

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1991

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SENATE BILL 452
House Committee Substitute Favorable 7/7/92

Short Title: Development Financing Bonds.

(Public)

Sponsors:

Referred to:

April 1, 1991

1 A BILL TO BE ENTITLED
2 AN ACT TO PERMIT NORTH CAROLINA CITIES AND COUNTIES TO ISSUE
3 BONDS TO FINANCE ECONOMIC DEVELOPMENT AND URBAN
4 REDEVELOPMENT.

5 The General Assembly of North Carolina enacts:

6 Section 1. Article 6 of Chapter 159 of the General Statutes is reenacted and is
7 rewritten to read:

8 **“ARTICLE 6.**
9 **“DEVELOPMENT FINANCING ACT.**

10 **“§ 159-101. Short title.**

11 This Article may be cited as the ‘North Carolina Development Financing Act.’

12 **“§ 159-102. Definitions.**

13 The following definitions apply in this Article:

14 (1) Costs. Capital costs, as defined in G.S. 159-48(h). The term also
15 includes (i) interest on the bonds being issued or on notes issued in
16 anticipation of the bonds during construction and for a period not
17 exceeding four years after the estimated date of completion of
18 construction and (ii) the establishment of debt service reserves.

19 (2) Unit of local government. A county or city.

20 **“§ 159-103. Authorization of development financing bonds; purposes.**

21 Each unit of local government may issue development financing bonds pursuant to
22 this Article and use the proceeds for one or more of the purposes for which the unit may
23 issue general obligation bonds pursuant to G.S. 159-48(b)(12), (17), (19), (21), (23), and

1 (25) and G.S. 159-48(d)(3), (4), (5), and (6). The proceeds of the bonds may be used
2 either in a development financing district established pursuant to G.S. 160A-515.1 or
3 G.S. 158-7.3 or, if the use directly benefits private development forecast by the
4 development financing plan for the district, outside the development financing district.
5 The proceeds may be used only in or to benefit private development in that development
6 financing district the revenue increment of which is pledged as security for the bonds.

7 Subject to agreement with the holders of its development financing bonds and the
8 limitation on duration of development financing districts set out in this Article, each unit
9 of local government may issue additional development financing bonds and may issue
10 bonds to refund any outstanding development financing bonds at any time before the
11 final maturity of the bonds to be refunded. Development financing bonds may be issued
12 partly for the purpose of refunding outstanding development financing bonds and partly
13 for any other purpose under this Article. Development financing bonds issued to refund
14 outstanding development financing bonds shall be issued under this Article and not
15 under Article 4 of this Chapter.

16 **"§ 159-104. Application to Commission for approval of development financing**
17 **bond issue; preliminary conference; acceptance of application.**

18 A unit of local government may not issue development financing bonds under this
19 Article unless the issue is approved by the Local Government Commission. The
20 governing body of the issuing unit shall file with the secretary of the Commission an
21 application for Commission approval of the issue. At the time of application the
22 governing body shall publish a public notice of the application in a newspaper of
23 general circulation in the unit of local government. The application shall include
24 statements of facts and documents concerning the proposed bonds, development
25 financing district, and development financing plan and the financial condition of the
26 unit, required by the secretary. The Commission may prescribe the form of the
27 application.

28 Before accepting the application, the secretary may require the governing body or its
29 representatives to attend a preliminary conference in order to discuss informally the
30 proposed issue, district, and plan and the timing of the steps to be taken in issuing the
31 bonds. The development financing district need not be defined and the development
32 financing plan need not be adopted by the governing body at the time it files the
33 application with the secretary. However, before the Commission may enter its order
34 approving the bonds, the governing body must define the district and adopt the plan.

35 After an application in proper form and order has been filed, and after a preliminary
36 conference if one is required, the secretary shall notify the unit in writing that the
37 application has been filed and accepted for submission to the Commission. The
38 secretary's statement is conclusive evidence that the unit has complied with this section.

39 **"§ 159-105. Approval of application by Commission.**

40 (a) In determining whether a proposed development financing bond issue shall be
41 approved, the Commission may inquire into and consider any matters that it may
42 believe to have a bearing on whether the issue should be approved, including:

- 43 (1) Whether the projects to be financed from the proceeds of the
44 development financing bond issue are necessary or expedient.

- 1 (2) Whether the proposed projects are feasible.
- 2 (3) The unit of local government's debt management procedures and
3 policies.
- 4 (4) Whether the unit is in default in any of its debt service obligations.
- 5 (5) Whether the private development forecast in the development
6 financing plan would be likely to occur without the public project or
7 projects to be financed by the development financing bonds.
- 8 (6) Whether taxes on the incremental valuation accruing to the
9 development financing district, together with any other revenues
10 available, will be sufficient to service the proposed development
11 financing bonds.
- 12 (7) The ability of the Commission to market the proposed development
13 financing bonds at reasonable rates of interest.
- 14 (8) Whether the projects to be financed benefit the residents and business
15 owners of the development financing district in terms of jobs,
16 affordable housing, or services.
- 17 (9) Whether ameliorative activities are planned if the proposed projects
18 have a negative impact on residents and business owners of the
19 development of financing district in terms of jobs, affordable housing,
20 services, or displacement.
- 21 (b) The Commission shall approve the application if, upon the information and
22 evidence it receives, it finds that:
 - 23 (1) The proposed development financing bond issue is necessary or
24 expedient.
 - 25 (2) The amount proposed is adequate and not excessive for the proposed
26 purpose of the issue.
 - 27 (3) The proposed projects are feasible.
 - 28 (4) The unit of local government's debt management procedures and
29 policies are good, or that reasonable assurances have been given that
30 its debt will henceforth be managed in strict compliance with law.
 - 31 (5) The private development forecast in the development financing plan
32 would not be likely to occur without the public projects to be financed
33 by the development financing bonds.
 - 34 (6) The proposed development financing bonds can be marketed at
35 reasonable interest cost to the issuing unit.
 - 36 (7) The issuing unit has, pursuant to G.S. 160A-515.1 or G.S. 158-7.3,
37 adopted a development financing plan for the development financing
38 district for which the bonds are to be issued.
 - 39 (8) The proposed projects benefit the residents and business owners of the
40 development financing district in terms of jobs, affordable housing, or
41 services.
 - 42 (9) Ameliorative activities are undertaken if the proposed projects have a
43 negative impact on residents and business owners of the development

1 financing district in terms of jobs, affordable housing, services, or
2 displacement.

3 **"§ 159-106. Order approving or denying the application.**

4 (a) After considering an application, the Commission shall enter its order either
5 approving or denying the application. An order approving an issue is not an approval of
6 the legality of the bonds in any respect.

7 (b) Unless the bonds are to be issued for a development financing district for
8 which a development financing bond issue has already been approved, the day upon
9 which the Commission enters its order approving an application for development
10 financing bonds is also the effective date of the development financing district for
11 which the bonds are issued.

12 (c) If the Commission enters an order denying the application, the proceedings
13 under this Article are at an end.

