

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1993

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HOUSE BILL 1420

Short Title: Child Care Loans/Funds.

(Public)

Sponsors: Representative H. Hunter.

Referred to: Children, Youth and Families.

May 17, 1993

1 A BILL TO BE ENTITLED
2 AN ACT TO ESTABLISH THE CHILD CARE LOAN GUARANTEE ACT OF 1993
3 AND TO APPROPRIATE FUNDS.

4 The General Assembly of North Carolina enacts:

5 Section 1. Article 10 of Chapter 143B is amended by adding a new Part to
6 read:

7 **"PART 1B. CHILD CARE LOAN GUARANTEE ACT OF 1993.**

8 **"§ 143B-433.5. Purpose.**

9 The purpose of this Part is to increase the quality and availability of child care as
10 well as employment opportunities in low-income, distressed areas of the State. It
11 establishes a Child Care Loan Guarantee Fund, which is administered by a Board of
12 Directors with experience in the field of child care and finance.

13 **"§ 143B-433.6. Definitions.**

14 For purposes of this Part, unless the context clearly requires otherwise:

- 15 (1) 'Authority' means the Child Care Development Authority.
16 (2) 'Board' means the Board of Directors of the Child Care Development
17 Authority.
18 (3) 'Child Care and Development Block Grant' means the block grant
19 established by the Child Care and Development Block Grant Act of
20 1990, section 5082 of the Omnibus Budget Reconciliation Act of
21 1990, Public Law 101-508.
22 (4) 'Child care provider' or 'provider' means a person that provides child
23 care for:
24 a. Less than 18 hours per day, except in emergencies; and

- 1 b. Not in the residence of the child, unless:
2 1. The provider is the primary care-giver of the child; and
3 2. The provider also cares for other children in the
4 residence who are not related to the provider.

5 (5) 'Department' means the Department of Commerce, Division of
6 Housing and Community Development.

7 (6) 'Fund' means the Child Care Loan Guarantee Fund.

8 (7) 'Resource and federal agency' means an organization that:

- 9 a. Informs child care providers about applicable federal, state, and
10 local regulations;
11 b. Explains existing programs to parents;
12 c. Refers parents to existing programs;
13 d. Suggests criteria for parents to use when selecting a child care
14 provider, including basic health and safety guidelines; and
15 e. Informs parents on filing complaints about child care providers
16 and how to determine status of current or previously filed,
17 substantiated complaints.

18 **"§ 143B-433.7. Authority; Board of Directors.**

19 (a) There is established within the Department the Child Care Development
20 Authority. The Authority shall be administered by a Board of Directors, appointed
21 pursuant to subsection (b) of this section.

22 (b) The Board shall consist of 11 members, five appointed by the Governor, upon
23 consultation with the Department's Assistant Secretary for Housing and Community
24 Development, three appointed by the General Assembly upon recommendation of the
25 Speaker of the House of Representatives, and three appointed by the General Assembly
26 upon recommendation of the President Pro Tempore of the Senate. Each member shall
27 serve a two-year term. Members shall not serve more than three consecutive terms.
28 The appointers shall ensure that the Board always includes:

- 29 (1) Two persons with experience in investment finance who have skills in
30 providing capital to new businesses, in starting new businesses, and in
31 providing professional services to small or expanding businesses;
32 (2) One other who represents a philanthropic organization and who has
33 experience in evaluating funding proposals;
34 (3) One other who is a child care services expert who is employed by and
35 represents a State agency with responsibility for child care or other
36 social service programs;
37 (4) One other who is a State employee with responsibilities for banking
38 regulation;
39 (5) One other who is a early childhood development expert;
40 (6) One other who is a home-based child care provider;
41 (7) One other who represents a center-based child care provider;
42 (8) One other who represents a resource and referral agency;
43 (9) One other who is a parent whose child is under 12 years of age at the
44 commencement of the member's term; and

1 (10) One other who is from the North Carolina Economic Development
2 Center.

3 (c) In making these appointments, the appointers shall give careful consideration
4 to ensure that the various geographic regions of the State are represented and that
5 members will be available for meetings.

6 (d) The Board shall elect officers from among its members and shall adopt
7 bylaws for handling Board business.

8 (e) Board members shall serve without compensation. However, the Department
9 shall reimburse Board members upon request for necessary travel and incidental
10 expenses incurred in the course of Board business.

11 (f) Board members are not liable to the State or to any other person as a result of
12 their Board activities, whether ministerial or discretionary, except for willful dishonesty
13 or intentional violation of the law. The Department shall purchase liability insurance
14 for members and indemnify them against the claims of others.

15 (g) The Board shall not consider an application for a loan guarantee from any
16 provider, lender, or other entity that employs or has any relationship with an
17 organizational or financial member of the Board, employee of the Authority, or
18 employee of the Department who provides substantial staff support to the Board or the
19 Authority.

