

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

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HOUSE BILL 1819*
Committee Substitute Favorable 6/14/00

Short Title: Rural Redevelopment Authority Funds.

(Public)

Sponsors:

Referred to:

May 30, 2000

A BILL TO BE ENTITLED

1 AN ACT TO APPROPRIATE FUNDS TO CREATE THE RURAL
2 REDEVELOPMENT AUTHORITY TO FINANCE RURAL ECONOMIC
3 DEVELOPMENT PROJECTS AND INVEST IN RURAL BUSINESS
4 DEVELOPMENT.
5

6 The General Assembly of North Carolina enacts:

7 Section 1. Article 10 of Chapter 143B of the General Statutes is amended by
8 adding a new Part to read:

9 **"PART 2D. NORTH CAROLINA RURAL REDEVELOPMENT AUTHORITY.**

10 **"§ 143B-437.20. Short title and intent.**

11 This Part is the 'North Carolina Rural Redevelopment Authority Act'. The purpose of
12 the North Carolina Redevelopment Authority is to finance rural economic development
13 projects and invest in rural business development.

14 **"§ 143B-437.21. Definitions.**

15 The following definitions apply in this Part:

16 (1) Authority. – The North Carolina Rural Redevelopment Authority.

17 (2) Board. – The Board of Directors of the Authority.

18 (3) Development project. – Any investment that enables or makes more
19 likely the location or expansion of industrial and commercial businesses

- 1 in rural counties, which may include sites and industrial parks or
2 centers, together with improvements, such as shell buildings and
3 internal infrastructure.
- 4 (4) Financial institution. – A business that is (i) a bank holding company, as
5 defined in the Bank Holding Company Act of 1956, 12 U.S.C. §§ 1841,
6 et seq., or its wholly owned subsidiary, (ii) registered as a broker-dealer
7 under the Securities Exchange Act of 1934, 15 U.S.C. §§ 78a, et seq., or
8 its wholly owned subsidiary, (iii) an investment company as defined in
9 the Investment Company Act of 1940, 15 U.S.C. §§ 80a-1, et seq.,
10 whether or not it is required to register under that act, (iv) a small
11 business investment company as defined in the Small Business
12 Investment Act of 1958, 15 U.S.C. §§ 661, et seq., (v) a pension or
13 profit-sharing fund or trust, or (vi) a bank, savings institution, trust
14 company, financial services company, or insurance company. The term
15 does not include, however, a business that does not generally market its
16 services to the public and is controlled by a business that is not a
17 financial institution.
- 18 (5) Intermediate-term loan. – A loan whose term does not exceed three
19 years.
- 20 (6) Regional partnership. – Any of the following:
- 21 a. The Western North Carolina Regional Economic Development
22 Commission created in G.S. 158-8.1.
- 23 b. The Northeastern North Carolina Regional Economic
24 Development Commission created in G.S. 158-8.2.
- 25 c. The Southeastern North Carolina Regional Economic
26 Development Commission created in G.S. 158-8.3.
- 27 d. The Global TransPark Development Commission created in G.S.
28 158-33.
- 29 e. The Carolinas Partnership, Inc.
- 30 f. The Research Triangle Regional Partnership.
- 31 g. The Piedmont Triad Partnership.
- 32 (7) Revenues. – The receipts of the Authority during an accounting period,
33 including interest and dividends on investments, realized capital gains,
34 income from lending and consulting activities, rent or lease income,
35 appropriations from the General Assembly, grants from the Golden
36 L.E.A.F. (Long-term Economic Advancement Foundation), Inc., and
37 grants and gifts from public and private entities to further the purposes
38 of the Authority.
- 39 (8) Rural county. – A county in North Carolina with a density of fewer than
40 200 people per square mile based on the most recent United States
41 decennial census.

1 (9) Small business investment company. – A small business investment
2 company as defined in the Small Business Investment Act of 1958, 15
3 U.S.C. §§ 661, et seq.

4 **"§ 143B-437.22. Creation of Authority and Board.**

5 (a) Creation. – The North Carolina Rural Redevelopment Authority is created as a
6 body corporate and politic with the powers and jurisdiction as provided under this Part or
7 any other law. The Authority is a State agency created to perform essential governmental
8 and public functions. The Authority is located within the Department of Commerce, but
9 exercises all of its powers, including the power to employ, direct, and supervise all
10 personnel, independently of the Secretary of Commerce and, notwithstanding any other
11 provision of law, is subject to the direction and supervision of the Secretary of Commerce
12 only with respect to the management functions of coordinating and reporting.

13 (b) Board of Directors. – The Authority is governed by a Board of Directors,
14 which consists of the following nine members:

15 (1) Three members appointed by the Governor, two of whom must be
16 representatives of financial institutions and one of whom must be an
17 elected official representing a local government of or in a rural county.

