

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2007

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SENATE DRS75353-RU-6 (03/13)

Short Title: Tobacco Dependent Community Trust Fund. (Public)

Sponsors: Senator Jenkins.

Referred to:

A BILL TO BE ENTITLED

AN ACT TO DISSOLVE AND REPEAL THE CHARTER OF GOLDEN LEAF, INC.,
AND TO DIRECT UNENCUMBERED ASSETS AND FUNDS OF GOLDEN
LEAF, INC., TO THE TOBACCO DEPENDENT COMMUNITY TRUST FUND.

The General Assembly of North Carolina enacts:

SECTION 1.(a) Pursuant to Section 3 of S.L. 1999-2 and Section 1 of Article VIII of the North Carolina Constitution, the General Assembly hereby dissolves and repeals the charter of the nonprofit corporation, The Golden L.E.A.F. (Long-Term Economic Advancement Foundation), Inc., created pursuant to S.L. 1999-2 and the Consent Decree and Final Judgment entered on December 21, 1998, in the action of State of North Carolina v. Philip Morris Incorporated, et al., 98 CVS 14377. Pursuant to G.S. 143-16.4 and Section 3(5) of S.L. 1999-2, all unencumbered assets and funds of the nonprofit corporation, including the right to receive future funds pursuant to Section 2 of S.L. 1999-2, are transferred to the Settlement Reserve Fund.

SECTION 1.(b) The Attorney General shall take all necessary actions to notify the court in the action entitled State of North Carolina v. Philip Morris Incorporated, et al., 98 CVS 14377, in the General Court of Justice, Superior Court Division, Wake County, North Carolina, and the administrators of the State Specific Account established under the Master Settlement Agreement, of this action by the General Assembly redirecting these payments.

SECTION 2. Section 6 of S.L. 1999-2 reads as rewritten:

"Section 6. It is the intent of the General Assembly that the funds under the Master Settlement Agreement, which is incorporated into the Consent Decree, be allocated as follows:

- (1) Fifty percent (50%) to ~~the nonprofit corporation as provided by the Consent Decree.~~ a trust fund to be established by the General

1 Assembly for the benefit of tobacco dependent communities to be
2 governed by a board of trustees representing these interests.

3 (2) Twenty-five percent (25%) to a trust fund to be established by the
4 General Assembly for the benefit of tobacco producers, tobacco
5 allotment holders, and persons engaged in tobacco-related businesses,
6 with this trust fund to be governed by a board of trustees representing
7 these interests. To carry out this purpose, this trust fund may provide
8 direct and indirect financial assistance, in accordance with criteria
9 established by the trustees of the trust fund and to the extent allowed
10 by law, to (i) indemnify tobacco producers, allotment holders, and
11 persons engaged in tobacco-related businesses from the adverse
12 economic effects of the Master Settlement Agreement, (ii) compensate
13 tobacco producers and allotment holders for the economic loss
14 resulting from lost quota, and (iii) revitalize tobacco dependent
15 communities.

16 (3) Twenty-five percent (25%) to a trust fund to be established by the
17 General Assembly for the benefit of health, with this trust fund to be
18 governed by a board of trustees comprised of a broad representation of
19 health interests. to the Settlement Reserve Fund established pursuant to
20 G.S. 143-16.4 to be used for General Fund expenditures."

21 **SECTION 3.** G.S. 143-16.4 reads as rewritten:

22 **"§ 143-16.4. Settlement Reserve Fund.**

23 (a) The "Settlement Reserve Fund" is established as a restricted reserve in the
24 General Fund. Except as otherwise provided in this section, funds shall be expended
25 from the Settlement Reserve Fund only by specific appropriation by the General
26 Assembly.

27 (a1) A Health Trust Account is established in the Settlement Reserve Fund. The
28 portion of each Master Settlement Agreement payment identified in Section 6(3) of S.L.
29 1999-2 shall be credited to the Health Trust Account. The State Controller shall transfer
30 all funds in the Health Trust Account to the Health and Wellness Trust Fund created in
31 Article 6C of Chapter 147 of the General Statutes.

32 (a2) A Tobacco Trust Account is established in the Settlement Reserve Fund. The
33 portion of each Master Settlement Agreement payment identified in Section 6(2) of S.L.
34 1999-2 shall be credited to the Tobacco Trust Account. The State Controller shall
35 transfer all funds in the Tobacco Trust Account to the Tobacco Trust Fund created in
36 Article 75 of Chapter 143 of the General Statutes.

