

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2003

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**SENATE BILL 725**  
**Finance Committee Substitute Adopted 5/22/03**  
**Third Edition Engrossed 5/29/03**  
**House Committee Substitute Favorable 7/17/03**

Short Title: Local Option Project Development Financing.

(Public)

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Sponsors:

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Referred to:

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April 3, 2003

A BILL TO BE ENTITLED

1  
2 AN ACT TO AMEND THE NORTH CAROLINA CONSTITUTION TO PERMIT  
3 CITIES AND COUNTIES TO INCUR OBLIGATIONS TO FINANCE THE  
4 PUBLIC PORTION OF CERTAIN ECONOMIC DEVELOPMENT PROJECTS.

5  
6       Whereas, the State of North Carolina and local governments in North  
7 Carolina are and should be actively engaged in economic development efforts to attract  
8 and stimulate private sector job creation and capital investors in their areas; and

9       Whereas, over 48 other states and local governments in other states are  
10 authorized to utilize a wide variety of incentives, including, but not limited to, project  
11 development financing to attract private sector economic development; and

12       Whereas, other states and local governments in other states have been  
13 successful in attracting private sector job creation and capital investment to their areas  
14 through incentive packages which have included the provision of infrastructure  
15 improvements financed through the issuance of project development debt instruments;  
16 and

17       Whereas, economically distressed areas of North Carolina could utilize  
18 project development debt instruments to attract new industry to their areas; and

19       Whereas, project development financing could enable North Carolina to be  
20 more nationally or internationally competitive in attracting private sector job creation  
21 and capital investments, particularly in attracting major economic development efforts;

22 Now, therefore,

23 The General Assembly of North Carolina enacts:

24       **SECTION 1.** Article V of the North Carolina Constitution is amended by  
25 adding a new section to read:

26 **"Sec. 14. Project development financing.**

1 Notwithstanding Section 4 of this Article, the General Assembly may enact general  
2 laws authorizing any county, city, or town to define territorial areas in the county, city,  
3 or town and borrow money to be used to finance public improvements associated with  
4 private development projects within the territorial areas, as provided in this section. The  
5 General Assembly shall set forth by statute the method for determining the size of the  
6 territorial area and the issuing unit. This method is conclusive. When a territorial area is  
7 defined pursuant to this section, the county shall determine the current assessed value of  
8 taxable real and personal property in the territorial area. Thereafter, property in the  
9 territorial area continues to be subject to taxation to the same extent and in like manner  
10 as property not in the territorial area, but the net proceeds of taxes levied on the excess,  
11 if any, of the assessed value of taxable real and personal property in the territorial area  
12 at the time the taxes are levied over the assessed value of taxable real and personal  
13 property in the territorial area at the time the territorial area was defined may be set  
14 aside. The instruments of indebtedness authorized by this section shall be secured by  
15 these set-aside proceeds. The General Assembly may authorize a county, city, or town  
16 issuing these instruments of indebtedness to pledge, as additional security, revenues  
17 available to the issuing unit from sources other than the issuing unit's exercise of its  
18 taxing power. As long as no revenues are pledged other than the set-aside proceeds  
19 authorized by this section and the revenues authorized in the preceding sentence, these  
20 instruments of indebtedness may be issued without approval by referendum. The  
21 county, city, or town may not pledge as security for these instruments of indebtedness  
22 any property tax revenues other than the set-aside proceeds authorized in this section, or  
23 in any other manner pledge its full faith and credit as security for these instruments of  
24 indebtedness unless a vote of the people is held as required by and in compliance with  
25 the requirements of Section 4 of this Article.

26 Notwithstanding the provisions of Section 2 of this Article, the General Assembly  
27 may enact general laws authorizing a county, city, or town that has defined a territorial  
28 area pursuant to this section to assess property within the territorial area at a minimum  
29 value if agreed to by the owner of the property, which agreed minimum value shall be  
30 binding on the current owner and any future owners as long as the defined territorial  
31 area is in effect."

32 **SECTION 2.** Article 6 of Chapter 159 of the General Statutes is reenacted  
33 and is rewritten to read:

34 "Article 6.

35 "Project Development Financing Act.

36 "**§ 159-101. Short title.**

37 This Article may be cited as the 'North Carolina Project Development Financing  
38 Act.'

39 "**§ 159-102. Unit of local government defined.**

40 For the purposes of this Article, the term 'unit of local government' means a county  
41 or a municipal corporation.

42 "**§ 159-103. Authorization of project development financing debt instruments;**  
43 **purposes.**

1       (a) Each unit of local government may issue project development financing debt  
2 instruments pursuant to this Article and use the proceeds for one or more of the  
3 purposes for which the unit may issue general obligation bonds pursuant to the  
4 following subdivisions of G.S. 159-48: (b)(1), (3), (7), (11), (12), (16), (17), (19), (21),  
5 (23), (24), or (25), (c)(4a) or (6), or (d)(3), (4), (5), (6), or (7). In addition, the proceeds  
6 may be used for any service or facility authorized by G.S. 160A-536 and provided in a  
7 municipal service district.

8       For the purpose of this Article, the term 'capital costs' as defined in G.S. 159-48(h)  
9 also includes (i) interest on the debt instruments being issued or on notes issued in  
10 anticipation of the instruments during construction and for a period not exceeding seven  
11 years after the estimated date of completion of construction and (ii) the establishment of  
12 debt service reserves and any other reserves reasonably required by the financing  
13 documents. The proceeds of the debt instruments may be used either in a development  
14 financing district established pursuant to G.S. 160A-515.1 or G.S. 158-7.3 or, if the use  
15 directly benefits private development forecast by the development financing plan for the  
16 district, outside the development financing district. The proceeds may be used only for  
17 projects that enable, facilitate, or benefit private development within the development  
18 financing district, the revenue increment of which is pledged as security for the debt  
19 instruments. This subsection does not prohibit the use of proceeds to defray the cost of  
20 providing water and sewer utilities to a private development in a project development  
21 financing district.

