CHAPTER 122

The Citadel Housing Revenue Bonds

**SECTION 59‑122‑10.** Definitions.

As used in this chapter:

(1) “Auxiliary facilities” means any dining or food service facilities operated to provide for the students, faculty, or staff at The Citadel, any lodging facilities provided for temporary use by student, faculty, staff, or guests of any of them or of The Citadel, and such other facilities or activities, including laundry facilities and facilities for the sale of sundry items, as are determined by the board to be necessary or appropriate in connection with student and faculty housing or other auxiliary facilities.

(2) “Board” means the Board of Visitors of The Citadel.

(3) “Bond” or “bonds” means any note, bond, installment contract, or other evidence of indebtedness issued pursuant to this chapter.

(4) “Facilities” means student and faculty housing auxiliary facilities or either of them.

(5) “Maximum annual debt service” means the total amount of principal, premium, if any, and interest due and payable by The Citadel in any fiscal year of The Citadel.

(6) “Revenues” means receipts of The Citadel from the operation of any of the facilities. ‘Net revenues’ means these receipts reduced by the necessary expenses for operation and maintenance of the facilities.

(7) “Authority” means the State Fiscal Accountability Authority.

(8) “Student and faculty housing” means any dormitories, barracks, or similar facilities intended for occupancy by students resident at The Citadel and any apartment or residence intended for occupancy by permanent or temporary members of the faculty or lecturers and authorized staff members at The Citadel.

HISTORY: 1989 Act No. 102, Section 2.

Code Commissioner’s Note

At the direction of the Code Commissioner, references in this section to the offices of the former State Budget and Control Board, Office of the Governor, or other agencies, were changed to reflect the transfer of them to the Department of Administration or other entities, pursuant to the directive of the South Carolina Restructuring Act, 2014 Act No. 121, Section 5(D)(1), effective July 1, 2015.

CROSS REFERENCES

Board of visitors of The Citadel, see Sections 59‑121‑10 et seq.

**SECTION 59‑122‑20.** Authority to acquire, maintain, or rehabilitate student and faculty housing; authority to incur debt and issue bonds.

(A) The board is authorized to acquire and maintain, by construction and purchase, such student and faculty housing and auxiliary facilities as it determines to be necessary, appropriate, or convenient to assist in the proper and efficient operation of The Citadel. The board is further authorized to undertake the renovation, refurbishment, or rehabilitation of any of its student and faculty housing and auxiliary facilities as it considers appropriate. In connection with this acquisition or renovation, the board also is authorized to acquire equipment, furnishings, and machinery as are necessary or desirable for the efficient and proper use of the facilities.

(B) To provide the money necessary to pay the costs incurred in the exercise of its powers, the board is authorized to incur indebtedness, the principal amount outstanding at any time may not exceed twenty‑five million dollars and to apply the proceeds in accord with Section 59‑122‑30 of this chapter. The board is authorized to issue bond anticipation notes as provided in Chapter 17 of Title 11 and to refund or advance refund any bonds issued pursuant to this at such terms and under such conditions as it considers appropriate, with State Fiscal Accountability Authority or the Department of Administration, as appropriate, approval, following review by the Joint Bond Review Committee.

HISTORY: 1989 Act No. 102, Section 2.

Code Commissioner’s Note

At the direction of the Code Commissioner, references in this section to the offices of the former State Budget and Control Board, Office of the Governor, or other agencies, were changed to reflect the transfer of them to the Department of Administration or other entities, pursuant to the directive of the South Carolina Restructuring Act, 2014 Act No. 121, Section 5(D)(1), effective July 1, 2015.

LIBRARY REFERENCES

Colleges and Universities 6(1).

Westlaw Key Number Search: 81k6(1).

C.J.S. Colleges and Universities Section 10.

**SECTION 59‑122‑30.** Disposition of proceeds from sale of bonds.

Any accrued interest received by The Citadel from the initial purchasers of the bonds must be used to pay the first maturing installment of interest on the bonds. The proceeds from the sale of bonds must be applied solely to the following:

(1) all costs incurred in connection with the issuance and sale of the bonds, including, but not limited to, any fees and expenses of any counsel or financial advisors, printing and rating agency costs, and the fees and expenses of any paying agent, fiduciary, registrar, or similar agent;

(2) all costs of acquiring or renovating any facilities, including, but not limited to, any architectural, design, engineering survey, or planning costs and any charges for the construction or acquisition of facilities, including, but not limited to, any necessary licenses, insurance, or bonding in connection with it; and

(3) interest on the bonds and other carrying charges until the facilities being acquired or renovated are placed in service.

HISTORY: 1989 Act No. 102, Section 2.

LIBRARY REFERENCES

Colleges and Universities 6(1).

