

**GENERAL ASSEMBLY OF NORTH CAROLINA**  
**SESSION 2001**

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**SENATE BILL 1465**

Short Title: Project Development Financing. (Public)

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Sponsors: Senator Clodfelter.

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Referred to: Finance.

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June 18, 2002

A BILL TO BE ENTITLED  
AN ACT TO AMEND THE CONSTITUTION TO PERMIT CITIES AND COUNTIES  
TO ISSUE DEBT INSTRUMENTS TO FINANCE THE PUBLIC PORTION OF  
DEVELOPMENT PROJECTS.

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

Whereas, over 40 other states and local governments in other states are authorized to utilize a wide variety of incentives, including, but not limited to, project development financing, to attract private sector economic development; and

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

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

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

Now, therefore,

The General Assembly of North Carolina enacts:

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

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

Notwithstanding Section 4 of this Article, the General Assembly may enact general laws authorizing any county, city, or town to define territorial areas in the county, city, or town, and borrow money to be used to finance public activities associated with

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

21 Notwithstanding the provisions of Section 2 of this Article, the General Assembly  
22 may enact general laws authorizing a county, city, or town that has defined a territorial  
23 area pursuant to this section to assess property within the area at a minimum value if  
24 agreed to by the owner of the property."

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

27 "Article 6.

28 "Project Development Financing Act.

29 **"§ 159-101. Short title.**

30 This Article may be cited as the 'North Carolina Project Development Financing  
31 Act.'

32 **"§ 159-102. Unit of local government defined.**

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

35 **"§ 159-103. Authorization of project development financing debt instruments;**  
36 **purposes.**

37 (a) Each unit of local government may issue project development financing debt  
38 instruments pursuant to this Article and use the proceeds for one or more of the  
39 purposes for which the unit may issue general obligation bonds pursuant to the  
40 following subdivisions of G.S. 159-48: (b)(1), (3), (7), (11), (12), (16), (17), (19), (21),  
41 (23), (24), or (25), (c)(6), or (d)(3), (4), (5), (6), or (7). For the purpose of this Article,  
42 the term 'capital costs' as defined in G.S. 159-48(h) also includes (i) interest on the debt  
43 instruments being issued or on notes issued in anticipation of the instruments during  
44 construction and for a period not exceeding four years after the estimated date of

1 completion of construction and (ii) the establishment of debt service reserves. The  
2 proceeds of the debt instruments may be used either in a development financing district  
3 established pursuant to G.S. 160A-515.1 or G.S. 158-7.3 or, if the use directly benefits  
4 private development forecast by the development financing plan for the district, outside  
5 the development financing district. The proceeds may be used only in or to benefit  
6 private development in that development financing district the revenue increment of  
7 which is pledged as security for the debt instruments. This subsection does not prohibit  
8 the use of proceeds to defray the cost of providing water and sewer utilities to a private  
9 development in a project development financing district.

10 (b) Subject to agreement with the holders of its project development financing  
11 debt instruments and the limitation on duration of development financing districts set  
12 out in this Article, each unit of local government may issue additional project  
13 development financing debt instruments and may issue debt instruments to refund any  
14 outstanding project development financing debt instruments at any time before the final  
15 maturity of the instruments to be refunded. General obligation bonds issued to refund  
16 outstanding project development financing debt instruments shall be issued under the  
17 Local Government Bond Act, Article 4 of this Chapter. Revenue bonds issued to refund  
18 outstanding project development financing debt instruments shall be issued under the  
19 State and Local Government Revenue Bond Act, Article 5 of this Chapter.

20 Project development financing debt instruments may be issued partly for the purpose  
21 of refunding outstanding project development financing debt instruments and partly for  
22 any other purpose under this Article. Project development financing debt instruments  
23 issued to refund outstanding project development financing debt instruments shall be  
24 issued under this Article and not under Article 4 of this Chapter.