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

32       Project development financing debt instruments may be issued partly for the purpose  
33 of refunding outstanding project development financing debt instruments and partly for  
34 any other purpose under this Article. Project development financing debt instruments  
35 issued to refund outstanding project development financing debt instruments shall be  
36 issued under this Article and not under Article 4 of this Chapter.

37       (c) If the private development project to be benefited by proposed project  
38 development financing debt instruments affects tax revenues in more than one unit of  
39 local government and more than one affected unit of local government wishes to  
40 provide assistance to the private development project by issuing project development  
41 financing debt instruments, then those units may enter into an interlocal agreement  
42 pursuant to Article 20 of Chapter 160A of the General Statutes for the purpose of  
43 issuing the instruments. The agreement may include a provision that a unit may pledge  
44 all or any part of the taxes received or to be received on the incremental valuation

1 accruing to the development financing district to the repayment of instruments issued by  
2 another unit that is a party to the interlocal agreement.

3 **"§ 159-104. Application to Commission for approval of project development**  
4 **financing debt instrument issue; preliminary conference; acceptance of**  
5 **application.**

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

16 Before accepting the application, the secretary may require the governing body or its  
17 representatives to attend a preliminary conference in order to discuss informally the  
18 proposed issue, district, and plan and the timing of the steps to be taken in issuing the  
19 debt instruments. The development financing plan need not be adopted by the governing  
20 body at the time it files the application with the secretary. However, before the  
21 Commission may enter its order approving the debt instruments, the governing body  
22 must adopt the plan and make the findings described in G.S. 159-105(b)(1) and (5).

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

27 **"§ 159-105. Approval of application by Commission.**

28 (a) In determining whether to approve a proposed project development financing  
29 debt instrument issue, the Commission may inquire into and consider any matters that it  
30 considers relevant to whether the issue should be approved, including:

- 31 (1) Whether the projects to be financed from the proceeds of the project  
32 development financing debt instrument issue are necessary to secure  
33 significant new project development for a development financing  
34 district.
- 35 (2) Whether the proposed projects are feasible. In making this  
36 determination, the Commission may consider any additional security  
37 such as credit enhancement, insurance, or guaranties.
- 38 (3) The unit of local government's debt management procedures and  
39 policies.
- 40 (4) Whether the unit is in default in any of its debt service obligations.
- 41 (5) Whether the private development forecast in the development  
42 financing plan would likely occur without the public project or  
43 projects to be financed by the project development financing debt  
44 instruments.

- 1           (6) Whether taxes on the incremental valuation accruing to the  
2           development financing district, together with any other revenues  
3           available under G.S. 159-110, will be sufficient to service the proposed  
4           project development financing debt instruments.
- 5           (7) The ability of the Commission to market the proposed project  
6           development financing debt instruments at reasonable rates of interest.
- 7       (b) The Commission shall approve the application if, upon the information and  
8 evidence it receives, it finds all of the following:
- 9           (1) The proposed project development financing debt instrument issue is  
10          necessary to secure significant new economic development for a  
11          development financing district.
- 12          (2) The amount of the proposed project development financing debt is  
13          adequate and not excessive for the proposed purpose of the issue.
- 14          (3) The proposed projects are feasible. In making this determination, the  
15          Commission may consider any additional security such as credit  
16          enhancement, insurance, or guaranties.
- 17          (4) The unit of local government's debt management procedures and  
18          policies are good, or that reasonable assurances have been given that  
19          its debt will henceforth be managed in strict compliance with law.
- 20          (5) The private development forecast in the development financing plan  
21          would not be likely to occur without the public projects to be financed  
22          by the project development financing debt instruments.
- 23          (6) The proposed project development financing debt instruments can be  
24          marketed at reasonable interest cost to the issuing unit.
- 25          (7) The issuing unit has, pursuant to G.S. 160A-515.1 or G.S. 158-7.3,  
26          adopted a development financing plan for the development financing  
27          district for which the instruments are to be issued.

28 **"§ 159-106. Order approving or denying the application.**

29       (a) After considering an application, the Commission shall enter its order either  
30 approving or denying the application. An order approving an issue is not an approval of  
31 the legality of the debt instruments in any respect.

32       (b) Unless the debt instruments are to be issued for a development financing  
33 district for which a project development financing debt instrument issue has already  
34 been approved, the day the Commission enters its order approving an application for  
35 project development financing debt instruments is also the effective date of the  
36 development financing district for which the instruments are to be issued.

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

39 **"§ 159-107. Determination of incremental valuation; use of taxes levied on**  
40 **incremental valuation; duration of the district.**

41       (a) Base Valuation in the Development Financing District. – After the Local  
42 Government Commission has entered its order approving a unit of local government's  
43 application for project development financing debt instruments, the unit shall  
44 immediately notify the tax assessor of the county in which the development financing

1 district is located of the existence of the development financing district. Upon receiving  
2 this notice, the tax assessor shall determine the base valuation of the district, which is  
3 the assessed value of all taxable property located in the district on the January 1  
4 immediately preceding the effective date of the district. If the unit or an agency of the  
5 unit acquired property within the district within one year before the effective date of the  
6 district, the tax assessor shall presume, subject to rebuttal, that the property was  
7 acquired in contemplation of the district, and the tax assessor shall include the value of  
8 the property so acquired in determining the base valuation of the district. The unit may  
9 rebut this presumption by showing that the property was acquired primarily for a  
10 purpose other than to reduce the incremental tax base. After determining the base  
11 valuation of the development financing district, the tax assessor shall certify the  
12 valuation to: (i) the issuing unit; (ii) the county in which the district is located if the  
13 issuing unit is not the county; and (iii) any special district, as defined in G.S. 159-7,  
14 within which the development financing district is located.

