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CHAPTER 119.

CLEMSON UNIVERSITY

ARTICLE 1.

ORGANIZATION, POWERS, PROPERTY, INCOME AND THE LIKE

**SECTION 59‑119‑10.** Acceptance of the Clemson devise and bequest.

The honorable Thomas G. Clemson having departed this life on April 6, 1888, leaving of force his last will and testament which was duly admitted to probate on April 20, 1888 in the office of the judge of probate for the county of Oconee, in this State, wherein he devised and bequeathed to his executor, Richard W. Simpson of Pendleton, South Carolina, a tract of land situate on Seneca River in the said Oconee County, containing eight hundred and fourteen acres, more or less, known as the Fort Hill plantation, as well as all his other property, both real and personal, except certain legacies in said will mentioned and provided for, all in trust to convey to the State when the State should accept the same for the purpose of establishing and maintaining an agricultural and mechanical college upon said Fort Hill plantation upon the terms and conditions of said will, the State has heretofore expressly declared that it accepted the devise and bequest of Thomas G. Clemson subject to the terms and conditions set forth in said last will and testament and the State Treasurer has received and may securely hold such property, both real and personal.

HISTORY: 1962 Code Section 22‑201; 1952 Code Section 22‑201; 1942 Code Section 5830; 1932 Code Section 5730; Civ. C. '22 Section 2826; Civ. C. '12 Section 1886; Civ. C. '02 Section 1300; R. S. 1118; 1889 (20) 277.

**SECTION 59‑119‑20.** Clemson Agricultural College established; location and studies.

The deed and transfer of such property to the State having been duly executed and made by the executor, in accordance with the provisions of the will, an agricultural and mechanical college has been established in connection with the aforesaid devise and bequest, styled The Clemson Agricultural College of South Carolina and situated at Fort Hill, in Oconee County, on the plantation so devised. In the college shall be taught all branches of study pertaining to practical and scientific agricultural and other industries connected therewith and such other studies as are not inconsistent with the terms of such will.

HISTORY: 1962 Code Section 22‑202; 1952 Code Section 22‑202; 1942 Code Section 5731; 1932 Code Section 5731; Civ. C. '22 Section 2827; Civ. C. '12 Section 1887; Civ. C. '02 Section 1301; R. S. 1119; 1889 (20) 278.

**SECTION 59‑119‑30.** Name changed to Clemson University.

The Clemson Agricultural College of South Carolina shall henceforth be known, named and designated as Clemson University.

HISTORY: 1962 Code Section 22‑202.1; 1964 (53) 1885.

**SECTION 59‑119‑40.** Board of trustees; election; term.

The university shall be under the management and control of a board of thirteen trustees, composed of the seven members nominated by the will and their successors and six members to be elected by the General Assembly in joint assembly. Three of the original trustees having been elected for a term of two years and three for a term of four years from the commencement of their terms and until their successors were elected, thereafter the General Assembly has and hereafter it shall every two years elect in joint assembly three trustees for such university who shall serve for a term of four years and until their successors shall be elected and shall qualify. In electing members of the board, the General Assembly shall elect members based on merit regardless of race, color, creed, or gender and shall strive to assure that the membership of the board is representative of all citizens of the State of South Carolina.

The terms of the present members of the board who are elected by the General Assembly expire on the thirtieth day of June of the year in which the terms are scheduled to expire. Beginning with its 1984 session, the General Assembly shall elect successors to the elective trustees not earlier than the first day of April for a term to begin the following July first. Elections to fill vacancies on the board which are caused by the death, resignation, or removal of an elective trustee may be held earlier than the first day of April of the year in which the unexpired term terminates, but the term of the person elected to fill the vacancy expires on the last day of June of the year in which the term of the former member would have expired.

HISTORY: 1962 Code Section 22‑203; 1952 Code Section 22‑203; 1942 Code Section 5732; 1932 Code Section 5732; Civ. C. '22 Section 2828; Civ. C. '12 Section 1888; Civ. C. '02 Section 1302; R. S. 1120; 1889 (20) 277; 1897 (22) 470; 1898 (22) 763; 1912 (27) 558; 1983 Act No. 130, Section 15; 1983 Act No. 132, Section 6; 1984 Act No. 354, Section 5.

**SECTION 59‑119‑50.** General powers and duties of board.

The board of trustees shall elect one of their number to be president and elect a secretary and fix his salary. It shall prescribe the course of study, declare the professorships, elect the professors and define their duties and fix their salaries and make all rules and regulations for the government of the university. It may employ such superintendent, head workman and laborers for the farm, shops and grounds as may be necessary and fix their compensation.

HISTORY: 1962 Code Section 22‑204; 1952 Code Section 22‑204; 1942 Code Section 5732; 1932 Code Section 5732; Civ. C. '22 Section 2828; Civ. C. '12 Section 1888; Civ. C. '02 Section 1302; R. S. 1120; 1889 (20) 277; 1897 (22) 470; 1898 (22) 763; 1912 (27) 558.

**SECTION 59‑119‑60.** Board declared a body politic and corporate; corporate powers; property; investment of funds.

The board of trustees is hereby declared to be a body politic and corporate, under the name and style of Clemson University. It shall have a corporate seal, which it may change at its discretion, and in its corporate name it may contract for, purchase and hold property, for the purposes of Sections 59‑119‑10 to 59‑119‑70 and may take any property or money given or conveyed by deed, devise or bequest to said university and hold the same for its use and benefit; provided, however, that the conditions of such gifts or conveyances shall in no case be inconsistent with the purposes of Sections 59‑119‑10 to 59‑119‑70 and that the board shall not by the acceptance thereof incur any obligation on the part of the State. It shall securely invest all funds and keep all property which may come into its possession and may sell any of the personal property not subject to the trust and reinvest the same in such way as it deems best for the interest of said university. It may sue and be sued and plead and be impleaded in its corporate name and may do all things necessary to carry out the provisions of Sections 59‑119‑10 to 59‑119‑70 and may make bylaws for this purpose if it deems it necessary.

HISTORY: 1962 Code Section 22‑205; 1952 Code Section 22‑205; 1942 Code Section 5733; 1932 Code Section 5733; Civ. C. '22 Section 2829; Civ. C. '12 Section 1889; Civ. C. '02 Section 1303; R. S. 1121; 1889 (20) 279; 1939 (41) 77.

**SECTION 59‑119‑70.** Sale of real estate.

The board of trustees of Clemson University may sell and make title to, upon such terms and conditions as it deems advisable, any real estate held by it as such; provided, however,

(1) That such power and authority shall not extend to any part of the real property included in the bequest of Thomas G. Clemson; and

(2) That the authority and power herein bestowed upon said board of trustees shall not be exercised unless two thirds of the members of the board shall have agreed thereto.

Any conveyance made under this authority shall be made in accordance with the bylaws adopted by said board of trustees.

HISTORY: 1962 Code Section 22‑206; 1952 Code Section 22‑206; 1942 Code Section 5733; 1932 Code Section 5733; Civ. C. '22 Section 2829; Civ. C. '12 Section 1889; Civ. C. '02 Section 1303; R. S. 1121; 1889 (20) 279; 1939 (41) 77.

