

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2015

FILED SENATE
Feb 5, 2015
S.B. 42
PRINCIPAL CLERK

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SENATE DRS35012-MC-36A (01/28)

Short Title: Datacenter Infrastructure Act. (Public)

Sponsors: Senators Gunn, Barefoot, and Clark (Primary Sponsors).

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT TO ENACT THE DATACENTER INFRASTRUCTURE ACT.
3 The General Assembly of North Carolina enacts:

4 SECTION 1. G.S. 105-164.3 reads as rewritten:
5 "§ 105-164.3. Definitions.

6 The following definitions apply in this Article:

7 ...

8 (33) Qualifying datacenter. – A datacenter that satisfies each of the following
9 conditions:

10 a. The datacenter meets the wage standard and health insurance
11 requirements of G.S. 143B-437.08A.

12 b. The Secretary of Commerce has made a written determination that
13 cumulatively at least seventy-five million dollars (\$75,000,000) in
14 private funds has been or will be invested by one or more owners,
15 users, or tenants of the datacenter within five years of the date the
16 owner, user, or tenant of the datacenter makes its first real or tangible
17 property investment in the datacenter on or after January 1, 2012.
18 Investments in real or tangible property in the datacenter made prior
19 to January 1, 2012, may not be included in the investment required
20 by this subdivision.

21 (33a) Purchase price. – The term has the same meaning as the term "sales price"
22 when applied to an item subject to use tax.

23 ~~(33a)~~(33b) Real property contractor. – A person that contracts to perform
24 construction, reconstruction, installation, repair, or any other service with
25 respect to real property and to furnish tangible personal property to be
26 installed or applied to real property in connection with the contract and the
27 labor to install or apply the tangible personal property that becomes part of
28 real property. The term includes a general contractor, a subcontractor, or a
29 builder for purposes of G.S. 105-164.4H.

30 ~~(33b)~~(33c) Related member. – Defined in G.S. 105-130.7A.

31 ~~(33e)~~(33d) Remote sale. – A sale of tangible personal property or digital property
32 ordered by mail, by telephone, via the Internet, or by another similar method,
33 to a purchaser who is in this State at the time the order is remitted, from a
34 retailer who receives the order in another state and delivers the property or
35 causes it to be delivered to a person in this State. It is presumed that a



1 resident of this State who remits an order was in this State at the time the
2 order was remitted.

3"

4 **SECTION 2.** G.S. 105-164.13 is amended by adding a new subdivision to read:

5 "(55a) Sales of electricity for use at a qualifying datacenter and datacenter-support
6 equipment to be located and used at the qualifying datacenter. As used in
7 this subdivision, "datacenter-support equipment" is property that is
8 capitalized for tax purposes under the Code and is used either:

- 9 a. For the provision of a service or function included in the business of
10 an owner, user, or tenant of the datacenter.
11 b. For the generation, transformation, transmission, distribution, or
12 management of electricity, including exterior substations, generators,
13 transformers, unit substations, uninterruptible power supply systems,
14 batteries, power distribution units, remote power panels, and other
15 capital equipment used for these purposes.
16 c. For HVAC and mechanical systems, including chillers, cooling
17 towers, air handlers, pumps, and other capital equipment used for
18 these purposes.
19 d. For hardware and software for distributed and mainframe computers
20 and servers, data storage devices, network connectivity equipment,
21 and peripheral components and equipment.
22 e. To provide related computer engineering or computer science
23 research.

24 If the level of investment required by G.S. 105-164.3(33) is not timely
25 made, the exemption provided under this subdivision is forfeited. If the level
26 of investment required by G.S. 105-164.3(33) is timely made but any
27 specific datacenter-support equipment is not located and used at the
28 qualifying datacenter, the exemption provided for such datacenter-support
29 equipment under this subdivision is forfeited. If the level of investment
30 required by G.S. 105-164.3(33) is timely made but any portion of electricity
31 is not used at the qualifying datacenter, the exemption provided for such
32 electricity under this subdivision is forfeited. A taxpayer that forfeits an
33 exemption under this subdivision is liable for all past taxes avoided as a
34 result of the forfeited exemption, computed from the date the taxes would
35 have been due if the exemption had not been allowed, plus interest at the rate
36 established under G.S. 105-241.21. If the forfeiture is triggered due to the
37 lack of a timely investment required by G.S. 105-164.3(33), interest is
38 computed from the date the taxes would have been due if the exemption had
39 not been allowed. For all other forfeitures, interest is computed from the
40 time as of which the datacenter-support equipment or electricity was put to a
41 disqualifying use. The past taxes and interest are due 30 days after the date
42 the exemption is forfeited. A taxpayer that fails to pay the past taxes and
43 interest by the due date is subject to the provisions of G.S. 105-236."

44 **SECTION 3.** This act becomes effective July 1, 2015, and applies to sales made on
45 or after that date.