14 **"§ 159-107. Determination of incremental valuation; use of taxes levied on**
15 **incremental valuation; duration of the district.**

16 (a) Base Valuation in the Development Financing District. After the Local
17 Government Commission has entered its order approving a unit of local government's
18 application for development financing bonds, the unit shall immediately notify the tax
19 assessor of the county in which the development financing district is located of the
20 existence of the development financing district. Upon receiving this notice, the tax
21 assessor shall determine the base valuation of the district, which is the assessed value of
22 taxable property located in the district on the January 1 immediately preceding the
23 effective date of the district. If the unit or an agency of the unit acquired property
24 within the district within one year before the effective date of the district, the tax
25 assessor shall presume, subject to rebuttal, that the property was acquired in
26 contemplation of the district and shall include the value of the property so acquired in
27 determining the base valuation of the district. The unit may rebut this presumption by
28 showing that the property was acquired primarily for a purpose other than to reduce the
29 tax incremental base. After determining the base valuation of the development
30 financing district, the tax assessor shall certify the valuation to the issuing unit; to the
31 county in which the district is located if the issuing unit is not the county; and to any
32 special district, as defined in G.S. 159-7, within which the development financing
33 district is located.

34 (b) Adjustments to the Base Valuation. During the lifetime of the development
35 financing district, the base valuation shall be adjusted as follows:

36 (1) If the unit amends its development financing plan, pursuant to G.S.
37 160A-515.1 or G.S. 158-7.3, to remove property from the development
38 financing district, on the succeeding January 1, that property shall be
39 removed from the district and the base valuation reduced accordingly.

40 (2) If the unit amends its development financing plan, pursuant to G.S.
41 160A-515.1 or G.S.158-7.3, to expand the district, the new property
42 shall be added to the district immediately. The base valuation of the
43 district shall be increased by the assessed value of the taxable property

1 situated in the added territory on the January 1 immediately preceding
2 the effective date of the district.

- 3 (3) If, at the time of revaluation pursuant to G.S. 105-286, of property in
4 the county in which the district is located, it appears that, based on the
5 schedule of values, standards, and rules approved by the board of
6 county commissioners pursuant to G.S. 105-317, the property values
7 of the district as they existed on the January 1 immediately preceding
8 the effective date of the district would be increased because of the
9 revaluation, then the base valuation shall be increased accordingly.

10 Each time the base valuation is adjusted, the tax assessor shall immediately certify the
11 new base valuation to the issuing unit; to the county if the issuing unit is not the county;
12 and to any special district, as defined in G.S. 159-7, within which the development
13 financing district is located.

14 (c) Revenue Increment Fund. When a unit of local government has established a
15 development financing district, and the development financing bonds for that district
16 have been approved by the Commission, the unit shall establish a separate fund to
17 account for the proceeds paid to the unit from taxes levied on the incremental valuation
18 of the district. The unit shall also place in this fund any moneys received pursuant to an
19 agreement entered into under G.S. 159-108.

20 (d) Levy of Property Taxes Within the District. Each year the development
21 financing district is in existence, the tax assessor shall determine the current assessed
22 value of taxable property located in the district. The assessor shall also compute the
23 difference between this current value and the base valuation of the district. If the
24 current value exceeds the base value, the difference is the incremental valuation of the
25 district. In each year the district is in existence, the county, and if the district is within a
26 city or a special district as defined by G.S. 159-7, the city or the special district shall
27 levy taxes against property in the district in the same manner as taxes are levied against
28 other property in the county, city, or special district. The proceeds from ad valorem
29 taxes levied on property in the development financing district shall be distributed as
30 follows:

- 31 (1) In any year in which there is no incremental valuation of the district,
32 all the proceeds of the taxes shall be retained by the county, city, or
33 special district, as if there were no development financing district in
34 existence.
- 35 (2) In any year in which there is an incremental valuation of the district,
36 the amount of tax due from each taxpayer on property in the district,
37 except taxes levied to service and repay debt secured by a pledge of
38 the faith and credit of the unit, nonschool taxes levied pursuant to a
39 vote of the people, taxes levied for a municipal or county service
40 district, and city taxes levied in a development financing district
41 established by a county and for which there is no increment agreement
42 between the city and county, shall be multiplied by a fraction, the
43 numerator of which is the base valuation for the district and the
44 denominator of which is the current valuation for the district. The

1 amount shown as the product of this multiplication shall, when paid by
2 the taxpayer, be retained by the county, city, or special district, as if
3 there were no development financing district in existence. The net
4 proceeds of the remaining amount shall, when paid by the taxpayer, be
5 turned over to the issuing unit's finance officer, who shall place this
6 amount in the special revenue increment fund required by subsection
7 (c) of this section. The net proceeds of each debt service tax, each
8 voted tax, each service district tax, and each tax levied by a city on
9 property in a district that was established by a county and for which
10 there is no increment agreement between the city and county shall be
11 paid to the government levying the tax. 'Net proceeds' is gross
12 proceeds less refunds, releases, and any collection fee paid by the
13 levying government to the collecting government.

14 (e) Effect of Annexation on District Established by a County. If a city annexes
15 land in a development financing district established by a county pursuant to G.S. 158-
16 7.3, the proceeds of all taxes levied by the city on property within the district shall be
17 paid to the city unless the city enters into an agreement with the county pursuant to this
18 subsection. The city and the county may enter into an increment agreement under
19 which the city agrees that city taxes on part or all of the incremental valuation in the
20 district shall be paid into the revenue increment fund for the district. An increment
21 agreement may be entered into when the district is established or at any time after the
22 district is established. The increment agreement may extend for the duration of the
23 district or for a shorter time agreed to by the parties.

24 (f) Use of Moneys in the Revenue Increment Fund. Moneys placed in the
25 revenue increment fund may be used for any of the following purposes, without priority
26 other than priorities imposed by the bond order authorizing the development financing
27 bonds:

- 28 (1) To finance capital expenditures (including the funding of capital
29 reserves) by the issuing unit in the development financing district
30 pursuant to the development financing plan.
- 31 (2) To meet principal and interest requirements on development financing
32 bonds and bond anticipation notes issued for the district.
- 33 (3) To repay the appropriate fund of the issuing unit for any moneys
34 actually expended on debt service on development financing bonds
35 pursuant to a pledge made pursuant to G.S. 159-111(b).
- 36 (4) To meet any other requirements imposed by the bond order
37 authorizing the development financing bonds.

38 If in any year there is any money remaining in the revenue increment fund after
39 these purposes have been satisfied, not less than twenty percent (20%) of the excess
40 shall be paid to the North Carolina Housing Trust Fund created under Chapter 122E for
41 the purposes of increasing the supply of decent, affordable, and energy-efficient housing
42 for low, very low, and moderate income residents of the issuing unit of local
43 government. The moneys paid by the issuing unit of local government shall be used in

1 compliance with the income targeting requirements of G.S. 122E-6 for the residents of
2 the issuing unit of local government.

3 Moneys paid to the North Carolina Housing Trust Fund under this section must be
4 used for the purposes set forth herein within four years of the contribution or such
5 moneys will be subject to the purposes set forth in Chapter 122E for the low, very low,
6 and moderate income residents of the State.

