

**GENERAL ASSEMBLY OF NORTH CAROLINA**

**SESSION 1993**

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SENATE BILL 1157\*  
Finance Committee Substitute Adopted 5/26/93  
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Short Title: Economic Dev. Financing Bonds.

(Public)

Sponsors:

Referred to:

May 13, 1993

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

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 incentive packages which have included the provision of infrastructure  
18 improvements financed through the issuance of economic development bonds; and

1           Whereas, economically distressed areas, particularly in rural areas of North  
 2 Carolina, could utilize economic development bonds to attract new industry to their  
 3 areas; and

4           Whereas, economic development financing bonds could enable North  
 5 Carolina to be more nationally or internationally competitive in attracting private sector  
 6 job creation and capital investments, particularly in attracting major economic  
 7 development efforts; Now, therefore,

8 The General Assembly of North Carolina enacts:

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

11        "Sec. 14. Economic development financing bonds.

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

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

35    **"ARTICLE 6.**

36    **"ECONOMIC DEVELOPMENT FINANCING ACT.**

37        **"§ 159-101. Short title.**

38           This Article may be cited as the 'North Carolina Economic Development Financing  
 39 Act.'

40        **"§ 159-102. Unit of local government defined.**

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

43        **"§ 159-103. Authorization of economic development financing bonds; purposes.**

1 (a) Each unit of local government may issue economic development financing  
2 bonds pursuant to this Article and use the proceeds for one or more of the purposes for  
3 which the unit may issue general obligation bonds pursuant to the following  
4 subdivisions of G.S. 159-48: (b)(12), (16), (17), (19), (21), (23), or (24) or (d)(3), (4),  
5 (5), or (6). For the purpose of this Article, the term 'capital costs' as defined in G.S.  
6 159-48(h) also includes (i) interest on the bonds being issued or on notes issued in  
7 anticipation of the bonds during construction and for a period not exceeding four years  
8 after the estimated date of completion of construction and (ii) the establishment of debt  
9 service reserves. The proceeds of the bonds may be used either in a development  
10 financing district established pursuant to G.S. 160A-515.1 or G.S. 158-7.3 or, if the use  
11 directly benefits private development forecast by the development financing plan for the  
12 district, outside the development financing district. The proceeds may be used only in  
13 or to benefit private development in that development financing district the revenue  
14 increment of which is pledged as security for the bonds. This subsection does not  
15 prohibit the use of proceeds to defray the cost of providing water and sewer utilities to a  
16 private development in an economic development financing district.

17 (b) Subject to agreement with the holders of its economic development financing  
18 bonds and the limitation on duration of development financing districts set out in this  
19 Article, each unit of local government may issue additional economic development  
20 financing bonds and may issue bonds to refund any outstanding economic development  
21 financing bonds at any time before the final maturity of the bonds to be refunded.  
22 General obligation bonds issued to refund outstanding economic development financing  
23 bonds shall be issued under the Local Government Bond Act, Article 4 of this Chapter.  
24 Revenue bonds issued to refund outstanding economic development financing bonds  
25 shall be issued under the State and Local Government Revenue Bond Act, Article 5 of  
26 this Chapter.

27 Economic development financing bonds may be issued partly for the purpose of  
28 refunding outstanding economic development financing bonds and partly for any other  
29 purpose under this Article. Economic development financing bonds issued to refund  
30 outstanding economic development financing bonds shall be issued under this Article  
31 and not under Article 4 of this Chapter.

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

42 **"§ 159-104. Application to Commission for approval of economic development**  
43 **financing bond issue; preliminary conference; acceptance of application.**

1 A unit of local government may not issue economic development financing bonds  
2 under this Article unless the issue is approved by the Local Government Commission.  
3 The governing body of the issuing unit shall file with the secretary of the Commission  
4 an application for Commission approval of the issue. At the time of application, the  
5 governing body shall publish a public notice of the application in a newspaper of  
6 general circulation in the unit of local government. The application shall include  
7 statements of facts and documents concerning the proposed bonds, development  
8 financing district, and development financing plan and the financial condition of the  
9 unit, required by the secretary. The Commission may prescribe the form of the  
10 application.

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

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

22 **"§ 159-105. Approval of application by Commission.**

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

- 26 (1) Whether the projects to be financed from the proceeds of the economic  
27 development financing bond issue are necessary to secure significant  
28 new economic development for a development financing district.
- 29 (2) Whether the proposed projects are feasible.
- 30 (3) The unit of local government's debt management procedures and  
31 policies.
- 32 (4) Whether the unit is in default in any of its debt service obligations.
- 33 (5) Whether the private development forecast in the development  
34 financing plan would be likely to occur without the public project or  
35 projects to be financed by the economic development financing bonds.
- 36 (6) Whether taxes on the incremental valuation accruing to the  
37 development financing district, together with any other revenues  
38 available under G.S. 159-110, will be sufficient to service the proposed  
39 economic development financing bonds.
- 40 (7) The ability of the Commission to market the proposed economic  
41 development financing bonds at reasonable rates of interest.

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

- 1           (1) The proposed economic development financing bond issue is  
2           necessary to secure significant new economic development for a  
3           development financing district.
- 4           (2) The amount proposed is adequate and not excessive for the proposed  
5           purpose of the issue.
- 6           (3) The proposed projects are feasible.
- 7           (4) The unit of local government's debt management procedures and  
8           policies are good, or that reasonable assurances have been given that  
9           its debt will henceforth be managed in strict compliance with law.
- 10          (5) The private development forecast in the development financing plan  
11          would not be likely to occur without the public projects to be financed  
12          by the economic development financing bonds.
- 13          (6) The proposed economic development financing bonds can be marketed  
14          at reasonable interest cost to the issuing unit.
- 15          (7) The issuing unit has, pursuant to G.S. 160A-515.1 or G.S. 158-7.3,  
16          adopted a development financing plan for the development financing  
17          district for which the bonds are to be issued.
- 18          (8) The taxes on the incremental valuation accruing to the development  
19          financing district, together with any other revenues available under  
20          G.S. 159-110, will be sufficient to service the proposed economic  
21          development financing bonds.