**SECTION 59‑119‑80.** Expenditure of moneys and use of property generally.

It shall require a two‑thirds vote of the board of trustees to authorize the expenditure of any monies appropriated to the university by the State or to authorize the sale, transfer or reinvestment of any property or monies arising from the sale of any property under the provisions of this chapter. All such actions shall be exercised in a manner consistent with the provisions of Chapter 35 of Title 11 of the 1976 Code.

HISTORY: 1962 Code Section 22‑208; 1952 Code Section 22‑208; 1942 Code Section 5734; 1932 Code Section 5734; Civ. C. '22 Section 2830; Civ. C. '12 Section 1890; Civ. C. '02 Section 1304; R. S. 1122; 1889 (20) 279; 1981 Act No. 148, Section 13.

**SECTION 59‑119‑90.** Investment of certain moneys from Clemson bequest in State stock.

The State Treasurer having by due authority of law invested certain funds which were turned over to him as a part of the Clemson bequest in Brown consols of this State and having been issued a certificate of State stock in a sum equal to the value of such Brown consols, bearing interest at the rate of six per cent per annum, payable semiannually, to the board of trustees of Clemson University, the same shall be held as a perpetual fund, the capital of which shall forever remain undiminished and the interest on which shall be used by such board of trustees for the uses of the university.

HISTORY: 1962 Code Section 22‑209; 1952 Code Section 22‑209; 1942 Code Section 5737; 1932 Code Section 5737; Civ. C. '22 Section 2833; Civ. C. '12 Section 1893; Civ. C. '02 Section 1307; R. S. 1125; 1891 (20) 1054.

**SECTION 59‑119‑100.** Investment of Clemson bequest generally and payment of interest to board.

The State Treasurer shall securely invest and reinvest the funds in his hands derived from the Clemson bequest in such manner as shall be directed by the Governor, the Comptroller General and the State Treasurer or any two of them. He may collect the interest annually upon all investments made of funds of the Clemson bequest and pay the same over to the treasurer of the board of trustees of Clemson University. He shall, under the direction of the Governor, the Comptroller General and the State Treasurer or any two of them, enforce the collection of the principal and interest due on any investment made of such Clemson bequest.

HISTORY: 1962 Code Section 22‑210; 1952 Code Section 22‑210; 1942 Code Section 5736; 1932 Code Section 5736; Civ. C. '22 Section 2832; Civ. C. '12 Section 1892; Civ. C. '02 Section 1306; R. S. 1124; 1890 (20) 662.

**SECTION 59‑119‑110.** One‑half land scrip fund vested in board; application of income.

One half of the land scrip fund once vested in the board of trustees of the University of South Carolina having by due authority of law been vested in the six members of the board of trustees of Clemson University elected by the General Assembly and the State Treasurer having issued a certificate of State stock in the sum of ninety‑five thousand nine hundred dollars, bearing interest at the rate of six per cent per annum, payable semiannually, to such six members of such board of trustees, to be held as a perpetual fund, the capital of which shall forever remain undiminished, the income of such fund shall be used by the board of trustees for the building and maintenance of Clemson University, in accordance with the purposes for which such land scrip was donated by the act of Congress in relation thereto.

HISTORY: 1962 Code Section 22‑211; 1952 Code Section 22‑211; 1942 Code Section 5738; 1932 Code Section 5738; Civ. C. '22 Section 2834; Civ. C. '12 Section 1894; Civ. C. '02 Section 1308; R. S. 1126; 1868 (14) 169; 1879 (17) 86; 1889 (20) 299; Const. Art. 11, Section 8.

**SECTION 59‑119‑120.** Division of public land fund under act of Congress.

All sums which shall be received by the State from the United States Government under the provisions of the act of Congress, approved August 30, 1890 entitled "An Act to Apply a Portion of the Public Lands to the more Complete Endowment and Support of Colleges for the Benefit of Agriculture and Mechanical Arts Established under the Provisions of an Act of Congress approved July second, eighteen hundred and sixty‑two," shall be equally divided between South Carolina State College and Clemson University to be applied to the purposes specified in such act.

HISTORY: 1962 Code Section 22‑212; 1952 Code Section 22‑212; 1942 Code Section 5744; 1932 Code Section 5806; Civ. C. '22 Section 2825; Civ. C. '12 Section 1885; Civ. C. '02 Section 1299; 1890 (20) 704; 1896 (22) 173; 1954 (48) 1722.

**SECTION 59‑119‑140.** Annual report by board.

The board of trustees shall make to the General Assembly an annual report of the university, of all farming operations and tests and experiments and of all receipts and expenditures, with a statement of the condition of the property and funds of such university and of all receipts and expenditures of money appropriated thereto by the State.

HISTORY: 1962 Code Section 22‑218; 1952 Code Section 22‑218; 1942 Code Section 5735; 1932 Code Section 5735; Civ. C. '22 Section 2831; Civ. C. '12 Section 1891; Civ. C. '02 Section 1305; R. S. 1123; 1889 (20) 279.

**SECTION 59‑119‑150.** Clemson University authorized to purchase computer; agreement for furnishing data processing services to State Department of Social Services.

The Clemson University Board of Trustees is hereby given authority for the purchase of computer equipment to be acquired during the fiscal year beginning July 1, 1976, and to borrow money necessary for the purchase of the computer equipment and to pay for other costs incidental thereto.

The term of the loan as provided herein shall not exceed seven (7) years and the debt service shall be financed by payments for the use of said computer.

Provided, Further, The Clemson University Board of Trustees is hereby given authority to enter into a contract of a duration not exceeding seven (7) years, commencing in the fiscal year beginning July 1, 1976, with the State Department of Social Services, in order to provide automatic data processing services to the Department of Social Services, and receive payment therefor.

Provided, Further, The State Board of Social Services is hereby given authority to enter into a contract of a duration not exceeding seven (7) years, with Clemson University, commencing in the fiscal year beginning July 1, 1976, in order to receive automatic data processing services from Clemson University and make payment therefor.

HISTORY: 1976 Act No. 709, Part II, Section 15.

**SECTION 59‑119‑160.** South Carolina Energy Research and Development Center established at Clemson University; advisory board; purposes.

(1) There is hereby established a South Carolina Energy Research and Development Center to be located at, under the auspices of, and in conjunction with Clemson University.

(2) Clemson University shall establish an advisory board for the center whose composition shall include members of the South Carolina Senate, House of Representatives and the Joint Legislative Committee on Energy and shall also include representatives from the Governor's office, private industry and state colleges and universities.

(3) The Energy Research and Development Center may share with Clemson University existing personnel, facilities and equipment.

(4) The purpose of the Energy Research and Development Center shall be to:

(a) complement federal energy research and development efforts by addressing aspects of the energy problem solutions that would be unique and germane to South Carolina;

(b) complement other state energy efforts by providing contracted technical support to various state agencies;

(c) allow university personnel to undertake energy projects too large and too complex to be handled by standard academic units; and

(d) conduct industrially‑oriented energy projects as a service to the state's industries and commerce.

HISTORY: 1981 Act No. 178, Part II, Section 8.

