

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1993

S

2

SENATE BILL 1157*
Finance Committee Substitute Adopted 5/26/93

Short Title: Economic Dev. Financing Bonds.

(Public)

Sponsors:

Referred to:

May 13, 1993

A BILL TO BE ENTITLED

1 AN ACT TO AMEND THE CONSTITUTION TO PERMIT CITIES AND COUNTIES
2 TO ISSUE BONDS TO FINANCE THE PUBLIC PORTION OF ECONOMIC
3 DEVELOPMENT PROJECTS AND TO AUTHORIZE COUNTIES AND CITIES
4 TO ACCEPT AS CONSIDERATION FOR A CONVEYANCE OR LEASE OF
5 PROPERTY TO A PRIVATE PARTY THE AMOUNT OF INCREASED TAX
6 REVENUE EXPECTED TO BE GENERATED BY THE IMPROVEMENTS TO
7 BE CONSTRUCTED ON THE PROPERTY.
8

9 Whereas, the State of North Carolina and local governments in North
10 Carolina are and should be actively engaged in economic development efforts to attract
11 and stimulate private sector job creation and capital investors in their areas; and

12 Whereas, over 40 other states and local governments in other states are
13 authorized to utilize a wide variety of incentives, including, but not limited to, economic
14 development financing, to attract private sector economic development; and

15 Whereas, other states and local governments in other states have been
16 successful in attracting private sector job creation and capital investment to their areas
17 through inventive packages which have included the provision of infrastructure
18 improvements financed through the issuance of economic development bonds; and

19 Whereas, economically distressed areas, particularly in rural areas of North
20 Carolina, could utilize economic development bonds to attract new industry to their
21 areas; and

22 Whereas, economic development financing bonds could enable North
23 Carolina to be more nationally or internationally competitive in attracting private sector

1 job creation and capital investments, particularly in attracting major economic
2 development efforts; Now, therefore,

3 The General Assembly of North Carolina enacts:

4 Section 1. Article V of the Constitution of North Carolina is amended by
5 adding a new section to read:

6 "Sec. 14. Economic development financing bonds.

7 Notwithstanding Section 4 of this Article or any other provision of this Constitution,
8 the General Assembly may enact general laws authorizing any county, city, or town to
9 define territorial areas in the county, city, or town, and borrow money, without need of
10 voter approval, to be used to finance public activities associated with private economic
11 development projects within the territorial areas, as provided in this section. The
12 General Assembly shall set forth by statute the method for determining the size of the
13 territorial area and the issuing unit. This method shall be deemed to be conclusive.
14 When a territorial area is defined pursuant to this section, the current assessed value of
15 taxable real and personal property in the area shall be determined. Thereafter, property
16 in the territorial area continues to be subject to taxation to the same extent and in like
17 manner as property not in the territorial area, but the net proceeds of taxes levied on the
18 excess, if any, of the assessed value of taxable real and personal property in the area at
19 the time the taxes are levied over the assessed value of taxable real and personal
20 property in the area at the time the area was defined may be set aside. The bonds shall
21 be secured by these set-aside proceeds. The General Assembly may authorize a county,
22 city, or town issuing these bonds to add, as additional security to the bonds, revenues
23 available to the issuing unit from sources other than the issuing unit's exercise of its
24 taxing power. The county, city, or town may not pledge any property tax revenues other
25 than the set-aside proceeds authorized in this section, or in any other manner pledge its
26 full faith and credit unless a vote of the people is held as required by and in compliance
27 with the requirements of Section 4 of this Article."

28 Sec. 2. Article 6 of Chapter 159 of the General Statutes is reenacted and is
29 rewritten to read:

30 **"ARTICLE 6.**

31 **"ECONOMIC DEVELOPMENT FINANCING ACT.**

32 **"§ 159-101. Short title.**

33 This Article may be cited as the 'North Carolina Economic Development Financing
34 Act.'

35 **"§ 159-102. Unit of local government defined.**

36 For the purposes of this Article, the term 'unit of local government' means a county
37 or city.

38 **"§ 159-103. Authorization of economic development financing bonds; purposes.**

39 (a) Each unit of local government may issue economic development financing
40 bonds pursuant to this Article and use the proceeds for one or more of the purposes for
41 which the unit may issue general obligation bonds pursuant to G.S. 159-48, and, for the
42 purpose of this Article, the term 'capital costs' as defined in G.S. 159-48(h) also includes
43 (i) interest on the bonds being issued or on notes issued in anticipation of the bonds
44 during construction and for a period not exceeding four years after the estimated date of

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

8 (b) Subject to agreement with the holders of its economic development financing
9 bonds and the limitation on duration of development financing districts set out in this
10 Article, each unit of local government may issue additional economic development
11 financing bonds and may issue bonds to refund any outstanding economic development
12 financing bonds at any time before the final maturity of the bonds to be refunded.
13 General obligation bonds issued to refund outstanding economic development financing
14 bonds shall be issued under the Local Government Bond Act, Article 4 of this Chapter.
15 Revenue bonds issued to refund outstanding economic development financing bonds
16 shall be issued under the State and Local Government Revenue Bond Act, Article 5 of
17 this Chapter.