18 (2) Two members appointed by the General Assembly upon the
19 recommendation of the Speaker of the House of Representatives in
20 accordance with G.S. 120-121, one of whom must be a representative of
21 a regional partnership with a predominantly rural constituency and one
22 of whom must be a representative of a financial institution.

23 (3) Two members appointed by the General Assembly upon the
24 recommendation of the President Pro Tempore of the Senate in
25 accordance with G.S. 120-121, both of whom must be representatives of
26 financial institutions.

27 (4) The Secretary of Commerce, who shall serve ex officio.

28 (5) The chief executive officer of the Authority.

29 (c) Oath. – As the holder of an office, each member of the Board must take the
30 oath required by Section 7 of Article VI of the North Carolina Constitution before
31 assuming the duties of a Board member.

32 (d) Selection Criteria. – In making appointments to the Board, the Governor and
33 the General Assembly shall give consideration to the geographical representation of the
34 State. In addition, members appointed representing financial institutions ideally would
35 be experienced in areas such as commercial lending and commercial real estate lending,
36 public finance, and economic development; work assignments or experiences in rural
37 counties also would be desirable.

38 (e) Terms. – The term of office of a member of the Board is three years, except
39 that the Governor shall designate two of the initial members appointed under subdivision
40 (b)(1) of this section to serve a term of one year, and the General Assembly shall
41 designate one of the initial members appointed under subdivision (b)(2) of this section
42 and one of the initial members appointed under subdivision (b)(3) of this section to serve

1 a term of two years. The term of office for the chief executive officer of the Authority
2 shall coincide with the officer's employment by the Board.

3 (f) Chair and Vice-Chair of the Board. – The Governor shall designate one of the
4 members appointed by the Governor as the Chair of the Board. The Governor shall
5 convene the first meeting of the Board, at which time the members of the Board shall
6 elect from their membership a Vice-Chair of the Board.

7 (g) Vacancies. – All members of the Board shall remain in office until their
8 successors are appointed and qualify. A vacancy in an appointment made by the
9 Governor shall be filled by the Governor for the remainder of the unexpired term. A
10 vacancy in an appointment made by the General Assembly shall be filled in accordance
11 with G.S. 120-122. A person appointed to fill a vacancy must qualify in the same manner
12 as a person appointed for a full term.

13 (h) Removal of Board Members. – The Governor may remove any member of the
14 Board for misfeasance, malfeasance, or nonfeasance in accordance with G.S. 143B-13(d).
15 The Governor or the person who appointed a member of the Board may remove the
16 member for using improper influence in accordance with G.S. 143B-13(c).

17 (i) Organization of the Board. – The Board shall adopt bylaws with respect to the
18 calling of meetings, quorums, voting procedures, the keeping of records, and other
19 organizational and administrative matters as the Board may determine. A quorum shall
20 consist of a majority of the members of the Board. No vacancy in the membership of the
21 Board shall impair the right of a quorum to exercise all rights and to perform all the
22 duties of the Board and the Authority.

23 (j) Compensation of the Board. – No part of the revenues or assets of the
24 Authority shall inure to the benefit of or be distributable to the members of the Board or
25 officers or other private persons. The members of the Board other than the chief
26 executive officer shall receive no salary for their services but may receive per diem and
27 allowances in accordance with G.S. 138-5.

28 (k) Treasurer. – The Board shall select the Authority's treasurer. The Board shall
29 require a surety bond of the appointee in the amount as the Board may fix, and the
30 premium shall be paid by the Authority as a necessary expense of the Authority.

31 (l) Chief Executive Officer and Other Employees. – The Board shall appoint a
32 full-time professional chief executive officer, whose salary shall be fixed by the Board, to
33 serve at its pleasure. The chief executive officer or a person designated by the chief
34 executive officer shall appoint, employ, dismiss, and, within the limits of available
35 funding, fix the compensation of other employees as considered necessary.

36 (m) Office. – The Board shall establish an office for the transaction of the
37 Authority's business at the place the Board finds advisable or necessary to implement the
38 provisions of this Part.

