

BONDS

CHAPTER 99

H. B. No. 183—(Freitag and Thoreson)

RELATING TO BONDS FOR CERTAIN PUBLIC DEPOSITS

An Act authorizing County, Municipal, Township and School Board officials to waive the furnishing of surety or personal bonds, where such funds are insured in the Federal Deposit Insurance Corporation, and repealing all Acts or parts of Acts in conflict herewith.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. NO BONDS REQUIRED. WHEN.] That whenever it shall be made to appear that any County, City, Village, or School Board in the State of North Dakota has designated a bank for deposits of funds belonging to said political sub-division and said bank has complied with the provisions of the Act relating to guarantee of deposits in State and National banks no bond shall be required of said bank to secure the deposits of any part of said public funds up to the amount the deposit is secured in said bank under said Federal Act.

§ 2. BONDS REQUIRED. WHEN.] If it shall at any time be made to appear that the benefit of the Federal Act guaranteeing deposits in banks has been withdrawn from the bank in which any of public funds are deposited, it shall be the duty of the Board having control of or supervision over such public funds, to immediately withdraw the full amount thereof from said bank, or to forthwith require the usual bond now required to secure the deposits of such public funds and it shall be unlawful to continue any bank as a depositor of public funds unless and until said bonds shall have been furnished.

§ 3. REPEAL.] All Acts or parts of Acts, to the extent that they are in conflict herewith, are hereby repealed.

Approved March 17, 1937.

CHAPTER 100

S. B. No. 142—(Guthrie, Ettestad and Cain)

CONTRACTORS BONDS ON PUBLIC IMPROVEMENTS

An Act to amend and re-enact Chapter 81 of the Session Laws for the year 1933, relating to bonds from contractors on public improvements; repealing Section 6835 of the Compiled Laws for the year 1913, and all Acts and parts of Acts in conflict herewith and declaring an emergency.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. AMENDMENT.] That Chapter 81 of the Session Laws of

1933, be and the same is hereby amended and re-enacted to read as follows:

§ 6832. BONDS FROM CONTRACTORS ON PUBLIC IMPROVEMENTS.] It shall be the duty of every public officer or board authorized to enter into a contract for the erection, repair or alteration of any public building, or any other public improvement, except municipal improvements made under special assessment statutes, before permitting any work to be done on such contract, to take from the contractor a good and sufficient bond for an amount at least equal to the price stated in the contract, conditioned to be void if the contractor and all sub-contractors shall fully perform all terms, conditions and provisions of the contract and shall pay all bills or claims on account of labor or materials, or supplies used for machinery and motor power equipment, performed, furnished and used in and about the performance of said contract, including all demands of sub-contractors, said bond to stand as security for all such bills, claims and demands until the same are fully paid, labor and material men to have preference as to payment. Said bond shall run to the State of North Dakota, but any person having a lawful claim against the contractor, or any sub-contractor, as provided in this Act, on account of labor, materials or supplies, or for a breach of said contract may sue in his own name on said bond with like effect as though said bond were payable to him.

§ 2. REPEAL.] That Section 6835 of the Compiled Laws for the year 1913 is hereby repealed, also all Acts and parts of Acts in conflict herewith.

§ 3. EMERGENCY.] An emergency is hereby declared to exist, and this Act shall be in full force and effect from and after its passage and approval.

Approved March 11, 1937.

CHAPTER 101

H. B. No. 334—(Schauss)

AUTHORIZATION COUPON BONDS

An Act authorizing the exchange of coupon bonds for registered bonds of the State of North Dakota.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. Any registered bond of the State of North Dakota of any series may be exchanged for substitute unregistered Bonds under the provisions of the Act. The owner or assignee may present registered bonds to the State Treasurer with a written request for exchange and pay to the State Treasurer a fee of \$1.00 per bond, and also the cost

of printing such bond. The issuance of substitute bonds shall thereupon be authorized by resolution of the Industrial Commission, identifying by serial number and description the bonds offered for exchange and the substitute bonds. The Treasurer shall cause substitute bonds to be prepared which shall be of the same denomination and bear the same serial number and maturity as the surrendered bonds, and shall be in identical form except that each shall have on the margin the following notation: "Substituted for original registered bond under resolution of the Industrial Commission this. day of., 19. . . .". There shall be inserted in the notation of the date of the resolution. Each substitute bond shall be executed and attested by the officers in office on the date of such marginal notation and the certificate endorsed thereon shall be signed by the Auditor and Secretary of State then in office, and shall have coupons attached representing unpaid interest to maturity which may be executed by the facsimile signature or signatures of the officers in office on the date of the original issue or of the corresponding officer or officers in office on the date of substitution, but if the latter signatures shall be used then the coupons shall recite the fact and date of substitution. The substitute bonds may be delivered in person or by registered mail or express to the registered owner of the surrendered bonds or the assignee thereof. Simultaneously with such delivery, the surrendered bonds shall be cancelled and a notation shall be made thereon that substitute bonds have been issued, and shall be retained by the Treasurer until the maturity date thereof. Substitute bonds shall be fully negotiable and shall entitle the holder thereof to all rights of a holder for value of the original bond.

Approved March 9, 1937.

CHAPTER 102

S. B. No. 114—(Strehlow, Guthrie and Lowe)

HOUSING AUTHORITIES LAW

An Act to declare the necessity of creating public bodies corporate and politic to be known as housing authorities to undertake slum clearance and projects to provide dwelling accommodations for persons of low income; to create such housing authorities in cities having a population of more than 5,000 inhabitants and in Counties; to define the powers and duties of housing authorities and to provide for the exercise of such powers, including acquiring property, borrowing money, issuing bonds and other obligations, and giving security therefor; to provide that housing authorities may obtain the Attorney General's opinion upon their bonds; to provide that housing authorities, their property and securities shall be exempt from taxation and assessment, but to authorize certain payments in lieu of taxes; to confer remedies on obligees of housing authorities; and to declare an emergency.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. SHORT TITLE.] This Act may be referred to as the "Housing Authorities Law."

§ 2. FINDING AND DECLARATION OF NECESSITY.] It is hereby declared: (a) that there exist in the State insanitary or unsafe dwelling accommodations and that persons of low income are forced to reside in such insanitary or unsafe accommodations; that within the State there is a shortage of safe or sanitary dwelling accommodations available at rents which persons of low income can afford and that such persons are forced to occupy over crowded and congested dwelling accommodations; that the aforesaid conditions cause an increase in and spread of disease and crime and constitute a menace to the health, safety, morals and welfare of the residents of the State and impair economic values; that these conditions necessitate excessive and disproportionate expenditures of public funds for crime prevention and punishment, public health and safety, fire and accident protection, and other public services and facilities; (b) that slum areas in the State cannot be cleared, nor can the shortage of safe and sanitary dwellings for persons of low income be relieved, through the operation of private enterprise, and that the construction of housing projects for persons of low income (as herein defined) would therefore not be competitive with private enterprise; (c) that the clearance, replanning and reconstruction of the areas in which insanitary or unsafe housing conditions exist and the providing of safe and sanitary dwelling accommodations for persons of low income are public uses and purposes for which public money may be spent and private property acquired and are governmental functions of State concern; (d) that it is in the public interest that work on projects for such purposes be commenced as soon as possible in order to relieve unemployment which now constitutes an emergency; and the necessity in the public interest for the provisions hereinafter enacted, is hereby declared as a matter of legislative determination.

§ 3. DEFINITIONS.] The following terms, wherever used or referred to in this Act, shall have the following respective meanings, unless a different meaning clearly appears from the context:

(a) "Authority" or "Housing Authority" shall mean any of the public corporations created by Section 4 of this Act.

(b) "City" shall mean any city having population of more than 5000 inhabitants (according to the last Federal or State Census). "County" shall mean any County in the State. "The City" shall mean the particular city for which a particular housing authority is created. "The County" shall mean the particular County for which a particular housing authority is created.

(c) "Governing body" shall mean, in the case of a city, the city council, or the board of city commissioners, or other legislative

body charged with governing the city (as the case may be), and in the case of a County, the Board of County Commissioners or the chairmen of the township boards, or the other legislative body charged with governing the County (as the case may be.)

(d) "Mayor" shall mean the Mayor of the city or the officer thereof charged with the duties customarily imposed on the Mayor or executive head of the city.

(e) "Clerk" shall mean the clerk of the city or the clerk of the County, as the case may be, or the officer charged with the duties customarily imposed on such clerk.

(f) "Area of Operation:" (1) in the case of a housing authority of a city having a population of less than 15,000 inhabitants, shall include such city and the area within five miles of the territorial boundaries thereof; (2) in the case of a housing authority of a city having a population of 15,000 inhabitants or more shall include such city and the area within ten miles from the territorial boundaries thereof; provided, however, that the area of operation of a housing authority of any city shall not include any area which lies within the territorial boundaries of some other city as herein defined; (3) in the case of a housing authority of a County, shall include all of the County except that portion which lies within the territorial boundaries of any city as herein defined.

(g) "Federal Government" shall include the United States of America, the Federal Emergency Administration of Public Works or any other agency or instrumentality, corporate or otherwise, of the United States of America.

(h) "Slum" shall mean any area where dwellings predominate which, by reason of dilapidation, overcrowding, faulty arrangement or design, lack of ventilation, light or sanitary facilities, or any combination of these factors, are detrimental to safety, health and morals.