18 Economic development financing bonds may be issued partly for the purpose of
19 refunding outstanding economic development financing bonds and partly for any other
20 purpose under this Article. Economic development financing bonds issued to refund
21 outstanding economic development financing bonds shall be issued under this Article
22 and not under Article 4 of this Chapter.

23 (c) If the private economic development project to be benefited by proposed
24 economic development financing bonds affects tax revenues in more than one unit of
25 local government and more than one affected unit of local government wishes to
26 provide assistance to the private economic development project by issuing economic
27 development financing bonds, then those units may enter into an interlocal agreement
28 pursuant to Article 20 of Chapter 160A of the General Statutes for the purpose of
29 issuing the bonds. The agreement may include a provision that a unit may pledge all or
30 any part of the taxes received or to be received on the incremental valuation accruing to
31 the development financing district to the repayment of bonds issued by another unit that
32 is a party to the interlocal agreement.

33 **"§ 159-104. Application to Commission for approval of economic development**
34 **financing bond issue; preliminary conference; acceptance of application.**

35 A unit of local government may not issue economic development financing bonds
36 under this Article unless the issue is approved by the Local Government Commission.
37 The governing body of the issuing unit shall file with the secretary of the Commission
38 an application for Commission approval of the issue. At the time of application, the
39 governing body shall publish a public notice of the application in a newspaper of
40 general circulation in the unit of local government. The application shall include
41 statements of facts and documents concerning the proposed bonds, development
42 financing district, and development financing plan and the financial condition of the
43 unit, required by the secretary. The Commission may prescribe the form of the
44 application.

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

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

12 **"§ 159-105. Approval of application by Commission.**

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

- 16 (1) Whether the projects to be financed from the proceeds of the economic
17 development financing bond issue are necessary or expedient.
- 18 (2) Whether the proposed projects are feasible.
- 19 (3) The unit of local government's debt management procedures and
20 policies.
- 21 (4) Whether the unit is in default in any of its debt service obligations.
- 22 (5) Whether the private development forecast in the development
23 financing plan would be likely to occur without the public project or
24 projects to be financed by the economic development financing bonds.
- 25 (6) Whether taxes on the incremental valuation accruing to the
26 development financing district, together with any other revenues
27 available, will be sufficient to service the proposed economic
28 development financing bonds.
- 29 (7) The ability of the Commission to market the proposed economic
30 development financing bonds at reasonable rates of interest.

31 (b) The Commission shall approve the application if, upon the information and
32 evidence it receives, it finds that:

- 33 (1) The proposed economic development financing bond issue is
34 necessary or expedient.
- 35 (2) The amount proposed is adequate and not excessive for the proposed
36 purpose of the issue.
- 37 (3) The proposed projects are feasible.
- 38 (4) The unit of local government's debt management procedures and
39 policies are good, or that reasonable assurances have been given that
40 its debt will henceforth be managed in strict compliance with law.
- 41 (5) The private development forecast in the development financing plan
42 would not be likely to occur without the public projects to be financed
43 by the economic development financing bonds.

1 (6) The proposed economic development financing bonds can be marketed
2 at reasonable interest cost to the issuing unit.

3 (7) The issuing unit has, pursuant to G.S. 160A-515.1 or G.S. 158-7.3,
4 adopted a development financing plan for the development financing
5 district for which the bonds are to be issued.

6 **"§ 159-106. Order approving or denying the application.**

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

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

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

17 **"§ 159-107. Determination of incremental valuation; use of taxes levied on**
18 **incremental valuation; duration of the district.**

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

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

39 (1) If the unit amends its development financing plan, pursuant to G.S.
40 160A-515.1 or G.S. 158-7.3, to remove property from the development
41 financing district, on the succeeding January 1, that property shall be
42 removed from the district and the base valuation reduced accordingly.

43 (2) If the unit amends its development financing plan, pursuant to G.S.
44 160A-515.1 or G.S. 158-7.3, to expand the district, the new property

1 shall be added to the district immediately. The base valuation of the
2 district shall be increased by the assessed value of the taxable property
3 situated in the added territory on the January 1 immediately preceding
4 the effective date of the district.

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

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

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

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

33 (1) In any year in which there is no incremental valuation of the district,
34 all the proceeds of the taxes shall be retained by the county, city, or
35 special district, as if there were no development financing district in
36 existence.

37 (2) In any year in which there is an incremental valuation of the district,
38 the amount of tax due from each taxpayer on property in the district,
39 except taxes levied to service and repay debt secured by a pledge of
40 the faith and credit of the unit, nonschool taxes levied pursuant to a
41 vote of the people, taxes levied for a municipal or county service
42 district, and city taxes levied in a development financing district
43 established by a county and for which there is no increment agreement
44 between the city and county, shall be multiplied by a fraction, the

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

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

26 (f) Use of Moneys in the Revenue Increment Fund. – If the development
27 financing district includes property conveyed or leased by the unit of local government
28 to a private party in consideration of increased tax revenue expected to be generated by
29 improvements constructed on the property pursuant to G.S. 158-7.1, an amount equal to
30 the tax revenue taken into account in arriving at the consideration, less the increased tax
31 revenue realized since the construction of the improvement, shall be transferred from
32 the Revenue Increment Fund to the county, city, or special district as if there were no
33 development financing district in existence. Any money in excess of this amount in the
34 Fund may be used for any of the following purposes, without priority other than
35 priorities imposed by the bond order authorizing the economic development financing
36 bonds:

- 37 (1) To finance capital expenditures (including the funding of capital
38 reserves) by the issuing unit in the development financing district
39 pursuant to the development financing plan.
- 40 (2) To meet principal and interest requirements on economic development
41 financing bonds and bond anticipation notes issued for the district.
- 42 (3) To repay the appropriate fund of the issuing unit for any moneys
43 actually expended on debt service on economic development financing
44 bonds pursuant to a pledge made pursuant to G.S. 159-111(b).