Westlaw Key Number Search: 81k6(1).

C.J.S. Colleges and Universities Section 10.

**SECTION 59‑122‑40.** Requirements for issuance of bonds.

(A) No bonds may be issued under the provisions of this chapter unless:

(1) the State Fiscal Accountability Authority or Department of Administration, as appropriate, following review by the Joint Bond Review Committee, approves the Board of Visitors’ issue proposal; and

(2) the Board of Visitors demonstrates to the satisfaction of the State Fiscal Accountability Authority or Department of Administration, as appropriate, that one of the following tests is met:

(a) the net revenues that are to be pledged to the payment of any proposed issue of bonds, and any gifts, donations, and other funds, other than appropriated state funds, and the income from these sources to which The Citadel is entitled, which may be pledged to the payment of the bonds (including those proposed for issue), for the fiscal year preceding the date on which the issue of the bonds occurs, are equal to or greater than one hundred ten percent of the Maximum Annual Debt Service on all bonds (including those then being issued); or

(b) in the case of any refunding, the principal and interest payments due on the refunding bonds may not be greater than the principal and interest requirements on the bonds being refunded.

(B) The debt service on any bonds which is no longer outstanding within a year after the date of issue of any proposed bonds may be excluded in applying these tests. The test stated in (b) above is not exclusive with respect to refunding bonds which may qualify under any other tests or any other provisions of law.

(C) Before issuing any bonds, the Board of Visitors shall file a petition with the State Fiscal Accountability Authority or Department of Administration, as appropriate, which sets forth the nature and cost of the facilities to be acquired or renovated, the details of the bonds proposed to be issued, and the financial data and other information needed to demonstrate compliance with one of the foregoing tests.

(D) Following receipt of the petition and supporting information, the State Fiscal Accountability Authority or Department of Administration, as appropriate, shall make what it considers to be an appropriate independent study of the proposal, and, if it finds the proposal to be feasible, the board may approve the issuance of the bonds.

HISTORY: 1989 Act No. 102, Section 2.

Code Commissioner’s Note

At the direction of the Code Commissioner, references in this section to the offices of the former State Budget and Control Board, Office of the Governor, or other agencies, were changed to reflect the transfer of them to the Department of Administration or other entities, pursuant to the directive of the South Carolina Restructuring Act, 2014 Act No. 121, Section 5(D)(1), effective July 1, 2015.

LIBRARY REFERENCES

Colleges and Universities 6(1).

Westlaw Key Number Search: 81k6(1).

C.J.S. Colleges and Universities Section 10.

**SECTION 59‑122‑50.** Security for payment of bonds.

The Citadel may pledge any part or all of the revenues or net revenues derived or to be derived from any or all of the facilities as security for the payment of any bonds. In addition, The Citadel may pledge any gifts, donations, and funds, other than appropriated state funds, and the income from those sources to which The Citadel is entitled, as security for the payment of any bonds. As additional security, The Citadel may establish a reserve fund, which may be funded from the proceeds of the bonds, to provide for payment on the bonds.

HISTORY: 1989 Act No. 102, Section 2.

CROSS REFERENCES

Authority of board to pledge revenues for the payment of principal of and interest on bonds as they mature, see Section 59‑122‑120.

LIBRARY REFERENCES

Colleges and Universities 6(1).

Westlaw Key Number Search: 81k6(1).

C.J.S. Colleges and Universities Section 10.

**SECTION 59‑122‑60.** State’s faith and credit not pledged for payment; board members not personally liable.

The faith and credit of the State of South Carolina is not pledged for the payment of the principal and interest of the bonds, and there must be on the face of each bond a statement plainly worded to that effect. Neither the members of the board nor any other person signing the bonds are personally liable for them.

HISTORY: 1989 Act No. 102, Section 2.

LIBRARY REFERENCES

Colleges and Universities 6(1).

Westlaw Key Number Search: 81k6(1).

C.J.S. Colleges and Universities Section 10.

**SECTION 59‑122‑70.** Issuance of bonds.

The board shall adopt resolutions providing for the issuance of bonds of The Citadel, which prescribe the tenor, terms, and conditions of the bonds. The bonds may be issued as serial or term bonds, maturing in equal or unequal amounts, at such times, and on such occasions as the board may determine. If any bonds are issued as term bonds, a sinking fund must be established to provide for their retirement. The last maturing bonds of any issue must be expressed to mature not later than forty years from their date and the first maturing bonds of any issue must fall due within five years from their date. The bonds must bear such rates of interest, be payable in the denominations, in the medium of payment, and at the place as prescribed by resolutions. All bonds may be issued with a provision permitting their redemption on any interest payment date before their respective maturities as the board prescribes. Bonds made subject to redemption before their stated maturities may contain a provision requiring the payment of a premium for the privilege of exercising the right of redemption, in such amount or amounts as the board prescribes in the resolutions authorizing their issuance. All bonds subject to redemption must contain a statement to that effect on the face of each bond. The resolution authorizing their issuance must contain provisions specifying the manner of call and the notice of call that must be given.