(i) "Housing Project" shall mean any work or undertaking: (1) to demolish, clear, or remove buildings from any slum area; such work or undertaking may embrace the adaptation of such area to public purposes, including parks or other recreational or community purposes; or (2) to provide decent, safe and sanitary urban or rural dwellings, apartments or other living accommodations for persons of low income; such work or undertaking may include buildings, land, equipment, facilities and other real or personal property for necessary, convenient or desirable appurtenances, streets, sewers, water service, parks, site preparations, gardening, administrative, community, health, recreational, educational, welfare or other purposes; or (3) to accomplish a combination of the foregoing. The term "housing project" also may be applied to the planning of the buildings and improvements, the acquisition of property, the demolition of existing structures, the construction, reconstruction, alteration and repair of the improvements and all other work in connection therewith.

(j) "Persons of low income" shall mean persons or families who lack the amount of income which is necessary (as determined by the authority undertaking the housing project) to enable them, without financial assistance, to live in decent, safe and sanitary dwellings, without overcrowding.

(k) "Bonds" shall mean any bonds, notes, interim certificates, debentures, or other obligations issued by an authority pursuant to this Act.

(l) "Real property" shall include all lands, including improvements and fixtures thereon, and property of any nature appurtenant thereto, or used in connection therewith, and every estate, interest and right, legal or equitable, therein, including terms for years and liens by way of judgment, mortgage or otherwise and the indebtedness secured by such liens.

(m) "Obligee of the authority" or "obligee" shall include any bondholder, trustee or trustees for any bondholders, or lessor demising to the authority property used in connection with a housing project, or any assignee or assignees of such lessor's interest or any part thereof, and the Federal Government when it is a party to any contract with the authority.

§ 4. CREATION OF HOUSING AUTHORITIES.] In each city (as herein defined) and in each County of the State there is hereby created a public body corporate and politic to be known as the "Housing Authority" of the City or County; provided, however, that such authority shall not transact any business or exercise its powers hereunder until or unless the governing body of the City or the County, as the case may be, by proper resolution shall declare at any time hereafter that there is need for an authority to function in such City or County. The determination as to whether there is such need for an authority to function (a) may be made by the governing body on its own motion or (b) shall be made by the governing body upon the filing of a petition signed by twenty-five residents of the City or County, as the case may be, asserting that there is need for an authority to function in such City or County and requesting that the governing body so declare.

The governing body shall adopt a resolution declaring that there is need for a housing authority in the City or County, as the case may be, if it shall find (a) that insanitary or unsafe inhabited dwelling accommodations exist in such City or County or (b) that there is a shortage of safe or sanitary dwelling accommodations in such City or County available to persons of low income at rentals they can afford. In determining whether dwelling accommodations are unsafe or insanitary said governing body may take into consideration the degree of overcrowding, the percentage of land coverage, the light, air, space and access available to the inhabitants of such dwelling accommodations, the size and arrangement of the rooms, the sanitary facilities, and the extent to which conditions exist in such buildings which endanger life or property by fire or other causes.

In any suit, action or proceeding involving the validity or enforcement of or relating to any contract of the authority, the authority shall be conclusively deemed to have become established and authorized to transact business and exercise its powers hereunder upon proof of the adoption of a resolution by the governing body declaring the need for the authority. Such resolution or resolutions shall be deemed sufficient if it declares that there is such need for an authority and finds in substantially the foregoing terms (no further detail being necessary) that either or both of the above enumerated conditions exist in the City or County, as the case may be. A copy of such resolution duly certified by the Clerk shall be admissible in evidence in any suit, action or proceeding.

§ 5. APPOINTMENT, QUALIFICATIONS AND TENURE OF COMMISSIONERS.] When the governing body of a city adopts a resolution as aforesaid, it shall promptly notify the Mayor of such adoption. Upon receiving such notice, the Mayor shall appoint five persons as Commissioners of the Authority created for said City. When the governing body of a County adopts a resolution as aforesaid, said body shall appoint five persons as Commissioners of the Authority created for said County. The Commissioners who are first appointed shall be designated to serve for terms of one, two, three, four and five years, respectively, from the date of their appointment, but thereafter Commissioners shall be appointed as aforesaid for a term of office of five years except that all vacancies shall be filled for the unexpired term. No Commissioner of an authority may be an officer or employee of the City or County for which the authority is created. A Commissioner shall hold office until his successor has been appointed and has qualified. A certificate of the appointment or reappointment of any Commissioner shall be filed with the Clerk and such certificate shall be conclusive evidence of the due and proper appointment of such Commissioner. A Commissioner shall receive no compensation for his services, but he shall be entitled to the necessary expenses, including traveling expenses, incurred in the discharge of his duties.

The powers of each Authority shall be vested in the Commissioners thereof in office from time to time. Three Commissioners shall constitute a quorum of the Authority for the purpose of conducting its business and exercising its powers and for all other purposes. Action may be taken by the Authority upon a vote of a majority of the Commissioners present, unless in any case the by-laws of the Authority shall require a larger number. The Mayor (or in the case of an Authority for a County, the governing body of the County) shall designate which of the Commissioners appointed shall be the first chairman, but when the office of the chairman of the Authority thereafter becomes vacant, the Authority shall select a chairman from among its Commissioners. An Authority shall select from among its Commissioners a vice-chairman, and it may employ a secretary (who shall be executive director), technical experts and such other officers,

agents and employees, permanent and temporary, as it may require, and shall determine their qualifications, duties and compensation. For such legal services as it may require, an authority may call upon the chief law officer of the City or the County or may employ its own counsel and legal staff. An Authority may delegate to one or more of its agents or employees such powers or duties as it may deem proper.

§ 6. INTERESTED COMMISSIONERS OR EMPLOYEES.] No Commissioner or employee of an Authority shall acquire any interest direct or indirect in any housing project or in any property included or planned to be included in any project, nor shall he have any interest direct or indirect in any contract or proposed contract for materials or services to be furnished or used in connection with any housing project. If any Commissioner or employee of an Authority owns or controls an interest direct or indirect in any property included or planned to be included in any housing project, he immediately shall disclose the same in writing to the Authority and such disclosure shall be entered upon the minutes of the Authority. Failure so to disclose such interest shall constitute misconduct in office.

§ 7. REMOVAL OF COMMISSIONERS.] For inefficiency or neglect of duty or misconduct in office, a Commissioner of an Authority may be removed by the Mayor (or in the case of an Authority for a County, by the governing body of said County), but a Commissioner shall be removed only after he shall have been given a copy of the charges at least 10 days prior to the hearing thereon and had an opportunity to be heard in person or by counsel. In the event of the removal of any Commissioner, a record of the proceedings, together with the charges and findings thereon, shall be filed in the office of the Clerk.

§ 8. POWERS OF AUTHORITY.] An Authority shall constitute a public body corporate and politic, exercising public and essential governmental functions, and having all the powers necessary or convenient to carry out and effectuate the purposes and provisions of this Act, including the following powers in addition to others herein granted:

(a) To sue and be sued; to have a seal and to alter the same at pleasure; to have perpetual succession; to make and execute contracts and other instruments necessary or convenient to the exercise of the powers of the Authority; and to make and from time to time amend and repeal by-laws, rules and regulations, not inconsistent with this Act, to carry into effect the powers and purposes of the Authority.

(b) Within its area of operation: to prepare, carry out, acquire, lease and operate housing projects; to provide for the construction, reconstruction, improvement, alteration or repair of any housing project or any part thereof.

(c) To arrange or contract for the furnishing by any person or agency, public or private, of services, privileges, works, or facilities for, or in connection with, a housing project or the occupants thereof; and (notwithstanding anything to the contrary contained in this Act or in any other provision of law) to include in any contract let in connection with a project, stipulations requiring that the contractor and any subcontractors comply with requirements as to minimum wages and maximum hours of labor, and comply with any conditions which the Federal Government may have attached to its financial aid of the project.

(d) To lease or rent any dwellings, houses, accommodations, lands, buildings, structures or facilities embraced in any housing project and (subject to the limitations contained in this Act) to establish and revise the rents or charges therefor; to own, hold, and improve real or personal property; to purchase, lease, obtain options upon, acquire by gift, grant, bequest, devise, or otherwise any real or personal property or any interest therein; to acquire by the exercise of the power of eminent domain any real property; to sell, lease, exchange, transfer, assign, pledge or dispose of any real or personal property or any interest therein; to insure or provide for the insurance of any real or personal property or operations of the Authority against any risks or hazards; to procure insurance or guarantees from the Federal Government of the payment of any debts or parts thereof (whether or not incurred by said authority) secured by mortgages on any property included in any of its housing projects.

(e) To invest any funds held in reserves or sinking funds, or any funds not required for immediate disbursement, in property or securities in which savings banks may legally invest funds subject to their control; to purchase its bonds at a price not more than the principal amount thereof and accrued interest, all bonds so purchased to be cancelled.

(f) Within its area of operation: to investigate into living, dwelling and housing conditions and into the means and methods of improving such conditions; to determine where slum areas exist or where there is a shortage of decent, safe and sanitary dwelling accommodations for persons of low income; to make studies and recommendations relating to the problem of clearing, replanning and reconstructing of slum areas, and the problem of providing dwelling accommodations for persons of low income, and to cooperate with the City, the County, the State or any political subdivision thereof in action taken in connection with such problems; and to engage in research, studies and experimentation on the subject of housing.

(g) Acting through one or more Commissioners or other person or persons designated by the Authority: to conduct examinations and investigations and to hear testimony and take proof under oath at public or private hearings on any matter material for its information; to administer oaths, issue subpoenas requiring the attendance of witnesses or the production of books and papers and to issue commis-

sions for the examination of witnesses who are outside of the State or unable to attend before the Authority, or excused from attendance; to make available to appropriate agencies (including those charged with the duty of abating or requiring the correction of nuisances or like conditions, or of demolishing unsafe or insanitary structures within its area of operation) its findings and recommendations with regard to any building or property where conditions exist which are dangerous to the public health, morals, safety or welfare.