1 (4) To meet any other requirements imposed by the bond order
2 authorizing the economic development financing bonds.

3 If in any year there is any money remaining in the revenue increment fund after
4 these purposes have been satisfied, it shall be paid to the general fund of the county and,
5 if applicable, of the city and any special district as defined by G.S. 159-7, in proportion
6 to their rates of ad valorem tax on taxable property located in the development financing
7 district.

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

13 **"§ 159-108. Agreements with property owners.**

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

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

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

36 (d) Effect of Reappraisal. – If an agreement entered into pursuant to this section
37 continues in effect after a reappraisal of property conducted pursuant to G.S. 105-286,
38 the minimum assessment established in the agreement shall be adjusted as provided in
39 this subsection. After the issuing unit of local government has adopted its budget
40 ordinance and levied taxes for the fiscal year that begins next after the effective date of
41 the reappraisal, it shall certify to the county tax assessor the total rate of ad valorem
42 taxes levied by the unit and applicable to the property subject to the agreement. It shall
43 also certify to the assessor the total rate of ad valorem taxes levied by the unit and
44 applicable to the property in the immediately preceding fiscal year. The assessor shall

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

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

14 **"§ 159-109. Special covenants.**

15 An economic development financing bond order or a trust agreement securing
16 economic development financing bonds may contain covenants regarding:

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

42 **"§ 159-110. Security of economic development financing bonds.**

43 Economic development financing bonds are special obligations of the issuing unit.
44 Except as provided in G.S. 159-111, the unit may pledge the following sources of funds

1 to the payment of the bonds, and no other sources: All or a portion of the moneys in the
2 revenue increment fund required by G.S. 159-107(c); the proceeds from the sale of
3 property in the development financing district; net revenues from any public facilities,
4 other than portions of public utility systems, in the development financing district
5 financed with the proceeds of the economic development financing bonds; and, subject
6 to G.S. 159-47, net revenues from any other public facilities, other than portions of
7 public utility systems, in the development financing district constructed or improved
8 pursuant to the development financing plan.

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

21 **"§ 159-111. Additional security for economic development financing bonds.**

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

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

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

42 The obligation of a unit of local government with respect to the sources of payment
43 shall be specifically identified in the proceedings of the governing body authorizing the
44 unit to issue the bonds. The sources of payment so specifically identified and then held

1 or thereafter received by the unit or any fiduciary of the unit shall immediately be
2 subject to the lien of the proceedings without any physical delivery of the sources or
3 further act. The lien shall be valid and binding as against all parties having claims of
4 any kind against a unit without regard to whether the parties have notice of the lien.
5 The proceedings or any other document or action by which the lien on a source of
6 payment is created need not be filed or recorded in any manner other than as provided in
7 this Article.

8 **"§ 159-112. Limitations on details of bonds.**

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

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

30 **"§ 159-113. Annual report.**

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

38 Sec. 3. G.S. 159-48(b) is amended by adding a new subsection to read:

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

41 Sec. 4. G.S. 159-55(a) reads as rewritten:

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

- 1 (1) The gross debt of the unit, excluding therefrom debt incurred or to be
2 incurred in anticipation of the collection of taxes or other revenues or
3 in anticipation of the sale of bonds other than funding and refunding
4 bonds. The gross debt (after exclusions) is the sum of (i) outstanding
5 debt evidenced by bonds, (ii) bonds authorized by orders introduced
6 but not yet adopted, (iii) unissued bonds authorized by adopted orders,
7 and (iv) outstanding debt not evidenced by bonds. However, for
8 purposes of the sworn statement of debt and the debt limitation,
9 revenue bonds and economic development financing bonds (unless
10 additionally secured by a pledge of the issuing unit's faith and credit)
11 shall not be considered debt and such bonds shall not be included in
12 gross debt nor deducted from gross debt.
- 13 (2) The deductions to be made from gross debt in computing net debt. The
14 following deductions are allowed:
- 15 a. Funding and refunding bonds authorized by orders introduced
16 but not yet adopted.
- 17 b. Funding and refunding bonds authorized but not yet issued.
- 18 c. The amount of money held in sinking funds or otherwise for the
19 payment of any part of the principal of gross debt other than
20 debt incurred for water, gas, electric light or power purposes, or
21 sanitary sewer purposes (to the extent that the bonds are
22 deductible under subsection (b) of this section), or two or more
23 of these purposes.
- 24 d. The amount of bonded debt included in gross debt and incurred,
25 or to be incurred, for water, gas, or electric light or power
26 purposes, or any two or more of these purposes.
- 27 e. The amount of bonded debt included in the gross debt and
28 incurred, or to be incurred, for sanitary sewer system purposes
29 to the extent that the debt is made deductible by subsection (b)
30 of this section.
- 31 f. The amount of uncollected special assessments theretofore
32 levied for local improvements for which any part of the gross
33 debt (that is not otherwise deducted) was or is to be incurred, to
34 the extent that the assessments will be applied, when collected,
35 to the payment of any part of the gross debt.
- 36 g. The amount, as estimated by the governing board of the issuing
37 unit or an officer designated by the board for this purpose, of
38 special assessments to be levied for local improvements for
39 which any part of the gross debt (that is not otherwise deducted)
40 was or is to be incurred, to the extent that the special
41 assessments, when collected, will be applied to the payment of
42 any part of the gross debt.
- 43 (3) The net debt of the issuing unit, being the difference between the gross
44 debt and deductions.