**SECTION 59‑119‑165.** Transfer of certain agricultural funds to Clemson‑PSA (Public Service Activities); use of funds; report.

The Budget and Control Board, in conjunction with the Department of Education, shall transfer all federal funds associated with Agricultural Education at the Department of Education to Clemson‑PSA (Public Service Activities) no later than July fifteenth of each fiscal year. Notwithstanding any other provisions of law, funds and positions transferred to Clemson‑PSA from the Department of Education for Agricultural Education shall be used for personnel positions and related office and travel expenses to provide overall leadership, coordination, and structure for agricultural education programs, and South Carolina Association of Young Farmers activities in the public schools of this State. Clemson‑PSA shall provide a report to the Department of Education on the use and expenditure of the federal funds transferred by the Department of Education to Clemson‑PSA no later than December first of each fiscal year.

HISTORY: 1998 Act No. 419, Part II, Section 14.

ARTICLE 3.

MUNICIPAL CORPORATION OF CLEMSON UNIVERSITY

**SECTION 59‑119‑310.** Establishment of municipal corporation; boundaries.

A municipal corporation is hereby created, known as Clemson University, the limits of which shall consist of all lands belonging to Clemson University and cover all the territory included in a circle formed with the university building as a center, with a radius of five miles, thus making the diameter of the circle ten miles, within which boundaries the jurisdiction of the corporation shall extend.

HISTORY: 1962 Code Section 22‑231; 1952 Code Section 22‑231; 1942 Code Section 5759; 1932 Code Section 5759; Civ. C. '22 Section 2854; Civ. C. '12 Section 1907; Civ. C. '02 Section 1320; 1894 (21) 915; 1901 (23) 830.

**SECTION 59‑119‑320.** Board of trustees shall be governing body; recorder.

The board of trustees of Clemson University and their successors in office shall have perpetual control and direct the affairs of such municipal corporation. The board, by a majority vote, shall recommend a suitable person as recorder, who shall be commissioned by the Governor, shall have the same jurisdiction within the territory described in Section 59‑119‑310 as a magistrate and may carry out and enforce all ordinances of the board of trustees of Clemson University and punish violations thereof by fine or imprisonment within the jurisdiction hereinabove defined. Said board of trustees shall make such rules for the maintenance of order and provide such punishments, within the jurisdiction above defined, by fine or imprisonment, as will keep the territory within their jurisdiction free from nuisances and enforce the police regulations of the State.

HISTORY: 1962 Code Section 22‑232; 1952 Code Section 22‑232; 1942 Code Section 5760; 1932 Code Section 5760; Civ. C. '22 Section 2855; Civ. C. '12 Section 1908; Civ. C. '02 Section 1321; 1894 (21) 915; 1901 (23) 830; 1923 (33) 152.

**SECTION 59‑119‑330.** Trustees authorized to license or prohibit sales.

The board of trustees of Clemson University may make such bylaws as they deem proper to license or prohibit the sale of goods, wares and merchandise of any kind whatever on the grounds belonging to the university as are not repugnant to the laws of the State.

HISTORY: 1962 Code Section 22‑233; 1952 Code Section 22‑233; 1942 Code Section 5761; 1932 Code Section 5761; Civ. C. '22 Section 2856; Civ. C. '12 Section 1909; Civ. C. '02 Section 1322; R. S. 1135; 1892 (21) 88.

**SECTION 59‑119‑340.** Constables.

The board may appoint one or more special constables who shall exercise all the power of a State constable or of a municipal policeman to enforce obedience to the ordinances of the board and to the laws of the State.

HISTORY: 1962 Code Section 22‑234; 1952 Code Section 22‑234; 1942 Code Section 5762; 1932 Code Section 5762; Civ. C. '22 Section 2857; Civ. C. '12 Section 1910; Civ. C. '02 Section 1323; 1894 (21) 915.

**SECTION 59‑119‑350.** Trustees not given right to levy or collect taxes.

Nothing contained in this article shall give such board of trustees the right to levy or collect any tax.

HISTORY: 1962 Code Section 22‑235; 1952 Code Section 22‑235; 1942 Code Section 5763; 1932 Code Section 5763; Civ. C. '22 Section 2858; Civ. C. '12 Section 1911; Civ. C. '02 Section 1324; 1894 (21) 915.

**SECTION 59‑119‑360.** Annual report.

A report of all its proceedings under this article shall be made, annually, by the board to the General Assembly.

HISTORY: 1962 Code Section 22‑236; 1952 Code Section 22‑236; 1942 Code Section 5764; 1932 Code Section 5764; Civ. C. '22 Section 2859; Civ. C. '12 Section 1912; Civ. C. '02 Section 1325; G. S. 598; R. S. 1134; 1879 (17) 74.

ARTICLE 5.

REVENUE BONDS

**SECTION 59‑119‑510.** Authorization, generally.

Clemson University, in this article referred to as the university, may issue revenue bonds of the university for the purpose of financing or refinancing in whole or in part the cost of construction, reconstruction, improvement and equipment of buildings for the purposes of the university, including, without limiting the generality of the foregoing apartment buildings, dwelling houses, dining halls, cafeterias and inns or for any one or more of such purposes.

HISTORY: 1962 Code Section 22‑271; 1952 Code Section 22‑271; 1950 (46) 2662.

**SECTION 59‑119‑520.** Authorization shall be by resolution; provisions thereof.

Revenue bonds issued under this article shall be authorized by a resolution or resolutions of the board of trustees of the university. Any such resolution of the university may, in the discretion of the board, contain provisions, which shall be a part of the contract between the university and the several holders of such bonds, as to any of the following:

(1) The custody, security, use, expenditure or application of the proceeds of the bonds;

(2) The construction and completion of the building or buildings for which the bonds are issued;

(3) The use, regulation, operation, maintenance, insurance or disposition of the building or buildings for which the bonds are issued or restrictions on the exercise of the powers of the board of trustees to dispose of or to limit or regulate the use of such building or buildings;

(4) The payment of the principal of or interest on the bonds and the sources and methods thereof, the rank or priority of any such bonds as to any lien or security or the acceleration of the maturity of any such bonds;

(5) The use and disposition of the revenues derived or to be derived from the operation of such building or buildings;

(6) The pledging, setting aside, depositing or trusteeing of the revenues from which the bonds are made payable to secure the payment of the principal of and interest on the bonds or the payment of expenses of operation and maintenance of such building or buildings;

(7) The setting aside out of such revenues of reserves or sinking funds and the source, custody, security, regulation and disposition thereof;

(8) The determination of the definition of such revenues or of the expenses of operation and maintenance of the building or buildings for which the bonds are issued;

(9) The rentals, fees or other charges from students, faculty members and others using or being served by, or having the right to use or be served by, the building or buildings for which the bonds are issued and any parts, extensions, replacements or improvements thereof thereafter constructed or acquired and the fixing, establishment, collection and enforcement thereof, the amount or amounts of revenues to be produced thereby and the disposition and application of the amounts charged or collected;

(10) Limitations on the issuance of additional bonds or any other obligations or the incurrence of indebtedness payable from the same revenues from which the bonds are payable;

(11) Parietal rules to insure the use of such building or buildings by students or members of the faculty of the university to the maximum extent to which such building or buildings is capable of serving such students or faculty members;

(12) The procedure, if any, by which the terms of any covenant or contract with, or duty to, the holders of such bonds 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 or evidenced; and

(13) Any other matter or course of conduct which, by recital in the resolution or resolutions authorizing or providing for the bonds, is declared to further secure the payment of the principal of or interest on the bonds.