39 **"§ 143B-437.23. Powers of the Authority.**

40 (a) The Authority has all of the powers necessary to execute the provisions of this
41 Part, including at least the following powers:

- 1 (1) The powers of a corporate body, including the power to sue and be sued,
2 to make contracts, to adopt and use a common seal, and to alter the
3 adopted seal as needed.
- 4 (2) To finance the purchase of real or personal property.
- 5 (3) To contract and enter into agreements with the State, local governments,
6 other authorities of North Carolina, and other states for the interchange
7 of business.
- 8 (4) To create and operate agencies and departments needed to implement
9 this Part.
- 10 (5) To pay all necessary costs and expenses in the formation, organization,
11 administration, and operation of the Authority.
- 12 (6) To apply for, accept, and administer grants of money from any federal
13 agency, from the State or its political subdivisions, or from any other
14 public or private sources available, and to expend the money in
15 accordance with the requirements imposed by the donor.
- 16 (7) To adopt, alter, or repeal its own bylaws or rules implementing the
17 provisions of this Part.
- 18 (8) To execute financing agreements, security documents, and other
19 instruments necessary in exercising its power under this Part.
- 20 (9) To fix, charge, collect, pledge, or assign revenues of the Authority.
- 21 (10) To employ consulting engineers, architects, attorneys, real estate
22 counselors, appraisers, and other consultants and employees as may be
23 required in the judgment of the Board and to fix and pay their
24 compensation from funds available to the Authority.
- 25 (11) To provide consulting and advisory services to government entities and
26 to private, nonprofit entities.
- 27 (12) To procure and maintain adequate insurance or otherwise provide for
28 adequate protection to indemnify the Authority and its officers,
29 directors, agents, employees, adjoining property owners, or the general
30 public against loss or liability resulting from any act or omission by or
31 on behalf of the Authority.
- 32 (13) To exercise the powers granted counties and cities under G.S. 158-
33 7.1(a).
- 34 (14) With the approval of any unit of local government, to use officers,
35 employees, agents, and facilities of the unit of local government for the
36 purposes and upon the terms as may be mutually agreeable.
- 37 (15) To receive and use appropriations from the State, including an
38 appropriation from the proceeds of State general obligation bonds or
39 notes.
- 40 (16) To create and administer the Rural Investment Fund and the Long-Term
41 Rural Development Fund, as provided in this Part.

1 (17) To invest in securities of a small business investment company or in a
2 limited partnership interest in a partnership that invests principally in
3 companies in rural counties.

4 (18) To act as a regrating agency for government grants specifically
5 designated for that purpose.

6 (b) To execute the powers provided in subsection (a) of this section, the Board
7 shall determine the policies of the Authority by majority vote of the members of the
8 Board present and voting, a quorum having been established. Once a policy is
9 determined, the Board shall communicate it to the chief executive officer, who has the
10 exclusive authority to execute the policy of the Authority. No member of the Board is
11 authorized to give operational directives to any employee of the Authority other than the
12 chief executive officer.

13 (c) The Authority does not have the power of eminent domain or the power to levy
14 any tax.

15 **"§ 143B-437.24. Taxation of property of Authority.**

16 Property owned by the Authority is exempt from taxation in accordance with Section
17 2 of Article V of the North Carolina Constitution.

18 **"§ 143B-437.25. Acquisition, disposition, or exchange of real property.**

19 (a) General. – The Authority may acquire real property by purchase, negotiation,
20 gift, or devise. When the Authority acquires real property owned by the State, the
21 Secretary of Administration shall execute and deliver to the Authority a deed transferring
22 fee simple title to the property to the Authority.

23 (b) Exchange. – The Authority may exchange any property it acquires for other
24 property usable in carrying out the powers conferred on the Authority and also, upon the
25 payment of just compensation, may remove a building or another structure from land
26 needed for its purposes, and reconstruct the structure on another location.

27 **"§ 143B-437.26. Authority funds.**

28 Funds of the Authority may be paid out only upon warrants signed by the treasurer or
29 assistant treasurer of the Authority and countersigned by the Chair, the acting Chair, or
30 the chief executive officer. No warrants may be drawn or issued disbursing any of the
31 funds of the Authority except for a purpose authorized by this Part and unless the account
32 or expenditure has been audited and approved by the Authority or its chief executive
33 officer.

34 **"§ 143B-437.27. Rural Investment Fund.**

35 The Authority may create a revolving loan fund to be called the Rural Investment
36 Fund. The Authority shall use monies in the Investment Fund only to make intermediate-
37 term loans to government entities and to private, nonprofit entities for self-liquidating
38 projects, such as shell buildings, in rural counties. The Authority shall adopt rules
39 establishing interest rates, maximum loans, security requirements, eligibility standards,
40 application procedures, award criteria, and award schedules, and otherwise providing for
41 the administration of the Investment Fund. The Authority shall give priority to
42 applications from regional partnerships.

43 **"§ 143B-437.28. Long-Term Rural Development Fund.**

1 (a) The Authority may create a fund to be known as the Long-Term Rural
2 Development Fund. The Authority may invest and reinvest the assets of the
3 Development Fund.

4 (b) The income derived from the investment or deposit of the Development Fund
5 shall be used for the following purposes:

6 (1) To pay the administrative expenses of the Authority.

7 (2) To make intermediate-term loans and longer-term loans to government
8 entities and to private, nonprofit entities for self-liquidating projects,
9 such as shell buildings, in rural counties.