22 **"§ 159-106. Order approving or denying the application.**

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

26       (b) Unless the bonds are to be issued for a development financing district for  
27 which an economic development financing bond issue has already been approved, the  
28 day upon which the Commission enters its order approving an application for economic  
29 development financing bonds is also the effective date of the development financing  
30 district for which the bonds are issued.

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

33 **"§ 159-107. Determination of incremental valuation; use of taxes levied on**  
34 **incremental valuation; duration of the district.**

35       (a) Base Valuation in the Development Financing District. – After the Local  
36 Government Commission has entered its order approving a unit of local government's  
37 application for economic development financing bonds, the unit shall immediately  
38 notify the tax assessor of the county in which the development financing district is  
39 located of the existence of the development financing district. Upon receiving this  
40 notice, the tax assessor shall determine the base valuation of the district, which is the  
41 assessed value of taxable property located in the district on the January 1 immediately  
42 preceding the effective date of the district. If the unit or an agency of the unit acquired  
43 property within the district within one year before the effective date of the district, the  
44 tax assessor shall presume, subject to rebuttal, that the property was acquired in

1 contemplation of the district and shall include the value of the property so acquired in  
2 determining the base valuation of the district. The unit may rebut this presumption by  
3 showing that the property was acquired primarily for a purpose other than to reduce the  
4 tax incremental base. After determining the base valuation of the development  
5 financing district, the tax assessor shall certify the valuation to: (i) the issuing unit; (ii)  
6 the county in which the district is located if the issuing unit is not the county; and (iii)  
7 any special district, as defined in G.S. 159-7, within which the development financing  
8 district is located.

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

11 (1) If the unit amends its development financing plan, pursuant to G.S.  
12 160A-515.1 or G.S. 158-7.3, to remove property from the development  
13 financing district, on the succeeding January 1, that property shall be  
14 removed from the district and the base valuation reduced accordingly.

15 (2) If the unit amends its development financing plan, pursuant to G.S.  
16 160A-515.1 or G.S. 158-7.3, to expand the district, the new property  
17 shall be added to the district immediately. The base valuation of the  
18 district shall be increased by the assessed value of the taxable property  
19 situated in the added territory on the January 1 immediately preceding  
20 the effective date of the district.

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

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

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

38 (d) Levy of Property Taxes Within the District. – Each year the development  
39 financing district is in existence, the tax assessor shall determine the current assessed  
40 value of taxable property located in the district. The assessor shall also compute the  
41 difference between this current value and the base valuation of the district. If the  
42 current value exceeds the base value, the difference is the incremental valuation of the  
43 district. In each year the district is in existence, the county, and if the district is within a  
44 city or a special district as defined by G.S. 159-7, the city or the special district, shall

1 levy taxes against property in the district in the same manner as taxes are levied against  
2 other property in the county, city, or special district. The proceeds from ad valorem  
3 taxes levied on property in the development financing district shall be distributed as  
4 follows:

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

9 (2) In any year in which there is an incremental valuation of the district,  
10 the amount of tax due from each taxpayer on property in the district,  
11 except taxes levied to service and repay debt secured by a pledge of  
12 the faith and credit of the unit, nonschool taxes levied pursuant to a  
13 vote of the people, taxes levied for a municipal or county service  
14 district, and city taxes levied in a development financing district  
15 established by a county and for which there is no increment agreement  
16 between the city and county, shall be multiplied by a fraction, the  
17 numerator of which is the base valuation for the district and the  
18 denominator of which is the current valuation for the district. The  
19 amount shown as the product of this multiplication shall, when paid by  
20 the taxpayer, be retained by the county, city, or special district, as if  
21 there were no development financing district in existence. The net  
22 proceeds of the remaining amount shall, when paid by the taxpayer, be  
23 turned over to the issuing unit's finance officer, who shall place this  
24 amount in the special revenue increment fund required by subsection  
25 (c) of this section. The net proceeds of each debt service tax, each  
26 nonschool voted tax, each service district tax, and each tax levied by a  
27 city on property in a district that was established by a county and for  
28 which there is no increment agreement between the city and county  
29 shall be paid to the government levying the tax. 'Net proceeds' is gross  
30 proceeds less refunds, releases, and any collection fee paid by the  
31 levying government to the collecting government.

32 (e) Effect of Annexation on District Established by a County. – If a city annexes  
33 land in a development financing district established by a county pursuant to G.S. 158-  
34 7.3, the proceeds of all taxes levied by the city on property within the district shall be  
35 paid to the city unless the city enters into an agreement with the county pursuant to this  
36 subsection. The city and the county may enter into an increment agreement under  
37 which the city agrees that city taxes on part or all of the incremental valuation in the  
38 district shall be paid into the revenue increment fund for the district. An increment  
39 agreement may be entered into when the district is established or at any time after the  
40 district is established. The increment agreement may extend for the duration of the  
41 district or for a shorter time agreed to by the parties.

42 (f) Use of Moneys in the Revenue Increment Fund. – If the development  
43 financing district includes property conveyed or leased by the unit of local government  
44 to a private party in consideration of increased tax revenue expected to be generated by

1 improvements constructed on the property pursuant to G.S. 158-7.1, an amount equal to  
2 the tax revenue taken into account in arriving at the consideration, less the increased tax  
3 revenue realized since the construction of the improvement, shall be transferred from  
4 the Revenue Increment Fund to the county, city, or special district as if there were no  
5 development financing district in existence. Any money in excess of this amount in the  
6 Fund may be used for any of the following purposes, without priority other than  
7 priorities imposed by the bond order authorizing the economic development financing  
8 bonds:

- 9 (1) To finance capital expenditures (including the funding of capital  
10 reserves) by the issuing unit in the development financing district  
11 pursuant to the development financing plan.  
12 (2) To meet principal and interest requirements on economic development  
13 financing bonds and bond anticipation notes issued for the district.  
14 (3) To repay the appropriate fund of the issuing unit for any moneys  
15 actually expended on debt service on economic development financing  
16 bonds pursuant to a pledge made pursuant to G.S. 159-111(b).  
17 (4) To meet any other requirements imposed by the bond order  
18 authorizing the economic development financing bonds.