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

17 (1) If the unit amends its development financing plan, pursuant to G.S.  
18 160A-515.1 or G.S. 158-7.3, to remove property from the development  
19 financing district, on the succeeding January 1, that property shall be  
20 removed from the district and the base valuation reduced accordingly.

21 (2) If the unit amends its development financing plan, pursuant to G.S.  
22 160A-515.1 or G.S. 158-7.3, to expand the district, the new property  
23 shall be added to the district immediately. The base valuation of the  
24 district shall be increased by the assessed value of the taxable property  
25 situated in the added territory on the January 1 immediately preceding  
26 the effective date of the district.

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

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

38 (c) Revenue Increment Fund. – When a unit of local government has established  
39 a development financing district, and the project development financing debt  
40 instruments for that district have been approved by the Commission, the unit shall  
41 establish a separate fund to account for the proceeds paid to the unit from taxes levied  
42 on the incremental valuation of the district. The unit shall also place in this fund any  
43 moneys received pursuant to an agreement entered into under G.S. 159-108.

1        (d) Levy of Property Taxes Within the District. – Each year the development  
2 financing district is in existence, the tax assessor shall determine the current assessed  
3 value of taxable property located in the district. The assessor shall also compute the  
4 difference between this current value and the base valuation of the district. If the current  
5 value exceeds the base value, the difference is the incremental valuation of the district.  
6 In each year the district is in existence, the county, and if the district is within a city or a  
7 special district as defined by G.S. 159-7, the city or the special district shall levy taxes  
8 against property in the district in the same manner as taxes are levied against other  
9 property in the county, city, or special district. The proceeds from ad valorem taxes  
10 levied on property in the development financing district shall be distributed as follows:

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

15            (2) In any year in which there is an incremental valuation of the district,  
16 the amount of tax due from each taxpayer on property in the district  
17 shall be distributed as provided in this subdivision. The net proceeds of  
18 the following taxes shall be paid to the government levying the tax: (i)  
19 taxes separately stated and levied solely to service and repay debt  
20 secured by a pledge of the faith and credit of the unit; (ii) nonschool  
21 taxes levied pursuant to a vote of the people; (iii) taxes levied for a  
22 municipal or county service district; and (iv) taxes levied by a taxing  
23 unit in a development financing district established by a different  
24 taxing unit and for which there is no increment agreement between the  
25 two units. All remaining taxes on property in the district shall be  
26 multiplied by a fraction, the numerator of which is the base valuation  
27 for the district and the denominator of which is the current valuation  
28 for the district. The amount shown as the product of this multiplication  
29 shall, when paid by the taxpayer, be retained by the county, city, or  
30 special district, as if there were no development financing district in  
31 existence. The net proceeds of the remaining amount shall, when paid  
32 by the taxpayer, be turned over to the finance officer of each issuing  
33 unit, who shall place this amount in the special revenue increment fund  
34 required by subsection (c) of this section. As used in this section, 'net  
35 proceeds' means gross proceeds less refunds, releases, and any  
36 collection fee paid by the levying government to the collecting  
37 government.

38        (e) Increment Agreements. – Effect of Annexation on District Established by a  
39 County. – If a city annexes land in a development financing district established by a  
40 county pursuant to G.S. 158-7.3, the proceeds of all taxes levied by the city on property  
41 within the district shall be paid to the city unless the city enters into an agreement with  
42 the county pursuant to this subsection. The city and the county may enter into an  
43 increment agreement under which the city agrees that city taxes on part or all of the  
44 incremental valuation in the district shall be paid into the revenue increment fund for the

1 district. An increment agreement may be entered into when the district is established or  
2 at any time after the district is established. The increment agreement may extend for the  
3 duration of the district or for a shorter time agreed to by the parties.

4 (f) Use of Moneys in the Revenue Increment Fund. – If the development  
5 financing district includes property conveyed or leased by the unit of local government  
6 to a private party in consideration of increased tax revenue expected to be generated by  
7 improvements constructed on the property pursuant to G.S. 158-7.1, an amount equal to  
8 the tax revenue taken into account in arriving at the consideration, less the increased tax  
9 revenue realized since the construction of the improvement, shall be transferred from  
10 the Revenue Increment Fund to the county, city, or special district as if there were no  
11 development financing district in existence. Any money in excess of this amount in the  
12 Fund may be used for any of the following purposes, without priority other than  
13 priorities imposed by the order authorizing the project development financing debt  
14 instruments:

15 (1) To finance capital expenditures (including the funding of capital  
16 reserves) by the issuing unit in the development financing district  
17 pursuant to the development financing plan.

18 (2) To meet principal and interest requirements on project development  
19 financing debt instruments and debt instrument anticipation notes  
20 issued for the district.

21 (3) To repay the appropriate fund of the issuing unit for any moneys  
22 actually expended on debt service on project development financing  
23 debt instruments pursuant to a pledge made pursuant to G.S.  
24 159-111(b).

25 (4) To establish and maintain debt service reserves for future principal and  
26 interest requirements on project development financing debt  
27 instruments and debt instrument anticipation notes issued for the  
28 district.

29 (5) To meet any other requirements imposed by the order authorizing the  
30 project development financing debt instruments.

31 If in any year there is any money remaining in the Revenue Increment Fund after  
32 these purposes have been satisfied, it shall be paid to the general fund of the county and,  
33 if applicable, of the city and any special district as defined by G.S. 159-7, in proportion  
34 to their rates of ad valorem tax on taxable property located in the development financing  
35 district.