20 (h) The Board shall not deposit funds in a financial institution in which an
21 officer, director, or holder of a substantial proprietary interest of the institution is also a
22 member of the Board, employee of the Authority, or employee of the Department who
23 provides substantial staff support to the Board or Authority.

24 (i) The director of the Department shall, upon request by the Board, assign staff
25 support to the Board to assist the Board in carrying out its duties.

26 **"§ 143B-433.8. Child Care Loan Guarantee Fund.**

27 (a) The Child Care Loan Guarantee Fund is established in the Division of
28 Housing and Community Development, Department of Commerce, and is administered
29 by the Board established by G.S. 143B-433.7. The Treasurer shall deposit funds from
30 the Fund in one or more financial institutions in the State and shall consider the
31 community lending practices of the financial institution when choosing a financial
32 institution in which to deposit funds.

33 (b) The Treasurer may deposit money into the Fund from any source.

34 (c) The Board shall make the money in the Fund available to qualifying child
35 care providers for use as collateral to obtaining financing. Participating providers may
36 use this collateral to develop child care services through the following activities:

37 (1) Construction, purchase, lease, or improvement of buildings or other
38 facilities;

39 (2) Purchase or improvement of land;

40 (3) Purchase or lease of equipment, including vehicles;

41 (4) Training of teachers;

42 (5) Payment of initial operating expenses;

43 (6) Payment of salaries; and

44 (7) Marketing.

1 **"§ 143B-433.9. Loan guarantee standards.**

2 (a) The Board shall issue rules necessary to receive and approve applications for
3 loan guarantees. In its rules, the Board shall give priority to providers that serve or
4 intend to serve areas with low median family incomes, communities that demonstrate
5 the greatest need for child care services, and geographic distribution of loan guarantees.

6 (b) The Board shall not grant a loan guarantee greater than one hundred fifty
7 thousand dollars (\$150,000).

8 (c) The Board shall not guarantee more than eighty percent (80%) of a loan.

9 (d) The Board shall not issue an aggregate amount of loan guarantees in excess
10 of five times the amount deposited in the Fund.

11 (e) In selecting child care providers to receive loan guarantees, the Board shall
12 use criteria that include:

13 (1) Quality of programming and staff;

14 (2) Ratio of children to staff;

15 (3) Quality of facilities;

16 (4) Degree of coordination with Head Start or other programs; and

17 (5) Quality of administrative and financial management.

18 (f) An applicant for a guarantee under this Part shall supply the Board with the
19 following:

20 (1) A detailed description of the project;

21 (2) A disclosure of the funds available to the applicant without assistance
22 from the Authority;

23 (3) Information that relates to the inability of the applicant to obtain
24 adequate financing on reasonable terms through normal lending
25 channels, such as a letter from a lender certifying that it would not
26 grant credit without the loan guarantee;

27 (4) Credit references for the applicant, if available;

28 (5) A two-year project budget; and

29 (6) A comprehensive, two-year business plan that includes the applicant's
30 plans in the areas of:

31 a. Debt reduction;

32 b. Marketing;

33 c. Staff training;

34 d. Facility improvement;

35 e. Program improvement; and

36 f. Other information that the Board requests.

37 **"§ 143B-433.10. Default.**

38 (a) All applicants shall provide collateral to the Authority at least equal in value
39 to five percent (5%) of the loan amount. The Authority may seize collateral in the event
40 of default and use the proceeds from its sale to defray costs to the Fund from the default.

41 (b) The Board may become part owner of property to satisfy the requirements of
42 this section. In case of default, the Board shall sell the entire item in a commercially
43 reasonable manner and return the proceeds in excess of the amount of the collateral to
44 the provider who defaults.

1 **"§ 143B-433.11. Business counseling.**

2 The Board shall contract with resource and referral agencies or other business
3 counselors to provide business counseling to applicants. When selecting counselors, the
4 Board should include nonprofit community-based development corporations and
5 community-action agencies if these organizations are qualified and available. The
6 Board may compensate counselors with administrative or contract funds from the Child
7 Care and Development Block Grant. This compensation is in addition to funds that a
8 counselor receives for other services from the Child Care and Development Block
9 Grant.

10 **"§ 143B-433.12. Interest.**

11 The Board may use interest at the end of the fiscal year to cover loan defaults,
12 administrative costs, and other expenses for special projects.

13 **"§ 143B-433.13. State liability.**

14 The State is not liable for loan defaults that exceed the funds deposited in the Child
15 Care Loan Guarantee Fund."

16 Sec. 2. There is appropriated from the General Fund to the Division of
17 Housing and Community Development, Department of Commerce, the sum of five
18 hundred thousand dollars (\$500,000) for the 1993-94 fiscal year and the sum of five
19 hundred thousand dollars (\$500,000) for the 1994-95 fiscal year, to implement this act.

20 Sec. 3. This act becomes effective July 1, 1993.