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

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

29 **"§ 159-108. Agreements with property owners.**

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

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



1       (c) Minimum Assessment of Property. – An agreement entered into pursuant to  
2 this section establishes a minimum assessment of the real property subject to the  
3 agreement. If the county tax assessor determines that the real property has a true value  
4 less than the minimum established by the agreement, the assessor shall nevertheless  
5 assess the property at the minimum set out in the agreement. If the assessor, however,  
6 determines that the real property has a true value greater than the minimum established  
7 by the agreement, the assessor shall assess the property at the true value.

8       (d) Effect of Reappraisal. – If an agreement entered into pursuant to this section  
9 continues in effect after a reappraisal of property conducted pursuant to G.S. 105-286,  
10 the minimum assessment established in the agreement shall be adjusted as provided in  
11 this subsection. After the issuing unit of local government has adopted its budget  
12 ordinance and levied taxes for the fiscal year that begins next after the effective date of  
13 the reappraisal, it shall certify to the county tax assessor the total rate of ad valorem  
14 taxes levied by the unit and applicable to the property subject to the agreement. It shall  
15 also certify to the assessor the total rate of ad valorem taxes levied by the unit and  
16 applicable to the property in the immediately preceding fiscal year. The assessor shall  
17 determine the total amount of ad valorem taxes levied by the unit on the property in the  
18 immediately preceding fiscal year, based on the tax rate certified by the issuing unit.  
19 The assessor shall then determine a value of the property that would provide the same  
20 total amount of ad valorem taxes based on the tax rate certified for the fiscal year  
21 beginning next after the effective date of the reappraisal. The value so determined is the  
22 new minimum assessment for the property subject to the agreement.

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

30 **"§ 159-109. Special covenants.**

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

- 33       (1) The pledge of all or any part of the taxes received or to be received on  
34 the incremental valuation in the development financing district during  
35 the life of the bonds.
- 36       (2) Rates, fees, rentals, tolls, or other charges to be established,  
37 maintained, and collected, and the use and disposal of revenues, gifts,  
38 grants, and funds received or to be received.
- 39       (3) The setting aside of debt service reserves and the regulation and  
40 disposition of these reserves.
- 41       (4) The custody, collection, securing, investment, and payment of any  
42 moneys held for the payment of economic development financing  
43 bonds.

- 1           (5) Limitations or restrictions on the purposes to which the proceeds of  
2 sale of economic development financing bonds may be applied.
- 3           (6) Limitations or restrictions on the issuance of additional economic  
4 development financing bonds or notes for the same development  
5 financing district, the terms upon which additional economic  
6 development financing bonds or notes may be issued or secured, or the  
7 refunding of outstanding economic development financing bonds or  
8 notes.
- 9           (7) The acquisition and disposal of property for economic development  
10 financing bond projects.
- 11           (8) Provision for insurance and for accounting reports, and the inspection  
12 and audit of accounting reports.
- 13           (9) The continuing operation and maintenance of projects financed with  
14 the proceeds of the economic development financing bonds.

15 **"§ 159-110. Security of economic development financing bonds.**

16 Economic development financing bonds are special obligations of the issuing unit.  
17 Moneys in the revenue increment fund required by G.S. 159-107(c) are pledged to the  
18 payment of the bonds, in accordance with G.S. 159-107(f). Except as provided in G.S.  
19 159-111, the unit may pledge the following additional sources of funds to the payment  
20 of the bonds, and no other sources: the proceeds from the sale of property in the  
21 development financing district; net revenues from any public facilities, other than  
22 portions of public utility systems, in the development financing district financed with  
23 the proceeds of the economic development financing bonds; and, subject to G.S. 159-  
24 47, net revenues from any other public facilities, other than portions of public utility  
25 systems, in the development financing district constructed or improved pursuant to the  
26 development financing plan.

27 Except as provided in G.S. 159-111, the principal and interest on economic  
28 development financing bonds do not constitute a legal or equitable pledge, charge, lien,  
29 or encumbrance upon any of the unit's property or upon any of its income, receipts, or  
30 revenues, except as may be provided pursuant to this section. Except as provided in  
31 G.S. 159-107 and G.S. 159-111, neither the credit nor the taxing power of the unit is  
32 pledged for the payment of the principal or interest of economic development financing  
33 bonds, and no holder of economic development financing bonds has the right to compel  
34 the exercise of the taxing power by the unit or the forfeiture of any of its property in  
35 connection with any default on the bonds. Unless the unit's taxing power has been  
36 pledged pursuant to G.S. 159-111, every economic development financing bond shall  
37 contain recitals sufficient to show the limited nature of the security for the bond's  
38 payment and that it is not secured by the full faith and credit of the unit.

39 **"§ 159-111. Additional security for economic development financing bonds.**

40 (a) In order to provide additional security for bonds issued pursuant to this  
41 Article, the issuing unit of local government may pledge its faith and credit for the  
42 payment of the principal of and interest on the bonds. Before such a pledge may be  
43 given, the unit shall follow the procedures for and meet the requirements for approval of  
44 general obligation bonds under Article 4 of this Chapter. The unit shall also follow the

1 procedures and meet the requirements of this Article. If bonds are issued pursuant to  
2 this Article and are also secured by a pledge of the issuing unit's faith and credit, the  
3 bonds are subject to G.S. 159-112 rather than G.S. 159-65.

4 (b) In order to provide additional security for bonds issued pursuant to this  
5 Article, and in lieu of pledging its faith and credit for that purpose pursuant to  
6 subsection (a) of this section, a unit of local government may agree to apply to the  
7 payment of the bonds any available sources of revenues of the unit, as long as the  
8 agreement to use the sources to make payment does not constitute a pledge of the unit's  
9 taxing power or of the unit's revenues derived from local sales taxes. In addition, to the  
10 extent the generation of the revenues is within the power of the unit, the unit may enter  
11 into covenants to take action in order to generate the revenues, as long as the covenant  
12 does not constitute a pledge of the unit's taxing power.