(h) To exercise all or any part or combination of powers herein granted.

No provisions of law with respect to the acquisition, operation or disposition of property by other public bodies shall be applicable to an Authority unless the legislature shall specifically so state.

§ 9. OPERATION NOT FOR PROFIT.] It is hereby declared to be the policy of this State that each housing Authority shall manage and operate its housing projects in an efficient manner so as to enable it to fix the rentals for dwelling accommodations at the lowest possible rates consistent with its providing decent, safe and sanitary dwelling accommodations, and that no housing authority shall construct or operate any such project for profit, or as a source of revenue to the city or the County. To this end an Authority shall fix the rentals for dwellings in its projects at no higher rates than it shall find to be necessary in order to produce revenues which (together with all other available moneys, revenues, income and receipts of the Authority from whatever sources derived) will be sufficient (a) to pay, as the same become due, the principal and interest on the bonds of the Authority; (b) to meet the cost of, and to provide for, maintaining and operating the projects (including the cost of any insurance) and the administrative expenses of the Authority; and (c) to create (during not less than the six years immediately succeeding its issuance of any bonds) a reserve sufficient to meet the largest principal and interest payments which will be due on such bonds in any one year thereafter and to maintain such reserve.

§ 10. RENTALS AND TENANT SELECTION.] In the operation or management of housing projects an Authority shall at all times observe the following duties with respect to rentals and tenant selection: (a) It may rent or lease the dwelling accommodations therein only to persons of low income. (b) It may rent or lease the dwelling accommodations therein only at rentals within the financial reach of such persons of low income. (c) It may rent or lease to a tenant dwelling accommodations consisting of the number of rooms (but no greater number) which it deems necessary to provide safe and sanitary accommodations to the proposed occupants thereof, without overcrowding. (d) It shall not accept any person as a tenant in any housing project if the person or persons who would occupy the dwelling accommodations have an aggregate annual income in excess of five times the annual rental of the quarters to be furnished such

person or persons; in computing the rental for this purpose of selecting tenants, there shall be included in the rental the average annual cost (as determined by the Authority) to the occupants, of heat, water, electricity, gas, cooking range and other necessary services or facilities, whether or not the charge for such services and facilities is in fact included in the rental. (e) It shall prohibit subletting by tenants.

Nothing contained in this or the preceding Section shall be construed as limiting the power of an Authority to vest in an obligee the right, in the event of a default by the Authority, to take possession of a housing project or cause the appointment of a receiver thereof or acquire title thereto through foreclosure proceedings, free from all the restrictions imposed by this or the preceding Section.

§ 11. CO-OPERATION BETWEEN AUTHORITIES.] Any two or more Authorities may join or co-operate with one another in the exercise of any or all of the powers conferred hereby for the purpose of financing, planning, undertaking, constructing or operating a housing project or projects located within the area of operation of any one or more of said Authorities.

§ 12. EMINENT DOMAIN.] An Authority shall have the right to acquire by the exercise of the power of eminent domain any real property which it may deem necessary for its purposes under this Act after the adoption by it of a resolution declaring that the acquisition of the real property described therein is necessary for such purposes. An Authority may exercise the power of eminent domain in the manner provided in Sections 8202 to 8231, both inclusive, Compiled Laws of North Dakota, 1913, and Acts amendatory thereof or supplementary thereto; or it may exercise the power of eminent domain in the manner provided by any other applicable statutory provisions for the exercise of the power of eminent domain.

§ 13. PLANNING, ZONING AND BUILDING LAWS.] All housing projects of an Authority shall be subject to the planning, zoning, sanitary and building laws, ordinances and regulations applicable to the locality in which the housing project is situated. In the planning and location of any housing project, an Authority shall take into consideration the relationship of the project to any larger plan or long-range program for the development of the area in which the housing authority functions.

§ 14. BONDS.] An Authority shall have power to issue bonds from time to time in its discretion, for any of its corporate purposes. An Authority shall also have power to issue refunding bonds for the purpose of paying or retiring bonds previously issued by it. An Authority may issue such types of bonds as it may determine, including bonds on which the principal and interest are payable: (a) exclusively from the income and revenues of the housing project financed with the proceeds of such bonds, or with such proceeds

together with a grant from the Federal Government in aid of such project; (b) exclusively from the income and revenues of certain designated housing projects whether or not they were financed in whole or in part with the proceeds of such bonds; or (c) from its revenues generally. Any of such bonds may be additionally secured by a pledge of any revenues or a mortgage of any housing project, projects or other property of the Authority.

Neither the Commissioners of an Authority nor any person executing the bonds shall be liable personally on the bonds by reason of the issuance thereof. The bonds and other obligations of an Authority (and such bonds and obligations shall so state on their face) shall not be a debt of the city, the County, the State or any political subdivision thereof and neither the city nor the County, nor the State or any political subdivision thereof shall be liable thereon, nor in any event shall such bonds or obligations be payable out of any funds or properties other than those of said Authority. The bonds shall not constitute an indebtedness within the meaning of any constitutional or statutory debt limitation or restriction. Bonds of an Authority are declared to be issued for an essential public and governmental purpose and to be public instrumentalities and, together with interest thereon and income therefrom, shall be exempt from taxes.

§ 15. FORM AND SALE OF BONDS.] Bonds of an Authority shall be authorized by its resolution and may be issued in one or more series and shall bear such date or dates, mature at such time or times, bear interest at such rate or rates, not exceeding six per centum (6%) per annum, be in such denomination or denominations, be in such form, either coupon or registered, carry such conversion or registration privileges, have such rank or priority, be executed in such manner, be payable in such medium of payment, at such place or places, and be subject to such terms of redemption (with or without premium) as such resolution, its trust indenture or mortgage may provide.

The bonds may be sold at not less than par at public sale held after notice published once at least five days prior to such sale in a newspaper having a general circulation in the city or the County and in a financial newspaper published in the City of New York, New York, or in the City of Chicago, Illinois, provided, however, that such bonds may be sold at not less than par to the Federal Government at private sale without any public advertisement.

In case any of the Commissioners or officers of the Authority whose signatures appear on any bonds or coupons shall cease to be such Commissioners or officers before the delivery of such bonds, such signatures shall, nevertheless, be valid and sufficient for all purposes, the same as if such Commissioners or officers had remained in office until such delivery. Any provision of any law to the contrary notwithstanding, any bonds issued pursuant to this Act shall be fully negotiable.

In any suit, action or proceedings involving the validity or

enforceability of any bond of an Authority or the security therefor, any such bond reciting in substance that it has been issued by the Authority to aid in financing a housing project to provide dwelling accommodations for persons of low income shall be conclusively deemed to have been issued for a housing project of such character and said project shall be conclusively deemed to have been planned, located and constructed in accordance with the purposes and provisions of this Act.

§ 16. PROVISIONS OF BONDS, TRUST INDENTURES, AND MORTGAGES.] In connection with the issuance of bonds or the incurring of obligations under leases and in order to secure the payment of such bonds or obligations, an Authority, in addition to its other powers, shall have power:

(a) To pledge all or any part of its gross or net rents, fees or revenues to which its right then exists or may thereafter come into existence.

(b) To mortgage all or any part of its real or personal property, then owned or thereafter acquired.

(c) To covenant against pledging all or any part of its rents, fees and revenues, or against mortgaging all or any part of its real or personal property, to which its right or title then exists or may thereafter come into existence or against permitting or suffering any lien on such revenues or property; to covenant with respect to limitations on its right to sell, lease or otherwise dispose of any housing project or any part thereof; and to covenant as to what other, or additional debts or obligations may be incurred by it.

(d) To covenant as to the bonds to be issued and as to the issuance of such bonds in escrow or otherwise, and as to the use and disposition of the proceeds thereof; to provide for the replacement of lost, destroyed or mutilated bonds; to covenant against extending the time for the payment of its bonds or interest thereon; and to redeem the bonds, and to covenant for their redemption and to provide the terms and conditions thereof.

(e) To covenant (subject to the limitations contained in this Act) as to the rents and fees to be charged in the operation of a housing project or projects, the amount to be raised each year or other period of time by rents, fees and other revenues, and as to the use and disposition to be made thereof; to create or to authorize the creation of special funds for moneys held for construction or operating costs, debt service, reserves, or other purposes, and to covenant as to the use and disposition of the moneys held in such funds.

(f) To prescribe the procedure, if any, by which the terms of any contract with bond holders may be amended or abrogated, the amount of bonds the holders of which must consent thereto and the manner in which such consent may be given.

(g) To covenant as to the use of any or all of its real or personal property; and to covenant as to the maintenance of its real

and personal property, the replacement thereof, the insurance to be carried thereon and the use and disposition of insurance moneys.

(h) To covenant as to the rights, liabilities, powers and duties arising upon the breach by it of any covenant, condition, or obligation; and to covenant and prescribe as to events of default and terms and conditions upon which any or all of its bonds or obligations shall become or may be declared due before maturity, and as to the terms and conditions upon which such declaration and its consequences may be waived.

(i) To vest in a trustee or trustees or the holders of bonds or any proportion of them the right to enforce the payment of the bonds or any covenants securing or relating to the bonds; to vest in a trustee or trustees the right, in the event of a default by said authority, to take possession and use, operate and manage any housing project or part thereof, and to collect the rents and revenues arising therefrom and to dispose of such moneys in accordance with the agreement of the Authority with said trustee; to provide for the powers and duties of a trustee or trustees and to limit the liabilities thereof; and to provide the terms and conditions upon which the trustee or trustees or the holders of bonds or any proportion of them may enforce any covenant or rights securing or relating to the bonds.

