## GENERAL ASSEMBLY OF NORTH CAROLINA SESSION 2015

H 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		
	O CREATE A FUND TO PROVIDE LOANS TO LOCAL GOVERN FOR THE DEVELOPMENT OF SITES AND BUILDINGS.	IMENT
	Assembly of North Carolina enacts:	
	ECTION 1. Article 10 of Chapter 143B of the General Statutes is amen	nded by
	v section to read:	•
" <u>§ 143B-437</u>	7.021. Site and Building Development Fund.	
<u>(a)</u> <u>D</u>	Definitions. – The following definitions apply in this section:	
<u>(1</u>		
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<u>(3</u>		
	facilities required by this section to be maintained by the Departm	ent and
	updated every four years.	
<u>(4</u>		osection
(5	(b) of this section.	
<u>(5</u>	1 6 1 0 0 1 0 1	
	<ul><li>a. A city as defined in G.S. 160A-1.</li><li>b. A county.</li></ul>	
<u>(6</u>	<del></del>	onnrofit
<u> (C</u>	economic development corporation, and any combination o	-
	governments or nonprofit economic development corporations.	1 10001
(7		ceeding
<del>7.</del>	three years, including any extensions allowed by the lease agreement.	_
<u>(8</u>		
<u></u>	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 reduce	cing the
	burden of economic development efforts.	
	c. Acknowledged through a resolution of one or more	e local
	governments that contains all of the following:	
	1. Statement that the corporation is acting in support of t	he local
	government in economic development efforts.	



<u>2.</u>

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Nonbinding pledge to repay the Fund if the corporation fails

- 2 to make any required loan payments. 3 (9) Qualified business facilities. – Real property, improvements to real property, 4 and planned improvements to real property. Improvements to real property 5 include the following: 6 New buildings, renovations to buildings, and upfitting buildings. <u>a.</u> 7 Water lines, sewer lines, and other utility improvements. b. 8 Roads, grading, signage, and other access improvements. <u>c.</u> 9 Measures necessary for permitting, including services. d. 10 Any other measures necessary for the land to be marketable for <u>e.</u> 11 immediate use in commercial operations, including necessary 12 services. 13 Sale. – Any transfer of ownership, including involuntary transfers. (10)14 Fund Established. - The Site and Building Development Fund is created as a 15 restricted reserve in the Department. The Fund does not revert but remains available to the 16 Department for the purposes of this section. 17 Use of the Fund. – The Department must use the Fund for the following purposes: (c) Loans to local government units for the acquisition and development of 18 (1) 19 qualified business facilities in accordance with this section. 20 (2) Expenses directly related to the operation of the Fund and administering 21 loans from the Fund, including the cost of the development plan required by 22 this section. 23 Application. – The Department must require a local government unit to submit an 24 application in order for a project to be considered for a loan from the Fund. The Department 25 must prescribe the form of the application, the application process, and the information to be 26 provided, including all information necessary to evaluate the qualified business facility in 27 accordance with this section. 28 <u>Selection</u>. – The Department must administer the selection of qualified business 29 facilities to receive loans from the Fund. The Department must develop written guidelines to 30 identify and evaluate qualified business facilities. The Department must issue written findings 31 addressing any application approved for a loan from the Fund. The Department must consider the following factors in approving applications for loans from the Fund: 32 33 Consistency with the economic development goals of the State and of the <u>(1)</u> 34 area where the qualified business facility will be located. 35 The Department must consider, but is not bound by, the priority (2) 36 recommendations in the development plan. 37 Preference for qualified business facilities located in rural or less-developed (3) 38 areas of the State. 39 Evaluation of the application to determine if the qualified business facilities <u>(4)</u> 40 are merited and appropriate for the proposed use. Necessity of a loan from the Fund for the completion of the qualified 41 (5) 42 business facility. 43 Development Plan. – The Department must obtain a strategic analysis of potential qualified business facilities and an update to the analysis every four years. The Department 44 45 must contract with another entity with demonstrated experience in site selection services for businesses and in evaluating sites for business recruitment purposes. A contract to obtain 46 47 services of a consultant under this section is not subject to Article 3 or Article 3C of Chapter 48 143 of the General Statutes. 49 Awards. - If the Department approves an application for a qualified business 50 facility, the Department must determine the amount of the loan from the Fund, the preferred
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form and details of the loan participation, and the safeguards to protect the State's investment.

- (h) Loan Terms. Loans from the Fund must meet the following requirements:
  - (1) The loan must be evidenced by a promissory note and secured by a first deed of trust on the qualified business facility.
  - (2) The maximum duration of a loan is 15 years.
  - (3) The loan is due upon the sale or long-term lease of the qualified business facility. Principal and accrued interest must be paid when the loan is due or more frequently.
  - The interest rate of a loan is zero percent (0%) for tier one counties, one percent (1%) for tier two counties, and two percent (2%) for tier three counties, based on the classification assigned to counties by G.S. 143B-437.08.
  - (5) The loan agreement must require the local government unit to obtain from any entity leasing or purchasing the qualified business facility the following:
    - a. An agreement that the entity will not use the qualified business facility for retail, professional office, sporting event, museum, or governmental purposes for at least five years after the lease or purchase.
    - b. A legal opinion based on a search of public records that the entity leasing or purchasing the qualified business facility has no debts related to unpaid taxes.
- (i) Multiple Loans. One or more financial institutions may hold a security interest on the qualified business facility with a priority equal to the security interest for the loan from the Fund if there is a written intercreditor agreement between the Department and other equal priority creditors that provides that, in the event of default, any loss is shared among the creditors in proportion to the amount loaned.
- (j) Payments. The Department is responsible for monitoring the loan and administering the repayment. The Department must remit all amounts paid under this section to the Fund.
- (k) Release. The Department at its discretion may release property from the first deed of trust if adequate security remains for the outstanding balance of the loan from the Fund. The Department may use this authority to release property to restructure the terms of the loan and participate in financing transactions involving the qualified business facility.
- (1) <u>Limitation. Nothing in this section constitutes or authorizes a guarantee or assumption by the State of any debt of any business or authorizes the taxing power or the full faith and credit of the State to be pledged.</u>
- (m) Notice of Guidelines. At least 20 days before the effective date of any guidelines, the Department must publish the proposed guidelines on the Department's Web site and provide notice to persons who have requested notice. In addition, the Department must accept written comments on the proposed guidelines during the 15 business days beginning on the first day the Department has completed the notice requirement of this subsection. Amendments to the guidelines to correct spelling, grammatical, or typographical errors do not require notice.
- (n) Reports. On September 1 of each year until the Fund has no assets, the Department must submit a written report on the Fund to the Joint Legislative Commission on Governmental Operations and publish this report on its Web site. This report must at a minimum contain the following:
  - (1) Listing of each outstanding loan, including the date of loan, amount of loan, outstanding amount of loan, interest rate, maturity date, location of qualified business facility acting as security, brief property description, identity of local government unit receiving the loan, status of repayment, current use of the qualified business facility, and identification of loans made since the last report.

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

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

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