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

16 The obligation of a unit of local government with respect to the sources of payment  
17 shall be specifically identified in the proceedings of the governing body authorizing the  
18 unit to issue the bonds. The sources of payment so specifically identified and then held  
19 or thereafter received by the unit or any fiduciary of the unit shall immediately be  
20 subject to the lien of the proceedings without any physical delivery of the sources or  
21 further act. The lien shall be valid and binding as against all parties having claims of  
22 any kind against a unit without regard to whether the parties have notice of the lien.  
23 The proceedings or any other document or action by which the lien on a source of  
24 payment is created need not be filed or recorded in any manner other than as provided in  
25 this Article.

26 **"§ 159-112. Limitations on details of bonds.**

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

29 (1) The maturity date shall not exceed the shorter of (i) the longest of the  
30 various maximum periods of usefulness for the projects to be financed  
31 with bond proceeds, as prescribed by the Local Government  
32 Commission pursuant to G.S. 159-122, or (ii) the end of the thirtieth  
33 year after the effective date of the development financing district.

34 (2) The first payment of principal shall be payable not more than four  
35 years after the date of the bonds.

36 (3) Any bond may be made payable on demand or tender for purchase as  
37 provided in G.S. 159-79, and any bond may be made subject to  
38 redemption prior to maturity, with or without premium, on such notice,  
39 at such times, and with such redemption provisions as may be stated.  
40 Interest on the bonds shall cease when the bonds have been validly  
41 called for redemption and provision has been made for the payment of  
42 the principal of the bonds, any redemption, any premium, and the  
43 interest on the bonds accrued to the date of redemption.

- 1           (4) The bonds may bear interest at such rates payable semiannually or  
2           otherwise, may be in such denominations, and may be payable in such  
3           kind of money and in such place or places within or without this State,  
4           as the issuing unit may determine.

5 **"§ 159-113. Annual report.**

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

13 **"§ 159-114. Participation by minority businesses.**

14           The goals set by G.S. 143-128 for participation in projects by minority businesses  
15           apply to projects of a unit of local government that are funded with the proceeds of  
16           economic development financing bonds issued under this Article. A unit of local  
17           government that issues economic development bonds shall monitor compliance with  
18           this requirement and shall report to the General Assembly by January 1 of each year on  
19           the participation by minority businesses in these projects."

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

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

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

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

- 27           (1) The gross debt of the unit, excluding therefrom debt incurred or to be  
28 incurred in anticipation of the collection of taxes or other revenues or  
29 in anticipation of the sale of bonds other than funding and refunding  
30 bonds. The gross debt (after exclusions) is the sum of (i) outstanding  
31 debt evidenced by bonds, (ii) bonds authorized by orders introduced  
32 but not yet adopted, (iii) unissued bonds authorized by adopted orders,  
33 and (iv) outstanding debt not evidenced by bonds. However, for  
34 purposes of the sworn statement of debt and the debt limitation,  
35 revenue bonds and economic development financing bonds (unless  
36 additionally secured by a pledge of the issuing unit's faith and credit)  
37 shall not be considered debt and such bonds shall not be included in  
38 gross debt nor deducted from gross debt.

- 39           (2) The deductions to be made from gross debt in computing net debt. The  
40 following deductions are allowed:

- 41           a. Funding and refunding bonds authorized by orders introduced  
42           but not yet adopted.  
43           b. Funding and refunding bonds authorized but not yet issued.

- 1 c. The amount of money held in sinking funds or otherwise for the  
 2 payment of any part of the principal of gross debt other than  
 3 debt incurred for water, gas, electric light or power purposes, or  
 4 sanitary sewer purposes (to the extent that the bonds are  
 5 deductible under subsection (b) of this section), or two or more  
 6 of these purposes.
- 7 d. The amount of bonded debt included in gross debt and incurred,  
 8 or to be incurred, for water, gas, or electric light or power  
 9 purposes, or any two or more of these purposes.
- 10 e. The amount of bonded debt included in the gross debt and  
 11 incurred, or to be incurred, for sanitary sewer system purposes  
 12 to the extent that the debt is made deductible by subsection (b)  
 13 of this section.
- 14 f. The amount of uncollected special assessments theretofore  
 15 levied for local improvements for which any part of the gross  
 16 debt (that is not otherwise deducted) was or is to be incurred, to  
 17 the extent that the assessments will be applied, when collected,  
 18 to the payment of any part of the gross debt.
- 19 g. The amount, as estimated by the governing board of the issuing  
 20 unit or an officer designated by the board for this purpose, of  
 21 special assessments to be levied for local improvements for  
 22 which any part of the gross debt (that is not otherwise deducted)  
 23 was or is to be incurred, to the extent that the special  
 24 assessments, when collected, will be applied to the payment of  
 25 any part of the gross debt.
- 26 (3) The net debt of the issuing unit, being the difference between the gross  
 27 debt and deductions.
- 28 (4) The assessed value of property subject to taxation by the issuing unit,  
 29 as revealed by the tax records and certified to the issuing unit by the  
 30 assessor. In calculating the assessed value, the incremental valuation  
 31 of any development financing district located in the unit, as determined  
 32 pursuant to G.S. 159-107, shall not be included.
- 33 (5) The percentage that the net debt bears to the assessed value of property  
 34 subject to taxation by the issuing unit."

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

36 "(a) Notwithstanding any provisions of this Chapter to the contrary, including  
 37 particularly, but without limitation, the provisions of G.S. 159-65, G.S. 159-112, G.S.  
 38 159-123 to G.S. 159-127, inclusive, G.S. 159-130, G.S. 159-138, G.S. 159-162, G.S.  
 39 159-164 and G.S. 159-172, a unit of local government, in fixing the details of general  
 40 obligation bonds to be issued pursuant to this Article or general obligation notes to be  
 41 issued pursuant to Article 9 of this Chapter or economic development financing bonds  
 42 or notes to be issued pursuant to Article 6 of this Chapter, may provide that such bonds  
 43 or notes

- 1 (1) May be made payable from time to time on demand or tender for  
2 purchase by the owner provided a Credit Facility supports such bonds  
3 or notes, unless the Commission specifically determines that a Credit  
4 Facility is not required upon a finding and determination by the  
5 Commission that the proposed bonds or notes will satisfy the  
6 conditions set forth in G.S. 159-52;
- 7 (2) May be additionally supported by a Credit Facility;
- 8 (3) May be made subject to redemption prior to maturity, with or without  
9 premium, on such notice, at such time or times, at such price or prices  
10 and with such other redemption provisions as may be stated in the  
11 resolution fixing the details of such bonds or notes or with such  
12 variations as may be permitted in connection with a Par Formula  
13 provided in such resolution;
- 14 (4) May bear interest at a rate or rates that may vary as permitted pursuant  
15 to a Par Formula and for such period or periods of time, all as may be  
16 provided in such resolution; and
- 17 (5) May be made the subject of a remarketing agreement whereby an  
18 attempt is made to remarket the bonds to new purchases prior to their  
19 presentment for payment to the provider of the Credit Facility or to the  
20 issuing unit."