36 (g) Duration of District. – A development financing district shall terminate at the  
37 earlier of (i) the end of the thirtieth year after the effective date of the district or (ii) the  
38 date all project development financing debt instruments issued for the district have been  
39 fully retired or sufficient funds have been set aside, pursuant to the order authorizing the  
40 debt instruments, to meet all future principal and interest requirements on the  
41 instruments.

42 **"§ 159-108. Agreements with property owners.**

43 (a) Authorization. – A unit of local government that issues project development  
44 financing debt instruments may enter into agreements with the owners of real property



1 in the development financing district for which the instruments were issued under which  
2 the owners agree to a minimum value at which their property will be assessed for  
3 taxation. Such an agreement may extend for the life of the development financing  
4 district or for a shorter period agreed to by the parties. The agreement may vary the  
5 agreed-upon minimum assessed value from year to year.

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

14 (c) Minimum Assessment of Property. – An agreement entered into pursuant to  
15 this section establishes a minimum assessment of the real property subject to the  
16 agreement. If the county tax assessor determines that the real property has a true value  
17 less than the minimum established by the agreement, the assessor shall nevertheless  
18 assess the property at the minimum set out in the agreement. If the assessor, however,  
19 determines that the real property has a true value greater than the minimum established  
20 by the agreement, the assessor shall assess the property at the true value.

21 (d) Effect of Reappraisal. – If an agreement entered into pursuant to this section  
22 continues in effect after a reappraisal of property conducted pursuant to G.S. 105-286,  
23 the minimum assessment established in the agreement shall be adjusted as provided in  
24 this subsection. After the issuing unit of local government has adopted its budget  
25 ordinance and levied taxes for the fiscal year that begins next after the effective date of  
26 the reappraisal, it shall certify to the county tax assessor the total rate of ad valorem  
27 taxes levied by the unit and applicable to the property subject to the agreement. It shall  
28 also certify to the assessor the total rate of ad valorem taxes levied by the unit and  
29 applicable to the property in the immediately preceding fiscal year. The assessor shall  
30 determine the total amount of ad valorem taxes levied by the unit on the property in the  
31 immediately preceding fiscal year, based on the tax rate certified by the issuing unit.  
32 The assessor shall then determine a value of the property that would provide the same  
33 total amount of ad valorem taxes based on the tax rate certified for the fiscal year  
34 beginning next after the effective date of the reappraisal. The value so determined is the  
35 new minimum assessment for the property subject to the agreement.

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

43 **§ 159-109. Special covenants.**

1 A project development financing debt instrument order or a trust agreement securing  
2 project development financing debt instruments may contain covenants regarding:

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

29 **"§ 159-110. Security of project development financing debt instruments.**

30 Project development financing debt instruments are special obligations of the issuing  
31 unit. Moneys in the Revenue Increment Fund required by G.S. 159-107(c) are pledged  
32 to the payment of the instruments, in accordance with G.S. 159-107(f). Except as  
33 provided in G.S. 159-111, the unit may pledge the following additional sources of funds  
34 to the payment of the debt instruments, and no other sources: the proceeds from the sale  
35 of property in the development financing district; net revenues from any public  
36 facilities, other than portions of public utility systems, in the development financing  
37 district financed with the proceeds of the project development financing debt  
38 instruments; and, subject to G.S. 159-47, net revenues from any other public facilities,  
39 other than portions of public utility systems, in the development financing district  
40 constructed or improved pursuant to the development financing plan.

41 Except as provided in G.S. 159-111, the principal and interest on project  
42 development financing debt instruments do not constitute a legal or equitable pledge,  
43 charge, lien, or encumbrance upon any of the unit's property or upon any of its income,  
44 receipts, or revenues, except as may be provided pursuant to this section. Except as

1 provided in G.S. 159-107 and G.S. 159-111, neither the credit nor the taxing power of  
2 the unit is pledged for the payment of the principal or interest of project development  
3 financing debt instruments, and no holder of project development financing debt  
4 instruments has the right to compel the exercise of the taxing power by the unit or the  
5 forfeiture of any of its property in connection with any default on the instruments.  
6 Unless the unit's taxing power has been pledged pursuant to G.S. 159-111, every project  
7 development financing debt instrument shall contain recitals sufficient to show the  
8 limited nature of the security for the instrument's payment and that it is not secured by  
9 the full faith and credit of the unit.

10 **"§ 159-111. Additional security for project development financing debt**  
11 **instruments.**

12 (a) In order to provide additional security for debt instruments issued pursuant to  
13 this Article, the issuing unit of local government may pledge its faith and credit for the  
14 payment of the principal of and interest on the debt instruments. Before such a pledge  
15 may be given, the unit shall follow the procedures and meet the requirements for  
16 approval of general obligation bonds under Article 4 of this Chapter. The unit shall also  
17 follow the procedures and meet the requirements of this Article. If debt instruments are  
18 issued pursuant to this Article and are also secured by a pledge of the issuing unit's faith  
19 and credit, the debt instruments are subject to G.S. 159-112 rather than G.S. 159-65.

20 (b) In order to provide additional security for debt instruments issued pursuant to  
21 this Article, and in lieu of pledging its faith and credit for that purpose pursuant to  
22 subsection (a) of this section, a unit of local government may agree to apply to the  
23 payment of the instruments any available sources of revenues of the unit, as long as the  
24 agreement to use the sources to make payment does not constitute a pledge of the unit's  
25 taxing power or of the unit's revenues derived from local sales taxes. In addition, to the  
26 extent the generation of the revenues is within the power of the unit, the unit may enter  
27 into covenants to take action in order to generate the revenues, as long as the covenant  
28 does not constitute a pledge of the unit's taxing power.