HISTORY: 1989 Act No. 102, Section 2.

LIBRARY REFERENCES

Colleges and Universities 6(1).

Westlaw Key Number Search: 81k6(1).

C.J.S. Colleges and Universities Section 10.

**SECTION 59‑122‑80.** Bonds may be registered; debt by book‑entry only system permitted; verification of bonds.

Bonds issued pursuant to this chapter may be in fully registered form with ownership recorded on books of registry kept for that purpose by or at the direction of the board. The board may also provide for the incurrence of debt through use of a book‑entry only system to be maintained by a securities depositary. The bonds may be executed by the manual or facsimile signatures of the officers as may be designated by the board, or the board may provide for such other means of verification of authenticity of the bonds as it may consider appropriate. In the event of any change in officials, bonds executed before the change continue to be valid.

HISTORY: 1989 Act No. 102, Section 2.

LIBRARY REFERENCES

Colleges and Universities 6(1).

Westlaw Key Number Search: 81k6(1).

C.J.S. Colleges and Universities Section 10.

**SECTION 59‑122‑90.** Bonds and interest exempt from taxation.

The bonds authorized by this chapter and all interest to become due on them is exempt from taxation as provided in Section 12‑1‑60.

HISTORY: 1989 Act No. 102, Section 2.

LIBRARY REFERENCES

Colleges and Universities 6(1).

Westlaw Key Number Search: 81k6(1).

C.J.S. Colleges and Universities Section 10.

**SECTION 59‑122‑100.** Investment in bonds by fiduciaries permitted.

It is lawful for all executors, administrators, guardians, and fiduciaries, all sinking fund commissions, and the Public Employee Benefit Authority and the State Fiscal Accountability Authority as cotrustees of the South Carolina Retirement System to invest any monies in their possession in these bonds.

HISTORY: 1989 Act No. 102, Section 2.

Code Commissioner’s Note

At the direction of the Code Commissioner, references in this section to the offices of the former State Budget and Control Board, Office of the Governor, or other agencies, were changed to reflect the transfer of them to the Department of Administration or other entities, pursuant to the directive of the South Carolina Restructuring Act, 2014 Act No. 121, Section 5(D)(1), effective July 1, 2015.

LIBRARY REFERENCES

Colleges and Universities 6(1).

Westlaw Key Number Search: 81k6(1).

C.J.S. Colleges and Universities Section 10.

**SECTION 59‑122‑110.** Sale of bonds by board; notice.

The bonds may be disposed of in such manner as the board determines, except that no sale, privately negotiated without public advertisement, may be made unless approved by the State Fiscal Accountability Authority. If the board elects to sell the bonds at public sale, at least one advertisement of the sale must appear in a newspaper of general circulation in South Carolina not less than ten days before the opening of bids and, if no date is fixed in that advertisement, a subsequent notice must be provided either by like publication or other form of notice to parties requesting the notification not less than the business day before the sale.

HISTORY: 1989 Act No. 102, Section 2.

Code Commissioner’s Note

At the direction of the Code Commissioner, references in this section to the offices of the former State Budget and Control Board, Office of the Governor, or other agencies, were changed to reflect the transfer of them to the Department of Administration or other entities, pursuant to the directive of the South Carolina Restructuring Act, 2014 Act No. 121, Section 5(D)(1), effective July 1, 2015.

LIBRARY REFERENCES

Colleges and Universities 6(1).

Westlaw Key Number Search: 81k6(1).

C.J.S. Colleges and Universities Section 10.

Attorney General’s Opinions

Absent amendment of notice statutes requiring notice in a newspaper of general circulation by the General Assembly, the term newspaper of general circulation cannot be extended to include online newspapers. S.C. Op.Atty.Gen. (October 21, 2015) 2015 WL 6745997.