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

22 **"§ 159-120. Definitions.**

23 As used in this Article, unless the context clearly requires another meaning, the  
24 words 'unit' or 'issuing unit' mean 'unit of local government' as defined in G.S. ~~159-44,~~  
25 159-44 or G.S. 159-102, 'municipality' as defined in G.S. 159-81, and the State of North  
26 Carolina, and the words 'governing body,' when used with respect to the State of North  
27 Carolina, mean the Council of State."

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

29 "(a) Except as provided in this subsection, the last installment of each bond issue  
30 shall mature not later than the date of expiration of the period of usefulness of the  
31 capital project to be financed by the bond issue, computed from the date of the bonds.  
32 The last installment of a refunding bond issue issued pursuant to G.S. 159-48(a)(4) or  
33 (5) shall mature not later than either (i) the shortest period, but not more than 40 years,  
34 in which the debt to be refunded can be finally paid without making it unduly  
35 burdensome on the taxpayers of the issuing unit, as determined by the Commission,  
36 computed from the date of the bonds, or (ii) the end of the unexpired period of  
37 usefulness of the capital project financed by the debt to be refunded. The last  
38 installment of bonds issued pursuant to G.S. 159-48(a)(1), (2), (3), (6), or (7) shall  
39 mature not later than 10 years after the date of the bonds, as determined by the  
40 Commission. The last installment of bonds issued pursuant to G.S. 159-48(c)(5) shall  
41 mature not later than eight years after the date of the bonds, as determined by the  
42 Commission. The last installment of economic development financing bonds shall  
43 mature on the earlier of 30 years after the effective date of the development financing  
44 district for which the bonds are issued or the longest of the various maximum periods of

1 usefulness for the projects to be financed with bond proceeds, as prescribed by the  
2 Commission pursuant to this section."

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

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

- 5 (1) Bonds that a State or federal agency has previously agreed to purchase.
- 6 (2) Any bonds for which no legal bid is received within the time allowed  
7 for submission of bids.
- 8 (3) Revenue bonds, including any refunding bonds issued pursuant to G.S.  
9 159-84, and special obligation bonds issued pursuant to Chapter 159I  
10 of the General Statutes.
- 11 (4) Refunding bonds issued pursuant to G.S. 159-78.
- 12 (5) Refunding bonds issued pursuant to G.S. 159-72 if the Local  
13 Government Commission determines that a private sale is in the best  
14 interest of the issuing unit.
- 15 (6) Economic development financing bonds."

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

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

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

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

23 "**§ 159-129. Obligations of units certified by Commission.**

24 Each bond or bond anticipation note that is represented by an instrument shall bear  
25 on its face or reverse a certificate signed by the secretary of the Commission or an  
26 assistant designated by him that the issuance of the bond or note has been approved  
27 under the provisions of The Local Government Bond Act of Acts, the Local Government  
28 Revenue Bond Act, Act, or the North Carolina Economic Development Financing Act.  
29 Such signature may be a manual or facsimile signature as the Commission may  
30 determine. Each bond or bond anticipation note that is not represented by an instrument  
31 shall be evidenced by a writing relating to such obligation, which writing shall identify  
32 such obligation or the issue of which it is part, bear such certificate and be on file with  
33 the Commission. The certificate shall be conclusive evidence that the requirements of  
34 this Subchapter have been observed, and no bond or note without the Commission's  
35 certificate or with respect to which a writing bearing such certificate has not been filed  
36 with the Commission shall be valid."

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

38 "**§ 159-132. State Treasurer to deliver bonds and remit proceeds.**

39 When the bonds are executed, they shall be delivered to the State Treasurer who  
40 shall deliver them to the order of the purchaser and collect the purchase price or  
41 proceeds. The Treasurer shall then pay from the proceeds any notes issued in  
42 anticipation of the sale of the bonds, deduct from the proceeds the Commission's  
43 expense in connection with the issue, and remit the net proceeds to the official  
44 depository of the unit after assurance that the deposit will be adequately secured as

1 required by law. The proceeds of funding or refunding bonds may be deposited at the  
2 place of payment of the indebtedness to be refunded or funded for use solely in the  
3 payment of such indebtedness. The proceeds of revenue bonds shall be remitted to the  
4 trustee or other depository specified in the trust agreement or resolution securing them.  
5 Unless otherwise provided in the trust agreement or resolution securing the bonds, the  
6 proceeds of economic development financing bonds shall be remitted in the manner  
7 provided by this section for the remission of the proceeds of general obligation bonds."

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

9 **"§ 159-160. Definitions.**

10 As used in this Part, the words 'unit' or 'issuing unit' means 'unit of local government'  
11 as defined in G.S. ~~159-44, 159-44~~ or G.S. 159-102, 'municipality' as defined in G.S. 159-  
12 81, and the State of North Carolina."

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

14 **"§ 159-163.1. Security of economic development financing bond anticipation notes.**

15 Notes issued in anticipation of the sale of economic development financing bonds  
16 are special obligations of the issuing unit. Except as provided in G.S. 159-107 and G.S.  
17 159-110, neither the credit nor the taxing power of the issuing unit may be pledged for  
18 the payment of notes issued in anticipation of the sale of economic development  
19 financing bonds; and no holder of an economic development financing bond  
20 anticipation note shall have the right to compel the exercise of the taxing power by the  
21 issuing unit or the forfeiture of any of its property in connection with any default  
22 thereon. Notes issued in anticipation of the sale of economic development financing  
23 bonds may be secured by the same pledges, charges, liens, covenants, and agreements  
24 made to secure the economic development financing bonds. In addition, the proceeds of  
25 each economic development financing bond issue are pledged for the payment of any  
26 notes issued in anticipation of the sale thereof, and any such notes shall be retired from  
27 the proceeds of the sale as the first priority."