HISTORY: 1962 Code Section 22‑272; 1952 Code Section 22‑272; 1950 (46) 2662.

**SECTION 59‑119‑530.** Additional terms of bonds.

Such revenue bonds may be issued 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 bear interest at such rate or rates, not exceeding four per cent per annum, payable semiannually, may be payable in such medium of payment and at such place or places, may be in such denomination or denominations, may be in such form, either coupon or registered, may carry such registration privileges, may be subject to such terms of redemption before maturity, with or without premium, and may contain such terms, covenants and conditions as the resolution authorizing the issuance of such bonds may provide. Such bonds shall be fully negotiable within the meaning of and for all the purposes of the Uniform Commercial Code.

HISTORY: 1962 Code Section 22‑273; 1952 Code Section 22‑273; 1950 (46) 2662.

**SECTION 59‑119‑540.** Exemption of bonds from taxation.

Such bonds shall be exempt from State, county, municipal and school taxes.

HISTORY: 1962 Code Section 22‑274; 1952 Code Section 22‑274; 1950 (46) 2662.

**SECTION 59‑119‑550.** Execution of bonds.

Such bonds shall be signed in the corporate name of the university by the chairman of the board of trustees of the university, under the corporate seal of the university attested by the secretary of the board of trustees. Interest coupons attached to the bonds shall be signed by the facsimile signatures of such officers. Such bonds may be issued notwithstanding that any of the officials signing them or whose facsimile signatures appear on the coupons shall have ceased to hold office at the time of such issue or at the time of the delivery of such bonds to the purchaser.

HISTORY: 1962 Code Section 22‑275; 1952 Code Section 22‑275; 1950 (46) 2662.

**SECTION 59‑119‑560.** Sale of bonds.

Such bonds shall be sold at public or private sale upon such terms and conditions as the board of trustees of the university deems advisable.

HISTORY: 1962 Code Section 22‑276; 1952 Code Section 22‑276; 1950 (46) 2662.

**SECTION 59‑119‑570.** Description of bonds shall be filed with State Treasurer.

The board of trustees or its proper administrative officers shall file with the State Treasurer within thirty days from the date of their issuance a complete description of all obligations entered into by the board, with the rates of interest, maturity dates, annual payments and all pertinent data.

HISTORY: 1962 Code Section 22‑277; 1952 Code Section 22‑277; 1950 (46) 2662.

**SECTION 59‑119‑580.** Enforcement of provisions of resolution.

All provisions of a resolution authorizing or providing for the issuance of the bonds in accordance with Section 59‑119‑520 and of such covenants and agreements shall constitute valid and legally binding contracts between the university and the several holders of the bonds, regardless of the time of issuance of such bonds, and shall be enforceable by any such holder or holders by mandamus or other appropriate action, suit or proceeding at law or in equity in any court of competent jurisdiction.

HISTORY: 1962 Code Section 22‑278; 1952 Code Section 22‑278; 1950 (46) 2662.

**SECTION 59‑119‑590.** Revenues available for payment of bonds.

Such bonds shall be made payable solely from the revenues derived by the university from the operation of the building or buildings for which the bonds are issued or, in the discretion of the board of trustees of the university, from such revenues and also from any other revenues of the university, except revenues pledged to the payment of other obligations outstanding on May 27, 1950 and revenues derived from appropriations received from the General Assembly. The bonds shall not be obligations of the State.

HISTORY: 1962 Code Section 22‑279; 1952 Code Section 22‑279; 1950 (46) 2662.

ARTICLE 7.

AUXILIARY FACILITIES REVENUE BONDS

**SECTION 59‑119‑710.** Purpose; authorization.

(A) The General Assembly finds that it is desirable to provide continuing and general statutory authority for Clemson University to incur debt for, among other things, the purposes of providing funds to acquire, construct, renovate, and equip certain revenue‑producing auxiliary facilities, which debt is secured by a pledge of the revenues derived from the operation of some or all of the facilities. Clemson University has demonstrated need for additional funds to provide for acquisition, construction, renovation, and equipping of these facilities. These facilities are needed to replace or renovate aging facilities and to provide additional facilities all to the end that the educational environment at Clemson University will be enhanced for the benefit of present and potential students at Clemson University.

(B) Consideration has been given to this need and to the methods of funding it. It has been determined to be in the best interests of the people of this State to authorize Clemson University to acquire, construct, renovate, and equip additional facilities and to incur indebtedness for these purposes which is payable from the revenues derived from the operation of these facilities to the extent and under the conditions provided for in this article.

HISTORY: 1990 Act No. 502, Section 1.

**SECTION 59‑119‑720.** Definitions.

As used in this article:

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

(2) "Clemson" means Clemson University.

(3) "Facilities" means any or all of the following facilities operated to provide for the students, faculty, or staff at Clemson: dining or food service facilities; laundry facilities; canteen facilities; vending machines; convenience stores; any other facilities for the sale of sundry items; health services; book stores; parking lots and vehicle registration; and all furniture, furnishings and equipment in them, which are now owned by Clemson, or which may be acquired by Clemson for any of these purposes.

(4) "Revenues" of any facilities means the entire receipts of Clemson from the operation of the facilities. 'Net revenues' means these receipts reduced by the necessary expenses for operation and maintenance of the facilities.

(5) "Board" means the State Budget and Control Board.

(6) "Trustees" means the Board of Trustees of Clemson or any successor body.

HISTORY: 1990 Act No. 502, Section 1.

**SECTION 59‑119‑730.** Trustees authorization; acquisition of facilities; bond refunds.

The trustees are authorized to acquire additional facilities and to improve and renovate existing facilities to the extent they determine to be necessary; and the proceeds of bonds authorized by this article are made available for that purpose. The trustees also are authorized to refund bonds that may from time to time be outstanding pursuant to this article by exchange or otherwise.

HISTORY: 1990 Act No. 502, Section 1.

**SECTION 59‑119‑740.** Issuance of bonds; limit.

Upon receiving the approval of the board and upon review by the Joint Bond Review Committee, the trustees may from time to time borrow such sums as may be necessary to accomplish the purpose of this article and to evidence these borrowings by bonds issued pursuant to this article in such aggregate principal amount as they determine, except that other provisions of this article to the contrary notwithstanding, there may not be outstanding at any time bonds issued pursuant to this article in excess of twenty‑five million dollars.

HISTORY: 1990 Act No. 502, Section 1.