(j) To exercise all or any part or combination of the powers herein granted; to make covenants other than and in addition to the covenants herein expressly authorized, of like or different character; to make such covenants and to do any and all such acts and things as may be necessary or convenient or desirable in order to secure its bonds, or, in the absolute discretion of said Authority, as will tend to make the bonds more marketable notwithstanding that such covenants, acts or things may not be enumerated herein.

§ 17. CERTIFICATION OF ATTORNEY GENERAL.] An Authority may submit to the Attorney General of the State any bonds to be issued hereunder after all proceedings for the issuance of such bonds have been taken. Upon the submission of such proceedings to the Attorney General, it shall be the duty of the Attorney General to examine into and pass upon the validity of such bonds and the regularity of all proceedings in connection therewith. If such proceedings conform to the provisions of this Act and are otherwise regular in form and if such bonds when delivered and paid for will constitute binding and legal obligations of the Authority enforceable according to the terms thereof, the Attorney General shall certify in substance upon the back of each of said bonds that it is issued in accordance with the Constitution and Laws of the State of North Dakota.

§ 18. REMEDIES OF AN OBLIGEE OF AUTHORITY.] An obligee of an Authority shall have the right in addition to all other rights which may be conferred on such obligee, subject only to any contractual restrictions binding upon such obligee:

(a) By mandamus, suit, action or proceeding at law or in equity to compel said Authority and the Commissioners, officers, agents or employees thereof to perform each and every term, provision and covenant contained in any contract of said Authority with or for the benefit of such obligee, and to require the carrying out of any or all such covenants and agreements of said authority and the fulfillment of all duties imposed upon said Authority by this Act.

(b) By suit, action or proceeding in equity, to enjoin any acts or things which may be unlawful, or the violation of any of the rights of such obligee of said Authority.

§ 19. ADDITIONAL REMEDIES CONFERABLE BY AUTHORITY.] An Authority shall have power by its resolution, trust indenture, mortgage, lease or other contract to confer upon any obligee holding or representing a specified amount in bonds, or holding a lease, the right (in addition to all rights that may otherwise be conferred), upon the happening of an event of default as defined in such resolution or instrument, by suit, action or proceeding in any Court of competent jurisdiction:

(a) To cause possession of any housing project or any part thereof to be surrendered to any such obligee.

(b) To obtain the appointment of a receiver of any housing project of said Authority or any part thereof and of the rents and profits therefrom. If such receiver be appointed, he may enter and take possession of such housing project or any part thereof and operate and maintain same, and collect and receive all fees, rents, revenues, or other charges thereafter arising therefrom, and shall keep such moneys in a separate account or accounts and apply the same in accordance with the obligations of said Authority as the Court shall direct.

(c) To require said Authority and the Commissioners thereof to account as if it and they were the trustees of an express trust.

§ 20. EXEMPTION OF PROPERTY FROM EXECUTION SALE.] All real property of an Authority shall be exempt from levy and sale by virtue of an execution, and no execution or other judicial process shall issue against the same nor shall any judgment against any Authority be a charge or lien upon its real property; provided, however, that the provisions of this section shall not apply to or limit the right of obligees to foreclose or otherwise enforce any mortgage of an Authority or the right of obligee to pursue any remedies for the enforcement of any pledge or lien given by an Authority on its rents, fees or revenues.

§ 21. AID FROM FEDERAL GOVERNMENT.] In addition to the powers conferred upon an Authority by other provisions of this Act, an Authority is empowered to borrow money or accept grants or other financial assistance from the Federal Government for or in

aid of any housing project within its area of operation, to take over or lease or manage any housing project or undertaking constructed or owned by the Federal Government, and to these ends, to comply with such conditions and enter into such mortgages, trust indentures, leases or agreements as may be necessary, convenient or desirable. It is the purpose and intent of this Act to authorize every Authority to do any and all things necessary or desirable to secure the financial aid or cooperation of the Federal Government in the undertaking, construction, maintenance or operation of any housing project by such Authority.

§ 22. TAX EXEMPTIONS AND PAYMENTS IN LIEU OF TAXES.] The property of an Authority is declared to be public property used for essential public and governmental purposes and such property and an Authority shall be exempt from all taxes and special assessments of the City, the County, the State or any political subdivision thereof; provided, however, that in lieu of such taxes or special assessments, an Authority may agree to make payments to the City or the County, or any such political subdivision for improvements, services and facilities furnished by such City, County, or political subdivision for the benefit of a housing project, but in no event shall such payments exceed the estimated cost to such City, County, or political subdivision of the improvements, services or facilities to be so furnished.

§ 23. REPORTS.] At least once a year, an Authority shall file with the Clerk a report of its activities for the preceding year, and shall make recommendations with reference to such additional legislation or other action as it deems necessary in order to carry out the purpose of this Act.

§ 24. SEVERABILITY.] Notwithstanding any other evidence of legislative intent, it is hereby declared to be the controlling legislative intent that if any provision of this Act, or the application thereof to any person or circumstances, is held invalid, the remainder of the Act and the application of such provision to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby.

§ 25. ACT CONTROLLING.] In so far as the provisions of this Act are inconsistent with the provisions of any other law, the provisions of this Act shall be controlling.

§ 26. EMERGENCY.] This Act is hereby declared to be an emergency measure and shall take effect and be in force from and after its passage and approval.

Approved March 16, 1937.

CHAPTER 103

S. B. No. 85—(Strehlow)

LEGALIZING NATIONAL HOUSING ACT MORTGAGES AND BONDS AS SECURITY FOR PUBLIC DEPOSITS

An Act to amend Chapter 94 of the Laws of 1935 relating to loans and investments under the National Housing Act so as to make mortgages insured and debentures issued by the Federal Housing Administrator eligible for deposit; and for clarification purposes.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. That Section 1 of Chapter 94 of the Laws of 1935 is hereby amended to read as follows:

§ 1. Banks, savings banks, trust companies, building and loan associations, and insurance companies, are authorized:

(a) To make such loans and advances of credit and purchases of obligations representing loans and advances of credit as are insured by the *Federal House Administrator*, and to obtain such insurance.

(b) To make such loans, secured by real property or leasehold, as the Federal Housing Administrator insures or makes a commitment to insure, and to obtain such insurance.

§ 2. It shall be lawful for banks, savings banks, trust companies, building and loan associations, insurance companies, executors, administrators, guardians, trustees, and other fiduciaries the State of North Dakota and its political subdivisions, and institutions and agencies thereof, and all other persons, associations and corporations, subject to the laws of this State, to invest their funds, and the moneys in their custody or possession, eligible for investment, in notes or bonds secured by mortgage or deed of trust insured by the Federal Housing Administrator, and in debentures issued by the Federal Housing Administrator, and in securities issued by national mortgage associations.

§ 3. That a new section be added to the Act to which this Act is an amendment, to be entitled Section 2A, which shall immediately follow Section 2 and which shall read as follows:

§ 2A. Wherever, by statute of this State, collateral is required as security for the deposit of public or other funds; or deposits are required to be made with any public officials or department; or an investment of capital or surplus, or a reserve or other fund, is required to be maintained consisting of designated securities, notes and bonds insured and debentures issued by the Federal Housing Administrator shall be eligible for such purposes.

§ 4. This Act is hereby declared to be an emergency measure, and shall be in full force and effect from and after its passage and approval.

Approved March 10, 1937.

CHAPTER 104

S. B. No. 111—(Strehlow, Guthrie and Lowe)

REVENUE BOND LAW OF 1937

An Act authorizing municipalities to acquire, construct, reconstruct, improve, better, and extend certain revenue-producing undertakings; to maintain and operate the same and to prescribe, revise and collect rates, fees, tolls, and charges for the services, facilities, and commodities furnished thereby, and, in anticipation of the collection of the revenues thereof, to issue bonds payable solely from such revenues; regulating the issuance of such bonds and providing for their payment and for the rights of the holders thereof, and other matters necessary in the premises; and declaring an emergency.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. That this Act may be cited as the "Revenue Bond Law of 1937."

§ 2. DEFINITIONS.] That wherever used in this Act, unless a different meaning clearly appears from the context: (a) The term "undertaking" shall include the following revenue-producing undertakings or any combination of two or more of such undertakings, whether now existing or hereafter acquired or constructed:

Systems, plants, works, instrumentalities and properties

(1) Used or useful in connection with the obtaining of a water supply and the conservation, treatment, and disposal of water for public and private uses; (2) used or useful in connection with the collection, treatment and disposal of sewage, waste and storm water; (3) used or useful in connection with the generation, production, transmission and distribution of gas (natural, artificial or mixed) or electric energy for lighting, heating and power for public and private uses; together with all parts of any such undertaking and all opportunities thereto including lands, easements, rights in land, water rights, contract rights, franchises, approaches, dams, reservoirs, generating stations, sewage disposal plants, intercepting sewers, trunk, connecting and other sewer and water mains, filtration works, pumping stations and equipment. (b) The term "municipality" shall mean any city, village or town. (c) The term "governing body" shall mean the bodies and boards, by whatever names they may be known, charged with the governing of a municipality.