1 (4) The assessed value of property subject to taxation by the issuing unit,
 2 as revealed by the tax records and certified to the issuing unit by the
 3 assessor. In calculating the appraised value, the incremental valuation
 4 of any development financing district located in the unit, as determined
 5 pursuant to G.S. 159-107, shall not be included.

6 (5) The percentage that the net debt bears to the assessed value of property
 7 subject to taxation by the issuing unit."

8 Sec. 5. G.S. 159-79(a) reads as rewritten:

9 "(a) Notwithstanding any provisions of this Chapter to the contrary, including
 10 particularly, but without limitation, the provisions of G.S. 159-65, G.S. 159-112, G.S.
 11 159-123 to G.S. 159-127, inclusive, G.S. 159-130, G.S. 159-138, G.S. 159-162, G.S.
 12 159-164 and G.S. 159-172, a unit of local government, in fixing the details of general
 13 obligation bonds to be issued pursuant to this Article or general obligation notes to be
 14 issued pursuant to Article 9 of this Chapter or economic development financing bonds
 15 or notes to be issued pursuant to Article 6 of this Chapter, may provide that such bonds
 16 or notes

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

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

24 (3) May be made subject to redemption prior to maturity, with or without
 25 premium, on such notice, at such time or times, at such price or prices
 26 and with such other redemption provisions as may be stated in the
 27 resolution fixing the details of such bonds or notes or with such
 28 variations as may be permitted in connection with a Par Formula
 29 provided in such resolution;

30 (4) May bear interest at a rate or rates that may vary as permitted pursuant
 31 to a Par Formula and for such period or periods of time, all as may be
 32 provided in such resolution; and

33 (5) May be made the subject of a remarketing agreement whereby an
 34 attempt is made to remarket the bonds to new purchases prior to their
 35 presentment for payment to the provider of the Credit Facility or to the
 36 issuing unit."

37 Sec. 6. G.S. 159-120 reads as rewritten:

38 "**§ 159-120. Definitions.**

39 As used in this Article, unless the context clearly requires another meaning, the
 40 words 'unit' or 'issuing unit' mean 'unit of local government' as defined in G.S. ~~159-44~~,
 41 159-44 or G.S. 159-102, 'municipality' as defined in G.S. 159-81, and the State of North
 42 Carolina, and the words 'governing body,' when used with respect to the State of North
 43 Carolina, mean the Council of State."

44 Sec. 7. G.S. 159-122(a) reads as rewritten:

1 "(a) Except as provided in this subsection, the last installment of each bond issue
2 shall mature not later than the date of expiration of the period of usefulness of the
3 capital project to be financed by the bond issue, computed from the date of the bonds.
4 The last installment of a refunding bond issue issued pursuant to G.S. 159-48(a)(4) or
5 (5) shall mature not later than either (i) the shortest period, but not more than 40 years,
6 in which the debt to be refunded can be finally paid without making it unduly
7 burdensome on the taxpayers of the issuing unit, as determined by the Commission,
8 computed from the date of the bonds, or (ii) the end of the unexpired period of
9 usefulness of the capital project financed by the debt to be refunded. The last
10 installment of bonds issued pursuant to G.S. 159-48(a)(1), (2), (3), (6), or (7) shall
11 mature not later than 10 years after the date of the bonds, as determined by the
12 Commission. The last installment of bonds issued pursuant to G.S. 159-48(c)(5) shall
13 mature not later than eight years after the date of the bonds, as determined by the
14 Commission. The last installment of economic development financing bonds shall
15 mature on the earlier of 30 years after the effective date of the development financing
16 district for which the bonds are issued or the longest of the various maximum periods of
17 usefulness for the projects to be financed with bond proceeds, as prescribed by the
18 Commission pursuant to this section."

19 Sec. 8. G.S. 159-123(b) reads as rewritten:

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

- 21 (1) Bonds that a State or federal agency has previously agreed to purchase.
- 22 (2) Any bonds for which no legal bid is received within the time allowed
23 for submission of bids.
- 24 (3) Revenue bonds, including any refunding bonds issued pursuant to G.S.
25 159-84, and special obligation bonds issued pursuant to Chapter 159I
26 of the General Statutes.
- 27 (4) Refunding bonds issued pursuant to G.S. 159-78.
- 28 (5) Refunding bonds issued pursuant to G.S. 159-72 if the Local
29 Government Commission determines that a private sale is in the best
30 interest of the issuing unit.
- 31 (6) Economic development financing bonds."