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

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

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

41 **"§ 159-176. Commission to aid defaulting units in developing refinancing plans.**

42 If a unit of local government or municipality (~~as defined in G.S. 159-44 or 159-81~~) (as  
43 defined in G.S. 159-44, 159-81, or 159-102) fails to pay any installment of principal or  
44 interest on its outstanding debt on or before the due date (whether the debt is evidenced



1 by general obligation bonds, revenue bonds, economic development financing bonds,  
2 bond anticipation notes, tax anticipation notes, or revenue anticipation notes) and  
3 remains in default for 90 days, the Commission may take such action as it deems  
4 advisable to investigate the unit's or municipality's fiscal affairs, consult with its  
5 governing board, and negotiate with its creditors in order to assist the unit or  
6 municipality in working out a plan for refinancing, adjusting, or compromising the debt.  
7 When a plan is developed that the Commission finds to be fair and equitable and  
8 reasonably within the ability of the unit or municipality to meet, the Commission shall  
9 enter an order finding that it is fair, equitable, and within the ability of the unit or  
10 municipality to meet. The Commission shall then advise the governing board to take  
11 the necessary steps to implement it. If the governing board declines or refuses to do so  
12 within 90 days after receiving the Commission's advice, the Commission may enter an  
13 order directing the governing board to implement the plan. When this order is entered,  
14 the members of the governing board and all officers and employees of the unit or  
15 municipality shall be under an affirmative duty to do all things necessary to implement  
16 the plan. The Commission may apply to the appropriate division of the General Court  
17 of Justice for a court order to the governing board and other officers and employees of  
18 the unit or municipality to enforce the Commission's order."

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

20 "(a) In lieu of creating a redevelopment commission as authorized herein, the  
21 governing body of any municipality may, if it deems wise, either designate a housing  
22 authority created under the provisions of Chapter 157 of the General Statutes to exercise  
23 the powers, duties, and responsibilities of a redevelopment commission as prescribed  
24 herein, or undertake to exercise such powers, duties, and responsibilities itself. Any  
25 such designation shall be by passage of a resolution adopted in accordance with the  
26 procedure and pursuant to the findings specified in G.S. 160A-504(a) and (b). In the  
27 event a governing body designates itself to perform the powers, duties, and  
28 responsibilities of a redevelopment ~~commission,~~ commission under this subsection, or  
29 exercises those powers, duties, and responsibilities pursuant to G.S. 153A-376 or G.S.  
30 160A-456, then where any act or proceeding is required to be done, recommended, or  
31 approved both by a redevelopment commission and by the municipal governing body,  
32 then the performance, recommendation, or approval thereof once by the municipal  
33 governing body shall be sufficient to make such performance, recommendation, or  
34 approval valid and legal. In the event a municipal governing body designates itself to  
35 exercise the powers, duties, and responsibilities of a redevelopment commission, it may  
36 assign the administration of redevelopment policies, programs and plans to any existing  
37 or new department of the municipality."

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

39 "(6) Within its area of operation, to purchase, obtain options upon, acquire  
40 by gift, grant, bequest, devise, eminent domain or otherwise, any real  
41 or personal property or any interest therein, together with any  
42 improvements thereon, necessary or incidental to a redevelopment  
43 project; to hold, improve, clear or prepare for redevelopment any such  
44 property, and ~~notwithstanding the provisions of G.S. 160-59 but~~ subject to

1 the provisions of G.S. 160A-514, and with the approval of the local  
2 governing body sell, exchange, transfer, assign, subdivide, retain for  
3 its own use, mortgage, pledge, hypothecate or otherwise encumber or  
4 dispose of any real or personal property or any interest therein, either  
5 as an entirety to a single 'redeveloper' or in parts to several  
6 redevelopers; provided that the commission finds that the sale or other  
7 transfer of any such part will not be prejudicial to the sale of other  
8 parts of the redevelopment area, nor in any other way prejudicial to the  
9 realization of the redevelopment plan approved by the governing body;  
10 to enter into ~~contracts~~ contracts, either before or after the real property  
11 that is the subject of the contract is acquired by the Commission  
12 (although disposition of the property is still subject to G.S. 160A-514),  
13 with 'redevelopers' of property containing covenants, restrictions, and  
14 conditions regarding the use of such property for residential,  
15 commercial, industrial, recreational purposes or for public purposes in  
16 accordance with the redevelopment plan and such other covenants,  
17 restrictions and conditions as the commission may deem necessary to  
18 prevent a recurrence of blighted areas or to effectuate the purposes of  
19 this Article; to make any of the covenants, restrictions or conditions of  
20 the foregoing contracts covenants running with the land, and to  
21 provide appropriate remedies for any breach of any such covenants or  
22 conditions, including the right to terminate such contracts and any  
23 interest in the property created pursuant thereto; to borrow money and  
24 issue bonds therefor and provide security for bonds; to insure or  
25 provide for the insurance of any real or personal property or operations  
26 of the commission against any risks or hazards, including the power to  
27 pay premiums on any such insurance; and to enter into any contracts  
28 necessary to effectuate the purposes of this Article;".

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

30 **"§ 160A-515.1. Economic development financing.**

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

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

1       (c) Development Financing Plan. – The development financing plan shall be  
2 compatible with the redevelopment plan or plans for the redevelopment area or areas  
3 included within the district. 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;
- 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; and
- 21          (10) A requirement that the initial users of any new manufacturing facilities  
22 that will be located in the district and that are included in the plan will  
23 comply with the wage requirements in subsection (d) of this section.