§ 3. ADDITIONAL POWERS.] In addition to the powers which it may now have, any municipality shall have power, under this Act:

(a) to acquire by gift, purchase or the exercise of the right of eminent domain, to construct, to reconstruct, to improve, to better, and to extend any undertaking, wholly within, or wholly without the municipality, or partially within and partially without the municipality, and to acquire by gift, purchase or the exercise of the right of eminent domain, lands, easements, rights in lands and water rights in connection therewith; (b) to operate and maintain any undertaking for its own use and for the use of public and private consumers, and users within and without the territorial boundaries of the municipality; (c) to prescribe, revise and collect rates, fees, tolls or charges for the services, facilities or commodities furnished by such undertaking, and in anticipation of the collection of the revenues of such undertaking, to issue revenue bonds to finance in whole or in part the cost of the acquisition, construction, reconstruction, improvement, betterment or extension of any undertaking; (d) to pledge to the punctual payment of said bonds and interest thereon all or any part of the revenues of such undertaking (including the revenues of improvements, betterments or extensions thereto thereafter constructed or acquired, as well as the revenues of existing systems, plants, works, instrumentalities, and properties of the undertaking so improved, bettered or extended) or of any part of such undertaking; and (e) to make all contracts, execute all instruments and do all things necessary or convenient in the exercise of the powers herein granted or in the performance of its covenants or duties or in order to secure the payment of its bonds, provided, no encumbrance, mortgage or other pledge of property of the municipality is created thereby, and provided no property of the municipality is liable to be forfeited or taken in payment of said bonds, and provided no debt on the credit of the municipality is thereby incurred in any manner for any purpose.

§ 4. PROCEDURE FOR AUTHORIZATION OF UNDERTAKING AND REVENUE BONDS.] The acquisition, construction, reconstruction, improvement, betterment or extension of any undertaking and the issuance in anticipation of the collection of the revenues of such undertaking of bonds, not exceeding the amount authorized by the electors as hereinafter provided, to provide funds to pay the cost thereof may be authorized under this Act by ordinance or resolution of the governing body which may be adopted at a regular meeting, by a vote of a majority of the members elected to the governing body. Unless otherwise provided therein, such ordinance or resolution shall take effect immediately and need not be laid over or published or posted. The governing body, in determining such cost, may include all costs and estimated costs of the issuance of said bonds, all engineering, inspection, fiscal and legal expenses, and interest which it is estimated will accrue during the construction period and for six months thereafter on money borrowed or which it is estimated will be borrowed pursuant to this Act. Provided, however, that no bonds shall be issued by any municipality for the purpose of financing

the construction of a new electric light and power plant or distribution system, or for the purchase or acquisition of an existing electric light and power plant or distribution system, or for the construction of extensions to any electric light and power plant or distribution system in excess of 20% of the book value thereof as shown by its books, unless the question of issuing such bonds has been submitted to and has been approved by a majority of the qualified electors of such municipality voting on such question.

Such question shall be submitted to the electors on a ballot separate from all other ballots and shall be in substantially the following form:

Shall the (here insert name of municipality) issue revenue bonds in the amount of not to exceed \$. (here insert maximum amount of bonds) for the purpose of (here insert the purpose of issue) ?

Yes

No

Such question may be submitted to the qualified electors at any general or municipal election or special election called, held and conducted upon the notice and in the manner specified by law for the election of the governing body of the municipality.

§ 5. BOND PROVISIONS.] Revenue bonds issued under this Act shall bear interest at such rate or rates not exceeding five per centum per annum, payable semi-annually, may be in one or more series, may bear such date or dates, may mature at such time or times not exceeding forty years from their respective dates, may be payable in such medium of payment, at such place or places, may carry such registration privileges, may be subject to such terms of redemption, may be executed in such manner, may contain such terms, covenants and conditions, and may be in such form, either coupon or registered, as such resolution or subsequent resolutions may provide. Said bonds shall be sold at not less than par. Said bonds may be sold at private sale to the United States of America or any agency, instrumentality or corporation thereof, or to the State of North Dakota or any agency or instrumentality thereof. Unless sold to the United States of America or any agency, instrumentality or corporation thereof, or to the State of North Dakota or any agency or instrumentality thereof, said bonds shall be sold at public sale after notice of such sale published once at least five days prior to such sale in a newspaper circulating in the municipality and in a financial newspaper published in Chicago, Illinois, or in New York, N. Y., or Minneapolis, Minnesota, or San Francisco, California. Pending the preparation of the definitive bonds, interim receipts or certificates in such form and with such provisions as the governing body may determine may be issued to the purchaser or purchasers of bonds sold pursuant to this Act. Said bonds and interim receipts or certificates shall be fully negotiable within the meaning of and for all

the purposes of Chapter 103 of the Civil Code of the Compiled Laws of North Dakota, 1913, and laws amendatory thereof and supplemental thereto.

§ 6. VALIDITY OF BONDS.] Said bonds bearing the signatures of officers in office on the date of the signing thereof shall be valid and binding obligations, notwithstanding that before the delivery thereof and payment therefore any or all of the persons whose signatures appear thereon shall have ceased to be officers of the municipality issuing the same. The validity of said bonds shall not be dependent on nor affected by the validity or regularity of any proceedings relating to the acquisition, purchase, construction, reconstruction, improvement, betterment, or extension of the undertaking for which said bonds are issued. The ordinance or resolution authorizing said bonds may provide that the bonds shall contain a recital that they are issued pursuant to this Act, which recital shall be conclusive evidence of their validity and of the regularity of their issuance.

§ 7. TAX EXEMPTION.] The bonds and the income therefrom shall be exempt from taxation, except inheritance, estate and transfer taxes.

§ 8. COVENANTS IN BOND ORDINANCE OR RESOLUTION.] Any ordinance or resolution authorizing the issuance of bonds under this Act, to finance in whole or in part the acquisition, construction, reconstruction, improvement, betterment or extension of an undertaking, may contain covenants (notwithstanding that such covenants may limit the exercise of powers conferred by this Act) as to: (a) the rates, fees, tolls, or charges to be charged for the services, facilities and commodities of said undertaking; (b) the use and disposition of the revenue of said undertaking; (c) the creation and maintenance of reserves or sinking funds and the regulation, use and disposition thereof; (d) the purpose or purposes to which the proceeds of the sale of said bonds may be applied and the use and disposition of such proceeds; (e) events of default and the rights and liabilities arising thereupon and the terms and conditions upon which the holders of bonds issued under this Act may bring any suit or action on said bonds or on the coupons thereof; (f) a fair and reasonable payment by the municipality to the account of said undertaking for the services, facilities or commodities furnished said municipality or any of its departments by said undertaking; (g) the issuance of other or additional bonds or instruments payable from or constituting a charge against the revenue of such undertaking; (h) the insurance to be carried thereon and the use and disposition of insurance moneys; (i) books of account and the inspection and audit thereof; (j) the terms and conditions upon which any or all of the bonds shall become or may be declared due before maturity and as to the terms and conditions upon which such declaration and its consequences may be waived; (k) the rights, liabilities, powers and duties arising upon the breach by it of any covenants, conditions or

obligations; (l) the vesting in a trustee or trustees the right to enforce any covenants made to secure, to pay, or in relation to the bonds, as to the powers and duties of such trustee or trustees, and the limitation of liabilities thereof, and as to the terms and conditions upon which the holders of the bonds or any proportion or percentage of them may enforce any covenants made under this Act or duties imposed hereby; (m) a procedure by which the terms of any ordinance or resolution authorizing bonds, or any other contract with bondholders, including but not limited to an indenture of trust or similar instrument, may be amended or abrogated and as to the amount of bonds the holders of which must consent thereto and the manner in which such consent may be given. Nothing in this Section or in any other Section of this Act shall be deemed in any way to authorize any municipality to do anything in any manner or for any purpose which would result in the creation or incurring of a debt or indebtedness or the issuance of any instrument which would constitute a bond or debt within the meaning of any provision, limitation, or restriction of the Constitution relating to the creation or incurring of a debt or indebtedness or the issuance of an instrument constituting a bond or a debt.

§ 9. NO MUNICIPAL LIABILITY ON BONDS.] Revenue bonds issued under this Act shall not be payable from or charged upon any funds, other than the revenue pledged to the payment thereof, nor shall the municipality issuing the same be subject to any pecuniary liability thereon. No holder or holders of any such bonds shall ever have the right to compel any exercise of the taxing power of the municipality to pay any such bonds or the interest thereon, nor to enforce payment thereof against any property of the municipality, nor shall any such bonds constitute a charge, lien or encumbrance, legal or equitable, upon any property of the municipality. Each bond issued under this Act shall recite in substance that said bond, including interest thereon, is payable solely from the revenue pledged to the payment thereof, and that said bond does not constitute a debt of the municipality within the meaning of any constitutional or statutory limitation.

§ 10. RIGHT TO RECEIVERSHIP UPON DEFAULT.] (1.) In the event that the municipality shall default in the payment of the principal or interest on any of the bonds after the same shall become due, whether at maturity or upon call for redemption, and such default shall continue for period of thirty days, or in the event that the municipality or the governing body or officers, agents or employees thereof 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 any holders of bonds, or trustee therefor, shall have the right to apply in an appropriate judicial proceeding to the District Court of the County in which the undertaking is located, or any Court of competent jurisdiction, for the appointment of a receiver of the enter-

prise, whether or not all bonds have been declared due and payable and whether or not such holder, or trustee therefor, is seeking or has sought to enforce any other right, or exercise any remedy in connection with such bonds. Upon such application the District Court may appoint, and if the application is made by the holders of twenty-five per centum in principal amount of such bonds then outstanding, or any trustee for holders of such bonds in such principal amount, shall appoint a receiver of the undertaking.

(2.) The receiver so appointed shall forthwith, directly or by his agents and attorneys, enter into and upon and take possession of the undertaking and each and every part thereof and may exclude the municipality, its governing body, officers, agents, and employees and all persons claiming under them wholly therefrom and shall have, hold, use, operate, manage and control the same and each and every part thereof, and, in the name of the municipality or otherwise, as the receiver may deem best, and shall exercise all the rights and powers of the municipality with respect to the undertaking as the municipality itself might do. Such receiver shall maintain, restore, insure and keep insured, the undertaking, and from time to time shall make all such necessary or proper repairs as to such receiver may seem expedient and shall establish, levy, maintain and collect such fees, tolls, rentals, and other charges in connection with the undertaking as such receiver may deem necessary or proper and reasonable, and shall collect and receive all revenues and shall deposit the same in a separate account and apply such revenues so collected and received in such manner as the Court shall direct.