32 Sec. 9. G.S. 159-125(a) reads as rewritten:

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

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

38 Sec. 10. G.S. 159-129 reads as rewritten:

39 "**§ 159-129. Obligations of units certified by Commission.**

40 Each bond or bond anticipation note that is represented by an instrument shall bear
41 on its face or reverse a certificate signed by the secretary of the Commission or an
42 assistant designated by him that the issuance of the bond or note has been approved
43 under the provisions of The Local Government Bond Act of Acts, the Local Government
44 Revenue Bond ~~Act~~-Act, or the North Carolina Economic Development Financing Act.

1 Such signature may be a manual or facsimile signature as the Commission may
2 determine. Each bond or bond anticipation note that is not represented by an instrument
3 shall be evidenced by a writing relating to such obligation, which writing shall identify
4 such obligation or the issue of which it is part, bear such certificate and be on file with
5 the Commission. The certificate shall be conclusive evidence that the requirements of
6 this Subchapter have been observed, and no bond or note without the Commission's
7 certificate or with respect to which a writing bearing such certificate has not been filed
8 with the Commission shall be valid."

9 Sec. 11. G.S. 159-132 reads as rewritten:

10 **"§ 159-132. State Treasurer to deliver bonds and remit proceeds.**

11 When the bonds are executed, they shall be delivered to the State Treasurer who
12 shall deliver them to the order of the purchaser and collect the purchase price or
13 proceeds. The Treasurer shall then pay from the proceeds any notes issued in
14 anticipation of the sale of the bonds, deduct from the proceeds the Commission's
15 expense in connection with the issue, and remit the net proceeds to the official
16 depository of the unit after assurance that the deposit will be adequately secured as
17 required by law. The proceeds of funding or refunding bonds may be deposited at the
18 place of payment of the indebtedness to be refunded or funded for use solely in the
19 payment of such indebtedness. The proceeds of revenue bonds shall be remitted to the
20 trustee or other depository specified in the trust agreement or resolution securing them.
21 Unless otherwise provided in the trust agreement or resolution securing the bonds, the
22 proceeds of economic development financing bonds shall be remitted in the manner
23 provided by this section for the remission of the proceeds of general obligation bonds."

24 Sec. 12. G.S. 159-160 reads as rewritten:

25 **"§ 159-160. Definitions.**

26 As used in this Part, the words 'unit' or 'issuing unit' means 'unit of local government'
27 as defined in G.S. ~~159-44~~, 159-44 or G.S. 159-102, 'municipality' as defined in G.S. 159-
28 81, and the State of North Carolina."

29 Sec. 13. G.S. 159-163.1 is reenacted and is rewritten to read:

30 **"§ 159-163.1. Security of economic development financing bond anticipation notes.**

31 Notes issued in anticipation of the sale of economic development financing bonds
32 are special obligations of the issuing unit. Except as provided in G.S. 159-107 and G.S.
33 159-110, neither the credit nor the taxing power of the issuing unit may be pledged for
34 the payment of notes issued in anticipation of the sale of economic development
35 financing bonds; and no holder of an economic development financing bond
36 anticipation note shall have the right to compel the exercise of the taxing power by the
37 issuing unit or the forfeiture of any of its property in connection with any default
38 thereon. Notes issued in anticipation of the sale of economic development financing
39 bonds may be secured by the same pledges, charges, liens, covenants, and agreements
40 made to secure the economic development financing bonds. In addition, the proceeds of
41 each economic development financing bond issue are pledged for the payment of any
42 notes issued in anticipation of the sale thereof, and any such notes shall be retired from
43 the proceeds of the sale as the first priority."

44 Sec. 14. G.S. 159-165(b) reads as rewritten:

1 "(b) When the bond anticipation notes are executed, they shall be delivered to the
2 State Treasurer who shall deliver them to the order of the purchaser and collect the
3 purchase price or proceeds. The Treasurer shall then deduct from the proceeds the
4 Commission's expense in connection with the issue, and remit the net proceeds to the
5 official depository of the unit after assurance that the deposit will be adequately secured
6 as required by law. The net proceeds of revenue bond anticipation ~~notes or notes,~~
7 special obligation bond anticipation notes, or economic development financing
8 bond anticipation notes shall be remitted to the trustee or other depository specified in
9 the trust agreement or resolution securing them. If the notes have been issued to renew
10 outstanding notes, the Treasurer, in lieu of collecting the purchase price or proceeds,
11 may provide for the exchange of the newly issued notes for the notes to be renewed."