7 Nothing in this section shall be construed as relieving any legal obligations for
8 replacement or relocation housing. The remaining excess shall be paid to the general
9 fund of the county and, if applicable, of the city and any special district as defined by
10 G.S. 159-7, in proportion to their rates of ad valorem tax on taxable property located in
11 the development financing district.

12 (g) Duration of District. A development financing district shall terminate at the
13 earlier of (i) the end of the thirtieth year after the effective date of the district or (ii) the
14 date all development financing bonds issued for the district have been fully retired or
15 sufficient funds have been set aside, pursuant to the bond order authorizing the bonds, to
16 meet all future principal and interest requirements on the bonds.

17 **"§ 159-108. Agreements with property owners.**

18 (a) Authorization. A unit of local government that issues development financing
19 bonds may enter into agreements with the owners of real property in the development
20 financing district for which the bonds were issued under which the owners agree to a
21 minimum value at which their property will be assessed for taxation. Such an
22 agreement may extend for the life of the development financing district or for a shorter
23 period agreed to by the parties. The agreement may vary the agreed-upon minimum
24 assessed value from year to year.

25 (b) Filing and Recording Agreement. The unit shall file a copy of any agreement
26 entered into pursuant to this section with the tax assessor for the county in which the
27 development financing district is located. In addition, the unit shall cause the agreement
28 to be recorded in the office of the register of deeds of that county, and the register shall
29 index the agreement in the grantor's index under the name of the property owner. Once
30 the agreement has been recorded in the office of the register of deeds, as required by
31 subsection (b) of this section, it is binding, according to its terms and for its duration, on
32 any subsequent owner of the property.

33 (c) Minimum Assessment of Property. An agreement entered into pursuant to
34 this section establishes a minimum assessment of the real property subject to the
35 agreement. If the county tax assessor determines that the real property has a true value
36 less than the minimum established by the agreement, the assessor shall nevertheless
37 assess the property at the minimum set out in the agreement. If the assessor, however,
38 determines that the real property has a true value greater than the minimum established
39 by the agreement, the assessor shall assess the property at the true value.

40 (d) Effect of Reappraisal. If an agreement entered into pursuant to this section
41 continues in effect after a reappraisal of property conducted pursuant to G.S. 105-286,
42 the minimum assessment established in the agreement shall be adjusted as provided in
43 this subsection. After the issuing unit of local government has adopted its budget
44 ordinance and levied taxes for the fiscal year that begins next after the effective date of

1 the reappraisal, it shall certify to the county tax assessor the total rate of ad valorem
2 taxes levied by the unit and applicable to the property subject to the agreement. It shall
3 also certify to the assessor the total rate of ad valorem taxes levied by the unit and
4 applicable to the property in the immediately preceding fiscal year. The assessor shall
5 determine the total amount of ad valorem taxes levied by the unit on the property in the
6 immediately preceding fiscal year, based on the tax rate certified by the issuing unit.
7 The assessor shall then determine a value of the property that would provide the same
8 total amount of ad valorem taxes based on the tax rate certified for the fiscal year
9 beginning next after the effective date of the reappraisal. The value so determined is the
10 new minimum assessment for the property subject to the agreement.

11 (e) Agreement Effective Regardless of Improvements. An agreement entered
12 into pursuant to this section remains in effect according to its terms regardless whether
13 the improvements anticipated in the development financing plan are completed or
14 whether those improvements continue to exist during the duration of the agreement.
15 However, if any part of the property subject to the agreement is acquired by a public
16 agency, the agreement is automatically modified by removing the acquired property
17 from the agreement and reducing the minimum assessment accordingly.

18 **"§ 159-109. Special covenants.**

19 A development financing bond order or a trust agreement securing development
20 financing bonds may contain covenants regarding:

- 21 (1) The pledge of all or any part of the taxes received or to be received on
22 the incremental valuation in the development financing district during
23 the life of the bonds.
- 24 (2) Rates, fees, rentals, tolls, or other charges to be established,
25 maintained, and collected, and the use and disposal of revenues, gifts,
26 grants, and funds received or to be received.
- 27 (3) The setting aside of debt service reserves and the regulation and
28 disposition of these reserves.
- 29 (4) The custody, collection, securing, investment, and payment of any
30 moneys held for the payment of development financing bonds.
- 31 (5) Limitations or restrictions on the purposes to which the proceeds of
32 sale of development financing bonds may be applied.
- 33 (6) Limitations or restrictions on the issuance of additional development
34 financing bonds or notes for the same development financing district,
35 the terms upon which additional development financing bonds or notes
36 may be issued or secured, or the refunding of outstanding development
37 financing bonds or notes.
- 38 (7) The acquisition and disposal of property for development financing
39 bond projects.
- 40 (8) Provision for insurance and for accounting reports, and the inspection
41 and audit of accounting reports.
- 42 (9) The continuing operation and maintenance of projects financed with
43 the proceeds of the development financing bonds.

44 **"§ 159-110. Security of development financing bonds.**

1 Development financing bonds are special obligations of the issuing unit. Except as
2 provided in G.S. 159-111, the unit may pledge the following sources of funds to the
3 payment of the bonds, and no other sources: All or a portion of the moneys in the
4 revenue increment fund required by G.S. 159-107(c); the proceeds from the sale of
5 property in the development financing district; net revenues from any public facilities,
6 other than portions of public utility systems, in the development financing district
7 financed with the proceeds of the development financing bonds; and, subject to G.S.
8 159-47, net revenues from any other public facilities, other than portions of public
9 utility systems, in the development financing district constructed or improved pursuant
10 to the development financing plan.

11 Except as provided in G.S. 159-111, the principal and interest on development
12 financing bonds do not constitute a legal or equitable pledge, charge, lien, or
13 encumbrance upon any of the unit's property or upon any of its income, receipts, or
14 revenues, except as may be provided pursuant to this section. Except as provided in
15 G.S. 159-107 and G.S. 159-111, neither the credit nor the taxing power of the unit is
16 pledged for the payment of the principal or interest of development financing bonds,
17 and no holder of development financing bonds has the right to compel the exercise of
18 the taxing power by the unit or the forfeiture of any of its property in connection with
19 any default on the bonds. Unless the unit's taxing power has been pledged pursuant to
20 G.S. 159-111, every development financing bond shall contain recitals sufficient to
21 show the limited nature of the security for the bond's payment and that it is not secured
22 by the full faith and credit of the unit.

23 **"§ 159-111. Additional security for development financing bonds.**

24 (a) In order to provide additional security for bonds issued pursuant to this
25 Article, the issuing unit of local government may pledge its faith and credit for the
26 payment of the principal of and interest on the bonds. Before such a pledge may be
27 given, the unit shall follow the procedures for and meet the requirements for approval of
28 general obligation bonds under Article 4 of this Chapter. The unit shall also follow the
29 procedures and meet the requirements of this Article. If bonds are issued pursuant to
30 this Article and are also secured by a pledge of the issuing unit's faith and credit, the
31 bonds are subject to G.S. 159-112 rather than G.S. 159-65.

