

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1989

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HOUSE BILL 381*
Committee Substitute Favorable 5/9/89

Short Title: Housing Division in Commerce.

(Public)

Sponsors:

Referred to:

February 27, 1989

A BILL TO BE ENTITLED

1 AN ACT TO TRANSFER THE DIVISION OF COMMUNITY ASSISTANCE FROM
2 THE DEPARTMENT OF NATURAL RESOURCES AND COMMUNITY
3 DEVELOPMENT TO THE DEPARTMENT OF COMMERCE, TO TRANSFER
4 THE DIVISION OF ECONOMIC OPPORTUNITY FROM THE DEPARTMENT
5 OF NATURAL RESOURCES AND COMMUNITY DEVELOPMENT TO THE
6 DEPARTMENT OF HUMAN RESOURCES, TO DIRECT THE SECRETARY OF
7 COMMERCE TO ESTABLISH A DIVISION OF HOUSING AND COMMUNITY
8 DEVELOPMENT, TO CHANGE THE NAME OF THE DEPARTMENT OF
9 COMMERCE TO THE DEPARTMENT OF ECONOMIC AND COMMUNITY
10 DEVELOPMENT, AND TO ESTABLISH A TOLL-FREE TELEPHONE
11 NUMBER FOR HOUSING ASSISTANCE INFORMATION WITHIN THE
12 DEPARTMENT OF COMMERCE.
13

14 The General Assembly of North Carolina enacts:

15 Section 1. The Division of Community Assistance in the Department of
16 Natural Resources and Community Development is transferred to the Department of
17 Commerce. The Division of Economic Opportunity in the Department of Natural
18 Resources and Community Development is transferred to the Department of Human
19 Resources. The transfers shall have all the elements of a Type I transfer, as that term is
20 defined in G.S. 143A-6(a).

21 Sec. 2. The Secretary of Commerce shall establish the functions of
22 community development and housing and shall establish the position of Deputy or
23 Assistant Secretary for Community Development and Housing within the Department,

1 which Deputy or Assistant Secretary shall be of the same status and position as the
2 Deputy or Assistant Secretary for Economic Development. The Division of Community
3 Assistance shall be located under the Deputy or Assistant Secretary for Community
4 Development and Housing. The name of the Department of Commerce is changed to the
5 Department of Economic and Community Development, and all statutory references to
6 the Department of Commerce are changed to the Department of Economic and
7 Community Development.

8 Sec. 3. G.S. 143B-431 reads as rewritten:

9 **"§ 143B-431. Department of Commerce – functions.**

10 (a) The functions of the Department of Commerce, except as otherwise expressly
11 provided by Article 1 of this Chapter or by the Constitution of North Carolina, shall
12 include:

13 (1) All of the executive functions of the State in relation to economic
14 development including by way of enumeration and not of limitation,
15 the expansion and recruitment of environmentally sound industry,
16 labor force development, the promotion of and assistance in the
17 orderly development of North Carolina counties and communities, the
18 promotion and growth of the travel and tourism industries, the
19 development of our State's ports, energy resource management and
20 energy policy development;

21 (2) All functions, powers, duties and obligations heretofore vested in any
22 agency enumerated in Article 15 of Chapter 143A, to wit:

- 23 a. The State Board of Alcoholic Control,
- 24 b. The North Carolina Utilities Commission,
- 25 c. The Employment Security Commission,
- 26 d. The North Carolina Industrial Commission,
- 27 e. State Banking Commission and the Commissioner of Banks,
- 28 f. Savings and Loan Association Division,
- 29 g. The State Savings and Loan Commission,
- 30 h. Credit Union Commission,
- 31 i. The North Carolina Milk Commission,
- 32 j. The North Carolina Mutual Burial Association Commission,
- 33 k. The North Carolina Rural Electrification Authority,
- 34 l. The North Carolina State Ports Authority, all of which
35 enumerated agencies are hereby expressly transferred by a Type
36 II transfer, as defined by G.S. 143A-6, to this recreated and
37 reconstituted Department of Commerce; and,