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

35 **§ 159-104. Application to Commission for approval of project development**  
36 **financing debt instrument issue; preliminary conference; acceptance of**  
37 **application.**

38 A unit of local government may not issue project development financing debt  
39 instruments under this Article unless the issue is approved by the Local Government  
40 Commission. The governing body of the issuing unit shall file with the secretary of the  
41 Commission an application for Commission approval of the issue. At the time of  
42 application, the governing body shall publish a public notice of the application in a  
43 newspaper of general circulation in the unit of local government. The application shall  
44 include statements of facts and documents concerning the proposed debt instruments,

1 development financing district, and development financing plan and the financial  
2 condition of the unit, required by the secretary. The Commission may prescribe the  
3 form of the application.

4 Before accepting the application, the secretary may require the governing body or its  
5 representatives to attend a preliminary conference in order to discuss informally the  
6 proposed issue, district, and plan and the timing of the steps to be taken in issuing the  
7 debt instruments. The development financing district need not be defined and the  
8 development financing plan need not be adopted by the governing body at the time it  
9 files the application with the secretary. However, before the Commission may enter its  
10 order approving the debt instruments, the governing body must define the district and  
11 adopt the plan.

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

16 **"§ 159-105. Approval of application by Commission.**

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

20 (1) Whether the projects to be financed from the proceeds of the project  
21 development financing debt instrument issue are necessary to secure  
22 significant new project development for a development financing  
23 district.

24 (2) Whether the proposed projects are feasible.

25 (3) The unit of local government's debt management procedures and  
26 policies.

27 (4) Whether the unit is in default in any of its debt service obligations.

28 (5) Whether the private development forecast in the development  
29 financing plan would be likely to occur without the public project or  
30 projects to be financed by the project development financing debt  
31 instruments.

32 (6) Whether taxes on the incremental valuation accruing to the  
33 development financing district, together with any other revenues  
34 available under G.S. 159-110, will be sufficient to service the proposed  
35 project development financing debt instruments.

36 (7) The ability of the Commission to market the proposed project  
37 development financing debt instruments at reasonable rates of interest.

38 (b) The Commission shall approve the application if, upon the information and  
39 evidence it receives, it finds all of the finding:

40 (1) The proposed project development financing debt instrument issue is  
41 necessary to secure significant new economic development for a  
42 development financing district.

43 (2) The amount proposed is adequate and not excessive for the proposed  
44 purpose of the issue.

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

17    **"§ 159-106. Order approving or denying the application.**

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

21           (b)    Unless the debt instruments are to be issued for a development financing  
22                district for which a project development financing debt instrument issue has already  
23                been approved, the day the Commission enters its order approving an application for  
24                project development financing debt instruments is also the effective date of the  
25                development financing district for which the instruments are issued.

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

28    **"§ 159-107. Determination of incremental valuation; use of taxes levied on**  
29                **incremental valuation; duration of the district.**

30           (a)    Base Valuation in the Development Financing District. – After the Local  
31                Government Commission has entered its order approving a unit of local government's  
32                application for project development financing debt instruments, the unit shall  
33                immediately notify the tax assessor of the county in which the development financing  
34                district is located of the existence of the development financing district. Upon receiving  
35                this notice, the tax assessor shall determine the base valuation of the district, which is  
36                the assessed value of taxable property located in the district on the January 1  
37                immediately preceding the effective date of the district. If the unit or an agency of the  
38                unit acquired property within the district within one year before the effective date of the  
39                district, the tax assessor shall presume, subject to rebuttal, that the property was  
40                acquired in contemplation of the district and the tax assessor shall include the value of  
41                the property so acquired in determining the base valuation of the district. The unit may  
42                rebut this presumption by showing that the property was acquired primarily for a  
43                purpose other than to reduce the tax incremental base. After determining the base  
44                valuation of the development financing district, the tax assessor shall certify the

1 valuation to: (i) the issuing unit; (ii) the county in which the district is located if the  
2 issuing unit is not the county; and (iii) any special district, as defined in G.S. 159-7,  
3 within which the development financing district is located.