(3) Whenever all that is due upon the bonds, and interest thereon, and upon any other notes, bonds or other obligations, and interest thereon, having a charge, lien, or encumbrance on the revenues of the undertaking and under any of the terms of any covenants or agreements with bondholders shall have been paid or deposited as provided therein, and all defaults shall have been cured and made good, the Court may in its discretion, and after such notice and hearing as it deems reasonable and proper, direct the receiver to surrender possession of the undertaking to the municipality, the same right of the holders of the bonds to secure the appointment of a receiver to exist upon any subsequent default as hereinabove provided.

(4) Such receiver shall in the performance of the powers hereinabove conferred upon him, act under the direction and supervision of the Court making such appointment and shall at all times be subject to the orders and decrees of such Court and may be removed thereby.

Nothing herein contained shall limit or restrict the jurisdiction of such Court to enter such other and further orders and decrees as such Court may deem necessary or appropriate for the exercise by the receiver of any functions specifically set forth herein.

§ 11. REMEDIES OF BONDHOLDERS.] (1.) Subject to any contractual limitations binding upon the holders of any issue of bonds, or trustee therefor, including but not limited to the restriction of the exercise of any remedy to a specified proportion or percentage of such holders, any holder of bonds, or trustee therefor, shall have the right and power, for the equal benefit and protection of all holders of bonds similarly situated:

(a) By mandamus or other suit, action or proceeding at law or in equity to enforce his rights against the municipality and its governing body and any of its officers, agents and employees and to require and compel such municipality or such governing body or any such officers, agents or employees to perform and carry out its and their duties and obligations under this Act and its and their covenants and agreements with bondholders;

(b) By action or suit in equity to require the municipality and the governing body thereof to account as if they were the trustee of an express trust;

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

(d) Bring suit upon the bonds.

(2.) No right or remedy conferred by this Act upon any holder of bonds, or any trustee therefor, is intended to be exclusive of any other right or remedy, but each such right or remedy is cumulative and in addition to every other right or remedy and may be exercised without exhausting and without regard to any other remedy conferred by this Act or by any other Law.

§ 12. CONSTRUCTION OF ACT.] The powers conferred by this Act shall be in addition and supplemental to, and not in substitution for, and the limitations imposed by this Act shall not affect the powers conferred by any other general or special law. Bonds may be issued under this Act without regard to the provisions of any other general or special law. The undertaking may be acquired, purchased, constructed, reconstructed, improved, bettered, and extended, and bonds may be issued under this Act for said purposes, notwithstanding that any general or special law may provide for the acquisition, purchase, construction, reconstruction, improvement, betterment, and extension of a like undertaking, or the issuance of bonds for like purposes, and without regard to the requirements, restrictions, debt or other limitations or other provisions contained in any other general or special law, including, but not limited to, any requirement for any restriction or limitation on the incurring of indebtedness or the issuance of bonds. In so far as the provisions of this Act are inconsistent with the provisions of any other general or special law, the provisions of this Act shall be controlling.

§ 13. SEPARABILITY OF PROVISIONS.] If any provision of this

Act or the application of such provision to any person, body, undertaking or circumstance shall be held invalid, the remainder of this Act and the application of such provision to persons, bodies, undertakings or circumstances other than those as to which it shall have been held invalid, shall not be affected thereby.

§ 14. TIME OF TAKING EFFECT.] This Act is hereby declared to be an emergency measure and shall be in full force and effect from and after its passage and approval.

Approved March 12, 1937.

CHAPTER 105

S. B. No. 113—(Strehlow, Guthrie and Lowe)

REVENUE BOND REFINANCING ACT OF 1937

An Act to authorize and regulate the issuance of bonds for the purpose of refinancing revenue-producing works, undertakings, and projects by cities, villages and towns, and to provide for the payment of such bonds, the remedies of holders thereof; and declaring an emergency.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. SHORT TITLE.] This Act may be cited as "The Revenue Bond Refinancing Act of 1937."

§ 2. DEFINITIONS.] The following terms wherever used or referred to in this Act shall have the following meaning, unless a different meaning appears from the context:

(a) The term "municipality" shall include and embrace all cities, villages and towns of this State.

(b) The term "governing body" shall include bodies and boards by whatever names they may be known, having charge of the finances of a municipality.

(c) The term "law" shall mean any act or statute, general, special or local, of this State, including, without being limited to, the charter of any municipality;

(d) The term "enterprise" shall mean any work, undertaking, or project which the municipality is or may hereafter be authorized to construct and from which the municipality has heretofore derived or may hereafter derive revenues, for the refinancing of which enterprise, refunding bonds are issued under this Act, and such enterprise shall include all improvements, betterments, extensions and replacements thereto, and all appurtenances, facilities, lands, rights in land, water rights, franchises, and structures in connection therewith or incidental thereto;

(e) The term "Federal agency" shall include the United States of America, the President of the United States of America, the Federal Emergency Administrator of Public Works, Reconstruction

Finance Corporation, or any agency, instrumentality or corporation of the United States of America, which has heretofore been or may hereafter be designated or created by or pursuant to any Act or Acts or joint resolution or joint resolutions of the Congress of the United States of America, or which may be owned or controlled, directly or indirectly, by the United States of America ;

(f) The term "refunding bonds" shall mean notes, bonds, certificates or other obligations of a municipality issued pursuant to this Act, or pursuant to any other law, as supplemented by, or in conjunction with this Act ;

(g) The term "refinancing" shall mean funding, refunding, paying or discharging, by means of refunding bonds or the proceeds received from the sale thereof, all or any part of any notes, bonds, or other obligations heretofore or hereafter issued to finance or to aid in financing the acquisition, construction or improving of an enterprise and payable solely from all or any part of the revenues thereof, including interest thereon in arrears or about to become due, whether or not represented by coupons or interest certificates ;

(h) The term "revenues" shall mean all fees, tolls, rates, rentals and charges to be levied and collected in connection with and all other income and receipts of whatever kind or character derived by the municipality from the operation of any enterprise or arising from any enterprise ;

(i) The term "holder of bonds" or "bondholder" or any similar term shall mean any person who shall be the bearer of any outstanding refunding bond or refunding bonds registered to bearer or not registered, or the registered owner of any such outstanding bond or bonds which shall at the time be registered other than to bearer ;

(j) Words importing the singular number shall include the plural number in each case and vice versa, and words importing persons shall include firms and corporations.

§ 3. GRANT OF POWER.] Any municipality shall have power and is hereby authorized to refinance any enterprise, and for such purpose to borrow money and issue refunding bonds from time to time.

§ 4. PROCEDURE FOR AUTHORIZATION.] The refunding bonds shall be authorized by resolution or resolutions of the governing body of the municipality. Such resolution or resolutions may be adopted at a regular or special meeting and at the same meeting at which they are introduced by a majority of all the members of the governing body then in office. Such resolution or resolutions shall take effect immediately upon the adoption thereof. No other proceedings or procedure of any character whatever shall be required for the issuance of refunding bonds by the municipality.

§ 5. TERMS OF REFUNDING BONDS.] The refunding bonds may be issued in one or more series, may bear such date or dates,

may mature at such time or times not exceeding the period of usefulness of the enterprise, as determined by the governing body in its discretion, nor in any event exceeding forty years from their respective dates, may bear interest at such rate or rates not exceeding the maximum rate of interest borne by the notes, bonds, or other obligations refinanced thereby, may be in such denomination or denominations, may be in such form, either coupon or registered, may carry such registration and conversion privileges, may be executed in such manner, may be payable in such medium of payment, at such place or places, may be subject to such terms of redemption, with or without a premium, may be declared or become due before the maturity date thereof, may provide for the replacement of mutilated, destroyed, stolen, or lost bonds, may be authenticated in such manner and upon compliance with such conditions, and may contain such other terms and covenants, as may be provided by resolution or resolutions of the governing body of the municipality. Notwithstanding the form or tenor thereof, and in the absence of an express recital on the face thereof that the bond is non-negotiable, all refunding bonds shall at all times be, and shall be treated as, negotiable instruments for all purposes.

§ 6. VALIDITY OF REFUNDING BONDS.] Refunding bonds bearing the signatures of officers of the municipality in office on the date of the signing thereof shall be valid and binding obligations of the municipality for all purposes, notwithstanding that before the delivery thereof any or all of the persons whose signatures appear thereon shall have ceased to be officers of the municipality, the same as if such persons had continued to be officers of the municipality until after the delivery thereof. Any resolution authorizing refunding bonds may provide that any such refunding bond may contain a recital that such refunding bond is issued pursuant to this Act, and any refunding bond containing such recital under authority of any such resolution shall be conclusively deemed to be valid and to have been issued in conformity with the provisions of this Act.

§ 7. SALE OR EXCHANGE OF REFUNDING BONDS.] (1) The refunding bonds may be sold or exchanged in installments at different times or an entire issue or series may be sold or exchanged at one time. Any issue or series of refunding bonds may be exchanged in part or sold in part in installments at different times or at one time. The refunding bonds may be sold or exchanged at any time on, before, or after the maturity of any of the outstanding notes, bonds, certificates or other obligations to be refinanced thereby.