32 (b) In order to provide additional security for bonds issued pursuant to this
33 Article, and in lieu of pledging its faith and credit for that purpose pursuant to
34 subsection (a) of this section, a unit of local government may agree to apply to the
35 payment of the bonds any available sources of revenues of the unit, as long as the
36 agreement to use the sources to make payment does not constitute a pledge of the unit's
37 taxing power. In addition, to the extent the generation of the revenues is within the
38 power of the unit, the unit may enter into covenants to take action in order to generate
39 the revenues, as long as the covenant does not constitute a pledge of the unit's taxing
40 power.

41 No agreement or covenant may contain a nonsubstitution clause that restricts the
42 right of the issuing unit of local government to replace or provide a substitute for any
43 project financed pursuant to this subsection.

1 The obligation of a unit of local government with respect to the sources of payment
2 shall be specifically identified in the proceedings of the governing body authorizing the
3 unit to issue the bonds. The sources of payment so specifically identified and then held
4 or thereafter received by the unit or any fiduciary of the unit shall immediately be
5 subject to the lien of the proceedings without any physical delivery of the sources or
6 further act. The lien shall be valid and binding as against all parties having claims of
7 any kind against a unit without regard to whether the parties have notice of the lien.
8 The proceedings or any other document or action by which the lien on a source of
9 payment is created need not be filed or recorded in any manner other than as provided in
10 this Article.

11 **"§ 159-112. Limitations on details of bonds.**

12 In fixing the details of development financing bonds, the governing body of the
13 issuing unit of local government is subject to these restrictions and directions:

- 14 (1) The maturity date shall not exceed the shorter of (i) the longest of the
15 various maximum periods of usefulness for the projects to be financed
16 with bond proceeds, as prescribed by the Local Government
17 Commission pursuant to G.S. 159-122, or (ii) the end of the thirtieth
18 year after the effective date of the development financing district.
- 19 (2) The first payment of principal shall be payable not more than four
20 years after the date of the bonds.
- 21 (3) Any bond may be made payable on demand or tender for purchase as
22 provided in G.S. 159-79, and any bond may be made subject to
23 redemption prior to maturity, with or without premium, on such notice,
24 at such times, and with such redemption provisions as may be stated.
25 Interest on the bonds shall cease when the bonds have been validly
26 called for redemption and provision has been made for the payment of
27 the principal of the bonds, any redemption, any premium, and the
28 interest on the bonds accrued to the date of redemption.
- 29 (4) The bonds may bear interest at such rates payable semiannually or
30 otherwise, may be in such denominations, and may be payable in such
31 kind of money and in such place or places within or without this State,
32 as the issuing unit may determine.

33 **"§ 159-113. Annual report.**

34 In July of each year, each unit of local government with outstanding development
35 financing bonds shall make a report to any other unit, and to any special district as
36 defined in G.S. 159-7, in which the development financing district for which the bonds
37 were issued is located. This report shall set out the base valuation for the development
38 financing district, the current valuation for the district, the amount of remaining
39 development financing debt for the district, and the unit's estimate of when the debt will
40 be retired.

41 **"§ 159-114. Relocation assistance.**

42 Any person displaced as a result of either public or private activities under this
43 Article, G.S. 160A-515.1 or G.S. 158-7.3 shall be entitled to relocation assistance under
44 Article 2 of Chapter 133 of the General Statutes. Public activities under this Article,

1 G.S. 160A-515.1, or G.S. 158-7.3 and private activities which would not have occurred
2 but for the issuance of the development financing bonds under this Article, G.S. 160A-
3 515.1, or G.S. 158-7.3 shall constitute a program or project undertaken by an 'agency'
4 as defined in G.S. 133-7. All relocation assistance costs incurred as a result of public or
5 private activities under this Article, G.S. 160A-515.1, or G.S. 158-7.3, shall be paid by
6 the private developer."

7 Sec. 2. G.S. 159-48(b) is amended by adding a new subsection to read:

8 "(26) Undertaking public activities in or for the benefit of a development
9 financing district pursuant to a development financing plan."

10 Sec. 3. G.S. 159-55 reads as rewritten:

11 **"§ 159-55. Sworn statement of debt; debt limitation.**

12 (a) After the bond order has been introduced and before the public hearing
13 thereon, the finance officer (or some other officer designated by the governing board for
14 this purpose) shall file with the clerk a statement showing the following:

15 (1) The gross debt of the unit, excluding therefrom debt incurred or to be
16 incurred in anticipation of the collection of taxes or other revenues or
17 in anticipation of the sale of bonds other than funding and refunding
18 bonds. The gross debt (after exclusions) is the sum of (i) outstanding
19 debt evidenced by bonds, (ii) bonds authorized by orders introduced
20 but not yet adopted, (iii) unissued bonds authorized by adopted orders,
21 and (iv) outstanding debt not evidenced by bonds. However, for
22 purposes of the sworn statement of debt and the debt limitation,
23 revenue bonds and development financing bonds (unless additionally
24 secured by a pledge of the issuing unit's faith and credit) shall not be
25 considered debt and such bonds shall not be included in gross debt nor
26 deducted from gross debt.

27 (2) The deductions to be made from gross debt in computing net debt. The
28 following deductions are allowed:

- 29 a. Funding and refunding bonds authorized by orders introduced
30 but not yet adopted.
- 31 b. Funding and refunding bonds authorized but not yet issued.
- 32 c. The amount of money held in sinking funds or otherwise for the
33 payment of any part of the principal of gross debt other than
34 debt incurred for water, gas, electric light or power purposes, or
35 sanitary sewer purposes (to the extent that the bonds are
36 deductible under subsection (b) of this section), or two or more
37 of these purposes.
- 38 d. The amount of bonded debt included in gross debt and incurred,
39 or to be incurred, for water, gas, or electric light or power
40 purposes, or any two or more of these purposes.
- 41 e. The amount of bonded debt included in the gross debt and
42 incurred, or to be incurred, for sanitary sewer system purposes
43 to the extent that the debt is made deductible by subsection (b)
44 of this section.