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

6 (1) If the unit amends its development financing plan, pursuant to G.S.  
7 160A-515.1 or G.S. 158-7.3, to remove property from the development  
8 financing district, on the succeeding January 1, that property shall be  
9 removed from the district and the base valuation reduced accordingly.

10 (2) If the unit amends its development financing plan, pursuant to G.S.  
11 160A-515.1 or G.S. 158-7.3, to expand the district, the new property  
12 shall be added to the district immediately. The base valuation of the  
13 district shall be increased by the assessed value of the taxable property  
14 situated in the added territory on the January 1 immediately preceding  
15 the effective date of the district.

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

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

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

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

43 (1) In any year in which there is no incremental valuation of the district,  
44 all the proceeds of the taxes shall be retained by the county, city, or

1 special district, as if there were no development financing district in  
2 existence.

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

26 (e) Effect of Annexation on District Established by a County. – If a city annexes  
27 land in a development financing district established by a county pursuant to G.S.  
28 158-7.3, the proceeds of all taxes levied by the city on property within the district shall  
29 be paid to the city unless the city enters into an agreement with the county pursuant to  
30 this subsection. The city and the county may enter into an increment agreement under  
31 which the city agrees that city taxes on part or all of the incremental valuation in the  
32 district shall be paid into the revenue increment fund for the district. An increment  
33 agreement may be entered into when the district is established or at any time after the  
34 district is established. The increment agreement may extend for the duration of the  
35 district or for a shorter time agreed to by the parties.

36 (f) Use of Moneys in the Revenue Increment Fund. – If the development  
37 financing district includes property conveyed or leased by the unit of local government  
38 to a private party in consideration of increased tax revenue expected to be generated by  
39 improvements constructed on the property pursuant to G.S. 158-7.1, an amount equal to  
40 the tax revenue taken into account in arriving at the consideration, less the increased tax  
41 revenue realized since the construction of the improvement, shall be transferred from  
42 the Revenue Increment Fund to the county, city, or special district as if there were no  
43 development financing district in existence. Any money in excess of this amount in the  
44 Fund may be used for any of the following purposes, without priority other than

1 priorities imposed by the order authorizing the project development financing debt  
2 instruments:

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

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

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

26 **"§ 159-108. Agreements with property owners.**

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

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

42       (c) Minimum Assessment of Property. – An agreement entered into pursuant to  
43 this section establishes a minimum assessment of the real property subject to the  
44 agreement. If the county tax assessor determines that the real property has a true value



1 less than the minimum established by the agreement, the assessor shall nevertheless  
2 assess the property at the minimum set out in the agreement. If the assessor, however,  
3 determines that the real property has a true value greater than the minimum established  
4 by the agreement, the assessor shall assess the property at the true value.

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

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

27 **§ 159-109. Special covenants.**

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

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

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

13 **"§ 159-110. Security of project development financing debt instruments.**

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

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

38 **"§ 159-111. Additional security for project development financing debt**  
39 **instruments.**

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

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

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

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

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

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

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

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

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

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

1                    instruments, any redemption, any premium, and the interest on the  
2                    instruments accrued to the date of redemption.