24       (d) Wage Requirements. – A development financing plan shall include a  
25 requirement that the initial users of a new manufacturing facility to be located in the  
26 district and included in the plan must pay its employees an average weekly  
27 manufacturing wage that is either above the average manufacturing wage paid in the  
28 county in which the district will be located or not less than ten percent (10%) above the  
29 average weekly manufacturing wage paid in the State. The plan may include  
30 information on the wages to be paid by the initial users of a new manufacturing facility  
31 to its employees and any provisions necessary to implement the wage requirement. The  
32 issuing unit's governing body shall not adopt a plan until the Secretary of Commerce  
33 certifies that the Secretary has reviewed the average weekly manufacturing wage  
34 required by the plan to be paid to the employees of a new manufacturing facility and has  
35 found either (i) that the wages proposed by the initial users of a new manufacturing  
36 facility are in compliance with the amount required by this subsection or (ii) that the  
37 plan is exempt from the requirement of this subsection. The Secretary of Commerce  
38 may exempt a plan from the requirement of this subsection if the Secretary receives a  
39 resolution from the issuing unit's governing body requesting an exemption from the  
40 wage requirement and a letter from an appropriate State official, selected by the  
41 Secretary, finding that unemployment in the county in which the proposed district is to  
42 be located is especially severe. Upon the creation of the district, the unit of local  
43 government proposing the creation of the district shall take any lawful actions necessary  
44 to require compliance with the applicable wage requirement by the initial users of any

1 new manufacturing facility included in the plan; however, failure to take such actions or  
2 obtain such compliance shall not affect the validity of any proceedings for the creation  
3 of the district, the existence of the district, or the validity of any bonds issued under  
4 Article 6 of Chapter 159 of the General Statutes. All findings and determinations made  
5 by the Secretary of Commerce under this subsection shall be binding and conclusive.  
6 For purposes of this section, the term 'manufacturing facility' means any facility that is  
7 used in the manufacturing or production of tangible personal property, including the  
8 processing resulting in a change in the condition of the property.

9 (e) County Review. – Before adopting a plan for a development financing  
10 district, the city council shall cause notice of the plan to be mailed, by first-class mail, to  
11 the 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 (f) Environmental Review. – Before adopting a plan for development financing  
18 districts, the city council shall submit the plan to the Secretary of Environment, Health,  
19 and Natural Resources to review to determine if the construction and operation of any  
20 new manufacturing facility in the district will have a materially adverse effect on the  
21 environment and whether the company that will operate the facility has operated in  
22 substantial compliance with federal and State laws, regulations, and rules for the  
23 protection of the environment. If the Secretary finds that the new manufacturing facility  
24 will not have a materially adverse effect on the environment and that the company that  
25 will operate the facility has operated other facilities in compliance with environmental  
26 requirements, the Secretary shall approve the plan. In making the determination on  
27 environmental impact, the Secretary shall use the same criteria that apply to the  
28 determination under G.S. 159C-7 of whether an industrial project will have a materially  
29 adverse effect on the environment. The findings of the Secretary are conclusive and  
30 binding.

31 (g) Plan Adoption. – Before adopting a plan for a development financing district,  
32 the city council shall hold a public hearing on the plan. The council shall, no less than  
33 30 days before the day of hearing, cause notice of the hearing to be mailed by first-class  
34 mail to all property owners and mailing addresses within the proposed development  
35 financing district. The council shall also, no more than 30 days and no less than 14 days  
36 before the day of the hearing, cause notice of the hearing to be published once in a  
37 newspaper of general circulation in the city. The notice shall state the time and place of  
38 the hearing, shall specify its purpose, and shall state that a copy of the proposed plan is  
39 available for public inspection in the office of the city clerk. At the public hearing, the  
40 council shall hear anyone who wishes to speak with respect to the proposed district and  
41 proposed plan. Unless a board of county commissioners or the Secretary of  
42 Environment, Health, and Natural Resources has disapproved the plan pursuant to  
43 subsection (e) or (f) of this section, the council may adopt the plan, with or without  
44 amendment, at any time after the public hearing. However, the plan and the district do

1 not become effective until the city's application to issue economic development  
2 financing bonds has been approved by the Local Government Commission, pursuant to  
3 Article 6 of Chapter 159 of the General Statutes.

4 (h) Plan Modification. – Subject to the limitations of this subsection, a city  
5 council 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 city  
7 council shall follow the procedures and meet the requirements of subsections (d)  
8 through (g) 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 city  
13 may agree with the holders of any economic development financing bonds to restrict its  
14 power to reduce district boundaries.

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

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

20 **"§ 158-7.3. Development financing.**

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

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

27 If the district in which such a project will occur is outside a city's  
28 central business district (as that district is defined by resolution of the  
29 city council, which definition is binding and conclusive), then, of the  
30 private development forecast for an economic development project by  
31 the development financing plan for the district in which the project  
32 will occur, a maximum of twenty percent (20%) of the plan's estimated  
33 square footage of floor space may be proposed for use in retail sales,  
34 hotels, banking, and financial services offered directly to consumers,  
35 and other commercial uses other than office space.

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

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

41 (b) Authorization. – A unit of local government may finance public  
42 improvements that are part of an economic development project with the proceeds of  
43 economic development financing bonds, issued pursuant to Article 6 of Chapter 159 of  
44 the General Statutes, together with any other revenues that are available to the unit.

1 Before it receives the approval of the Local Government Commission for issuance of  
2 economic development financing bonds, the unit's governing body must define a  
3 development financing district and adopt a development financing plan for the district.

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

6 (1) Blighted, deteriorated, deteriorating, undeveloped, or inappropriately  
7 developed from the standpoint of sound community development and  
8 growth;

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

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

11 The total land area within development financing districts in a unit, including  
12 development financing districts created pursuant to G.S. 160A-515.1, may not exceed  
13 five percent (5%) of the total land area of the unit. A county may not include in a  
14 district created pursuant to this section any land that, at the time the district is created, is  
15 inside a city, town, or incorporated village.

16 (d) Development Financing Plan. – The development financing plan shall  
17 include:

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

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

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

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

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

25 (6) The projected incremental valuation of the development financing  
26 district;

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

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

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

35 (10) A requirement that the initial users of any new manufacturing facilities  
36 that will be located in the district and that are included in the plan will  
37 comply with the wage requirements referred to in subsection (e) of this  
38 section.