- 1 f. The amount of uncollected special assessments theretofore
2 levied for local improvements for which any part of the gross
3 debt (that is not otherwise deducted) was or is to be incurred, to
4 the extent that the assessments will be applied, when collected,
5 to the payment of any part of the gross debt.
- 6 g. The amount, as estimated by the governing board of the issuing
7 unit or an officer designated by the board for this purpose, of
8 special assessments to be levied for local improvements for
9 which any part of the gross debt (that is not otherwise deducted)
10 was or is to be incurred, to the extent that the special
11 assessments, when collected, will be applied to the payment of
12 any part of the gross debt.
- 13 (3) The net debt of the issuing unit, being the difference between the gross
14 debt and deductions.
- 15 (4) The appraised value of property subject to taxation by the issuing unit
16 before the application of any assessment ratio. The appraised value of
17 property subject to taxation by the issuing unit is the value from which
18 the assessed value last fixed for taxation by the issuing unit was
19 computed, as revealed by the county tax records and certified to the
20 issuing unit by the county tax supervisor. In calculating the appraised
21 value, the incremental valuation of any development financing district
22 located in the unit, as determined pursuant to G.S. 159-107, shall not
23 be included.
- 24 (5) The percentage that the net debt bears to the appraised value of
25 property subject to taxation by the issuing unit.
- 26 (b) Debt incurred or to be incurred for sanitary sewer system purposes is
27 deductible from gross debt when the combined revenues of the water system and the
28 sanitary sewer system (whether or not the water and sewer system are operated
29 separately or as a consolidated system) were sufficient to pay all operating, capital
30 outlay, and debt service expenditures attributable to both systems in each of the three
31 complete fiscal years immediately preceding the date on which the sworn statement of
32 debt is filed. For the purposes of this subsection, the 'revenues' of a water system and a
33 sanitary sewer system include:
- 34 (1) Rates, fees, rentals, charges, and other receipts and income derived
35 from or in connection with the system.
- 36 (2) Fees, rents, or other charges collected from other offices, agencies,
37 institutions, and departments of the issuing unit at rates not in excess
38 of those charged to other consumers, customers, or users.
- 39 (3) Appropriations from the fund balance of the prior fiscal year from the
40 fund or funds established to account for the revenues and expenditures
41 of the water system or sewer system pursuant to G.S. 159-13(a) of the
42 Local Government Budget and Fiscal Control Act.

43 Before the sworn statement of debt is filed, the secretary shall determine to what extent
44 debt incurred or to be incurred for sanitary sewer system purposes qualifies for

1 deduction from gross debt pursuant to this subsection, and shall give his certificate to
2 that effect. The secretary's certificate shall be filed with and deemed a part of the sworn
3 statement of debt. The secretary's certificate shall be conclusive in the absence of fraud.

4 (c) No bond order shall be adopted unless it appears from the sworn statement of
5 debt filed in connection therewith that the net debt of the unit does not exceed eight
6 percent (8%) of the appraised value of property subject to taxation by the issuing unit
7 before the application of any assessment ratio as determined under subsection (a)(4) of
8 this section. This limitation shall not apply to:

9 (1) Funding and refunding bonds.

10 (2) Bonds issued for water, gas, or electric power purposes, or two or
11 more of these purposes.

12 (3) Bonds issued for sanitary sewer system purposes when the bonds are
13 deductible pursuant to subsection (b) of this section.

14 (4) Bonds issued for sanitary sewers, sewage disposal, or sewage
15 purification plants when the construction of these facilities has been
16 ordered by the Environmental Management Commission, which
17 Commission is hereby authorized to make such an order, or by a court
18 of competent jurisdiction.

19 (5) Bonds or notes issued for erosion control purposes.

20 (6) Bonds or notes issued for the purpose of erecting jetties or other
21 protective works to prevent encroachment by the ocean, sounds, or
22 other bodies of water."

23 Sec. 4. G.S. 159-79(a) reads as rewritten:

24 "(a) Notwithstanding any provisions of this Chapter to the contrary, including
25 particularly, but without limitation, the provisions of G.S. 159-65, G.S. 159-112, G.S.
26 159-123 to G.S. 159-127, inclusive, G.S. 159-130, G.S. 159-138, G.S. 159-162, G.S.
27 159-164 and G.S. 159-172, a unit of local government, in fixing the details of general
28 obligation bonds to be issued pursuant to this Article or general obligation notes to be
29 issued pursuant to Article 9 of this Chapter or development financing bonds or notes to
30 be issued pursuant to Article 6 of this Chapter, may provide that such bonds or notes

31 (1) May be made payable from time to time on demand or tender for
32 purchase by the owner provided a Credit Facility supports such bonds
33 or notes, unless the Commission specifically determines that a Credit
34 Facility is not required upon a finding and determination by the
35 Commission that the proposed bonds or notes will satisfy the
36 conditions set forth in G.S. 159-52;

37 (2) May be additionally supported by a Credit Facility;

38 (3) May be made subject to redemption prior to maturity, with or without
39 premium, on such notice, at such time or times, at such price or prices
40 and with such other redemption provisions as may be stated in the
41 resolution fixing the details of such bonds or notes or with such
42 variations as may be permitted in connection with a Par Formula
43 provided in such resolution;

- 1 (4) May bear interest at a rate or rates that may vary as permitted pursuant to a Par Formula and for such period or periods of time, all as may be provided in such resolution; and
- 2
- 3
- 4 (5) May be made the subject of a remarketing agreement whereby an attempt is made to remarket the bonds to new purchases prior to their presentment for payment to the provider of the Credit Facility or to the issuing unit."
- 5
- 6
- 7

8 Sec. 5. G.S. 159-120 reads as rewritten:

9 **"§ 159-120. Definitions.**

10 As used in this Article, unless the context clearly requires another meaning, the words 'unit' or 'issuing unit' mean 'unit of local government' as defined in G.S. 159-44

11

12 159-44 or G.S. 159-102, 'municipality' as defined in G.S. 159-81, and the State of North Carolina, and the words 'governing body,' when used with respect to the State of North

13

14 Carolina, mean the Council of State."

15 Sec. 6. G.S. 159-122(a) reads as rewritten:

16 "(a) Except as provided in this subsection, the last installment of each bond issue

17 shall mature not later than the date of expiration of the period of usefulness of the

18 capital project to be financed by the bond issue, computed from the date of the bonds.

19 The last installment of a refunding bond issue issued pursuant to G.S. 159-48(a)(4) or

20 (5) shall mature not later than either (i) the shortest period, but not more than 40 years,

21 in which the debt to be refunded can be finally paid without making it unduly

22 burdensome on the taxpayers of the issuing unit, as determined by the Commission,

23 computed from the date of the bonds, or (ii) the end of the unexpired period of

24 usefulness of the capital project financed by the debt to be refunded. The last

25 installment of bonds issued pursuant to G.S. 159-48(a)(1), (2), (3), (6), or (7) shall

26 mature not later than 10 years after the date of the bonds, as determined by the

27 Commission. The last installment of bonds issued pursuant to G.S. 159-48(c)(5) shall

28 mature not later than eight years after the date of the bonds, as determined by the

29 Commission. The last installment of development financing bonds shall mature on the

30 earlier of 30 years after the effective date of the development financing district for

31 which the bonds are issued or the longest of the various maximum periods of usefulness

32 for the projects to be financed with bond proceeds, as prescribed by the Commission

33 pursuant to this section."

34 Sec. 7. G.S. 159-123(b) reads as rewritten:

35 "(b) The following classes of bonds may be sold at private sale:

- 36 (1) Bonds that a State or federal agency has previously agreed to purchase.
- 37 (2) Any bonds for which no legal bid is received within the time allowed
- 38 for submission of bids.
- 39 (3) Revenue bonds, including any refunding bonds issued pursuant to G.S.
- 40 159-84, and special obligation bonds issued pursuant to Chapter 159I
- 41 of the General Statutes.
- 42 (4) Refunding bonds issued pursuant to G.S. 159-78.

1 (5) Refunding bonds issued pursuant to G.S. 159-72 if the Local
2 Government Commission determines that a private sale is in the best
3 interest of the issuing unit.