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

7    **"§ 159-113. Annual report.**

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

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

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

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

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

- 23            (1) The gross debt of the unit, excluding therefrom debt incurred or to be  
24 incurred in anticipation of the collection of taxes or other revenues or  
25 in anticipation of the sale of bonds other than funding and refunding  
26 bonds. The gross debt (after exclusions) is the sum of (i) outstanding  
27 debt evidenced by bonds, (ii) bonds authorized by orders introduced  
28 but not yet adopted, (iii) unissued bonds authorized by adopted orders,  
29 and (iv) outstanding debt not evidenced by bonds. However, for  
30 purposes of the sworn statement of debt and the debt limitation,  
31 revenue bonds and project development financing debt instruments  
32 (unless additionally secured by a pledge of the issuing unit's faith and  
33 credit) shall not be considered debt and ~~such bonds~~ shall not be  
34 included in gross debt nor deducted from gross debt.
- 35            (2) The deductions to be made from gross debt in computing net debt. The  
36 following deductions are allowed:
- 37            a. Funding and refunding bonds authorized by orders introduced  
38 but not yet adopted.
- 39            b. Funding and refunding bonds authorized but not yet issued.
- 40            c. The amount of money held in sinking funds or otherwise for the  
41 payment of any part of the principal of gross debt other than  
42 debt incurred for water, gas, electric light or power purposes, or  
43 sanitary sewer purposes (to the extent that the bonds are

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

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

32 "(a) Notwithstanding any provisions of this Chapter to the contrary, including  
33 particularly, but without limitation, the provisions of G.S. 159-65, G.S. 159-112, G.S.  
34 159-123 to G.S. 159-127, inclusive, G.S. 159-130, G.S. 159-138, G.S. 159-162, G.S.  
35 159-164 and G.S. 159-172, a unit of local government, in fixing the details of general  
36 obligation bonds to be issued pursuant to this ~~Article or Article~~, general obligation notes  
37 to be issued pursuant to Article 9 of this Chapter, or project development financing debt  
38 instruments or notes to be issued pursuant to Article 6 of this Chapter, may provide that  
39 ~~such bonds or notes~~the instruments or notes:

- 40 (1) May be made payable from time to time on demand or tender for  
41 purchase by the owner provided a Credit Facility supports such bonds  
42 or notes, unless the Commission specifically determines that a Credit  
43 Facility is not required upon a finding and determination by the

1 Commission that the proposed bonds or notes will satisfy the  
2 conditions set forth in G.S. 159-52;

3 (2) May be additionally supported by a Credit Facility;

4 (3) May be made subject to redemption prior to maturity, with or without  
5 premium, on such notice, at such time or times, at such price or prices  
6 and with such other redemption provisions as may be stated in the  
7 resolution fixing the details of such bonds or notes or with such  
8 variations as may be permitted in connection with a Par Formula  
9 provided in such resolution;

10 (4) May bear interest at a rate or rates that may vary as permitted pursuant  
11 to a Par Formula and for such period or periods of time, all as may be  
12 provided in such resolution; and

13 (5) May be made the subject of a remarketing agreement whereby an  
14 attempt is made to remarket the bonds to new purchases prior to their  
15 presentment for payment to the provider of the Credit Facility or to the  
16 issuing unit."

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

18 **"§ 159-120. Definitions.**

19 As used in this Article, unless the context clearly requires another meaning, the  
20 words 'unit' or 'issuing unit' mean 'unit of local government' as defined in G.S. 159-44,  
21 159-44 or G.S. 159-102, 'municipality' as defined in G.S. 159-81, and the State of North  
22 Carolina, and the words 'governing body,' when used with respect to the State of North  
23 Carolina, mean the Council of State."

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

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

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

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

- 1 (1) Bonds that a State or federal agency has previously agreed to purchase.
- 2 (2) Any bonds for which no legal bid is received within the time allowed
- 3 for submission of bids.
- 4 (3) Revenue bonds, including any refunding bonds issued pursuant to G.S.
- 5 159-84, and special obligation bonds issued pursuant to Chapter 159I
- 6 of the General Statutes.
- 7 (4) Refunding bonds issued pursuant to G.S. 159-78.
- 8 (5) Refunding bonds issued pursuant to G.S. 159-72 if the Local
- 9 Government Commission determines that a private sale is in the best
- 10 interest of the issuing unit.
- 11 (6) Bonds designated as qualified zone academy bonds pursuant to G.S.
- 12 115C-489.6, if the Local Government Commission determines that a
- 13 private sale is in the best interest of the issuing unit.
- 14 (7) Project development financing debt instruments."