**SECTION 59‑122‑120.** Authority of board.

To the end that the payment of the principal and interest of the bonds authorized is adequately secured, the board may:

(1) issue bonds in such amount, within the limitations provided in this chapter, as the board considers necessary, provided that the board may use a portion of the principal proceeds derived from any sale of bonds, except bonds issued to effect refunding of outstanding bonds, to meet the payment of interest on the bonds for a period ending on the date acquired or renovated facilities are placed in service, it being recognized by the General Assembly that until the facilities to be acquired or renovated with the proceeds of the bonds are completed, an undue burden may be imposed upon then existing revenues;

(2) pledge the revenues or net revenues as provided in Section 59‑122‑50 for the payment of the principal of and interest on the bonds as they respectively mature;

(3) covenant that none of the facilities will be used free of charge, or specify and limit the facilities which may be made use of free of charge;

(4) covenant to establish and maintain the system of rules as will ensure the continuous use and occupancy of the facilities, the revenues from which are pledged to secure any bonds;

(5) covenant that an adequate schedule of charges will be established and maintained for all the facilities, the revenues from which are pledged to secure any bonds, to the extent necessary to provide sufficient revenues to:

(a) pay the cost of operating and maintaining the facilities including the cost of fire, extended coverage, and occupancy insurance;

(b) pay the principal and interest of the bonds as they respectively become due;

(c) create and at all times maintain any reserve fund considered necessary to meet the payment of the principal and interest;

(d) create and at all times maintain an adequate reserve for contingencies and for major repairs and replacement;

(6) covenant against the mortgaging or disposing of the facilities, the revenues from which are pledged for the payment of bonds, and against permitting or suffering any lien to be created on it, equal or superior to the lien created for the benefit of the bonds. The board may discontinue the use of or demolish obsolete facilities and it reserves the right, under terms it prescribes, to issue additional bonds on a parity with the bonds authorized by this chapter;

(7) covenant as to the use of the proceeds derived from the sale of any bonds issued pursuant to this chapter;

(8) provide for the terms, form, registration, exchange, execution, and authentication of bonds and for the replacement of lost, destroyed, or mutilated bonds;

(9) make covenants with respect to the use of facilities to be acquired or renovated with the proceeds of the bonds authorized in this chapter and of the other facilities, the revenues from which are pledged for the payment of the bonds;

(10) covenant that all revenues or net revenues pledged for the payment of the bonds must be segregated into special funds and that the funds will be used solely for the purposes for which they are intended and for no other purpose;

(11) covenant for the mandatory redemption of bonds on such terms and conditions as the resolutions authorizing the bonds must prescribe;

(12) prescribe the procedure, if any, by which the terms of the contract with the bondholders may be amended, the number of bonds whose holders must consent to it, and the manner in which the consent may be given;

(13) covenant as to the maintenance of the facilities, the revenues from which are pledged for the payment of the bonds, the insurance to be carried on the facilities, and the use and disposition of proceeds from any insurance policy;

(14) prescribe the events of default and the terms and conditions upon which all or any bonds become or may be declared due before maturity and the terms and conditions upon which the declaration and its consequences may be waived;

(15) impose a statutory lien upon the facilities, the revenues from which are pledged to secure the bonds. The lien may extend to such facilities, to their appurtenances and extensions, to their additions, improvements, and enlargements to the extent specified in the resolutions and inure to the benefit of the holders of the bonds secured by it. The facilities must remain subject to the statutory lien until the payment in full of the principal and interest of the bonds. Any holder of any of the bonds may, either at law or in equity, by suit, action, mandamus, or other proceedings, protect and enforce the statutory lien, and may, by suit, action, mandamus, or other proceedings, enforce and compel performance of all duties of the board, including the fixing of sufficient rates, the proper segregation of the revenues, and the proper application of them. The statutory lien may not be construed to give the holder authority to compel the sale of any of the facilities or any part of them;

(16) covenant that if any default occurs in the payment of the principal of or interest on any of the bonds, any court having jurisdiction in any proper action may appoint a receiver to administer and operate the facilities, the revenues from which are pledged for the payment of the bonds with power to fix rates and charges for the facilities, sufficient to provide for the payment of the expense of operating and maintaining the facilities, and to apply the income and revenues of such facilities to the payment of the bonds and the interest on them;

(17) establish on or before the occasion of the delivery of any bonds issued pursuant to this chapter a debt service reserve fund and cause it to be deposited with a corporate trustee and, to that end, the board is empowered to utilize any monies available for that purpose, including revenues previously accumulated from the facilities before the issuance of bonds;

(18) enter into an indenture with a corporate trustee providing for the collection and disbursement of net revenues and the maintenance of any reserve funds for which provision is made;

(19) contract with such advisors and counsel as it considers appropriate in connection with the issuance and sale of the bonds.

HISTORY: 1989 Act No. 102, Section 2.

LIBRARY REFERENCES

Colleges and Universities 6(1).

Westlaw Key Number Search: 81k6(1).

C.J.S. Colleges and Universities Section 10.

**SECTION 59‑122‑130.** Time limitation for issuance of bonds.

No time limit is set for the issuance of bonds pursuant to this chapter.

HISTORY: 1989 Act No. 102, Section 5.

LIBRARY REFERENCES

Colleges and Universities 6(1).

Westlaw Key Number Search: 81k6(1).

C.J.S. Colleges and Universities Section 10.