39 (e) Wage Requirements. – A development financing plan shall include a  
40 requirement that the initial users of a new manufacturing facility to be located in the  
41 district and included in the plan must pay its employees an average weekly  
42 manufacturing wage that is either above the average manufacturing wage paid in the  
43 county in which the district will be located or not less than ten percent (10%) above the  
44 average weekly manufacturing wage paid in the State. The plan may include

1 information on the wages to be paid by the initial users of a new manufacturing facility  
2 to its employees and any provisions necessary to implement the wage requirement. The  
3 issuing unit's governing body shall not adopt a plan until the Secretary of Commerce  
4 certifies that the Secretary has reviewed the average weekly manufacturing wage  
5 required by the plan to be paid to the employees of a new manufacturing facility and has  
6 found either (i) that the wages proposed by the initial users of a new manufacturing  
7 facility are in compliance with the amount required by this subsection or (ii) that the  
8 plan is exempt from the requirement of this subsection. The Secretary of Commerce  
9 may exempt a plan from the requirement of this subsection if the Secretary receives a  
10 resolution from the issuing unit's governing body requesting an exemption from the  
11 wage requirement and a letter from an appropriate State official, selected by the  
12 Secretary, finding that unemployment in the county in which the proposed district is to  
13 be located is especially severe. Upon the creation of the district, the unit of local  
14 government proposing the creation of the district shall take any lawful actions necessary  
15 to require compliance with the applicable wage requirement by the initial users of any  
16 new manufacturing facility included in the plan; however, failure to take such actions or  
17 obtain such compliance shall not affect the validity of any proceedings for the creation  
18 of the district, the existence of the district, or the validity of any bonds issued under  
19 Article 6 of Chapter 159 of the General Statutes. All findings and determinations made  
20 by the Secretary of Commerce under this subsection shall be binding and conclusive.  
21 For purposes of this section, the term 'manufacturing facility' means any facility that is  
22 used in the manufacturing or production of tangible personal property, including the  
23 processing resulting in a change in the condition of the property.

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

34 (g) Environmental Review. – Before adopting a plan for development financing  
35 districts, the issuing unit's governing body shall submit the plan to the Secretary of  
36 Environment, Health, and Natural Resources to review to determine if the construction  
37 and operation of any new manufacturing facility in the district will have a materially  
38 adverse effect on the environment and whether the company that will operate the  
39 facility has operated in substantial compliance with federal and State laws, regulations  
40 and rules for the protection of the environment. If the Secretary finds that the new  
41 manufacturing facility will not have a materially adverse effect on the environment and  
42 that the company that will operate the facility has operated other facilities in compliance  
43 with environmental requirements, the Secretary shall approve the plan. In making the  
44 determination on environmental impact, the Secretary shall use the same criteria that

1 apply to the determination under G.S. 159C-7 of whether an industrial project will have  
2 a materially adverse effect on the environment. The findings of the Secretary are  
3 conclusive and binding.

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

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

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

36 Sec. 20. G.S. 105-284 is amended by adding a new subsection to read:

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

40 Sec. 21. Chapter 105 of the General Statutes is amended by adding a new  
41 section to read:

42 **"§ 105-277.11. Taxation of property subject to a development financing district**  
43 **agreement.**



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

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

7 Sec. 23. The following acts are repealed: Chapter 266 of the 1989 Session  
8 Laws, Chapter 913 of the 1989 Session Laws (Regular Session 1990), and Chapter 7 of  
9 the 1991 Session Laws.

10 Sec. 24. G.S. 158-7.1 is amended by adding a new subsection to read:

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

16 (1) The governing board of the county or city shall determine that the  
17 conveyance of the property will stimulate the local economy, promote  
18 business, and result in the creation of a substantial number of jobs in  
19 the county or city that pay at or above the median average wage in the  
20 county or, for a city, in the county where the city is located. A city  
21 that spans more than one county is considered to be located in the  
22 county where the greatest population of the city resides. For the  
23 purpose of this subdivision, the median average wage in a county is the  
24 median average wage for all insured industries in the county as  
25 computed by the Employment Security Commission for the most  
26 recent period for which data is available.

27 (2) The governing board of the county or city shall contractually bind the  
28 purchaser of the property to construct, within a specified period of  
29 time not to exceed five years, improvements on the property that will  
30 generate the tax revenue taken into account in arriving at the  
31 consideration. Upon failure to construct the improvements specified in  
32 the contract, the purchaser shall reconvey the property back to the  
33 county or city."

34 Sec. 25. Liberal Construction. This act, being necessary for the prosperity  
35 and welfare of the State and its inhabitants, shall be liberally construed to effect these  
36 purposes.

37 Sec. 26. Severability. If any clause or other portion of this act is held invalid,  
38 that decision shall not affect the validity of the remaining portions of this act, which are  
39 severable.

40 Sec. 27. The amendment set out in Section 1 of this act shall be submitted to  
41 the qualified voters of the State for their ratification or rejection in a referendum to be  
42 held on the first Tuesday after the first Monday of November 1993. At that referendum,  
43 each qualified voter desiring to vote shall be provided a ballot on which shall be printed  
44 the following:

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

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

13           Those qualified voters favoring the amendment shall vote by making an  
14           "X" or a check mark in the square beside the statement beginning "FOR", and those  
15           qualified voters opposed to the amendment shall vote by making an "X" or a check mark  
16           in the square beside the statement beginning "AGAINST".

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

20           Sec. 28. If a majority of votes cast thereon are in favor of the amendment set  
21           out in Section 1 of this act, the State Board of Elections shall certify the amendment to  
22           the Secretary of State, who shall enroll the amendment so certified among the  
23           permanent records of the Office of the Secretary of State. The amendment set out in  
24           Section 1 of this act and the amendments set out in Sections 2 through 21 of this act  
25           shall become effective upon this certification.

26           Sec. 29. This act is effective upon ratification. Sections 22, 23, and 24 of  
27           this act do not affect appropriations or expenditures that are made by a county or city  
28           after the effective date of this act and were agreed to in writing by the county or city  
29           before the effective date of this agreement as part of an economic development project.