38 (3) All other functions, powers, duties and obligations as are conferred by
39 this Chapter, delegated or assigned by the Governor and conferred by
40 the Constitution and laws of this State. Any agency transferred to the
41 Department of Commerce by a Type II transfer, as defined by G.S.
42 143A-6, shall have the authority to employ, direct and supervise
43 professional and technical personnel, and such agencies shall not be
44 accountable to the Secretary of Commerce in their exercise of quasi-

1 judicial powers authorized by statute, notwithstanding any other
2 provisions of this Chapter, provided that the authority of the North
3 Carolina State Ports Authority to employ, direct and supervise
4 personnel shall be as provided in Part 10 of this Article.

5 (b) The Department of Commerce is authorized to establish and provide for the
6 operation of North Carolina nonprofit corporations to achieve the purpose of aiding the
7 development of small businesses and to achieve the purposes of the United States Small
8 Business Administration's 504 Certified Development Company Program.

9 (c) The Department of Commerce shall have the following powers and duties
10 with respect to local planning assistance:

- 11 (1) To provide planning assistance to municipalities and counties and joint
12 and regional planning boards established by two or more governmental
13 units in the solution of their local planning problems. Planning
14 assistance as used in this section shall consist of making population,
15 economic, land use, traffic, and parking studies and developing plans
16 based thereon to guide public and private development and other
17 planning work of a similar nature. Planning assistance shall also
18 include the preparation of proposed subdivision regulations, zoning
19 ordinances, capital budgets, and similar measures that may be
20 recommended for the implementation of such plans. The term planning
21 assistance shall not be construed to include the providing of plans for
22 specific public works.
- 23 (2) To receive and expend federal and other funds for planning assistance
24 to municipalities and counties and to joint and regional planning
25 boards, and to enter into contracts with the federal government,
26 municipalities, counties, or joint and regional planning boards with
27 reference thereto.
- 28 (3) To perform planning assistance, either through the staff of the
29 Department or through acceptable contractual arrangements with other
30 qualified State agencies or institutions, local planning agencies, or with
31 private professional organizations or individuals.
- 32 (4) To assume full responsibility for the proper execution of a planning
33 program for which a grant of State or federal funds has been made and
34 for carrying out the terms of a federal grant contract.
- 35 (5) To cooperate with municipal, county, joint and regional planning
36 boards, and federal agencies for the purpose of aiding and encouraging
37 an orderly, coordinated development of the State.
- 38 (6) To establish and conduct, either with its own staff or through
39 contractual arrangements with institutions of higher education, State
40 agencies, or private agencies, training programs for those employed or
41 to be employed in community development activities."

42 Sec. 4. G.S. 143B-433 is amended by adding three new subdivisions:

- 43 "(23) Community Assistance Division,
44 (24) Community Development Council,

1 (25) Housing Coordination and Policy Council,".

2 Sec. 5. The Community Development Council in the Department of Natural
3 Resources and Community Development is transferred to the Department of Commerce.
4 The transfer shall have all the elements of a Type II transfer as that term is defined in
5 G.S. 143A-6(b).

6 Sec. 6. Chapter 143B of the General Statutes is amended by adding a new
7 Part 3A to read:

8 **"PART 3A. COMMUNITY DEVELOPMENT COUNCIL.**

9 **"§ 143B-438.1. Community Development Council; creation; functions.**

10 (a) There is created the Community Development Council of the Department of
11 Commerce. The Community Development Council shall have the following functions
12 and duties:

13 (1) To advise the Secretary of Commerce with respect to promoting
14 and assisting in the orderly development of North Carolina counties
15 and communities;

16 (2) To advise the Secretary of Commerce with respect to the type and
17 effectiveness of planning and management services provided to
18 local government; and

19 (3) The Council shall consider and advise the Secretary of Commerce
20 upon any matter the Secretary may refer to it.

21 **"§ 143B-438.2. Council membership; compensation; procedures.**

22 The Community Development Council of the Department of Commerce shall consist
23 of 11 members appointed by the Governor. The composition of the Council shall be as
24 follows: one member who shall be a local government official, one member who shall
25 be the Executive Secretary of the League of Municipalities, one member who shall be
26 the Executive Secretary of the County Commissioners Association, one member who
27 shall represent industry, one member who shall represent labor, and six members at
28 large.