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

16 "(a) Except for revenue ~~bonds,~~ bonds and project development financing debt

17 instruments, no bid for less than ninety-eight percent (98%) of the face value of the

18 bonds plus one hundred percent (100%) of accrued interest may be entertained.

19 Different rates of interest may be bid for bonds maturing in different years, but

20 different rates of interest may not be bid for bonds maturing in the same year."

21 **SECTION 10.** G.S. 159-129 reads as rewritten:

22 **"§ 159-129. Obligations of units certified by Commission.**

23 Each bond or bond anticipation note that is represented by an instrument shall bear

24 on its face or reverse a certificate signed by the secretary of the Commission or an

25 assistant designated by ~~him~~ the secretary that the issuance of the bond or note has been

26 approved under the provisions of ~~The Local Government Bond Act of Acts,~~ the Local

27 Government Revenue Bond ~~Act.~~ Act, or the North Carolina Project Development

28 Financing Act. ~~Such~~ This signature may be a manual or facsimile signature as the

29 Commission may determine. Each bond or bond anticipation note that is not represented

30 by an instrument shall be evidenced by a writing relating to such obligation, which

31 writing shall identify such obligation or the issue of which it is part, ~~bear such certificate~~

32 this certificate, and be on file with the Commission. The certificate shall be conclusive

33 evidence that the requirements of this Subchapter have been observed, and no bond or

34 note without the Commission's certificate or with respect to which a writing bearing

35 ~~such~~ this certificate has not been filed with the Commission shall be valid."

36 **SECTION 11.** G.S. 159-132 reads as rewritten:

37 **"§ 159-132. State Treasurer to deliver bonds and remit proceeds.**

38 When the bonds are executed, they shall be delivered to the State Treasurer who

39 shall deliver them to the order of the purchaser and collect the purchase price or

40 proceeds. The Treasurer shall then pay from the proceeds any notes issued in

41 anticipation of the sale of the bonds, deduct from the proceeds the Commission's

42 expense in connection with the issue, and remit the net proceeds to the official

43 depository of the unit after assurance that the deposit will be adequately secured as

44 required by law. The proceeds of funding or refunding bonds may be deposited at the

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

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

9 **"§ 159-160. Definitions.**

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

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

14 **"§ 159-163.1. Security of project development financing debt instrument**  
15 **anticipation notes.**

16 Notes issued in anticipation of the sale of project development financing debt  
17 instruments are special obligations of the issuing unit. Except as provided in G.S.  
18 159-107 and G.S. 159-110, neither the credit nor the taxing power of the issuing unit  
19 may be pledged for the payment of notes issued in anticipation of the sale of project  
20 development financing debt instruments. No holder of a project development financing  
21 debt instrument anticipation note has the right to compel the exercise of the taxing  
22 power by the issuing unit or the forfeiture of any of its property in connection with any  
23 default on the note. Notes issued in anticipation of the sale of project development  
24 financing debt instruments may be secured by the same pledges, charges, liens,  
25 covenants, and agreements made to secure the project development financing debt  
26 instruments. In addition, the proceeds of each project development financing debt  
27 instrument issue are pledged for the payment of any notes issued in anticipation of the  
28 sale of the instruments, and these notes shall be retired from the proceeds of the sale as  
29 the first priority."