4 (6) Development financing bonds."

5 Sec. 8. G.S. 159-125(a) reads as rewritten:

6 "(a) Except for revenue ~~bonds, bonds and development financing bonds,~~ no bid for
7 less than ninety-eight percent (98%) of the face value of the bonds plus one hundred
8 percent (100%) of accrued interest may be entertained.

9 Different rates of interest may be bid for bonds maturing in different years, but
10 different rates of interest may not be bid for bonds maturing in the same year."

11 Sec. 9. G.S. 159-129 reads as rewritten:

12 "**§ 159-129. Obligations of units certified by Commission.**

13 Each bond or bond anticipation note that is represented by an instrument shall bear
14 on its face or reverse a certificate signed by the secretary of the Commission or an
15 assistant designated by him that the issuance of the bond or note has been approved
16 under the provisions of ~~The Local Government Bond Act of Acts,~~ the Local Government
17 Revenue Bond ~~Act—Act,~~ or the North Carolina Development Financing Act. Such
18 signature may be a manual or facsimile signature as the Commission may determine.
19 Each bond or bond anticipation note that is not represented by an instrument shall be
20 evidenced by a writing relating to such obligation, which writing shall identify such
21 obligation or the issue of which it is part, bear such certificate and be on file with the
22 Commission. The certificate shall be conclusive evidence that the requirements of this
23 Subchapter have been observed, and no bond or note without the Commission's
24 certificate or with respect to which a writing bearing such certificate has not been filed
25 with the Commission shall be valid."

26 Sec. 10. G.S. 159-132 reads as rewritten:

27 "**§ 159-132. State Treasurer to deliver bonds and remit proceeds.**

28 When the bonds are executed, they shall be delivered to the State Treasurer who
29 shall deliver them to the order of the purchaser and collect the purchase price or
30 proceeds. The Treasurer shall then pay from the proceeds any notes issued in
31 anticipation of the sale of the bonds, deduct from the proceeds the Commission's
32 expense in connection with the issue, and remit the net proceeds to the official
33 depository of the unit after assurance that the deposit will be adequately secured as
34 required by law. The proceeds of funding or refunding bonds may be deposited at the
35 place of payment of the indebtedness to be refunded or funded for use solely in the
36 payment of such indebtedness. The proceeds of revenue bonds shall be remitted to the
37 trustee or other depository specified in the trust agreement or resolution securing them.
38 Unless otherwise provided in the trust agreement or resolution securing the bonds, the
39 proceeds of development financing bonds shall be remitted in the manner provided by
40 this section for the remission of the proceeds of general obligation bonds."

41 Sec. 11. G.S. 159-160 reads as rewritten:

42 "**§ 159-160. Definitions.**

1 As used in this Part, the words 'unit' or 'issuing unit' means 'unit of local
2 government' as defined in G.S. ~~159-44~~, 159-44 or G.S. 159-102, 'municipality' as
3 defined in G.S. 159-81, and the State of North Carolina."

4 Sec. 12. G.S. 159-163.1 is reenacted and is rewritten to read:

5 **"§ 159-163.1. Security of development financing bond anticipation notes.**

6 Notes issued in anticipation of the sale of development financing bonds are special
7 obligations of the issuing unit. Except as provided in G.S. 159-107 and G.S. 159-110,
8 neither the credit nor the taxing power of the issuing unit may be pledged for the
9 payment of notes issued in anticipation of the sale of development financing bonds; and
10 no holder of a development financing bond anticipation note shall have the right to
11 compel the exercise of the taxing power by the issuing unit or the forfeiture of any of its
12 property in connection with any default thereon. Notes issued in anticipation of the sale
13 of development financing bonds may be secured by the same pledges, charges, liens,
14 covenants, and agreements made to secure the development financing bonds. In
15 addition, the proceeds of each development financing bond issue are pledged for the
16 payment of any notes issued in anticipation of the sale thereof, and any such notes shall
17 be retired from the proceeds of the sale as the first priority."

18 Sec. 13. G.S. 159-165(b) reads as rewritten:

19 "(b) When the bond anticipation notes are executed, they shall be delivered to the
20 State Treasurer who shall deliver them to the order of the purchaser and collect the
21 purchase price or proceeds. The Treasurer shall then deduct from the proceeds the
22 Commission's expense in connection with the issue, and remit the net proceeds to the
23 official depository of the unit after assurance that the deposit will be adequately secured
24 as required by law. The net proceeds of revenue bond anticipation ~~notes or notes,~~
25 special obligation bond anticipation notes—notes, or development financing bond
26 anticipation notes shall be remitted to the trustee or other depository specified in the
27 trust agreement or resolution securing them. If the notes have been issued to renew
28 outstanding notes, the Treasurer, in lieu of collecting the purchase price or proceeds,
29 may provide for the exchange of the newly issued notes for the notes to be renewed."

30 Sec. 14. G.S. 159-176 reads as rewritten:

31 **"§ 159-176. Commission to aid defaulting units in developing refinancing plans.**

32 If a unit of local government or municipality (~~as defined in G.S. 159-44 or 159-81~~) (as
33 defined in G.S. 159-44, 159-81, or 159-102) fails to pay any installment of principal or
34 interest on its outstanding debt on or before the due date (whether the debt is evidenced
35 by general obligation bonds, revenue bonds, development financing bonds, bond
36 anticipation notes, tax anticipation notes, or revenue anticipation notes) and remains in
37 default for 90 days, the Commission may take such action as it deems advisable to
38 investigate the unit's or municipality's fiscal affairs, consult with its governing board,
39 and negotiate with its creditors in order to assist the unit or municipality in working out
40 a plan for refinancing, adjusting, or compromising the debt. When a plan is developed
41 that the Commission finds to be fair and equitable and reasonably within the ability of
42 the unit or municipality to meet, the Commission shall enter an order finding that it is
43 fair, equitable, and within the ability of the unit or municipality to meet. The
44 Commission shall then advise the governing board to take the necessary steps to

1 implement it. If the governing board declines or refuses to do so within 90 days after
2 receiving the Commission's advice, the Commission may enter an order directing the
3 governing board to implement the plan. When this order is entered, the members of the
4 governing board and all officers and employees of the unit or municipality shall be
5 under an affirmative duty to do all things necessary to implement the plan. The
6 Commission may apply to the appropriate division of the General Court of Justice for a
7 court order to the governing board and other officers and employees of the unit or
8 municipality to enforce the Commission's order."