37 (a3) A Tobacco Dependent Community Trust Account is established in the
38 Settlement Reserve Fund. The unencumbered assets and funds transferred pursuant to
39 the dissolution and repeal of The Golden L.E.A.F. (Long-Term Economic Advancement
40 Foundation), Inc., and the portion of each Master Settlement Agreement payment
41 identified in Section 6(1) of S.L. 1999-2 shall be credited to the Tobacco Dependent
42 Community Trust Account. The State Controller shall transfer all funds in the Tobacco
43 Community Dependent Trust Account to the Tobacco Dependent Community Trust
44 Fund created in Article 79 of Chapter 143 of the General Statutes.

1 (b) Unless prohibited by federal law, federal funds provided to the State by block
2 grant or otherwise as part of federal legislation implementing a settlement between
3 United States tobacco companies and the states shall be credited to the Settlement
4 Reserve Fund. Unless otherwise encumbered or distributed under a settlement
5 agreement or final order or judgment of the court, funds paid to the State or a State
6 agency pursuant to a tobacco litigation settlement agreement, or a final order or
7 judgment of a court in litigation between tobacco companies and the states, shall be
8 credited to the Settlement Reserve Fund."

9 **SECTION 4.** Chapter 143 of the General Statutes is amended by adding a
10 new Article to read:

11 "Article 79.

12 "Tobacco Dependent Community Trust Fund.

13 **"§ 143-740. Policy; purpose.**

14 The General Assembly finds that in order to promote the social welfare and lessen
15 the burden of government, the State should receive and distribute funds from the Master
16 Settlement Agreement to provide impact assistance to economically affected or
17 tobacco-dependent regions of the State, including education assistance, job training and
18 employment assistance, scientific research, economic hardship assistance, public works
19 and industrial recruitment, health and human services, and community assistance.

20 **"§ 143-741. Definitions.**

21 The following definitions apply in this Article:

- 22 (1) Commission. – The Tobacco Dependent Community Trust Fund
23 Commission.
24 (2) Fund. – The Tobacco Dependent Community Trust Fund.
25 (3) Master Settlement Agreement. – The settlement agreement between
26 certain tobacco manufacturers and the states, as incorporated in the
27 consent decree entered in the action of State of North Carolina v.
28 Philip Morris, Incorporated, et al., 98 CVS 14377, in the General
29 Court of Justice, Superior Court Division, Wake County, North
30 Carolina.

31 **"§ 143-742. Commission.**

32 (a) Creation. – The Tobacco Dependent Community Trust Fund Commission is
33 created. All administrative expenses of the Commission shall be paid from the Fund.

34 (b) Membership. – The Commission shall consist of the board of directors of the
35 Rural Economic Development Center, Inc.

36 (c) Officers. – The Commission shall elect from its membership a chair,
37 vice-chair, and other officers as necessary for two-year terms beginning July 1 at the
38 first meeting of the Commission held on or after July 1 of every even-numbered year.
39 The vice-chair may act for the chair in the absence of the chair as authorized by the
40 Commission.

41 (d) Frequency of Meetings. – The Commission shall meet at least quarterly each
42 year and may hold special meetings at the call of the chair or of a majority of members.
43 The Governor shall call the initial meeting of the Commission.

1 (e) Quorum; Majority. – A quorum of the board of directors of the North
2 Carolina Rural Economic Development Center, Inc., shall constitute a quorum of the
3 Commission. The Commission may act upon a majority vote of the members of the
4 Commission on matters involving the disbursement of funds and personnel matters
5 properly before the Commission. On all other matters, the Commission may act by
6 majority vote of the members of the Commission at a meeting at which a quorum is
7 present.

8 (f) Per Diem and Expenses. – The members of the Commission shall receive per
9 diem and necessary travel and subsistence expenses in accordance with the provisions
10 of G.S. 138-5. Per diem, subsistence, and travel expenses of the members shall be paid
11 from the Fund.

12 (g) Limit on Operating and Administrative Expenses. – No more than two and
13 one-half percent (2 ½%) of the annual receipts of the Fund for the fiscal year beginning
14 July 1 or a total sum of one million dollars (\$1,000,000), whichever is less, may be used
15 each fiscal year for administrative and operating expenses of the Commission and its
16 staff. All administrative expenses of the Commission shall be paid from the Fund.