12 Sec. 15. G.S. 159-176 reads as rewritten:

13 **"§ 159-176. Commission to aid defaulting units in developing refinancing plans.**

14 If a unit of local government or municipality (~~as defined in G.S. 159-44 or 159-81~~)(as
15 defined in G.S. 159-44, 159-81, or 159-102) fails to pay any installment of principal or
16 interest on its outstanding debt on or before the due date (whether the debt is evidenced
17 by general obligation bonds, revenue bonds, economic development financing bonds,
18 bond anticipation notes, tax anticipation notes, or revenue anticipation notes) and
19 remains in default for 90 days, the Commission may take such action as it deems
20 advisable to investigate the unit's or municipality's fiscal affairs, consult with its
21 governing board, and negotiate with its creditors in order to assist the unit or
22 municipality in working out a plan for refinancing, adjusting, or compromising the debt.
23 When a plan is developed that the Commission finds to be fair and equitable and
24 reasonably within the ability of the unit or municipality to meet, the Commission shall
25 enter an order finding that it is fair, equitable, and within the ability of the unit or
26 municipality to meet. The Commission shall then advise the governing board to take
27 the necessary steps to implement it. If the governing board declines or refuses to do so
28 within 90 days after receiving the Commission's advice, the Commission may enter an
29 order directing the governing board to implement the plan. When this order is entered,
30 the members of the governing board and all officers and employees of the unit or
31 municipality shall be under an affirmative duty to do all things necessary to implement
32 the plan. The Commission may apply to the appropriate division of the General Court
33 of Justice for a court order to the governing board and other officers and employees of
34 the unit or municipality to enforce the Commission's order."

35 Sec. 16. G.S. 160A-505(a) reads as rewritten:

36 "(a) In lieu of creating a redevelopment commission as authorized herein, the
37 governing body of any municipality may, if it deems wise, either designate a housing
38 authority created under the provisions of Chapter 157 of the General Statutes to exercise
39 the powers, duties, and responsibilities of a redevelopment commission as prescribed
40 herein, or undertake to exercise such powers, duties, and responsibilities itself. Any
41 such designation shall be by passage of a resolution adopted in accordance with the
42 procedure and pursuant to the findings specified in G.S. 160A-504(a) and (b). In the
43 event a governing body designates itself to perform the powers, duties, and
44 responsibilities of a redevelopment ~~commission,~~ commission under this subsection, or

1 exercises those powers, duties, and responsibilities pursuant to G.S. 153A-376 or G.S.
2 160A-456, then where any act or proceeding is required to be done, recommended, or
3 approved both by a redevelopment commission and by the municipal governing body,
4 then the performance, recommendation, or approval thereof once by the municipal
5 governing body shall be sufficient to make such performance, recommendation, or
6 approval valid and legal. In the event a municipal governing body designates itself to
7 exercise the powers, duties, and responsibilities of a redevelopment commission, it may
8 assign the administration of redevelopment policies, programs and plans to any existing
9 or new department of the municipality."

10 Sec. 17. G.S. 160A-512(6) reads as rewritten:

11 "(6) Within its area of operation, to purchase, obtain options upon, acquire
12 by gift, grant, bequest, devise, eminent domain or otherwise, any real
13 or personal property or any interest therein, together with any
14 improvements thereon, necessary or incidental to a redevelopment
15 project; to hold, improve, clear or prepare for redevelopment any such
16 property, and ~~notwithstanding the provisions of G.S. 160-59~~ but subject to
17 the provisions of G.S. 160A-514, and with the approval of the local
18 governing body sell, exchange, transfer, assign, subdivide, retain for
19 its own use, mortgage, pledge, hypothecate or otherwise encumber or
20 dispose of any real or personal property or any interest therein, either
21 as an entirety to a single 'redeveloper' or in parts to several
22 redevelopers; provided that the commission finds that the sale or other
23 transfer of any such part will not be prejudicial to the sale of other
24 parts of the redevelopment area, nor in any other way prejudicial to the
25 realization of the redevelopment plan approved by the governing body;
26 to enter into ~~contracts~~ contracts, either before or after the real property
27 that is the subject of the contract is acquired by the Commission
28 (although disposition of the property is still subject to G.S. 160A-514),
29 with 'redevelopers' of property containing covenants, restrictions, and
30 conditions regarding the use of such property for residential,
31 commercial, industrial, recreational purposes or for public purposes in
32 accordance with the redevelopment plan and such other covenants,
33 restrictions and conditions as the commission may deem necessary to
34 prevent a recurrence of blighted areas or to effectuate the purposes of
35 this Article; to make any of the covenants, restrictions or conditions of
36 the foregoing contracts covenants running with the land, and to
37 provide appropriate remedies for any breach of any such covenants or
38 conditions, including the right to terminate such contracts and any
39 interest in the property created pursuant thereto; to borrow money and
40 issue bonds therefor and provide security for bonds; to insure or
41 provide for the insurance of any real or personal property or operations
42 of the commission against any risks or hazards, including the power to
43 pay premiums on any such insurance; and to enter into any contracts
44 necessary to effectuate the purposes of this Article;"

1 Sec. 18. G.S. 160A-515.1 is reenacted and is rewritten to read:

2 **"§ 160A-515.1. Economic development financing.**

3 (a) Authorization. – A city may finance a redevelopment project and any related
4 public improvements with the proceeds of economic development financing bonds,
5 issued pursuant to Article 6 of Chapter 159 of the General Statutes, together with any
6 other revenues that are available to the city. Before it receives the approval of the Local
7 Government Commission for issuance of economic development financing bonds, the
8 city's governing body must define a development financing district and adopt a
9 development financing plan for the district.

