

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2015

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HOUSE BILL 108  
Committee Substitute Favorable 3/18/15  
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Short Title: Site and Building Development Fund.

(Public)

Sponsors:

Referred to:

February 27, 2015

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

4 The General Assembly of North Carolina enacts:

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

7 "**§ 143B-437.021. Site and Building Development Fund.**

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

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

10 (2) Department. – The Department of Commerce.

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

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

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

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

18 b. A county.

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

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

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

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

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

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

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

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





1 classification assigned to counties by G.S. 143B-437.08, is thirty percent (30%) of the  
2 difference between the cumulative total appropriations into the Fund and total expenses paid by  
3 the Fund.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

49 (1) Listing of each outstanding loan, including the date of loan, amount of loan,  
50 outstanding amount of loan, interest rate, maturity date, location of qualified  
51 business facility acting as security, brief property description, identity of

1 local government unit receiving the loan, status of repayment, current use of  
2 the qualified business facility, and identification of loans made since the last  
3 report.

4 (2) Written findings addressing any application approved for a loan from the  
5 Fund since the last report, as required by subsection (e) of this section.

6 (3) Detailed information about any defaults and repayment since the last report.

7 (4) Information contained in the report required by G.S. 105-277.15A(g)."

8 **SECTION 2.** G.S. 150B-1(d) is amended by adding a new subdivision to read:

9 "(d) Exemptions from Rule Making. – Article 2A of this Chapter does not apply to the  
10 following:

11 ...

12 (21) The Department of Commerce in developing criteria and guidelines under  
13 G.S. 143B-437.021.

14 ...."

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

17 **SECTION 4.** This act does not obligate the General Assembly to appropriate funds  
18 to implement it.

19 **SECTION 5.** This act is effective when it becomes law.