29 The Governor shall designate one member of the Council as chairman to serve at the
30 pleasure of the Governor.

31 The initial members of the Council other than those members serving in an ex
32 officio capacity shall be appointed to serve for terms of four years and until their
33 successors are appointed and qualified. Any appointment to fill a vacancy on the
34 Council created by the resignation, dismissal, death, or disability of a member shall be
35 for the balance of the unexpired term.

36 The Governor shall have the power to remove any member of the Council from
37 office in accordance with the provisions of G.S. 143B-16 of the Executive Organization
38 Act of 1973.

39 Members of the Council may receive per diem and necessary travel and subsistence
40 expenses in accordance with the provisions of G.S. 138-5.

41 A majority of the Council shall constitute a quorum for the transaction of business.

42 All clerical and other services required by the Council shall be supplied by the
43 Secretary of Commerce.

44 **"§ 143B-438.3. Council meetings.**

1 The Community Development Council shall meet at least semiannually and may
2 hold special meetings at any time and place within the State at the call of the chairman
3 or upon the written request of at least a majority of the members."

4 Sec. 7. Chapter 143B of the General Statutes is amended by adding a new
5 Part 3B to read:

6 **"PART 3B. HOUSING COORDINATION AND POLICY COUNCIL.**
7 **"§ 143B-438.4. Housing Coordination and Policy Council; creation; duties.**

8 (a) There is created the Housing Coordination and Policy Council of the
9 Department of Commerce. The Housing Coordination and Policy Council shall have the
10 following functions and duties:

11 (1) To advise the Secretary of Commerce and the Deputy Secretary of
12 Community Development and Housing regarding the coordination
13 of various public and private low and moderate income housing
14 programs;

15 (2) To advise the Secretary of Commerce and the Deputy Secretary of
16 Community Development and Housing in the preparation of an
17 overall, comprehensive State housing plan with specific
18 recommendations to address identified areas of need, which report
19 shall be presented to the Governor and General Assembly;

20 (3) To advise the Secretary of Commerce and the Deputy Secretary of
21 Community Development and Housing with respect to the best use
22 of housing resources within the Division of Community
23 Development and Housing; and

24 (4) To advise the Secretary of Commerce regarding any other matter
25 relating to housing the Secretary may refer to it.

26 (b) Nothing herein shall abrogate the existing statutory responsibility of any other
27 agency to develop housing plans and policies relating to specific housing programs.

28 **"§ 143B-438.5. Council membership; compensation; procedures.**

29 (a) The Housing Coordination and Policy Council shall consist of 11 nonpublic
30 members and six public agency representatives. The composition shall be as follows:

31 (1) The nonpublic members shall include a representative of: the
32 Homebuilders Association; the North Carolina Low Income
33 Housing Coalition; the Realtors Association; the Homeless
34 Ministry of the North Carolina Council of Churches; the League of
35 Municipalities; the Association of County Commissioners; Legal
36 Services, Inc., who is experienced with federal and State housing
37 programs; lending institutions regularly making housing loans; a
38 housing program designed for low-income persons; and a director
39 of a Public Housing Authority in North Carolina; and

40 (2) The public agency members shall include: the Deputy Secretary of
41 Community Development and Housing or a designee; the
42 Executive Director of the North Carolina Housing Finance Agency
43 or a designee; the Chair of the North Carolina Housing Partnership;
44 the Director of the Division of Community Assistance; a

1 representative of the Department of Human Resources familiar
2 with housing programs within the Department; and a representative
3 from the Governor's Advocacy Council for Persons with
4 Disabilities familiar with the housing needs of the disabled.

5 All members except those serving ex officio shall be appointed by the Secretary of
6 Commerce. The Secretary of Commerce shall designate one member of the Council to
7 serve as Chair.

8 (b) The initial members of the Council other than those serving ex officio shall
9 be appointed to serve for terms of four years and until their successors are appointed
10 and qualified. Any appointment to fill a vacancy created by resignation, dismissal,
11 death, or disability of a member shall be for the balance of the term.

