

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2015**

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HOUSE BILL 108

Short Title: Site and Building Development Fund. (Public)

Sponsors: Representatives Stam, Jeter, Waddell, and S. Martin (Primary Sponsors).
For a complete list of Sponsors, refer to the North Carolina General Assembly Web Site.

Referred to: Commerce and Job Development, if favorable, Appropriations.

February 27, 2015

A BILL TO BE ENTITLED
AN ACT TO CREATE A FUND TO PROVIDE LOANS TO LOCAL GOVERNMENT
UNITS FOR THE DEVELOPMENT OF SITES AND BUILDINGS.

The General Assembly of North Carolina enacts:

SECTION 1. Article 10 of Chapter 143B of the General Statutes is amended by adding a new section to read:

"§ 143B-437.021. Site and Building Development Fund.

(a) Definitions. – The following definitions apply in this section:

(1) Code. – Defined in G.S. 105-228.90.

(2) Department. – The Department of Commerce.

(3) Development plan. – A strategic analysis of potential qualified business facilities required by this section to be maintained by the Department and updated every four years.

(4) Fund. – The Site and Building Development Fund established by subsection (b) of this section.

(5) Local government. – Any of the following:

a. A city as defined in G.S. 160A-1.

b. A county.

c. A consolidated city-county as defined in G.S. 160B-2.

(6) Local government unit. – The term includes a local government, a nonprofit economic development corporation, and any combination of local governments or nonprofit economic development corporations.

(7) Long-term lease. – A lease agreement with a maximum duration exceeding three years, including any extensions allowed by the lease agreement.

(8) Nonprofit economic development corporation. – A corporation meeting all of the following requirements:

a. Exempt from income tax under section 501(c)(3) or 501(c)(6) of the Code.

b. Established to assist one or more local governments in reducing the burden of economic development efforts.

c. Acknowledged through a resolution of one or more local governments that contains all of the following:

1. Statement that the corporation is acting in support of the local government in economic development efforts.



1 (h) Loan Terms. – Loans from the Fund must meet the following requirements:

2 (1) The loan must be evidenced by a promissory note and secured by a first deed
3 of trust on the qualified business facility.

4 (2) The maximum duration of a loan is 15 years.

5 (3) The loan is due upon the sale or long-term lease of the qualified business
6 facility. Principal and accrued interest must be paid when the loan is due or
7 more frequently.

8 (4) The interest rate of a loan is zero percent (0%) for tier one counties, one
9 percent (1%) for tier two counties, and two percent (2%) for tier three
10 counties, based on the classification assigned to counties by
11 G.S. 143B-437.08.

12 (5) The loan agreement must require the local government unit to obtain from
13 any entity leasing or purchasing the qualified business facility the following:

14 a. An agreement that the entity will not use the qualified business
15 facility for retail, professional office, sporting event, museum, or
16 governmental purposes for at least five years after the lease or
17 purchase.

18 b. A legal opinion based on a search of public records that the entity
19 leasing or purchasing the qualified business facility has no debts
20 related to unpaid taxes.

21 (i) Multiple Loans. – One or more financial institutions may hold a security interest on
22 the qualified business facility with a priority equal to the security interest for the loan from the
23 Fund if there is a written intercreditor agreement between the Department and other equal
24 priority creditors that provides that, in the event of default, any loss is shared among the
25 creditors in proportion to the amount loaned.

26 (j) Payments. – The Department is responsible for monitoring the loan and
27 administering the repayment. The Department must remit all amounts paid under this section to
28 the Fund.

29 (k) Release. – The Department at its discretion may release property from the first deed
30 of trust if adequate security remains for the outstanding balance of the loan from the Fund. The
31 Department may use this authority to release property to restructure the terms of the loan and
32 participate in financing transactions involving the qualified business facility.

33 (l) Limitation. – Nothing in this section constitutes or authorizes a guarantee or
34 assumption by the State of any debt of any business or authorizes the taxing power or the full
35 faith and credit of the State to be pledged.

36 (m) Notice of Guidelines. – At least 20 days before the effective date of any guidelines,
37 the Department must publish the proposed guidelines on the Department's Web site and provide
38 notice to persons who have requested notice. In addition, the Department must accept written
39 comments on the proposed guidelines during the 15 business days beginning on the first day
40 the Department has completed the notice requirement of this subsection. Amendments to the
41 guidelines to correct spelling, grammatical, or typographical errors do not require notice.

42 (n) Reports. – On September 1 of each year until the Fund has no assets, the
43 Department must submit a written report on the Fund to the Joint Legislative Commission on
44 Governmental Operations and publish this report on its Web site. This report must at a
45 minimum contain the following:

46 (1) Listing of each outstanding loan, including the date of loan, amount of loan,
47 outstanding amount of loan, interest rate, maturity date, location of qualified
48 business facility acting as security, brief property description, identity of
49 local government unit receiving the loan, status of repayment, current use of
50 the qualified business facility, and identification of loans made since the last
51 report.

- 1 (2) Written findings addressing any application approved for a loan from the
- 2 Fund since the last report, as required by subsection (e) of this section.
- 3 (3) Detailed information about any defaults and repayment since the last report.
- 4 (4) Information contained in the report required by G.S. 105-277.15A(g)."

5 **SECTION 2.** G.S. 150B-1(d) is amended by adding a new subdivision to read:
6 "(d) Exemptions from Rule Making. – Article 2A of this Chapter does not apply to the
7 following:

- 8 ...
- 9 (21) The Department of Commerce in developing criteria and guidelines under
- 10 G.S. 143B-437.021.
- 11 "

12 **SECTION 3.** The provisions of this act are not subject to the terms of
13 G.S. 160A-20.

14 **SECTION 4.** Loans from the Fund are not subject to review and approval by the
15 Local Government Commission under Article 8 of Chapter 159 of the General Statutes.

16 **SECTION 5.** There is appropriated from the General Fund to the Site and Building
17 Development Fund in the Department of Commerce the sum of four hundred thousand dollars
18 (\$400,000) for the 2015-2016 fiscal year.

19 **SECTION 6.** There is appropriated from the General Fund to the Department of
20 Commerce the sum of six hundred thousand dollars (\$600,000) for the 2015-2016 fiscal year to
21 be used to further assess State-owned buildings throughout the State.

22 **SECTION 7.** This act is effective when it becomes law.