**SECTION 59‑119‑750.** Funding of bonds; security, generally.

Bonds issued pursuant to this article must be payable from the revenues or the net revenues derived by Clemson from these facilities as designated by the trustees with respect to the bonds. The trustees may abandon the use of any portion of the facilities or sell or dispose of any portion of the facilities upon receipt of a written recommendation by the chief financial officer of Clemson to the effect that the action will not adversely affect the ability of Clemson to discharge its obligations to the holders of bonds issued pursuant to this article and upon the further conditions as prescribed in the resolution of the trustees providing for the issuance of bonds. The bonds issued pursuant to this article may be further secured by the additional pledges of other revenues or fees of Clemson as it may be authorized to grant pursuant to other laws of this State.

HISTORY: 1990 Act No. 502, Section 1.

**SECTION 59‑119‑760.** Bonds not guaranteed by State; trustees not personally liable.

The faith and credit of the State may not be 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 trustees nor any other person signing the bonds is personally liable for them.

HISTORY: 1990 Act No. 502, Section 1.

**SECTION 59‑119‑770.** Bond specifications; issuing resolutions.

In order to avail themselves of the authorizations set forth in this article, the trustees shall adopt resolutions providing for the issuance of bonds of Clemson, within the limitations mentioned in this article which must prescribe the tenor, terms, and conditions of the bonds. The bonds must be issued as serial or term bonds, maturing in equal or unequal amounts, at such times and on such occasions as the trustees determine. The last maturing bonds of any issue must be expressed to mature not later than fifty years from their date, and the first maturing bonds of any issue, issued pursuant to this article, falls due within five years from their date. They must bear such rates of interest, payable on such occasion, as the trustees prescribe, and the bonds must be in such denominations, payable in such medium of payment, and at such place as such resolutions prescribe. All bonds may be issued with a provision permitting their redemption on any interest payment date before their respective maturities. 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 trustees prescribe in the resolutions authorizing their issuance. All bonds that are subject to redemption must contain a statement to that effect on the face of each bond. The resolutions authorizing their issuance must contain provisions specifying the manner of call and the notice of call that must be given.

HISTORY: 1990 Act No. 502, Section 1.

**SECTION 59‑119‑780.** Tax exempt status.

The bonds authorized by this article and all interest to become due on them have the tax exempt status prescribed by Section 12‑1‑60.

HISTORY: 1990 Act No. 502, Section 1.

**SECTION 59‑119‑790.** Who may invest in bonds.

It is lawful for all executors, administrators, guardians, and fiduciaries, all sinking fund commissions, the board, as trustee of the South Carolina Retirement System, and all other governmental entities within this State to invest any monies in their hands in the bonds.

HISTORY: 1990 Act No. 502, Section 1.

**SECTION 59‑119‑800.** Execution of bonds and coupons; registration as to principal and interest.

The bonds and coupons, if any, attached to the bonds, are executed manually or by facsimile in the name of Clemson in the manner and by persons as the trustees from time to time determine, and the seal of Clemson must be affixed to or impressed or reproduced on each bond. Any coupons attached to the bonds must be authenticated by the facsimile signature of one or more of the persons signing the bonds. The bonds, in the discretion of the trustees, may be registerable as to principal and interest on books kept for them by or on behalf of Clemson, including by a corporate registrar. The delivery of the executed bonds is valid notwithstanding changes in officers or in the seal occurring after the execution. Notwithstanding the foregoing, the bonds, in the discretion of the trustees, may be issued as fully registered noncertificated book‑entry securities.

HISTORY: 1990 Act No. 502, Section 1.

**SECTION 59‑119‑810.** Sale; advertisement; discounts.

The bonds must be disposed of in such manner as the trustees determine, except that no sale, privately negotiated without public advertisement, may be made unless the approval of the board is obtained. If the trustees elect to sell the bonds at public sale, at least one advertisement of them must appear in some newspaper of general circulation in this State not less than seven days before the date fixed for the opening of bids. The bonds may be sold at such discount or for such premium as may be determined by the trustees or their designee as being in the best interest of Clemson.

HISTORY: 1990 Act No. 502, Section 1.

**SECTION 59‑119‑820.** Trustees' powers for purposes of securing principal and interest of bonds.

To the end that the payment of the principal and interest of the bonds authorized by this article is secured adequately, the trustees of Clemson may:

(1) issue bonds in such amount within the limitations provided for in this article, as the trustees consider necessary. It is lawful for the trustees to 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 equal to the period of construction of the facilities to be financed with the proceeds of such bonds, plus a period not exceeding six months. It is recognized by the General Assembly that until the facilities to be constructed with the proceeds of the loan are completed an undue burden may be imposed upon the existing revenues at that time;

(2) pledge the revenues or the net revenues of the facilities as designated by the trustees in connection with the issuance of the bonds, whether then or after that time to be existing and to pledge any otherwise available gifts, grants, or donations to Clemson for the payment of the principal of and interest on the bonds as they respectively mature. However, any surplus of the revenues or net revenues available after the payment of costs of operation and maintenance of the facilities and of debt service on the bonds, and the establishment of any debt service reserve obligation under the proceedings providing for the issuance of the bonds, is placed in a contingency and improvement fund for the facilities in order to restore depreciated or obsolete items of the facilities, to make improvements to the facilities, to defray the cost of unforeseen contingencies with regard to the facilities, to prevent defaults under such bonds, or to redeem any of the bonds;

(3) further secure the bonds with a pledge of any additional revenues or fees of Clemson as may be authorized under other laws of this State;

(4) covenant that no facilities owned by Clemson may be used free of charge, or to specify and limit the facilities which may be used free of charge;

(5) covenant to establish and maintain a system of rules as will insure the continuous use and occupancy of the facilities, whose revenues are pledged to secure any bonds;

(6) covenant that an adequate schedule of charges be established and maintained for the facilities designated by the trustees, whose revenues or net revenues are pledged to secure the bonds, to the extent necessary to produce sufficient revenues to:

(a) pay the cost of operating and maintaining the facilities, whose revenues or net revenues are pledged for the payment of the bonds, including the cost of fire, extended coverage and use, and occupancy insurance;

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

(c) create and at all times maintain an adequate debt service reserve fund to meet the payment of the principal and interest; and

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

(7) covenant against the mortgaging or disposing of the facilities designated by the trustees, whose revenues or net revenues are pledged for the payment of the bonds, and against permitting or suffering any lien to be created on them, equal or superior to the lien created for the benefit of such bonds. The trustees are empowered to discontinue the use of or demolish obsolete facilities and to reserve the right, under the terms they prescribe, to issue additional bonds on a parity with the bonds authorized by this article, if at some later date they obtain legislative authorization for the issuance of additional bonds;

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

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

(10) make covenants with respect to the use of the facilities, to be constructed with the proceeds of the bonds authorized by this article, and of the other facilities, whose revenues must be pledged for the payment of the bonds;

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

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

(13) provide for early defeasance of bonds through the establishment of special escrow accounts maintained by a corporate trustee, which may be the State Treasurer, of cash or United States government obligations, or obligations of agencies of them, which escrows may be funded with proceeds of bonds issued under the provisions of this article or revenues or other funds available to Clemson;

(14) 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 consent is given;

(15) covenant as to the maintenance of the facilities, whose revenues must be pledged for the payment of the bonds, the insurance to be carried on them, and the use and disposition of proceeds from any insurance policy;

(16) 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;