29 (c) No agreement or covenant may contain a nonsubstitution clause that restricts  
30 the right of the issuing unit of local government to replace or provide a substitute for  
31 any project financed pursuant to this subsection.

32 (d) The obligation of a unit of local government with respect to the sources of  
33 payment shall be specifically identified in the proceedings of the governing body  
34 authorizing the unit to issue the debt instruments. The sources of payment so  
35 specifically identified and then held or thereafter received by the unit or any fiduciary of  
36 the unit are immediately subject to the lien of the proceedings without any physical  
37 delivery of the sources or further act. The lien is valid and binding as against all parties  
38 having claims of any kind against a unit without regard to whether the parties have  
39 notice of the lien. The proceedings or any other document or action by which the lien on  
40 a source of payment is created need not be filed or recorded in any manner other than as  
41 provided in this Article.

42 **"§ 159-112. Limitations on details of debt instruments.**

1        In fixing the details of project development financing debt instruments, the  
2 governing body of the issuing unit of local government is subject to these restrictions  
3 and directions:

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

24 **"§ 159-113. Annual report.**

25        In July of each year, each unit of local government with outstanding project  
26 development financing debt instruments shall make a report to any other unit, and to  
27 any special district as defined in G.S. 159-7, in which the development financing district  
28 for which the instruments were issued is located. This report shall set out the base  
29 valuation for the development financing district, the current valuation for the district,  
30 the amount of remaining project development financing debt for the district, and the  
31 unit's estimate of when the debt will be retired. The unit of local government may meet  
32 this requirement by reporting this information in its annual financial statements required  
33 by G.S. 159-34."

34        **SECTION 3.** G.S. 159-48(b) is amended by adding a new subdivision to  
35 read:

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

38        **SECTION 4.** G.S. 159-55(a) reads as rewritten:

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

- 42            (1) The gross debt of the unit, excluding therefrom debt incurred or to be  
43 incurred in anticipation of the collection of taxes or other revenues or  
44 in anticipation of the sale of bonds other than funding and refunding

1 bonds. The gross debt (after exclusions) is the sum of (i) outstanding  
2 debt evidenced by bonds, (ii) bonds authorized by orders introduced  
3 but not yet adopted, (iii) unissued bonds authorized by adopted orders,  
4 and (iv) outstanding debt not evidenced by bonds. However, for  
5 purposes of the sworn statement of debt and the debt limitation,  
6 revenue bonds and project development financing debt instruments  
7 (unless additionally secured by a pledge of the issuing unit's faith and  
8 credit) shall not be considered debt and ~~such bonds~~ shall not be  
9 included in gross debt nor deducted from gross debt.

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

- 12 a. Funding and refunding bonds authorized by orders introduced  
13 but not yet adopted.
- 14 b. Funding and refunding bonds authorized but not yet issued.
- 15 c. The amount of money held in sinking funds or otherwise for the  
16 payment of any part of the principal of gross debt other than  
17 debt incurred for water, gas, electric light or power purposes, or  
18 sanitary sewer purposes (to the extent that the bonds are  
19 deductible under subsection (b) of this section), or two or more  
20 of these purposes.
- 21 d. The amount of bonded debt included in gross debt and incurred,  
22 or to be incurred, for water, gas, or electric light or power  
23 purposes, or any two or more of these purposes.
- 24 e. The amount of bonded debt included in the gross debt and  
25 incurred, or to be incurred, for sanitary sewer system purposes  
26 to the extent that the debt is made deductible by subsection (b)  
27 of this section.
- 28 f. The amount of uncollected special assessments theretofore  
29 levied for local improvements for which any part of the gross  
30 debt (that is not otherwise deducted) was or is to be incurred, to  
31 the extent that the assessments will be applied, when collected,  
32 to the payment of any part of the gross debt.
- 33 g. The amount, as estimated by the governing board of the issuing  
34 unit or an officer designated by the board for this purpose, of  
35 special assessments to be levied for local improvements for  
36 which any part of the gross debt (that is not otherwise deducted)  
37 was or is to be incurred, to the extent that the special  
38 assessments, when collected, will be applied to the payment of  
39 any part of the gross debt.

40 (3) The net debt of the issuing unit, being the difference between the gross  
41 debt and deductions.

42 (4) The assessed value of property subject to taxation by the issuing unit,  
43 as revealed by the tax records and certified to the issuing unit by the  
44 assessor. In calculating the assessed value, the incremental valuation of

1            any development financing district located in the unit, as determined  
2            pursuant to G.S. 159-107, shall not be included.

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

5            **SECTION 5.** G.S. 159-79(a) reads as rewritten:

6            "(a)    Notwithstanding any provisions of this Chapter to the contrary, including  
7            particularly, but without limitation, the provisions of G.S. 159-65, G.S. 159-112, G.S.  
8            159-123 to G.S. 159-127, inclusive, G.S. 159-130, G.S. 159-138, G.S. 159-162, G.S.  
9            159-164 and G.S. 159-172, a unit of local government, in fixing the details of general  
10           obligation bonds to be issued pursuant to this ~~Article or~~ Article, general obligation notes  
11           to be issued pursuant to Article 9 of this Chapter, or project development financing debt  
12           instruments or notes to be issued pursuant to Article 6 of this Chapter, may provide that  
13           ~~such bonds or notes~~ the instruments or notes:

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

34           **SECTION 6.** G.S. 159-120 reads as rewritten:

35           **"§ 159-120. Definitions.**

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

41           **SECTION 7.** G.S. 159-122(a) reads as rewritten:

42           "(a)    Except as provided in this subsection, the last installment of each bond issue  
43           shall mature not later than the date of expiration of the period of usefulness of the  
44           capital project to be financed by the bond issue, computed from the date of the bonds.