12 (c) Members of the Council may receive per diem and necessary travel and
13 subsistence expenses in accordance with the provisions of G.S. 138-5.

14 (d) A majority of the Council shall constitute a quorum for the transaction of
15 business.

16 (e) All clerical and other services required by the Council shall be supplied by
17 the Secretary of Commerce.

18 **"§ 143B-438.6. Council meetings; report.**

19 (a) The Housing Coordination and Policy Council shall meet at least quarterly
20 and may hold special meetings at any time and place within the State at the call of the
21 Chair or upon written request of a majority of the members.

22 (b) The Council shall assist in the preparation and filing of an annual written
23 report which contains a review of work completed, a review of ongoing activities, and
24 housing policy recommendations. This report shall be filed with the General Assembly
25 and the Governor by May 1. The report to the 1991 Session of the General Assembly
26 shall contain specific recommendations regarding the further consolidation of housing
27 programs within State government."

28 Sec. 8. G.S. 143-320 reads as rewritten:

29 **"§ 143-320. Definitions.**

30 As used in this Article, unless the context otherwise requires:

31 ~~'Council' means the Community Development Council.~~

32 'Department' means the Department of Natural Resources and Community
33 Development.

34 'Secretary' means the Secretary of Natural Resources and Community
35 Development.

36 'Recreation' means those interests that are diversionary in character and that aid in
37 promoting entertainment, pleasure, relaxation, instruction, and other physical, mental,
38 and cultural developments and experiences of a leisure nature, and includes all
39 governmental, private nonprofit and commercial recreation forms of the recreation field
40 and includes parks, conservation, recreation travel, the use of natural resources,
41 wilderness and high density recreation types and the variety of recreation interests in
42 areas and programs which are incorporated in this range."

43 Sec. 9. G.S. 143-323(c) is repealed.

44 Sec. 10. G.S. 143B-279(10) is repealed.

1 Sec. 11. G.S. 143B-280 reads as rewritten:

2 "**§ 143B-280. Board of Natural Resources and Community Development; duties;**
3 **members; selection; meetings; quorum; compensation; services.**

4 The Board of Natural Resources and Community Development shall consider and
5 advise the Secretary of Natural Resources and Community Development upon any
6 matter that the Secretary may refer to it. The Board shall assist the Secretary of Natural
7 Resources and Community Development in the development of major programs and
8 recommend priorities for programs within the Department.

9 The Board of Natural Resources and Community Development shall perform such
10 other duties as may be specifically given to it.

11 The Board of Natural Resources and Community Development shall consist of the
12 following 20 members. The chairman of each of the following commissions: the
13 Wildlife Resources Commission, the Environmental Management Commission, the
14 Marine Fisheries Commission, the Coastal Resources Commission and the Soil and
15 Water Conservation Commission; the chairman of each of the following councils: ~~the~~
16 ~~Community Development Council,~~ the Forestry Council, the Parks and Recreation
17 Council and the North Carolina Zoological Park Council; ~~40~~11 members at large
18 appointed by the Governor to serve at his pleasure; and the Secretary of Natural
19 Resources and Community Development who shall be a member and chairman ex
20 officio. The Board of Natural Resources and Community Development shall meet at
21 least once in each quarter and may hold special meetings at any time and place within
22 the State at the call of its chairman.

23 A majority of the Board shall constitute a quorum for the transaction of business.

24 Members of the Board shall receive per diem and necessary travel expenses in
25 accordance with the provisions of G.S. 138-5.

26 All clerical and other services required by the Board shall be supplied by the
27 Secretary of Natural Resources and Community Development."

28 Sec. 12. G.S. 143B-305 through 143B-307 are repealed.

29 Sec. 13. There shall be established in the Department of Commerce, Division
30 of Community Development and Housing, a toll-free telephone number to provide
31 information on housing assistance to the citizens of the State.

32 Sec. 14. Nothing herein shall require the State to appropriate funds to
33 implement the provisions of this act.

34 Sec. 15. This act shall become effective July 1, 1989.