(17) impose a statutory lien upon the facilities designated by the trustees, the revenues or net revenues of which must be pledged to secure the bonds. The lien must extend to the facilities, to their appurtenances and extension, to their additions, improvements and enlargements to the extent specified in the resolutions and must inure to the benefit of the holders of the bonds secured by the lien. The facilities remain subject to the statutory lien until the payment in full of the principal and interest of the bonds. A holder of a bond, or any of the coupons representing interest on them, either at law or in equity, by suit, action, mandamus, or other proceedings, may protect and enforce the statutory lien, and by suit, action, mandamus, or other proceedings may enforce and compel performance of all duties of the trustees, including the fixing of sufficient rates, the proper segregation of the revenues, and the proper application of them. However, the statutory lien may not be construed to give the bond or coupon holder authority to compel the sale of any of the facilities or any part of them;

(18) covenant that if there is a default in the payment of the principal of or interest upon any of the bonds, a court having jurisdiction in any proper action may appoint a receiver to administer and operate the facilities designated by the trustees, whose revenues or net revenues 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 the facilities to the payment of the bonds, and the interest on them;

(19) establish on or before the delivery of any bonds issued pursuant to this article a debt service reserve fund and to cause it to be deposited with a corporate trustee, who may be the State Treasurer, and to that end, the trustees are empowered to utilize any monies available for that purpose, including revenues previously accumulated from the facilities before the issuance of bonds. In the discretion of the trustees, in lieu of cash, the debt service reserve fund may be funded with a surety bond, insurance policy, letter of credit, line of credit, or similar guarantee. At the discretion of the trustees, Clemson may purchase an insurance policy insuring payment of both principal and interest on any issuance of bonds under the provisions of this article;

(20) appoint a corporate trustee, who may be the State Treasurer, or paying agent to whom must be paid all or any portion of the revenues or net revenues pledged to the payment of the bonds or derived from the operation of the facilities, and to prescribe the manner in which these revenues or net revenues must be utilized and disposed of. The corporate trustee shall serve in a fiduciary capacity as trustee for the bondholders under the resolutions of the trustees authorizing the issuance of bonds.

HISTORY: 1990 Act No. 502, Section 1.

**SECTION 59‑119‑830.** No time limit for issuing bonds.

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

HISTORY: 1990 Act No. 502, Section 1.

ARTICLE 9.

ATHLETIC FACILITIES REVENUE BONDS

**SECTION 59‑119‑910.** Legislative findings and intention.

(A) The General Assembly finds that it is desirable to provide continuing and general statutory authority for Clemson University to incur debt for the purpose of, among other things, acquiring, constructing, renovating, and equipping certain athletic facilities, which debt is secured by a pledge of the revenues derived from the operation of the athletic department of Clemson University and by the proceeds of certain related admissions fees and special fees charged to students enrolled at Clemson University. Clemson University has demonstrated need for additional funds to provide for acquisition, construction, renovation, and equipping of such facilities. These facilities are needed to replace or renovate aging facilities and to provide additional facilities all to the end that the educational environment at Clemson University will be enhanced for the benefit of present and future students at Clemson University.

(B) Consideration has been given to this need and to the methods of funding it. It has been determined to be in the best interests of the people of this State to authorize Clemson University to acquire, construct, renovate, and equip additional such facilities and to incur indebtedness for these purposes which is payable from the revenues derived from the operation of these facilities and from related fees to the extent and under the conditions provided for in this article.

(C) Heretofore, pursuant to Acts 466 of 1957, 905 of 1960, 1277 of 1970, 1653 of 1972, 1303 of 1974, 760 of 1976, and 193 and 194 of 1983, the General Assembly has previously made provision for the issuance of revenue bonds of Clemson University for the purpose of financing and refinancing improvements to the football stadium on the campus of Clemson University known as Memorial Stadium. By this article, the General Assembly intends to amend and restate these acts for the purpose of broadening the scope of athletic facilities on the campus of Clemson University which may be financed or refinanced from the proceeds of bonds which are payable from revenues of the athletic department of Clemson University and related fees.

HISTORY: 1997 Act No. 144, Section 1.

**SECTION 59‑119‑920.** Definitions.

As used in this article:

(1) "Admissions fee" means the specially designated admissions fee or charge which may, in addition to other charges, be imposed by the trustees upon persons admitted to any event held at an athletic facility, for the purpose of providing funds to assist in the repayment of bonds.

(2) "Athletic department" means the athletic department of Clemson.

(3) "Athletic facilities" means all facilities designated by the trustees as intercollegiate athletic facilities now owned or hereafter acquired by Clemson.

(4) "Bond" or "bonds" means any note, bond, installment contract, or other evidence of indebtedness issued pursuant to this article.

(5) "Bond reserve fund" means the special fund which may be established by the trustees pursuant to this article, which must be in the custody of the State Treasurer or its corporate trust designee and which is primarily established for the purpose of providing a reserve with which to meet the payment of the principal of and interest on bonds in the event that payments otherwise required from the debt service fund are insufficient to meet the payment of the principal and interest as and when they become due and payable.

(6) "Clemson" means Clemson University.

(7) "Debt service fund" means the fund established by this article for the payment of principal of and interest on bonds, which must be in the custody of the State Treasurer or its corporate trust designee.

(8) "Net revenues" means all revenues remaining after payment of the operating and maintenance expenses of the athletic department but before provision is made for depreciation, amortization, nonmandatory transfers, and interest expenses of the athletic department for a given fiscal year.

(9) "Prior acts" means Acts 446 of 1957, 905 of 1960, 1277 of 1970, 1653 of 1972, 1303 of 1974, 760 of 1976, and 193 and 194 of 1983.

(10) "Revenues" means all revenues or other income, including investment income, received by the athletic department from the operation of the athletic department and the athletic facilities, and all gifts, bequests, contributions, and donations received by the trustees or Clemson from any persons, including from any athletic booster organization, for use in connection with the operations of the athletic department, plus any other unrestricted revenues of the athletic department not otherwise pledged that may be made applicable by the trustees to the payment of the principal and interest of the bonds, including such revenues which may fall into the category of nonmandatory transfers as such term is used in generally accepted accounting principles, but excluding:

(i) gifts, bequests, contributions, and donations restricted to a particular purpose inconsistent with their use for the payment of the principal, premium, or interest on any obligations of the trustees or Clemson;

(ii) the proceeds of any borrowings;

(iii) state appropriations of any sort; and

(iv) revenues, income, receipts, and money received by the trustees or Clemson for purposes other than those related to the athletic department.

(11) "Special student fee" means the fee authorized by this article to be established by the trustees and which may be imposed upon persons in attendance at any academic session of Clemson in order to provide funds to assist in the repayment of bonds.

(12) "State board" means the State Budget and Control Board.

(13) "Trustees" means the board of trustees of Clemson or any successor body.

HISTORY: 1997 Act No. 144, Section 1.

**SECTION 59‑119‑930.** Authorization for additional, improvement of existing athletic facilities; bond proceeds; bond refunds; bond reserve funds; interest; issuance costs.