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

16 **SECTION 8.** G.S. 159-123(b) reads as rewritten:

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

- 18 (1) Bonds that a State or federal agency has previously agreed to purchase.
- 19 (2) Any bonds for which no legal bid is received within the time allowed  
20 for submission of bids.
- 21 (3) Revenue bonds, including any refunding bonds issued pursuant to G.S.  
22 159-84, and special obligation bonds issued pursuant to Chapter 159I  
23 of the General Statutes.
- 24 (4) Refunding bonds issued pursuant to G.S. 159-78.
- 25 (5) Refunding bonds issued pursuant to G.S. 159-72 if the Local  
26 Government Commission determines that a private sale is in the best  
27 interest of the issuing unit.
- 28 (6) Bonds designated as qualified zone academy bonds pursuant to  
29 G.S. 115C-489.6, if the Local Government Commission determines  
30 that a private sale is in the best interest of the issuing unit.
- 31 (7) Project development financing debt instruments."

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

33 "(a) Except for revenue ~~bonds, bonds and project development financing debt~~  
34 instruments, no bid for less than ninety-eight percent (98%) of the face value of the  
35 bonds plus one 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 **SECTION 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~~ the secretary that the issuance of the bond or note has been  
43 approved under the provisions of The Local Government Bond Act of Acts, the Local  
44 Government Revenue Bond ~~Act~~ Act, or the North Carolina Project Development

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

9 **SECTION 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 debt  
22 instruments, the proceeds of project development financing debt instruments shall be  
23 remitted in the manner provided by this section for the remission of the proceeds of  
24 general obligation bonds."

25 **SECTION 12.** G.S. 159-160 reads as rewritten:

26 **"§ 159-160. Definitions.**

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

30 **SECTION 13.** G.S. 159-163.1 is reenacted and is rewritten to read:

31 **"§ 159-163.1. Security of project development financing debt instrument**  
32 **anticipation notes.**

33 Notes issued in anticipation of the sale of project development financing debt  
34 instruments are special obligations of the issuing unit. Except as provided in  
35 G.S. 159-107 and G.S. 159-110, neither the credit nor the taxing power of the issuing  
36 unit may be pledged for the payment of notes issued in anticipation of the sale of project  
37 development financing debt instruments. No holder of a project development financing  
38 debt instrument anticipation note has the right to compel the exercise of the taxing  
39 power by the issuing unit or the forfeiture of any of its property in connection with any  
40 default on the note. Notes issued in anticipation of the sale of project development  
41 financing debt instruments may be secured by the same pledges, charges, liens,  
42 covenants, and agreements made to secure the project development financing debt  
43 instruments. In addition, the proceeds of each project development financing debt  
44 instrument issue are pledged for the payment of any notes issued in anticipation of the



1 sale of the instruments, and these notes shall be retired from the proceeds of the sale as  
2 the first priority."

3 **SECTION 14.** G.S. 159-165(b) reads as rewritten:

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

16 **SECTION 15.** G.S. 159-176 reads as rewritten:

17 **"§ 159-176. Commission to aid defaulting units in developing refinancing plans.**

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

39 **SECTION 16.** G.S. 160A-505(a) reads as rewritten:

40 "(a) In lieu of creating a redevelopment commission as authorized herein, the  
41 governing body of any municipality may, if it deems wise, either designate a housing  
42 authority created under the provisions of Chapter 157 of the General Statutes to exercise  
43 the powers, duties, and responsibilities of a redevelopment commission as prescribed  
44 herein, or undertake to exercise such powers, duties, and responsibilities itself. Any

1 such designation shall be by passage of a resolution adopted in accordance with the  
2 procedure and pursuant to the findings specified in G.S. 160A-504(a) and (b). In the  
3 event a governing body designates itself to perform the powers, duties, and  
4 responsibilities of a redevelopment ~~commission~~, commission under this subsection, or  
5 exercises those powers, duties, and responsibilities pursuant to G.S. 153A-376 or  
6 G.S. 160A-456, then where any act or proceeding is required to be done, recommended,  
7 or approved both by a redevelopment commission and by the municipal governing  
8 body, then the performance, recommendation, or approval thereof once by the  
9 municipal governing body shall be sufficient to make such performance,  
10 recommendation, or approval valid and legal. In the event a municipal governing body  
11 designates itself to exercise the powers, duties, and responsibilities of a redevelopment  
12 commission, it may assign the administration of redevelopment policies, programs and  
13 plans to any existing or new department of the municipality."

14 **SECTION 17.** G.S. 160A-512(6) reads as rewritten:

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

1 insure or provide for the insurance of any real or personal property or  
2 operations of the commission against any risks or hazards, including  
3 the power to pay premiums on any such insurance; and to enter into  
4 any contracts necessary to effectuate the purposes of this Article;"

5 **SECTION 18.** G.S. 160A-515.1 is reenacted and is rewritten to read:

6 **"§ 160A-515.1. Project development financing.**

7 (a) Authorization. – A city may finance a redevelopment project and any related  
8 public improvements with the proceeds of project development financing debt  
9 instruments, issued pursuant to Article 6 of Chapter 159 of the General Statutes,  
10 together with any other revenues that are available to the city. Before it receives the  
11 approval of the Local Government Commission for issuance of project development  
12 financing debt instruments, the city's governing body must define a development  
13 financing district and adopt a development financing plan for the district. The city may  
14 act jointly with a county to finance a project, define a development financing district,  
15 and adopt a development financing plan for the district.