(2) If the governing body determines to exchange any refunding bonds, such refunding bonds may be exchanged privately for and in payment and discharge of any of the outstanding notes, bonds or other obligations of the municipality issued to finance or to aid in financing the acquisition, the construction, the improving, or refinancing of an enterprise. The refunding bonds may be ex-

changed for a like or greater principal amount of such notes, bonds or other obligations of the municipality, except that the principal amount of the refunding bonds may exceed the principal amount of such outstanding notes, bonds, or other obligations to the extent necessary or advisable, in the discretion of the governing body, to fund interest in arrears or about to become due. The holder or holders of such outstanding notes, bonds, or other obligations need not pay accrued interest on the refunding bonds to be delivered in exchange therefor if and to the extent that interest is due or accrued and unpaid on such outstanding notes, bonds, or other obligations to be surrendered.

(3) If the governing body determines to sell any refunding bonds, such refunding bonds shall be sold at not less than par at public or private sale in such manner and upon such terms as the governing body shall deem best for the interest of the municipality.

§ 8. SECURITY OF THE REFUNDING BONDS.] (1.) The refunding bonds shall be special obligations of the municipality and shall be payable from and secured by a lien upon the revenues of the enterprise, as shall be more fully described in the resolution or resolutions of the governing body authorizing the issuance of the refunding bonds, having due regard to the cost of operation and maintenance of the enterprise and the amount or proportion, if any, of the revenues of the enterprise previously pledged, any municipality shall have power by resolution of its governing body to pledge for the security of the refunding bonds a fixed amount without regard to any fixed proportion of the gross revenues of the enterprise.

(2) As additional security for any issue of refunding bonds hereunder, or any part thereof, any municipality shall have power, and is hereby authorized, by resolution of its governing body to confer upon the holders of the refunding bonds all rights, powers and remedies which said holders would be entitled to if they were the owners and had possession of the notes, bonds or other obligations for the refinancing of which such refunding bonds shall have been issued including, but not limited to, the preservation of the lien of such notes, bonds or other obligations without extinguishment, impairment or diminution thereof. In the event any municipality exercises the power conferred by this Paragraph, (a) each refunding bond shall contain a recital to the effect that the holder thereof has been granted the additional security provided by this Paragraph and (b) each note, bond, certificate or other obligation of the municipality to be refinanced by any such refunding bonds, shall be kept intact and shall not be canceled or destroyed until the refunding bonds, and interest thereon, have been finally paid and discharged but shall be stamped with a legend to the effect that such note, bond, certificate or other obligations has been refunded pursuant to the Revenue Bond Refinancing Act of 1937.

(3) All refunding bonds of the same issue shall be equally and

ratably secured, without priority by reason of number, date of bonds, of sale, of execution or of delivery, by a lien upon the revenues of the enterprise in accordance with the provisions of this Section and the resolution or resolutions authorizing the issuance of such refunding bonds.

(4) Nothing in this Section or in any other Section of this Act shall be deemed in any way to alter the terms of any agreements made with the holders of any outstanding notes, bonds, or other obligations of the municipality or to authorize the municipality to alter the terms of any such agreements, or to impair, or to authorize the municipality to impair, the rights and remedies of any creditors of the municipality.

(5) Nothing in this Section or in any other Section of this Act shall be deemed in any way to authorize any municipality to do anything in any manner or for any purpose which would result in the creation or incurring of a debt or indebtedness or the issuance of any instrument which would constitute a bond or debt within the meaning of any provision, limitation, or restriction of the Constitution relating to the creation or incurring of a debt or indebtedness or the issuance of an instrument constituting a bond or a debt.

§ 9. REFUNDING BONDS NOT DEBTS.] (1) No recourse shall be had for the payment of the refunding bonds, or interest thereon, or any part thereof, against the general fund of any municipality, nor shall the credit or taxing power of any municipality be deemed to be pledged thereto.

(2) The refunding bonds, and interest thereon, shall not be a debt of the municipality, nor a charge, lien or encumbrance, legal or equitable, upon any property of the municipality, or upon any income, receipts, or revenues of the municipality other than such of the revenues of the enterprise as shall have been pledged to the payment thereof, and every refunding bond shall recite in substance that said bond, including interest thereon, is payable solely from the revenues pledged to the payment thereof and that the municipality is under no obligation to pay the same, except from said revenues.

§ 10. REFUNDING BONDS EXEMPT FROM TAXATION.] The refunding bonds and the income therefrom shall be exempt from taxation, except inheritance, estate and transfer taxes.

§ 11. FISCAL AGENT.] Any municipality shall have power in connection with the issuance of refunding bonds, to appoint a fiscal agent, to provide for the powers, duties and functions and compensations of such fiscal agent, to limit the liabilities of such fiscal agent, to prescribe a method for the resignation, removal, merger or consolidation of such fiscal agent, and the appointment of a successor fiscal agent and the transfer of rights and properties to such successor fiscal agent.

§ 12. DUTIES OF MUNICIPALITY AND OFFICERS.] (1) In order that the payment of the refunding bonds, and interest thereon, shall be adequately secured, any municipality issuing refunding bonds pursuant to this Act and the proper officers, agents and employees thereof, are hereby directed, and it shall be the mandatory duty of such municipality and such officers, agents and employees under this Act, and it shall further be of the essence of the contract of such municipality with the bondholders, at all times:

(a) To pay or cause to be paid punctually the principal of every refunding bond, and the interest thereon, on the date or dates and at the place or places and in the manner and out of the funds mentioned in such refunding bonds and in the coupons thereto appertaining and in accordance with the resolution authorizing their issuance;

(b) To operate the enterprise in an efficient and economical manner and to establish, levy, maintain and collect such fees, tolls, rentals, rates and other charges in connection therewith as may be necessary or proper, which said fees, tolls, rates, rentals and other charges shall be at least sufficient after making due and reasonable allowances for contingencies and for a margin of error in the estimates, (1) to pay all current expenses of operation, and maintenance of such enterprise, (2) to pay the interest on and principal of the refunding bonds as the same shall become due and payable (3) to comply in all respects with the terms of the resolution or resolutions authorizing the issuance of refunding bonds or any other contract or agreement with the holders of the refunding bonds, and (4) to meet any other obligations of the municipality which are charges, liens, or encumbrances upon the revenues of such enterprise;

(c) To operate, maintain, preserve and keep, or cause to be operated, maintained, preserved and kept, the enterprise and every part and parcel thereof, in good repair, working order and condition;

(d) To preserve and protect the security of the refunding bonds and the rights of the holders thereof, and to warrant and defend such rights against all claims and demands of all persons whomsoever;

(e) To pay and discharge, or cause to be paid or discharged any and all lawful claims for labor, materials and supplies, which, if unpaid, might by law become a lien or charge upon the revenues or any part thereof, prior or superior to the lien of the refunding bonds, or which might impair the security of the refunding bonds, to the end that the priority and security of the refunding bonds shall be fully preserved and protected;

(f) To hold in trust the revenues pledged to the payment of the refunding bonds for the benefit of the holders of the refunding bonds and to apply such revenues only as provided by the resolution or resolutions authorizing the issuance of the refunding bonds or, if such resolution or resolutions shall thereafter be modified in the

manner provided therein or herein, only as provided in such resolution or resolutions as modified ;

(g) To keep proper books of record and accounts of the enterprise (separate from all other records and accounts) in which complete and correct entries shall be made of all transactions relating to the enterprise or any part thereof, and which, together with all other books and papers of the municipality, shall at all times be subject to the inspection of the holder or holders of not less than ten per cent of the refunding bonds then outstanding or his or their representatives duly authorized in writing.

(2.) None of the foregoing duties shall be construed to require the expenditure in any manner or for any purpose by the municipality of any funds other than revenue received or receivable from the enterprise.

§ 13. ADDITIONAL POWERS AND DUTIES.] (1.) The governing body of any municipality shall have power, in addition to the other powers conferred by this Act, to insert provisions in any resolution authorizing the issuance of refunding bonds, which shall be a part of the contract with the holders of the refunding bonds, as to :

(a) Limitations on the purpose to which the proceeds of sale of any notes, bonds or other obligations thereafter to be issued to finance the improving of the enterprise, may be applied ;

(b) Limitations on the issuance and on the lien of other notes, bonds or other obligations thereafter to be issued to finance the improving of the enterprise which are secured by or payable from the revenues of such enterprise ;

(c) Limitations on the right of the municipality or its governing body to restrict and regulate the use of the enterprise ;

(d) The amount and kind of insurance to be maintained on the enterprise, and the use and disposition of insurance moneys ;

(e) Pledging all or any part of the revenues of the enterprise to which its right then exists or the right to which may thereafter come into existence ;

(f) Covenanting against pledging all or any part of the revenues of the enterprise to which its right then exists or the right to which may thereafter come into existence ;

(g) Events of default and terms and conditions upon which any or all of the refunding bonds shall become or may be declared due before maturity and as to the terms and conditions upon which such declaration and its consequences may be waived ;

(h) The rights, liabilities, powers and duties arising upon the breach by it of any covenants, conditions or obligations ;

(i) The vesting in a trustee or trustees the right to enforce any covenants made to secure, to pay, or in relation to the refunding bonds, as to the powers and duties of such trustee or trustees, and the limitation of liabilities thereof, and as to the terms and conditions

upon which the holders of the refunding bonds or any proportion or percentage of them may enforce any covenants made under this Act or duties imposed hereby;

(j) A procedure by which the terms of any resolution authorizing refunding bonds, or any other contract with bondholders, including but not limited to an indenture of trust or similar instrument, may be amended or abrogated and as to the amount of refunding bonds the holders of which must consent thereto and the manner in which such consent may be given;

(k) The execution of all instruments necessary or convenient in the exercise of the powers granted by this Act or in the performance of the duties of the municipality and the officers, agents and employees thereof;

(l) Refraining from pledging or in any manner whatever claiming or taking the benefit or advantage of any stay or extension law whenever enacted, nor at any time hereafter in force, which may affect the duties or covenants of the municipality in relation to the refunding bonds, or the performance thereof, or the lien of such refunding bonds;

(m) The purchase out of any funds available therefor, including but not limited to the proceeds of refunding bonds, of any outstanding notes, bonds or obligations, including but not limited to refunding bonds, and the price or prices at which and the manner in which such purchases may be made;

(n) Any other acts and things as may be necessary or convenient or desirable in order to secure the refunding bonds, or as may tend to make the refunding bonds more marketable.