The trustees are authorized to acquire, construct, and equip additional athletic facilities and to improve, renovate, and equip existing athletic facilities to the extent they shall determine to be necessary, and the proceeds of bonds authorized by this article are made available for that purpose. The trustees also are authorized to refund bonds that may from time to time be outstanding pursuant to this article by exchange or otherwise. A portion of the proceeds of bonds issued for any of the above purposes also may be used to fund, establish, or replenish any bond reserve fund, to pay interest on the bonds as provided in Section 59‑119‑1040(1), or to pay costs of issuance of the bonds or of any credit enhancement for the bonds as may be deemed necessary by the trustees.

HISTORY: 1997 Act No. 144, Section 1.

**SECTION 59‑119‑940.** Borrowings; limitations on bonds.

Upon receiving the approval of the state board and upon review by the Joint Bond Review Committee, the trustees may from time to time borrow such sums as necessary to accomplish the purpose of this article and to evidence such borrowings by bonds issued pursuant to this article in the aggregate principal amount as they determine, except that other provisions of this article to the contrary notwithstanding, there must not be outstanding at any time bonds issued pursuant to this article in the aggregate principal amount as they determine, except that other provisions of this article to the contrary notwithstanding, there must not be outstanding at any time bonds issued pursuant to this article in excess of two hundred million dollars.

HISTORY: 1997 Act No. 144, Section 1; 2004 Act No. 198, Section 1, eff April 26, 2004; 2007 Act No. 17, Section 1, eff May 8, 2007.

**SECTION 59‑119‑950.** Bonds payable from revenues, fee proceeds; additional pledges; abandonment of use, disposal of facilities.

Bonds issued pursuant to this article are payable from the revenues or the net revenues as designated by the trustees, as well as from proceeds of the admission fee and the special student fee. Bonds issued pursuant to this article may be further secured by such additional pledges of other revenues or fees of Clemson as Clemson may be authorized to grant pursuant to other laws of this State. The trustees may abandon the use of any portion of the athletic facilities or sell or dispose of any portion of the athletic facilities upon the receipt of a written recommendation by the chief financial officer of Clemson to the effect that such action does not adversely affect the ability of Clemson to discharge its obligations to the holders of bonds issued pursuant to this article and upon such further conditions as prescribed in the resolution of the trustees providing for the issuance of bonds.

HISTORY: 1997 Act No. 144, Section 1.

**SECTION 59‑119‑960.** Pledge of state faith and credit prohibited; statement; personal liability.

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

HISTORY: 1997 Act No. 144, Section 1.

**SECTION 59‑119‑970.** Resolutions for issuance of bonds; maturation; interest rates; redemption; manner of call for redemption, notice.

In order to avail themselves of the authorizations set forth in this article, the trustees shall from time to time adopt resolutions providing for the issuance of bonds of Clemson, within the limitations herein mentioned, which resolutions shall prescribe the tenor, terms, and conditions of such bonds. Such bonds must be issued as serial or term bonds, maturing in equal or unequal amounts, at such times and on such occasions as the trustees determine. The last maturing bonds of any issue must be expressed to mature not later than fifty years from their date, and the first maturing bonds of any issue, issued pursuant to this article, shall fall due within five years from their date. The bonds shall bear such rates of interest, payable on such occasion, as the trustees shall prescribe, and the bonds must be in such denominations, must be payable in such medium of payment, and at such place as such resolutions prescribe. All bonds may be issued with a provision permitting their redemption on any interest payment date prior to their respective maturities. Bonds made subject to redemption prior to 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 trustees shall prescribe in the resolutions authorizing their issuance. All bonds that are subject to redemption shall contain a statement to that effect on the face of each bond. The resolutions authorizing their issuance shall contain provisions specifying the manner of call for redemption and the notice of such call that must be given.

HISTORY: 1997 Act No. 144, Section 1.

**SECTION 59‑119‑980.** Tax exempt status.

The bonds authorized by this act and all interest to become due thereon have the tax exempt status prescribed by Section 12‑2‑50.

HISTORY: 1997 Act No. 144, Section 1.

**SECTION 59‑119‑990.** Investments.

It is lawful for all executors, administrators, guardians, and fiduciaries, all sinking fund commissions, the state board, as trustee of the South Carolina Retirement System, and all other governmental entities within the State to invest any monies in their hands in such bonds.

HISTORY: 1997 Act No. 144, Section 1.

**SECTION 59‑119‑1000.** Execution of bonds and coupons; authentication; bonds registerable as to principal and interest; changes.

The bonds and the coupons, if any, attached to such bonds, must be executed manually or by facsimile in the name of Clemson in such manner and by such persons as the trustees shall from time to time determine, and the seal of Clemson must be affixed to, or impressed, or reproduced on each bond. Any coupons attached to such bonds must be authenticated by the facsimile signature of one or more of the persons signing the bonds. Such bonds may, in the discretion of the trustees, be registerable as to principal and interest on books kept therefor by or on behalf of Clemson, including by a corporate registrar. The delivery of the bonds so executed are valid notwithstanding changes in officers or in the seal occurring after such execution. Notwithstanding the foregoing, the bonds may, in the discretion of the trustees, be issued as fully registered, noncertificated, book‑entry securities.

HISTORY: 1997 Act No. 144, Section 1.

**SECTION 59‑119‑1010.** Disposal of bonds; public sale, advertisement; discount or premium.

The bonds may be disposed of in such manner as the trustees shall determine, except that no privately negotiated sale without public advertisement may be made without the prior approval of the state board. If the trustees shall elect to sell the bonds at public sale, at least one advertisement thereof shall appear in a newspaper of general circulation in the State not less than seven days prior to the occasion fixed for the opening of bids. The bonds may be sold at such discount or for such premium as may be determined by the trustees or their designee as being in the best interest of Clemson.

HISTORY: 1997 Act No. 144, Section 1.

**SECTION 59‑119‑1020.** Bond proceeds; special funds; withdrawals; temporary investments.

The proceeds of all bonds must be delivered to the State Treasurer or its corporate trust designee and retained in a special fund or funds and applied solely to the purposes for which such bonds have been issued. Withdrawals from the fund must be made on the order or requisition of the university and must be in such form as the State Treasurer shall prescribe. The State Treasurer may make temporary investments of funds derived from the proceeds of bonds in the manner prescribed by law.

HISTORY: 1997 Act No. 144, Section 1.

**SECTION 59‑119‑1030.** Provisions for adequate payment of principal and interest; admissions, special student fees; debt service requirements; debt service fund.

To the end that provisions be made for the adequate payment of the principal of and interest on the bonds:

(1)(a) The trustees shall maintain in full force and effect any necessary admission fees or special student fee on a basis and in such amounts as will be sufficient, after taking into account net revenues and any other funds pledged to the payment of the bonds as provided under Section 59‑119‑1040(4), to provide for the payment of the principal of and interest on the bonds as the same mature and to provide the required reserve therefor in any bond reserve fund. It is the duty of Clemson to calculate the debt service requirements of the bonds not less frequently than annually and, if required at such time, appropriate revisions of any admission fees or special student fee must be made by the trustees if such revisions are required, after taking into account net revenues for the year, to make adequate provisions for the payment of the principal of and interest on the bonds and the maintenance of any required reserve in a bond reserve fund.