9 Sec. 15. G.S. 160A-505(a) reads as rewritten:

10 "(a) In lieu of creating a redevelopment commission as authorized herein, the
11 governing body of any municipality may, if it deems wise, either designate a housing
12 authority created under the provisions of Chapter 157 of the General Statutes to exercise
13 the powers, duties, and responsibilities of a redevelopment commission as prescribed
14 herein, or undertake to exercise such powers, duties, and responsibilities itself. Any
15 such designation shall be by passage of a resolution adopted in accordance with the
16 procedure and pursuant to the findings specified in G.S. 160A-504(a) and (b). In the
17 event a governing body designates itself to perform the powers, duties, and
18 responsibilities of a redevelopment ~~commission~~, commission under this subsection, or
19 exercises those powers, duties, and responsibilities pursuant to G.S. 153A-376 or G.S.
20 160A-456, then where any act or proceeding is required to be done, recommended, or
21 approved both by a redevelopment commission and by the municipal governing body,
22 then the performance, recommendation, or approval thereof once by the municipal
23 governing body shall be sufficient to make such performance, recommendation, or
24 approval valid and legal. In the event a municipal governing body designates itself to
25 exercise the powers, duties, and responsibilities of a redevelopment commission, it may
26 assign the administration of redevelopment policies, programs and plans to any existing
27 or new department of the municipality."

28 Sec. 16. G.S. 160A-512(6) reads as rewritten:

29 "(6) Within its area of operation, to purchase, obtain options upon, acquire
30 by gift, grant, bequest, devise, eminent domain or otherwise, any real
31 or personal property or any interest therein, together with any
32 improvements thereon, necessary or incidental to a redevelopment
33 project; to hold, improve, clear or prepare for redevelopment any such
34 property, and ~~notwithstanding the provisions of G.S. 160-59 but~~ subject to
35 the provisions of G.S. 160A-514, and with the approval of the local
36 governing body sell, exchange, transfer, assign, subdivide, retain for
37 its own use, mortgage, pledge, hypothecate or otherwise encumber or
38 dispose of any real or personal property or any interest therein, either
39 as an entirety to a single 'redeveloper' or in parts to several
40 redevelopers; provided that the commission finds that the sale or other
41 transfer of any such part will not be prejudicial to the sale of other
42 parts of the redevelopment area, nor in any other way prejudicial to the
43 realization of the redevelopment plan approved by the governing body;
44 to enter into ~~contracts~~ contracts, either before or after the real property

1 that is the subject of the contract is acquired by the commission
2 (although disposition of the property is still subject to G.S. 160A-514),
3 with 'redevelopers' of property containing covenants, restrictions, and
4 conditions regarding the use of such property for residential,
5 commercial, industrial, recreational purposes or for public purposes in
6 accordance with the redevelopment plan and such other covenants,
7 restrictions and conditions as the commission may deem necessary to
8 prevent a recurrence of blighted areas or to effectuate the purposes of
9 this Article; to make any of the covenants, restrictions or conditions of
10 the foregoing contracts covenants running with the land, and to
11 provide appropriate remedies for any breach of any such covenants or
12 conditions, including the right to terminate such contracts and any
13 interest in the property created pursuant thereto; to borrow money and
14 issue bonds therefor and provide security for bonds; to insure or
15 provide for the insurance of any real or personal property or operations
16 of the commission against any risks or hazards, including the power to
17 pay premiums on any such insurance; and to enter into any contracts
18 necessary to effectuate the purposes of this Article;"

19 Sec. 17. G.S. 160A-515.1 is reenacted and is rewritten to read:

20 "**§ 160A-515.1. Development financing.**

21 (a) Authorization. A city may finance a redevelopment project and any related
22 public improvements with the proceeds of development financing bonds, issued
23 pursuant to Article 6 of Chapter 159 of the General Statutes, together with any other
24 revenues that are available to the city. Before it receives the approval of the Local
25 Government Commission for issuance of development financing bonds, the city's
26 governing body must define a development financing district and adopt a development
27 financing plan for the district.

28 (b) Development Financing District. A development financing district shall
29 comprise all or portions of one or more redevelopment areas defined pursuant to this
30 Article. The total land area within development financing districts in a city, including
31 development financing districts created pursuant to G.S. 158-7.3, may not exceed five
32 percent (5%) of the total land area of the city.

33 (c) Development Financing Plan. The development financing plan shall be
34 compatible with the redevelopment plan or plans for the redevelopment area or areas
35 included within the district. The development financing plan shall include:

- 36 (1) A description of the boundaries of the development financing district;
- 37 (2) A description of the proposed development of the district, both public
38 and private;
- 39 (3) The costs of the proposed public activities;
- 40 (4) The sources and amounts of funds to pay for the proposed public
41 activities;
- 42 (5) The base valuation of the development financing district;
- 43 (6) The projected incremental valuation of the development financing
44 district;

- 1 (7) The estimated duration of the development financing district;
2 (8) A description of how the proposed development of the district, both
3 public and private, will benefit the residents and business owners of
4 the district in terms of jobs, affordable housing, or services; and
5 (9) A description of the appropriate ameliorative activities which will be
6 undertaken if the proposed projects have a negative impact on
7 residents or business owners of the district in terms of jobs, affordable
8 housing, services, or displacement.

9 (d) County Review. Before adopting a plan for a development financing district,
10 the city council shall cause notice of the plan to be mailed, by first-class mail, to the
11 board of county commissioners of the county or counties in which the development
12 financing district is located. The person mailing the notice shall certify that fact, and
13 the date thereof, to the city council, and the certificate is conclusive in the absence of
14 fraud. Unless the board of county commissioners (or either board, if the district is in
15 two counties) by resolution disapproves the proposed plan within 28 days after the date
16 the notice is mailed, the city council may proceed to adopt the plan.

17 (e) Plan Adoption. Before adopting a plan for a development financing district,
18 the city council shall hold a public hearing on the plan. The council shall, no less than
19 30 days before the day of hearing, cause notice of the hearing to be mailed by first-class
20 mail to all property owners and mailing addresses within the proposed development
21 financing district. The council shall also, no more than 30 days and no less than 14 days
22 before the day of the hearing, cause notice of the hearing to be published once in a
23 newspaper of general circulation in the city. The notice shall state the time and place of
24 the hearing, shall specify its purpose, and shall state that a copy of the proposed plan is
25 available for public inspection in the office of the city clerk. At the public hearing, the
26 council shall hear anyone who wishes to speak with respect to the proposed district and
27 proposed plan. Unless a board of county commissioners has disapproved the plan
28 pursuant to subsection (d) of this section, the council may adopt the plan, with or
29 without amendment, at any time after the public hearing. However, the plan and the
30 district do not become effective until the city's application to issue development
31 financing bonds has been approved by the Local Government Commission, pursuant to
32 Article 6 of Chapter 159 of the General Statutes.

33 (f) Plan Modification. Subject to the limitations of this subsection, a city council
34 may, after the effective date of the district, amend a development financing plan
35 adopted for a development financing district. Before making any amendment, the city
36 council shall follow the procedures and meet the requirements of subsections (d) and (e)
37 of this section. The boundaries of the district may be enlarged only during the first five
38 years after the effective date of the district and only if the area to be added has been or
39 is about to be developed and the development is primarily attributable to development
40 that has occurred within the district, as certified by the Local Government Commission.
41 The boundaries of the district may be reduced at any time, but the city may agree with
42 the holders of any development financing bonds to restrict its power to reduce district
43 boundaries.

1 (g) Plan Implementation. In implementing a development financing plan, a city
2 may act directly, through a redevelopment commission, through one or more contracts
3 with private agencies, or by any combination thereof."

