the authority shall be fixed by the board of directors of the authority and any limitations with respect to interest rates found in Article 3 of Chapter 82 of Title 36 or in the usury laws of this state shall not apply to obligations issued under this article.

(g) All revenue bonds issued by an authority under this article shall be issued and validated under and in accordance with the procedure therefor set forth in Article 3 of Chapter 82 of Title 36, as heretofore and hereafter amended, except as specifically set forth in this subsection:

(1) Revenue bonds issued by an authority may be in such form, either coupon or fully registered, or both coupon and fully registered, and may be subject to such exchangeability and transferability provisions as the bond resolution authorizing the issuance of such bonds or any indenture or trust agreement may provide;

(2) The signature of the clerk of the superior court in which any bonds are validated on the certificate of validation of such bonds may be affixed by facsimile or by manual execution; such entry shall be original evidence of the fact of the validation of any bond and shall be received as original evidence in any court in this state;

(3) In lieu of specifying the rate or rates of interest which revenue bonds to be issued by an authority are to bear, the notice to the district attorney or the Attorney General and the notice to the public of the time, place, and date of the validation hearing may state that the bonds when issued will bear interest at a rate not exceeding a maximum per annum rate of interest specified in such notices or, in the event the bonds are to bear different rates of interest for different maturity dates, that none of such rates will exceed the maximum rate specified in the notices. Nothing contained in this paragraph shall be construed as prohibiting or restricting the right of the authority to sell such bonds at a discount, even if in so doing the effective interest cost resulting therefrom would exceed the maximum per annum interest rate specified in such notices; and

(4) The term "cost of project" shall have the meaning prescribed in paragraph (2) of Code Section 31-7-112 whenever referred to in bond resolutions of an authority, bonds and bond anticipation notes issued by an authority, or notices and proceedings to validate such bonds.

(h) Before issuing any bonds to finance any project, the authority shall obtain from the qualified sponsor of the project an undertaking that only eligible persons will be permitted to use or acquire any of the facilities constituting a part of the project or to enjoy or benefit from any of the services to be rendered in connection with any such project.

(i) No bonds or bond anticipation notes except refunding bonds shall be issued by an authority under this article unless its board of directors shall adopt a resolution finding that the project for which such bonds or notes are to be issued will promote the objectives stated in subsection (b) of Code Section 31-7-111 and will increase or maintain employment in the territorial area of such authority. Nothing contained in this Code section shall be construed as permitting any authority created under this article or any qualified sponsor to finance, construct, or operate any project without obtaining any certificate of need or other approval, permit, or license which, under the laws of this state, is required in connection therewith.

**HISTORY:** Ga. L. 1980, p. 1466, §§ 8, 9.

O.C.G.A. § 31-7-117 (2010)

§ 31-7-117. Liability for bonds or other obligations

No bonds or other obligations of and no indebtedness incurred by any authority shall constitute an indebtedness or obligation of the state or any county, municipal corporation, or political subdivision thereof; nor shall any act of any authority in any manner constitute or result in the creation of an indebtedness of the state or any such county, municipal corporation, or political subdivision. All such bonds and obligations shall be payable solely from the revenues therein pledged to such payment, including pledged rentals, sales proceeds, insurance proceeds, and condemnation awards. No holder or holders of any such bonds or obligations shall ever have the right to compel any exercise of the taxing power of the state or any county, municipal corporation, or political subdivision thereof nor to enforce the payment thereof against any property of the state or any such county, municipal

corporation, or political subdivision.

**HISTORY:** Ga. L. 1980, p. 1466, § 11.

O.C.G.A. § 31-7-118 (2010)

§ 31-7-118. Exemption from taxation

(a) Each authority created under this article is created for nonprofit and public purposes, and it is found, determined, and declared that:

(1) The creation of each such authority and the carrying out of its corporate purposes are in all respects for the benefit of the people of this state;

(2) The authority is an institution of purely public charity and will be performing an essential governmental function in the exercise of the powers conferred upon it by this article; and for such reasons, the state covenants with the holders of the bonds issued under this article that the authority shall be required to pay no taxes or assessments imposed by the state or any of its counties, municipal corporations, political subdivisions, or taxing districts upon any property acquired by the authority or under its jurisdiction, control, possession, or supervision or leased by it to others or upon its activities in the operation or maintenance of any such property or on any income derived by the authority in the form of fees, recording fees, rentals, charges, purchase price, installments, or otherwise; and

(3) The bonds of the authority, their transfer, and the income derived therefrom shall at all times be exempt from taxation within the state.

(b) The tax exemption provided in this Code section shall not include any exemption from sales and use tax on property purchased by the authority or for use by the authority.

**HISTORY:** Ga. L. 1980, p. 1466, § 12; Ga. L. 1985, p. 149, § 31.

O.C.G.A. § 31-7-119 (2010)

§ 31-7-119. Holding moneys as trust funds; pledges for payment of bonds

(a) All moneys received pursuant to the authority of this article, whether as proceeds from the sale of revenue bonds or other obligations, as grants or other contributions, or as revenues and earnings, shall be deemed to be trust funds to be held and applied solely as provided in this Code section. In the resolution providing for the issuance of revenue bonds or in the trust indenture, the authority shall provide for the payment of the proceeds of the sale of the bonds, earnings, and revenues to be received to any officer who, or any agency, bank, or trust company which, shall act as trustee of such funds and shall hold and apply the same to the purposes of this article, subject to the provisions of this article and the provisions of any such resolution or any trust indenture.

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

**HISTORY:** Ga. L. 1980, p. 1466, § 13.

O.C.G.A. § 31-7-120 (2010)

§ 31-7-120. Construction of article

This article shall be liberally construed to effect the purposes hereof, and insofar as this article may be inconsistent with any other law, including the charter of any municipal corporation, this article shall be controlling. The sale or issuance of bonds by any authority shall not be subject to regulation under Chapter 5 of Title 10 or any other law. No proceeding or publication not required by this article shall be necessary to the performance of any act authorized in this article, nor shall any such act be subject to referendum.

**HISTORY:** Ga. L. 1980, p. 1466, § 10; Ga. L. 1985, p. 149, § 31.