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

21 (c) Development Financing Plan. – The development financing plan must be  
22 compatible with the redevelopment plan or plans for the redevelopment area or areas  
23 included within the district. The development financing plan must include all of the  
24 following:

- 25 (1) A description of the boundaries of the development financing district.
- 26 (2) A description of the proposed development of the district, both public  
27 and private.
- 28 (3) The costs of the proposed public activities.
- 29 (4) The sources and amounts of funds to pay for the proposed public  
30 activities.
- 31 (5) The base valuation of the development financing district.
- 32 (6) The projected incremental valuation of the development financing  
33 district.
- 34 (7) The estimated duration of the development financing district.
- 35 (8) A description of how the proposed development of the district, both  
36 public and private, will benefit the residents and business owners of  
37 the district in terms of jobs, affordable housing, or services.
- 38 (9) A description of the appropriate ameliorative activities which will be  
39 undertaken if the proposed projects have a negative impact on  
40 residents or business owners of the district in terms of jobs, affordable  
41 housing, services, or displacement.
- 42 (10) A requirement that the initial users of any new manufacturing facilities  
43 that will be located in the district and that are included in the plan will  
44 comply with the wage requirements in subsection (d) of this section.

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

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

38       (f) Environmental Review. – Before adopting a plan for development financing  
39 districts, the city council shall submit the plan to the Secretary of Environment and  
40 Natural Resources to review to determine if the construction and operation of any new  
41 manufacturing facility in the district will have a materially adverse effect on the  
42 environment and whether the company that will operate the facility has operated in  
43 substantial compliance with federal and State laws, regulations, and rules for the  
44 protection of the environment. If the Secretary finds that the new manufacturing facility

1 will not have a materially adverse effect on the environment and that the company that  
2 will operate the facility has operated other facilities in compliance with environmental  
3 requirements, the Secretary shall approve the plan. In making the determination on  
4 environmental impact, the Secretary shall use the same criteria that apply to the  
5 determination under G.S. 159C-7 of whether an industrial project will have a materially  
6 adverse effect on the environment. The findings of the Secretary are conclusive and  
7 binding.

8 (g) Plan Adoption. – Before adopting a plan for a development financing district,  
9 the city council shall hold a public hearing on the plan. The council shall, no less than  
10 30 days before the day of hearing, cause notice of the hearing to be mailed by first-class  
11 mail to all property owners and mailing addresses within the proposed development  
12 financing district. The council shall also, no more than 30 days and no less than 14 days  
13 before the day of the hearing, cause notice of the hearing to be published once in a  
14 newspaper of general circulation in the city. The notice shall state the time and place of  
15 the hearing, shall specify its purpose, and shall state that a copy of the proposed plan is  
16 available for public inspection in the office of the city clerk. At the public hearing, the  
17 council shall hear anyone who wishes to speak with respect to the proposed district and  
18 proposed plan. Unless a board of county commissioners or the Secretary of  
19 Environment and Natural Resources has disapproved the plan pursuant to subsection (e)  
20 or (f) of this section, the council may adopt the plan, with or without amendment, at any  
21 time after the public hearing. However, the plan and the district do not become effective  
22 until the city's application to issue project development financing debt instruments has  
23 been approved by the Local Government Commission, pursuant to Article 6 of Chapter  
24 159 of the General Statutes.

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

36 (i) Plan Implementation. – In implementing a development financing plan, a city  
37 may act directly, through a redevelopment commission, through one or more contracts  
38 with private agencies, or by any combination of these."

39 **SECTION 19.** G.S. 158-7.3 is reenacted and rewritten to read:

40 **"§ 158-7.3. Development financing.**

41 (a) Definitions. – The following definitions apply in this section:

42 (1) Development project. – A capital project that includes capital  
43 expenditures by both private persons and one or more units of local  
44 government and that increases net employment opportunities for

1 residents of the development district or within a two-mile radius of the  
2 project, whichever is larger, and increases the local government tax  
3 base.

4 If the district in which such a project will occur is outside a city's  
5 central business district (as that district is defined by resolution of the  
6 city council, which definition is binding and conclusive), then, of the  
7 private development forecast for a development project by the  
8 development financing plan for the district in which the project will  
9 occur, a maximum of twenty percent (20%) of the plan's estimated  
10 square footage of floor space may be proposed for use in retail sales,  
11 hotels, banking, and financial services offered directly to consumers,  
12 and other commercial uses other than office space.

13 (2) Publish. – Insertion in a newspaper qualified under G.S. 1-597 to  
14 publish legal advertisements in the county or counties in which the unit  
15 is located.

16 (3) Unit or unit of local government. – A county, city, town, or  
17 incorporated village.

18 (b) Authorization. – A unit of local government may finance public  
19 improvements that are part of a development project with the proceeds of project  
20 development financing debt instruments, issued pursuant to Article 6 of Chapter 159 of  
21 the General Statutes, together with any other revenues that are available to the unit.  
22 Before it receives the approval of the Local Government Commission for issuance of  
23 project development financing debt instruments, the unit's governing body must define a  
24 development financing district and adopt a development financing plan for the district.  
25 The county may act jointly with a city to finance a project, define a development  
26 financing district that is within the city, and adopt a development financing plan for the  
27 district.

28 (c) Development Financing District. – A development financing district created  
29 pursuant to this section must be comprised of property that is one or more of the  
30 following:

31 (1) Blighted, deteriorated, deteriorating, undeveloped, or inappropriately  
32 developed from the standpoint of sound community development and  
33 growth.

34 (2) Appropriate for rehabilitation or conservation activities.

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

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

41 (d) Development Financing Plan. – The development financing plan must include  
42 all of the following:

43 (1) A description of the boundaries of the development financing district.

