GENERAL ASSEMBLY OF NORTH CAROLINA SESSION 2015

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Short Title:

HOUSE BILL 108 Committee Substitute Favorable 3/18/15 Third Edition Engrossed 4/15/15

Site and Building Development Fund.

	Sponsors	:	
	Referred	to:	
			February 27, 2015
1			A BILL TO BE ENTITLED
2 3			REATE A FUND TO PROVIDE LOANS TO LOCAL GOVERNMENT THE DEVELOPMENT OF SITES AND BUILDINGS.
4	The Gene	eral Asse	embly of North Carolina enacts:
5			TON 1. Article 10 of Chapter 143B of the General Statutes is amended by
6	adding a		tion to read:
7	-		. Site and Building Development Fund.
8	(a)		tions. – The following definitions apply in this section:
9		<u>(1)</u>	<u>Code. – Defined in G.S. 105-228.90.</u>
10		(2)	Department. – The Department of Commerce.
11		(3)	Development plan. – A strategic analysis of potential qualified business
12			facilities required by this section to be maintained by the Department and
13			updated every four years.
14		<u>(4)</u>	Fund. – The Site and Building Development Fund established by subsection
15			(b) of this section.
16		<u>(5)</u>	Local government. – Any of the following:
17			<u>a.</u> <u>A city as defined in G.S. 160A-1.</u>
18			<u>b.</u> <u>A county.</u>
19			<u>c.</u> <u>A consolidated city-county as defined in G.S. 160B-2.</u>
20		<u>(6)</u>	Local government unit. – The term includes a local government, a nonprofit
21			economic development corporation, and any combination of local
22			governments or nonprofit economic development corporations.
23		<u>(7)</u>	Long-term lease. – A lease agreement with a maximum duration exceeding
24			three years, including any extensions allowed by the lease agreement.
25		<u>(8)</u>	Nonprofit economic development corporation. – A corporation meeting all
26			of the following requirements:
27			a. Exempt from income tax under section 501(c)(3) or 501(c)(6) of the
28			<u>Code.</u>
29			b. Established to assist one or more local governments in reducing the
30			burden of economic development efforts.
31			c. <u>Acknowledged through a resolution of one or more local</u>
32			governments that contains all of the following:
33			<u>1.</u> <u>Statement that the corporation is acting in support of the local</u>
34			government in economic development efforts.



3

(Public)

General Assemb	oly Of North Carolina	Session 2015
	2. Nonbinding pledge to repa	y the Fund if the corporation fails
	to make any required loan r	
<u>(9)</u>	Qualified business facilities. – Real proper	•
	and planned improvements to real proper	• • • • • • •
	include the following:	<u> </u>
	<u>a.</u> <u>New buildings, renovations to build</u>	dings and unfitting buildings
	b. Water lines, sewer lines, and other	
		• •
	<u>d.</u> <u>Measures necessary for permitting,</u> <u>e.</u> <u>Any other measures necessary for</u>	
	immediate use in commercial	operations, including necessary
(10)	services.	
(10)	Sale. – Any transfer of ownership, includin	
	Established. – The Site and Building De	-
	e in the Department. The Fund does not re	evert but remains available to the
-	he purposes of this section.	
	f the Fund. – The Department must use the H	• • •
<u>(1)</u>	Loans to local government units for the	
	qualified business facilities in accordance	
<u>(2)</u>	Expenses directly related to the operation	
	loans from the Fund, including the cost of	the development plan required by
	this section.	
(d) Appli	cation The Department must require a lo	ocal government unit to submit an
application in or	der for a project to be considered for a loa	n from the Fund. The Department
must prescribe th	ne form of the application, the application	process, and the information to be
provided, includ	ing all information necessary to evaluate	the qualified business facility in
accordance with	this section.	-
(e) Select	tion. – The Department must administer th	he selection of qualified business
facilities to recei	ve loans from the Fund. The Department r	nust develop written guidelines to
	uate qualified business facilities. The Depa	
-	pplication approved for a loan from the Fu	
	tors in approving applications for loans from	
(1)	Consistency with the economic developm	
<u>, , , , , , , , , , , , , , , , , , , </u>	area where the qualified business facility v	
(2)	The Department must consider, but	
<u>_/</u>	recommendations in the development plan	
<u>(3)</u>	Preference for qualified business facilities	
<u>(5)</u>	areas of the State.	Tocated in Turar or less developed
(A)		if the qualified business facilities
<u>(4)</u>	Evaluation of the application to determine	-
(5)	are merited and appropriate for the propose	
<u>(5)</u>	Necessity of a loan from the Fund for	the completion of the qualified
	business facility.	
	lopment Plan. – The Department must obta	
•	ss facilities and an update to the analysis e	• • •
must contract w	ith another entity with demonstrated experi	
	avaluating sites for business requitment my	TDOSAS
businesses and in	evaluating sites for business recruitment pu	
businesses and in (g) Awar	ds. – If the Department approves an app	plication for a qualified business
businesses and in (g) <u>Aware</u> facility, the Depa	ds. – If the Department approves an approximation approximation approximation approximation of the determine the amount of the	blication for a qualified business loan from the Fund, the preferred
businesses and in (g) <u>Aware</u> facility, the Depa	ds. – If the Department approves an app	blication for a qualified business loan from the Fund, the preferred
businesses and in(g)Awarefacility, the Departmentform and details	ds. – If the Department approves an approximation approximation approximation approximation of the approximation of the second s	blication for a qualified business loan from the Fund, the preferred to protect the State's investment.