10 (b) Development Financing District. – A development financing district shall
11 comprise all or portions of one or more redevelopment areas defined pursuant to this
12 Article.

13 (c) Development Financing Plan. – The development financing plan shall be
14 compatible with the redevelopment plan or plans for the redevelopment area or areas
15 included within the district. The development financing plan shall include:

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

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

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

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

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

23 (6) The projected incremental valuation of the development financing
24 district;

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

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

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

33 (d) County Review. – Before adopting a plan for a development financing
34 district, the city council shall cause notice of the plan to be mailed, by first-class mail, to
35 the board of county commissioners of the county or counties in which the development
36 financing district is located. The person mailing the notice shall certify that fact, and
37 the date thereof, to the city council, and the certificate is conclusive in the absence of
38 fraud. Unless the board of county commissioners (or either board, if the district is in
39 two counties) by resolution disapproves the proposed plan within 28 days after the date
40 the notice is mailed, the city council may proceed to adopt the plan.

41 (e) Plan Adoption. – Before adopting a plan for a development financing district,
42 the city council shall hold a public hearing on the plan. The council shall, no less than
43 30 days before the day of hearing, cause notice of the hearing to be mailed by first-class
44 mail to all property owners and mailing addresses within the proposed development

1 financing district. The council shall also, no more than 30 days and no less than 14 days
2 before the day of the hearing, cause notice of the hearing to be published once in a
3 newspaper of general circulation in the city. The notice shall state the time and place of
4 the hearing, shall specify its purpose, and shall state that a copy of the proposed plan is
5 available for public inspection in the office of the city clerk. At the public hearing, the
6 council shall hear anyone who wishes to speak with respect to the proposed district and
7 proposed plan. Unless a board of county commissioners has disapproved the plan
8 pursuant to subsection (d) of this section, the council may adopt the plan, with or
9 without amendment, at any time after the public hearing. However, the plan and the
10 district do not become effective until the city's application to issue economic
11 development financing bonds has been approved by the Local Government
12 Commission, pursuant to Article 6 of Chapter 159 of the General Statutes.

13 (f) Plan Modification. – Subject to the limitations of this subsection, a city
14 council may, after the effective date of the district, amend a development financing plan
15 adopted for a development financing district. Before making any amendment, the city
16 council shall follow the procedures and meet the requirements of subsections (d) and (e)
17 of this section. The boundaries of the district may be enlarged only during the first five
18 years after the effective date of the district and only if the area to be added has been or
19 is about to be developed and the development is primarily attributable to development
20 that has occurred within the district, as certified by the Local Government Commission.
21 The boundaries of the district may be reduced at any time, but the city may agree with
22 the holders of any economic development financing bonds to restrict its power to reduce
23 district boundaries.

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

27 Sec. 19. Article 1 of Chapter 158 of the General Statutes is amended by
28 adding a new section to read:

29 **"§ 158-7.3. Development financing.**

30 (a) Definitions. – As used in this section:

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

36 If the district in which such a project will occur is outside a city's
37 central business district (as that district is defined by resolution of the
38 city council, which definition is binding and conclusive), then, of the
39 private development forecast for an economic development project by
40 the development financing plan for the district in which the project
41 will occur, a maximum of twenty percent (20%) of the plan's estimated
42 square footage of floor space may be proposed for use in retail sales,
43 hotels, banking and financial services offered directly to consumers,
44 and other commercial uses other than office space.

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

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

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

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

15 (1) Blighted, deteriorated, deteriorating, undeveloped, or inappropriately
16 developed from the standpoint of sound community development and
17 growth;

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

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

20 A county may not include in a district created pursuant to this section any land that,
21 at the time the district is created, is inside a city, town, or incorporated village.

22 (d) Development Financing Plan. – The development financing plan shall
23 include:

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

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

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

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

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

31 (6) The projected incremental valuation of the development financing
32 district;

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

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

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

41 (e) County Review. – If the unit creating a development financing district and
42 adopting a development financing plan is a city, town, or incorporated village, before
43 adopting the plan the unit's governing body shall cause notice of the plan to be mailed,
44 by first-class mail, to the board of county commissioners of the county or counties in

1 which the development financing district is located. The person mailing the notice shall
2 certify that fact, and the date thereof, to the governing body, and the certificate is
3 conclusive in the absence of fraud. Unless the board of county commissioners (or either
4 board, if the district is in two counties) by resolution disapproves the proposed plan
5 within 28 days after the date the notice is mailed, the governing body may proceed to
6 adopt the plan.

7 (f) Plan Adoption. – Before adopting a plan for a development financing district,
8 the issuing unit's governing body shall hold a public hearing on the plan. The governing
9 body shall, no more than 30 days and no less than 14 days before the day of the hearing,
10 cause notice of the hearing to be published once and shall cause notice of the hearing to
11 be mailed, by first-class mail, to all property owners and mailing addresses of the
12 development financing district and to the governing body of any special district, as
13 defined by G.S. 159-7, within which the development financing district is located. The
14 notice shall state the time and place of the hearing, shall specify its purpose, and shall
15 state that a copy of the proposed plan is available for public inspection in the office of
16 the unit's clerk. At the public hearing, the governing body shall hear anyone who
17 wishes to speak with respect to the proposed district and proposed plan. Unless a board
18 of county commissioners has disapproved the plan pursuant to subsection (e) of this
19 section, the governing body may adopt the plan, with or without amendment, at any
20 time after the public hearing. However, the plan and the district do not become
21 effective until the unit's application to issue economic development financing bonds has
22 been approved by the Local Government Commission, pursuant to Article 6 of Chapter
23 159 of the General Statutes.