(2) Nothing in this Section shall be construed to authorize any municipality to make any covenants, to perform any act or to do anything which shall require the expenditure in any manner or for any purpose by the municipality of any funds other than revenues received or receivable from the enterprise.

§ 14. RIGHT TO RECEIVERSHIP UPON DEFAULT.] (1) In the event that the municipality shall default in the payment of the principal or interest on any of the refunding bonds after the same 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 municipality or the governing body or officer, agents or employees thereof shall fail or refuse to comply with the provisions of this Act or shall default in any agreement made with the holders of the refunding bonds, any holder or holders of refunding bonds, or trustee therefor, shall have the right to apply in an appropriate judicial proceeding to the District Court of the County in which the enterprise is located, or any Court of competent jurisdiction, for the appointment of a receiver of the enterprise, whether or not all refunding bonds have been declared due and payable and

whether or not such holder, or trustee therefor, is seeking or has sought to enforce any other right, or exercise any remedy in connection with such refunding bonds. Upon such application the District Court, may appoint, and if the application is made by the holders of twenty-five per centum in principal amount of such refunding bonds then outstanding, or any trustee for holders of such refunding bonds in such principal amount, shall appoint a receiver of the enterprise.

(2) The receiver so appointed shall forthwith, directly or by his agents and attorneys, enter into and upon and take possession of the enterprise and each and every part thereof and may exclude the municipality, its governing body, officers, agents, and employees and all persons claiming under them wholly therefrom and shall have, hold, use, operate, manage and control the same and each and every part thereof, and, in the name of the municipality or otherwise, as the receiver may deem best, and shall exercise all the rights and powers of the municipality with respect to the enterprise as the municipality itself might do. Such receiver shall maintain, restore, insure and keep insured, the enterprise, and from time to time shall make all such necessary or proper repairs as to such receiver may seem expedient and shall establish, levy, maintain and collect such fees, tolls, rentals, and other charges in connection with the enterprise as such receiver may deem necessary or proper and reasonable, and shall collect and receive all revenues and shall deposit the same in a separate account and apply such revenues so collected and received in such manner as the Court shall direct.

(3) Whenever all that is due upon the refunding bonds, and interest thereon, and upon any other notes, bonds or other obligations, and interest thereon, having a charge, lien, or encumbrance on the revenues of the enterprise and under any of the terms of any covenants or agreements with bondholders shall have been paid or deposited therein, and all defaults shall have been cured and made good, the Court may in its discretion, and after such notice and hearing as it deems reasonable and proper, direct the receiver to surrender possession of the enterprise to the municipality, the same right of the holders of the refunding bonds to secure the appointment of a receiver to exist upon any subsequent default as hereinabove provided.

(4) Such receiver shall in the performance of the powers hereinabove conferred upon him, act under the direction and supervision of the Court making such appointment and shall at all times be subject to the orders and decrees of such Court and may be removed thereby. Nothing herein contained shall limit or restrict the jurisdiction of such Court to enter such other and further orders and decrees as such Court may deem necessary or appropriate for the exercise by the receiver of any functions specifically set forth herein.

§ 15. REMEDIES OF REFUNDING BONDHOLDERS.] (1.) Sub-

ject to any contractual limitations binding upon the holders of any issue of refunding bonds, or trustee therefor, including but not limited to the restriction of the exercise of any remedy to a specified proportion or percentage of such holders, any holder of refunding bonds, or trustee therefor, shall have the right and power, for the equal benefit and protection of all holders of refunding bonds similarly situated:

(a) By mandamus or other suit, action or proceeding at law or in equity to enforce his rights against the municipality and its governing body and any of its officers, agents and employees and to require and compel such municipality or such governing body or any such officers, agents or employees to perform and carry out its and their duties and obligations under this Act and its and their covenants and agreements with bondholders;

(b) By action or suit in equity to require the municipality and the governing body thereof to account as if they were the trustee of an express trust;

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

(d) Bring suit upon the refunding bond.

(2) No remedy conferred by this Act upon any holder of refunding bonds, or any trustee therefor, is intended to be exclusive of any other remedy, but each such remedy is cumulative and in addition to every other remedy and may be exercised without exhausting and without regard to any other remedy conferred by this Act or by any other Law. No waiver of any default or breach of duty or contract, whether by any holder of refunding bonds, or any trustee therefor, shall extend to, or shall affect any subsequent default or breach of duty or contract or shall impair any rights or remedies thereon. No delay or omission of any bondholder or any trustee therefor to exercise any right or power accruing upon any default shall impair any such right or power or shall be construed to be a waiver of any such default or acquiescence therein. Every substantive right and every remedy, conferred upon the holders of refunding bonds, may be enforced and exercised from time to time and as often as may be deemed expedient. In case any suit, action or proceeding to enforce any right or exercise any remedy shall be brought or taken and then discontinued or abandoned, or shall be determined adversely to the holder of the refunding bonds, or any trustee therefor, then and in every such case the municipality and such holder, or such trustee, shall be restored to their former positions and rights and remedies as if no such suit, action or proceeding has been brought or taken.

§ 16. CONSTRUCTION OF ACT.] This Act constitutes full and complete authority for the issuance of refunding bonds. No procedure or proceedings, publications, notices, consents, approvals,

orders, acts or things by any governing body of any municipality, or any board, officer, commission, department, agency, or instrumentality of the State or any municipality shall be required to issue any refunding bonds or to do any act or perform any thing under this Act, except as may be prescribed in this Act. The powers conferred by this Act shall be in addition and supplemental to, and not in substitution for, and the limitations imposed by this Act shall not affect, the powers conferred by any other law. This Act is remedial in nature and shall be liberally construed.

§ 17. ACT NOT AFFECTED IF IN PART UNCONSTITUTIONAL.] If any section, clause, sentence, paragraph, part or provision of this Act shall be found invalid by any Court, it shall be conclusively presumed that this Act would have been passed by the legislature without such invalid section, clause, sentence, paragraph, part or provision, and the Act as a whole shall not be declared invalid by reason of the fact that one or more sections, clauses, sentences, paragraphs, parts or provisions may be found invalid by any Court.

§ 18. EMERGENCY.] An emergency is hereby declared to exist and this Act shall be in full force and effect from and after its passage and approval.

Approved March 12, 1937

CHAPTER 106

S. B. No. 110—(Strehlow, Buthrie and Lowe)

VALIDATING ACT 1937

An Act validating, ratifying, approving, and confirming certain bonds and other instruments or obligations heretofore issued, and validating, ratifying, approving and confirming certain proceedings heretofore taken, by public bodies in this State.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. This Act may be cited as "The 1937 Validating Act."

§ 2. The following terms, wherever used or referred to in this Act, shall have the following meaning:

(a) The term "public body" means the State of North Dakota, any County, city, village, township, school district of any class.

(b) The term "bonds" includes bonds, notes, warrants, debentures, certificates of indebtedness, temporary bonds, temporary notes, interim receipts, interim certificates and all instruments or obligations evidencing or representing indebtedness, or evidencing or representing the borrowing of money, or evidencing or representing a charge, lien or encumbrance on specific revenues, income of proper-

ty of a public body or all instruments or obligations payable from a special fund.

§ 3. All bonds heretofore issued for the purpose of financing or aiding in the financing of any work, undertaking or project by any public body to which any loan or grant has heretofore been made by the United States of America through the Federal Emergency Administrator of Public Works for the purpose of financing or aiding in the financing of such work, undertaking, or project, including all proceedings for the authorization and issuance of such bonds, and the sale, execution, and delivery thereof, are hereby validated, ratified, approved and confirmed, notwithstanding any lack of power (other than constitutional) of such public body or the governing body or Commission or officers thereof, to authorize and issue such bonds, or to sell, execute or deliver the same, and notwithstanding any defects or irregularities (other than constitutional) in such proceedings, or in such sale, execution or delivery and notwithstanding that such governing body or Commission or officers may not have been elected, appointed or qualified for the offices they purported to hold; and such bonds are and shall be binding, legal, valid and enforceable obligations of such public body.

§ 4. All proceedings, which have been taken prior to the date this Act takes effect, for the purpose of financing or aiding in the financing of any work, undertaking or project by any public body or by any board of flood irrigation to which any loan or grant is under contract to be made by the United States of America through the Federal Emergency Administrator of Public Works for the purpose of financing or aiding in the financing of such work, undertaking or project, including all proceedings for the authorization and issuance of bonds, and for the sale, execution and delivery thereof, are hereby validated, ratified, approved, and confirmed, notwithstanding any lack of power (other than constitutional) of such public body or the governing body or Commission or officers thereof or of any board of flood irrigation to authorize and issue such bonds, or to sell, execute or deliver the same, and notwithstanding any defects or irregularities (other than constitutional) in such proceedings, including the fact that notices in connection with the creation of any flood irrigation district or with hearings for the assessment of damages and benefits resulting from flood irrigation projects may not have been given in accordance with the statutes; and notwithstanding that such governing body may not have been elected, appointed or qualified for the offices they purported to hold.

Approved March 16, 1937.