(b) The admissions fees and the special student fee, if any, shall bear such nomenclature as the trustees shall prescribe. The special student fee may, in the discretion of the trustees, be included as a part of any other fee. The trustees shall account for the receipt from any admissions fees and special student fee to the State Treasurer, for deposit by the State Treasurer in the debt service fund.

(c) Notwithstanding any other provisions of this article, until the earlier to occur of (i) May 1, 2000 or (ii) the earlier retirement or defeasance of the $6,935,000 original principal amount Clemson University Stadium Refunding Revenue Bonds, Series 1992, any requirement under the Prior Acts for the trustees to impose an admissions fee or a special student fee shall remain in full force and effect.

(2) The trustees shall cause to be established with the State Treasurer or its corporate trust designee on or before the occasion of the delivery of any bonds pursuant to this article, a debt service fund into which must be deposited annually sufficient funds as provided in this article to meet the payment of principal of and interest on the bonds for such year.

HISTORY: 1997 Act No. 144, Section 1.

**SECTION 59‑119‑1040.** Provisions for adequate security of principal and interest payment.

To the end that the payment of the principal of and interest on the bonds authorized hereby are adequately secured, the trustees are empowered in their discretion:

(1) To issue bonds in such amount, within the limitations herein provided for, as the trustees consider necessary, it is lawful for the trustees to 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 such bonds for a period equal to the period of construction or renovation of the athletic facilities to be financed with the proceeds of such bonds, plus a period not exceeding six months, it being recognized by the General Assembly, that until the athletic facilities to be constructed or renovated with the proceeds of the bonds are completed, an undue burden may be imposed upon then existing revenues or other sources of payment of the bonds.

(2) To impose admission fees and a special student fee upon such basis and in such amounts as the trustees shall determine.

(3) To pledge the revenues or the net revenues as designated by the trustees, and the proceeds of any admissions fees and special student fee, as security for the payment of such bonds, whether then or thereafter to be existing. However, any surplus of such revenues or net revenues available after the payment of costs of operation and maintenance of the athletic department and of athletic facilities and of debt service on such bonds, and the establishment of any debt service reserve obligation in a bond reserve fund under the proceedings providing for the issuance of such bonds, may be placed in a contingency and improvement fund for athletic facilities in order to restore depreciated or obsolete athletic facilities, to make improvements to such athletic facilities, to defray the cost of unforeseen contingencies with regard to such athletic facilities, to prevent defaults under such bonds or to redeem any of such bonds, or may be reflected in the opening balance of the operating fund of the department for the next succeeding fiscal year and used for any purpose approved by the trustees.

(4) To further secure the bonds with a pledge of any additional revenues or fees of Clemson as may be authorized under other laws of the State.

(5) To specify and limit the athletic facilities which may be made use of free of charge.

(6) To covenant to establish and maintain such system of rules as will ensure the continuous and effective use of the athletic facilities.

(7) To covenant that an adequate schedule of rates and charges for attendance at events held at any athletic facilities will be maintained, and that net athletic revenues plus any proceeds of the admissions fees and the special student fee will be sufficient, to:

(a) Pay the cost of operating and maintaining the athletic department and the athletic facilities, including the cost of fire, extended coverage and use, and occupancy insurance;

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

(c) Provide any necessary debt service coverage ratios;

(d) Create and maintain any bond reserve fund established to meet the payment of principal and interest of any of the bonds; and

(e) Create and at all times maintain an adequate reserve for contingencies and for major repairs and replacement of athletic facilities.

(8) To covenant against the mortgaging or disposing of the athletic facilities and against permitting or suffering any lien to be created thereon, equal or superior to any lien created thereon for the benefit of the holders of such bonds. However, the trustees are empowered to sell or dispose of athletic facilities as provided in Section 59‑119‑950, and to reserve the right, under such terms as they shall prescribe, to issue additional bonds on a parity with, or subordinate to, the bonds authorized by this article.

(9) To covenant as to the use of the proceeds derived from the sale of any bonds issued pursuant to this article.

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

(11) To make covenants with respect to the operation of the athletic department and the athletic facilities.

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

(13) To covenant for the mandatory redemption of bonds on such terms and conditions as the resolutions authorizing such bonds shall prescribe.

(14) To provide for early defeasance of bonds through the establishment of special escrow accounts maintained by a corporate trustee, which may be the State Treasurer, of cash, or United States Government obligations, or obligations of agencies thereof, which escrows may be funded with proceeds of bonds issued hereunder or revenues or net revenues or other funds available to Clemson.

(15) To 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 thereto, and the manner in which consent shall be given.

(16) To covenant as to the maintenance of the athletic facilities, the insurance to be carried thereon, and the use and disposition of proceeds from any insurance policy.

(17) To 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 such declaration and its consequences may be waived.

(18) To impose a statutory lien upon any athletic facilities as security for the payment of the bonds. The lien shall extend to such athletic facilities, to their appurtenances and extensions, to their additions, improvements, and enlargements to the extent specified in the resolutions and shall inure to the benefit of the holders of the bonds secured thereby. These athletic facilities shall remain subject to such statutory lien until the payment in full of the principal and interest of the bonds. Any holder of any of the bonds, or any of the coupons representing interest thereon, 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 trustees, including the fixing of sufficient rates, the proper segregation of the revenues, and the proper application thereof. However, the statutory lien must not be construed to give any such bond or coupon holder authority to compel the sale of any of the athletic facilities or any part thereof.

(19) To covenant that if there be any default in the payment of the principal of or interest upon any of the bonds, any court having jurisdiction in any proper action may appoint a receiver to administer and operate the athletic department, with power to fix rates and charges for athletic facilities and other activities of the athletic department, and to apply the income and revenues of the athletic department to the payment of such bonds and the interest thereon.

(20) To establish on or before the occasion of the delivery of any bonds issued pursuant to this article a bond reserve fund and to cause the same to be maintained by the State Treasurer or its corporate trustee designee, and to that end, the trustees are empowered to utilize any monies available for the funding of any such bond reserve fund, including revenues or net revenues previously accumulated prior to the issuance of bonds or available proceeds of the admissions fee or the special student fee. In the discretion of the trustees, in lieu of cash, such a bond reserve fund may be funded with a surety bond, insurance policy, letter of credit, line of credit, or similar guarantee. At the discretion of the trustees, Clemson may purchase an insurance policy ensuring payment of both principal and interest on any issuance of bonds hereunder.

(21) With the consent of the State Treasurer, to appoint a corporate trustee and a paying agent for the bondholders, either of whom may be the State Treasurer, and to prescribe the manner in which revenues or net revenues, as well as proceeds of admissions fees and special student fees shall be utilized and disposed of. Any such corporate trustee shall serve in a fiduciary capacity as trustee for the bondholders under the resolutions of the trustees authorizing the issuance of bonds.

HISTORY: 1997 Act No. 144, Section 1.

**SECTION 59‑119‑1050.** Effectiveness of authorizations.

The authorizations granted by this act shall remain of full force and effect until they shall be rescinded by subsequent enactment, and no time limit is set for the issuance of bonds pursuant to this article.

HISTORY: 1997 Act No. 144, Section 1.