	General A	Asseml	bly Of North Carolina	Session 2015
1	classificat	ion as	signed to counties by G.S. 143B-437.08, is thirty per	cent (30%) of the
2			en the cumulative total appropriations into the Fund and to	
3	the Fund.		en tile culturative total appropriations into tile i and and to	<u>ui expenses puid o j</u>
4	<u>(h)</u>	Loan	Terms. – Loans from the Fund must meet the following rec	wirements.
5	<u>(11)</u>	$\frac{10000}{(1)}$	The loan must be evidenced by a promissory note and see	=
		<u>(1)</u>	of trust on the qualified business facility.	<u>uleu by a filst deeu</u>
6 7		(2)	The maximum duration of a loan is 15 years.	
		$\frac{(2)}{(2)}$		analified business
8		<u>(3)</u>	The loan is due upon the sale or long-term lease of the	•
9			facility. Principal and accrued interest must be paid whe	n the loan is due or
10			more frequently.	
11		<u>(4)</u>	The interest rate of a loan is zero percent (0%) for tie	
12			percent (1%) for tier two counties, and two percent	
13			counties, based on the classification assigned	to counties by
14			<u>G.S. 143B-437.08.</u>	
15		<u>(5)</u>	The loan agreement must require the local government	unit to obtain from
16			any entity leasing or purchasing the qualified business fac	cility the following:
17			a. An agreement that the entity will not use the	qualified business
18			facility for retail, professional office, sporting	event, museum, or
19			governmental purposes for at least five years	after the lease or
20			purchase.	
21			b. A legal opinion based on a search of public rec	ords that the entity
22			leasing or purchasing the qualified business fa	cility has no debts
23			related to unpaid taxes.	•
24	(i)	Multi	ple Loans. – One or more financial institutions may hold a	security interest on
25	<u></u>		iness facility with a priority equal to the security interest f	
26	-		a written intercreditor agreement between the Departme	
27			s that provides that, in the event of default, any loss is	.
28			ortion to the amount loaned.	
29	(j)		ents. – The Department is responsible for monitor	ing the loan and
30			e repayment. The Department must remit all amounts paid	-
31	the Fund.			
32	(k)	Relea	se. – The Department at its discretion may release property	from the first deed
33			ate security remains for the outstanding balance of the loan	
34			use this authority to release property to restructure the te	
35	-	•	ancing transactions involving the qualified business facility	
36	(l)		ation. – Nothing in this section constitutes or authorized	
37	<u> </u>		the State of any debt of any business or authorizes the taxin	-
38	-		of the State to be pledged.	ig power of the full
39	(m)		e of Guidelines. – At least 20 days before the effective dat	a of any guidalinas
40			nust publish the proposed guidelines on the Department's V	
40			s who have requested notice. In addition, the Department	
41		-		÷
			e proposed guidelines during the 15 business days beginn	
43	-		has completed the notice requirement of this subsection.	
44	•		rect spelling, grammatical, or typographical errors do not re	·
45	<u>(n)</u>		rts. – On September 1 of each year until the Fund	
46			t submit a written report on the Fund to the Joint Legislat	
47			Deperations and publish this report on its Web site. This	<u>s report must at a</u>
48	minimum		n the following:	
49		(1)	Listing of each outstanding loan, including the date of lo	an, amount of loan,
		<u> </u>		
50 51		<u></u>	outstanding amount of loan, interest rate, maturity date, business facility acting as security, brief property desc	ocation of qualified

General Assembly Of North Carolina Session	n 2015
local government unit receiving the loan, status of repayment, current	use of
the qualified business facility, and identification of loans made since t	the last
report.	
(2) Written findings addressing any application approved for a loan from	om the
Fund since the last report, as required by subsection (e) of this section.	
(3) Detailed information about any defaults and repayment since the last re	eport.
(4) Information contained in the report required by G.S. 105-277.15A(g)."	'
SECTION 2. G.S. 150B-1(d) is amended by adding a new subdivision to rea	d:
"(d) Exemptions from Rule Making. – Article 2A of this Chapter does not apply	to the
following:	
(21) The Department of Commerce in developing criteria and guidelines	under
<u>G.S. 143B-437.021.</u>	
" ••••	
SECTION 3. The provisions of this act are not subject to the ter	ms of
G.S. 160A-20.	
SECTION 4. This act does not obligate the General Assembly to appropriate	e funds
to implement it.	
SECTION 5. This act is effective when it becomes law.	