4 Sec. 18. Article 1 of Chapter 158 of the General Statutes is amended by
5 adding a new section to read:

6 **"§ 158-7.3. Development financing.**

7 (a) Definitions. As used in this section:

8 (1) 'Economic development project' means a capital project that includes
9 capital expenditures by both private persons and one or more units of
10 local government and that increases net employment opportunities for
11 residents of the development district or within a two-mile radius of the
12 project, whichever is larger, and local government tax base.

13 If the district in which such a project will occur is outside a city's
14 central business district (as that district is defined by resolution of the
15 city council, which definition is binding and conclusive), of the private
16 development forecast for an economic development project by the
17 development financing plan for the district in which the project will
18 occur, a maximum of twenty percent (20%) of the plan's estimated
19 square footage of floor space may be proposed for use in retail sales,
20 hotels, banking and financial services offered directly to consumers,
21 and other commercial uses other than office space.

22 (2) 'Publish' means insertion in a newspaper qualified under G.S. 1-597 to
23 public legal advertisements in the county or counties in which the unit
24 is located.

25 (3) 'Unit' or 'unit of local government' means a county, city, town, or
26 incorporated village.

27 (b) Authorization. A unit of local government may finance public improvements
28 that are part of an economic development project with the proceeds of development
29 financing bonds, issued pursuant to Article 6 of Chapter 159 of the General Statutes,
30 together with any other revenues that are available to the unit. Before it receives the
31 approval of the Local Government Commission for issuance of development financing
32 bonds, the unit's governing body must define a development financing district and adopt
33 a development financing plan for the district.

34 (c) Development Financing District. A development financing district created
35 pursuant to this section must be comprised of property that is either:

36 (1) Blighted, deteriorated, deteriorating, undeveloped, or inappropriately
37 developed from the standpoint of sound community development and
38 growth;

39 (2) Appropriate for rehabilitation or conservation activities; or

40 (3) Appropriate for the economic development of the community.

41 The total land area within development financing districts in a unit, including
42 development financing districts created pursuant to G.S. 160A-515.1, may not exceed
43 five percent (5%) of the total land area of the unit. A county may not include in a

1 district created pursuant to this section any land that, at the time the district is created, is
2 inside a city, town, or incorporated village.

3 (d) Development Financing Plan. The development financing plan shall include:

4 (1) A description of the boundaries of the development financing district;

5 (2) A description of the proposed development of the district, both public
6 and private;

7 (3) The costs of the proposed public activities;

8 (4) The sources and amounts of funds to pay for the proposed public
9 activities;

10 (5) The base valuation of the development financing district;

11 (6) The projected incremental valuation of the development financing
12 district;

13 (7) The estimated duration of the development financing district;

14 (8) A description of how the proposed development of the district, both
15 public and private, will benefit the residents and business owners of
16 the district in terms of jobs, affordable housing, or services; and

17 (9) A description of the appropriate ameliorative activities which will be
18 undertaken if the proposed projects have a negative impact on
19 residents or business owners of the district in terms of jobs, affordable
20 housing, services, or displacement.

21 (e) County Review. If the unit creating a development financing district and
22 adopting a development financing plan is a city, town, or incorporated village, before
23 adopting the plan the unit's governing body shall cause notice of the plan to be mailed,
24 by first-class mail, to the board of county commissioners of the county or counties in
25 which the development financing district is located. The person mailing the notice shall
26 certify that fact, and the date thereof, to the governing body, and the certificate is
27 conclusive in the absence of fraud. Unless the board of county commissioners (or either
28 board, if the district is in two counties) by resolution disapproves the proposed plan
29 within 28 days after the date the notice is mailed, the governing body may proceed to
30 adopt the plan.

31 (f) Plan Adoption. Before adopting a plan for a development financing district,
32 the issuing unit's governing body shall hold a public hearing on the plan. The governing
33 body shall, no more than 30 days and no less than 14 days before the day of the hearing,
34 cause notice of the hearing to be published once and shall cause notice of the hearing to
35 be mailed, by first-class mail, to all property owners and mailing addresses of the
36 development financing district and to the governing body of any special district, as
37 defined by G.S. 159-7, within which the development financing district is located. The
38 notice shall state the time and place of the hearing, shall specify its purpose, and shall
39 state that a copy of the proposed plan is available for public inspection in the office of
40 the unit's clerk. At the public hearing, the governing body shall hear anyone who
41 wishes to speak with respect to the proposed district and proposed plan. Unless a board
42 of county commissioners has disapproved the plan pursuant to subsection (e) of this
43 section, the governing body may adopt the plan, with or without amendment, at any
44 time after the public hearing. However, the plan and the district do not become

1 effective until the unit's application to issue development financing bonds has been
2 approved by the Local Government Commission, pursuant to Article 6 of Chapter 159
3 of the General Statutes.

4 (g) Plan Modification. Subject to the limitations of this subsection, a governing
5 body may, after the effective date of the district, amend a development financing plan
6 adopted for a development financing district. Before making any amendment, the
7 governing body shall follow the procedures and meet the requirements of subsections
8 (e) and (f) of this section. The boundaries of the district may be enlarged only during
9 the first five years after the effective date of the district and only if the area to be added
10 has been or is about to be developed and the development is primarily attributable to
11 development that has occurred within the district, as certified by the Local Government
12 Commission. The boundaries of the district may be reduced at any time, but the unit
13 may agree with the holders of any development financing bonds to restrict its power to
14 reduce district boundaries.

15 (h) Plan Implementation. In implementing a development financing plan, a unit
16 may act directly, through one or more contracts with other public agencies, through one
17 or more contracts with private agencies, or by any combination thereof."

18 Sec. 19. G.S. 105-284 is amended by adding a new subsection (d) to read:

19 "(d) Property that is in a development financing district and that is subject to an
20 agreement entered into pursuant to G.S. 159-108 shall be assessed at its true value or at
21 the minimum value set out in the agreement, whichever is greater."

22 Sec. 20. Chapter 105 of the General Statutes is amended by adding after G.S.
23 105-277.10 a new section to read:

24 **"§ 105-277.11. Taxation of property subject to a development financing district**
25 **agreement.**

26 Property that is in a development financing district, established pursuant to G.S.
27 160A-515.1 or G.S. 158-7.3, and that is subject to an agreement entered into pursuant to
28 G.S. 159-108, is designated a special class of property under Article V, Sec. 2(2) of
29 the North Carolina Constitution and shall be assessed for taxation in accordance with
30 this section. The property shall be assessed at the greater of its true value or the
31 minimum value established in the agreement."

32 Sec. 21. Liberal Construction. This act, being necessary for the prosperity
33 and welfare of the State and its inhabitants, shall be liberally construed to effect these
34 purposes.

35 Sec. 22. Severability. If any clause or other portion of this act is held invalid,
36 that decision shall not affect the validity of the remaining portions of this act, which are
37 severable.

38 Sec. 23. This act becomes effective upon the certification by the State Board
39 of Elections that an amendment to the North Carolina Constitution authorizing the
40 enactment of general laws dealing with the transactions of the type contemplated by this
41 act has been approved by the people of the State.