24 (g) Plan Modification. – Subject to the limitations of this subsection, a governing
25 body may, after the effective date of the district, amend a development financing plan
26 adopted for a development financing district. Before making any amendment, the
27 governing body shall follow the procedures and meet the requirements of subsections
28 (e) and (f) of this section. The boundaries of the district may be enlarged only during
29 the first five years after the effective date of the district and only if the area to be added
30 has been or is about to be developed and the development is primarily attributable to
31 development that has occurred within the district, as certified by the Local Government
32 Commission. The boundaries of the district may be reduced at any time, but the unit
33 may agree with the holders of any economic development financing bonds to restrict its
34 power to reduce district boundaries.

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

38 Sec. 20. G.S. 105-284 is amended by adding a new subsection (d) to read:

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

42 Sec. 21. Chapter 105 of the General Statutes is amended by adding after G.S.
43 105-277.10 a new section to read:

1 "§ 105-277.11. Taxation of property subject to a development financing district
2 agreement.

3 Property that is in a development financing district, established pursuant to G.S.
4 160A-515.1 or G.S. 158-7.3, and that is subject to an agreement entered into pursuant to
5 G.S. 159-108, is designated a special class of property under Article V, Sec. 2(2) of
6 the North Carolina Constitution and shall be assessed for taxation at the greater of its
7 true value or the minimum value established in the agreement."

8 Sec. 22. G.S. 158-7.1(d1) is repealed.

9 Sec. 23. G.S. 158-7.1 is amended by adding a new subsection to read:

10 "(d2) In arriving at the amount of consideration that it receives, the Board may take
11 into account prospective tax revenues from improvements to be constructed on the
12 property, prospective sales tax revenues to be generated in the area, as well as any other
13 prospective tax revenues or income coming to the county or city over the next 10 years
14 as a result of the conveyance or lease provided the following conditions are met:

15 (1) The governing board of the county or city shall determine that the
16 conveyance of the property will stimulate the local economy, promote
17 business, and result in the creation of a substantial number of jobs in
18 the county or city.

19 (2) The governing board of the county or city shall contractually bind the
20 purchaser of the property to construct improvements on the property
21 within a specified period of time, not to exceed 10 years, which
22 improvements are sufficient to generate the tax revenue taken into
23 account in arriving at the consideration. Upon failure to construct the
24 improvements specified in the contract, the purchaser shall reconvey
25 the property back to the county or city.

26 (3) The property is not in a development financing district. The governing
27 board of the county or city shall not include the property in a
28 development financing district for at least 10 years from the date of
29 purchase."

30 Sec. 24. Liberal Construction. This act, being necessary for the prosperity
31 and welfare of the State and its inhabitants, shall be liberally construed to effect these
32 purposes.

33 Sec. 25. Severability. If any clause or other portion of this act is held invalid,
34 that decision shall not affect the validity of the remaining portions of this act, which are
35 severable.

36 Sec. 26. The amendment set out in Section 1 of this act shall be submitted to
37 the qualified voters of the State for their ratification or rejection in a referendum to be
38 held on the first Tuesday after the first Monday of November 1993. At that referendum,
39 each qualified voter desiring to vote shall be provided a ballot on which shall be printed
40 the following:

41 "[] FOR Constitutional amendment permitting the General Assembly to
42 enact general laws permitting issuance of bonds without a referendum
43 to finance public projects associated with private industrial and
44 commercial economic development projects, with the bonds to be

1 secured in whole or in part by the additional revenues from taxes
2 levied on the incremental value of the property in the territorial area.

3 [] AGAINST Constitutional amendment permitting the General
4 Assembly to enact general laws permitting issuance of bonds without a
5 referendum to finance public projects associated with private industrial
6 and commercial economic development projects, with the bonds to be
7 secured in whole or in part by the additional revenues from taxes
8 levied on the incremental value of the property in the territorial area."

9 Those qualified voters favoring the amendment shall vote by making an
10 "X" or a check mark in the square beside the statement beginning "FOR", and those
11 qualified voters opposed to the amendment shall vote by making an "X" or a check mark
12 in the square beside the statement beginning "AGAINST".

13 Notwithstanding the foregoing provisions of this section, voting machines
14 may be used in accordance with rules and regulations prescribed by the State Board of
15 Elections.

16 Sec. 27. If a majority of votes cast thereon are in favor of the amendment set
17 out in Section 1 of this act, the State Board of Elections shall certify the amendment to
18 the Secretary of State, who shall enroll the amendment so certified among the
19 permanent records of the Office of the Secretary of State. The amendment set out in
20 Section 1 of this act and the amendments set out in Sections 2 through 21 of this act
21 shall become effective upon this certification.

22 Sec. 28. This act is effective upon ratification.