17 **§ 143-743. Powers and duties.**

18 The Commission shall have the following powers and duties to do all of the
19 following:

- 20 (1) Educational assistance. – Provide funds for educational programs for
21 tobacco farmers and other workers impacted or projected to be
22 impacted by a decline in demand for, or production of, tobacco or
23 tobacco products.
- 24 (2) Job training and employment assistance. – Provide loans and grants, to
25 be used for job training and other employment-related programs, to
26 organizations assisting tobacco farmers and other workers dependent
27 on tobacco farming, production, and sales to transition to other sources
28 of income.
- 29 (3) Scientific research. – Provide funds for scientific research to develop
30 new uses for tobacco or for the development of alternative cash crops.
- 31 (4) Economic hardship assistance. – Provide direct grants, loans, and other
32 assistance programs to alleviate economic hardship, poverty, or need
33 experienced by tobacco farmers, quota owners, their families, and
34 others as a result of decline in quota or production of tobacco or
35 tobacco products.
- 36 (5) Public works and industrial recruitment. – Provide grants and loans to
37 local governments for upgrading utilities, transportation, and other
38 public service infrastructure to attract new businesses or for more
39 general economic development purposes.
- 40 (6) Health and human services. – Provide funds for improved health care
41 and other social services needed to maintain the stability of
42 tobacco-dependent communities.

- 1 (8) Community assistance. – Provide direct grants and loans to
2 economically depressed and deteriorating tobacco-dependent
3 communities, to be used exclusively for public purposes.
4 (9) Make provisions for an efficient mechanism to monitor the activities
5 of those persons receiving grants, loans, or other assistance from the
6 Fund, to assure that the funds are in fact being used for the purposes
7 intended by the Fund.
8 (10) Hire staff for the administration of the Fund.
9 (11) Contract with other persons to assist in the administration of the
10 Commission's programs, including the Rural Economic Development
11 Center, Inc.
12 (12) Accept gifts or grants from other sources.
13 (13) Adopt rules to implement this Article.
14 (14) Serve as trustee of the Fund and administer the Fund in accordance
15 with the provisions of this Article.

16 **"§ 143-744. Tobacco Dependent Community Trust Fund; creation; investment;**
17 **priority use.**

18 (a) Fund Established. – The Tobacco Dependent Community Trust Fund is
19 established in the Office of the State Treasurer. The Fund shall be used for the purposes
20 provided in this Article.

21 (b) Fund Earnings, Assets, and Balances. – The State Treasurer shall hold the
22 Fund separate and apart from all other moneys, funds, and accounts. The State Treasurer
23 is the custodian of the Fund and shall invest the assets in accordance with G.S. 147-69.2
24 and G.S. 147-69.3. Investment earnings credited to the Fund become part of the Fund.
25 Any balance remaining in the Fund at the end of any fiscal year is carried forward in the
26 Fund for the next succeeding fiscal year. Payments from the Fund shall be made on the
27 warrant of the chair of the Commission, pursuant to the directives of the Commission.

28 **"§ 143-745. Reporting.**

29 (a) The chair of the Commission shall report each year by November 1 to the
30 Joint Legislative Commission on Governmental Operations and the chairs of the House
31 and Senate Appropriations Committees regarding the implementation of this Article,
32 including a report on funds disbursed during the fiscal year by amount, purpose, and
33 category of recipient, and other information as requested by the Joint Legislative
34 Commission on Governmental Operations. A written copy of the report shall also be
35 sent to the Legislative Library by November 1 each year.

36 (b) Any non-State entity, as that term is defined in G.S. 143C-1-1, that receives,
37 uses, or expends any funds from the Commission is subject to the applicable reporting
38 requirements of G.S. 143C-6-23.

39 **"§ 143-746. Open meetings; public records; audit.**

40 The Open Meetings Law (Article 33 of Chapter 143 of the General Statutes) and the
41 Public Records Act (Chapter 132 of the General Statutes) shall apply to the Fund and
42 the Commission, and the Fund and the Commission shall be subject to audit by the State
43 Auditor as provided by law. The Commission shall reimburse the State Auditor for the
44 actual cost of the audit.

- 1 **"§§ 143-747 through 143-749: Reserved for future codification purposes.**
2 **SECTION 4.** This act becomes effective July 1, 2007.