10 (3) To acquire property and develop it for industrial sites and industrial
11 parks in rural counties, including any of the following:

12 a. Providing water, sewer, gas, or electrical distribution lines or
13 equipment for an industrial site or industrial park.

14 b. Providing road or railroad improvements for an industrial site or
15 industrial park.

16 c. Providing fiber optic or coaxial cable, towers, and other
17 infrastructure items to accommodate high-speed Internet access.

18 d. Providing air or water pollution control facilities.

19 (c) The Authority shall adopt rules establishing interest rates, maximum loans,
20 security requirements, eligibility standards, application procedures, award criteria, and
21 award schedules, and otherwise providing for the administration of the Development
22 Fund. The Authority shall give priority to applications from regional partnerships.

23 **"§ 143B-437.29. Contracting with minority businesses.**

24 The Authority must comply with the policies regarding contracting with minority
25 businesses as set out in G.S. 143-48, 143-128(f), and 143-135.5 and with any other
26 applicable laws. The Authority is subject to Executive Order Number 150, issued April
27 20, 1999, regarding contracting with historically underutilized businesses.

28 **"§ 143B-437.30. Conflicts of interest.**

29 If any member, officer, or employee of the Authority is interested either directly or
30 indirectly, or is an officer or employee of or has an ownership interest in any firm or
31 corporation, not including units of local government, interested directly or indirectly, in
32 any contract with the Authority, the member, officer, or employee must disclose the
33 interest to the Board, which must set forth the disclosure in the minutes of the Board.
34 The member, officer, or employee having an interest may not participate on behalf of the
35 Authority in the authorization of any contract.

36 **"§ 143B-437.31. Cooperation by other State agencies.**

37 All State officers and agencies shall cooperate and may render services where
38 appropriate to the Authority within their respective functions as may be requested by the
39 Authority.

40 **"§ 143B-437.32. Annual and quarterly reports.**

41 The Authority must, promptly following the close of each fiscal year, submit an
42 annual report of its activities for the preceding year to the Governor and the General
43 Assembly. Each report must be accompanied by an audit of its books and accounts. The

1 audit must be conducted by the State Auditor. The costs of all audits shall be paid from
2 funds of the Authority.

3 Each annual report must be accompanied by data indicating the geographical
4 distribution of development projects funded directly or indirectly by the Authority.
5 Every three years, the Authority shall provide to the Governor and to the General
6 Assembly an analysis of the data for the previous three-year period showing the extent to
7 which the funding of development projects has been distributed among the rural counties
8 of every geographical region in an equitable manner.

9 The Authority must submit quarterly reports to the Joint Legislative Commission on
10 Governmental Operations. The reports must summarize the Authority's activities during
11 the quarter and contain any information about the Authority's activities that is requested
12 by the Commission.

13 **"§ 143B-437.33. Dissolution.**

14 Whenever the Board by resolution determines that the purposes for which the
15 Authority was formed have been substantially fulfilled and that all obligations incurred
16 by the Authority have been fully paid or satisfied, the Board may declare the Authority
17 dissolved. On the effective date of the resolution, the title to all funds and other property
18 owned by the Authority at the time of the dissolution vests in the State and possession of
19 the funds and other property must be delivered to the State."

20 Section 2. G.S. 120-123 is amended by adding a new subdivision to read:

21 "(70) The North Carolina Rural Redevelopment Authority created in Part
22 2D of Article 10 of Chapter 143B of the General Statutes."

23 Section 3. G.S. 126-5(c1) is amended by adding a new subdivision to read:

24 "(18) Employees of the North Carolina Rural Redevelopment Authority
25 created in Part 2D of Article 10 of Chapter 143B of the General
26 Statutes."

27 Section 4. G.S. 150B-21.1 is amended by adding a new subsection to read:

28 "(a7) Notwithstanding the provisions of subdivision (a)(2) of this section, an agency
29 may adopt a temporary rule to implement the provisions of any of the following acts until
30 all rules necessary to implement the provisions of the act have become effective as either
31 temporary or permanent rules:

32 (1) Reserved.

33 (2) The North Carolina Rural Redevelopment Authority Act, Part 2D of
34 Article 10 of Chapter 143B of the General Statutes."

35 Section 5. G.S. 150B-21.1(a7)(2), as enacted by Section 4 of this act, is
36 repealed effective July 1, 2002.

37 Section 6. G.S. 66-58(b) is amended by adding a new subdivision to read:

38 "(21) The North Carolina Rural Redevelopment Authority or a lessee of
39 the Authority."

40 Section 7. There is appropriated from the General Fund to the Rural
41 Redevelopment Authority created in this act the sum of two hundred fifty thousand
42 dollars (\$250,000) for the 2000-2001 fiscal year to implement the provisions of this act.

43 Section 8. This act becomes effective July 1, 2000.