- 1           (2)    A description of the proposed development of the district, both public  
2           and private.
- 3           (3)    The costs of the proposed public activities.
- 4           (4)    The sources and amounts of funds to pay for the proposed public  
5           activities.
- 6           (5)    The base valuation of the development financing district.
- 7           (6)    The projected incremental valuation of the development financing  
8           district.
- 9           (7)    The estimated duration of the development financing district.
- 10          (8)    A description of how the proposed development of the district, both  
11          public and private, will benefit the residents and business owners of  
12          the district in terms of jobs, affordable housing, or services.
- 13          (9)    A description of the appropriate ameliorative activities which will be  
14          undertaken if the proposed projects have a negative impact on  
15          residents or business owners of the district in terms of jobs, affordable  
16          housing, services, or displacement.
- 17          (10) A requirement that the initial users of any new manufacturing facilities  
18          that will be located in the district and that are included in the plan will  
19          comply with the wage requirements referred to in subsection (e) of this  
20          section.

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

1 under Article 6 of Chapter 159 of the General Statutes. All findings and determinations  
2 made by the Secretary of Commerce under this subsection shall be binding and  
3 conclusive. For purposes of this section, the term 'manufacturing facility' means any  
4 facility that is used in the manufacturing or production of tangible personal property,  
5 including the processing resulting in a change in the condition of the property.

6 (f) County Review. – If the unit creating a development financing district and  
7 adopting a development financing plan is a city, town, or incorporated village, before  
8 adopting the plan the unit's governing body shall send notice of the plan, by first-class  
9 mail, to the board of county commissioners of the county or counties in which the  
10 development financing district is located. The person mailing the notice shall certify  
11 that fact, and the date thereof, to the governing body, and the certificate is conclusive in  
12 the absence of fraud. Unless the board of county commissioners (or either board, if the  
13 district is in two counties) by resolution disapproves the proposed plan within 28 days  
14 after the date the notice is mailed, the governing body may proceed to adopt the plan.

15 (g) Environmental Review. – Before adopting a plan for development financing  
16 districts, the issuing unit's governing body shall submit the plan to the Secretary of  
17 Environment and Natural Resources to review to determine if the construction and  
18 operation of any new manufacturing facility in the district will have a materially adverse  
19 effect on the environment and whether the company that will operate the facility has  
20 operated in substantial compliance with federal and State laws, regulations, and rules for  
21 the protection of the environment. If the Secretary finds that the new manufacturing  
22 facility will not have a materially adverse effect on the environment and that the  
23 company that will operate the facility has operated other facilities in compliance with  
24 environmental requirements, the Secretary shall approve the plan. In making the  
25 determination on environmental impact, the Secretary shall use the same criteria that  
26 apply to the determination under G.S. 159C-7 of whether an industrial project will have  
27 a materially adverse effect on the environment. The findings of the Secretary are  
28 conclusive and binding.

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



1 issue project development financing debt instruments has been approved by the Local  
2 Government Commission, pursuant to Article 6 of Chapter 159 of the General Statutes.

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

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

17 **SECTION 20.** G.S. 105-284 is amended by adding a new subsection to read:

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

21 **SECTION 21.** G.S. 105-277.11 is reenacted and rewritten to read:

22 "**§ 105-277.11. Taxation of property subject to a development financing district**  
23 **agreement.**

24 Property that is in a development financing district established pursuant to  
25 G.S. 160A-515.1 or G.S. 158-7.3 and that is subject to an agreement entered into  
26 pursuant to G.S. 159-108, shall, pursuant to Article V, Section 14 of the North Carolina  
27 Constitution, be assessed for taxation at the greater of its true value or the minimum  
28 value established in the agreement."

29 **SECTION 22.** Liberal Construction. This act, being necessary for the  
30 prosperity and welfare of the State and its inhabitants, shall be liberally construed to  
31 effect these purposes.

32 **SECTION 23.** Severability. If any clause or other portion of this act is held  
33 invalid, that decision shall not affect the validity of the remaining portions of this act,  
34 which are severable.

35 **SECTION 24.** The amendment set out in Section 1 of this act shall be  
36 submitted to the qualified voters of the State at the statewide general election in  
37 November 2004, which election shall be conducted under the laws then governing  
38 elections in the State. Ballots, voting systems, or both may be used in accordance with  
39 Chapter 163 of the General Statutes. The question to be used in the voting systems and  
40 ballots shall be:

41  FOR  AGAINST

42 Constitutional amendment to promote local economic and community  
43 development projects by (i) permitting the General Assembly to enact general laws  
44 giving counties, cities, and towns the power to finance public improvements associated

1 with qualified private economic and community improvements within development  
2 districts, as long as the financing is secured by the additional tax revenues resulting  
3 from the enhanced property value within the development district and is not secured by  
4 a pledge of the local government's faith and credit or general taxing authority, which  
5 financing is not subject to a referendum; and (ii) permitting the owners of property in  
6 the development district to agree to a minimum tax value for their property, which is  
7 binding on future owners as long as the development district is in existence."

8         **SECTION 25.** If a majority of votes cast on the question are in favor of the  
9 amendment set out in Section 1 of this act, the State Board of Elections shall certify the  
10 amendment to the Secretary of State. The amendment set out in Section 1 of this act and  
11 the amendments set out in Sections 2 through 21 of this act become effective upon this  
12 certification. The Secretary of State shall enroll the amendment so certified among the  
13 permanent records of that office. If a majority of votes cast on the question are not in  
14 favor of the amendment set out in Section 1 of this act, that amendment and the  
15 amendments set out in Sections 2 through 21 of this act do not go into effect.

16         **SECTION 26.** This act is effective when it becomes law.