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

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

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

44 **"§ 159-176. Commission to aid defaulting units in developing refinancing plans.**



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

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

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

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

42 "(6) Within its area of operation, to purchase, obtain options upon, acquire  
43 by gift, grant, bequest, devise, eminent domain or otherwise, any real  
44 or personal property or any interest therein, together with any

1 improvements thereon, necessary or incidental to a redevelopment  
2 project; to hold, improve, clear or prepare for redevelopment any such  
3 property, and ~~notwithstanding the provisions of G.S. 160-59 but~~  
4 subject to the provisions of G.S. 160A-514, and with the approval of  
5 the local governing body sell, exchange, transfer, assign, subdivide,  
6 retain for its own use, mortgage, pledge, hypothecate or otherwise  
7 encumber or dispose of any real or personal property or any interest  
8 therein, either as an entirety to a single 'redeveloper' or in parts to  
9 several redevelopers; provided that the commission finds that the sale  
10 or other transfer of any such part will not be prejudicial to the sale of  
11 other parts of the redevelopment area, nor in any other way prejudicial  
12 to the realization of the redevelopment plan approved by the governing  
13 body; to enter into ~~contracts~~ contracts, either before or after the real  
14 property that is the subject of the contract is acquired by the  
15 Commission (although disposition of the property is still subject to  
16 G.S. 160A-514), with 'redevelopers' of property containing covenants,  
17 restrictions, and conditions regarding the use of such property for  
18 residential, commercial, industrial, recreational purposes or for public  
19 purposes in accordance with the redevelopment plan and such other  
20 covenants, restrictions and conditions as the commission may deem  
21 necessary to prevent a recurrence of blighted areas or to effectuate the  
22 purposes of this Article; to make any of the covenants, restrictions or  
23 conditions of the foregoing contracts covenants running with the land,  
24 and to provide appropriate remedies for any breach of any such  
25 covenants or conditions, including the right to terminate such contracts  
26 and any interest in the property created pursuant thereto; to borrow  
27 money and issue bonds therefor and provide security for bonds; to  
28 insure or provide for the insurance of any real or personal property or  
29 operations of the commission against any risks or hazards, including  
30 the power to pay premiums on any such insurance; and to enter into  
31 any contracts necessary to effectuate the purposes of this Article;".

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

33 **"§ 160A-515.1. Project development financing.**

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

41 (b) Development Financing District. – A development financing district shall  
42 comprise all or portions of one or more redevelopment areas defined pursuant to this  
43 Article. The total land area within development financing districts in a city, including

1 development financing districts created pursuant to G.S. 158-7.3, may not exceed five  
2 percent (5%) of the total land area of the city.

3 (c) Development Financing Plan. – The development financing plan must be  
4 compatible with the redevelopment plan or plans for the redevelopment area or areas  
5 included within the district. The development financing plan must include all of the  
6 following:

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

8 (2) A description of the proposed development of the district, both public  
9 and private.

10 (3) The costs of the proposed public activities.

11 (4) The sources and amounts of funds to pay for the proposed public  
12 activities.

13 (5) The base valuation of the development financing district.

14 (6) The projected incremental valuation of the development financing  
15 district.

16 (7) The estimated duration of the development financing district.

17 (8) A description of how the proposed development of the district, both  
18 public and private, will benefit the residents and business owners of  
19 the district in terms of jobs, affordable housing, or services.

20 (9) A description of the appropriate ameliorative activities which will be  
21 undertaken if the proposed projects have a negative impact on  
22 residents or business owners of the district in terms of jobs, affordable  
23 housing, services, or displacement.

24 (10) A requirement that the initial users of any new manufacturing facilities  
25 that will be located in the district and that are included in the plan will  
26 comply with the wage requirements in subsection (d) of this section.

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

1 be located is especially severe. Upon the creation of the district, the unit of local  
2 government proposing the creation of the district shall take any lawful actions necessary  
3 to require compliance with the applicable wage requirement by the initial users of any  
4 new manufacturing facility included in the plan; however, failure to take such actions or  
5 obtain such compliance shall not affect the validity of any proceedings for the creation  
6 of the district, the existence of the district, or the validity of any debt instruments issued  
7 under Article 6 of Chapter 159 of the General Statutes. All findings and determinations  
8 made by the Secretary of Commerce under this subsection shall be binding and  
9 conclusive. For purposes of this section, the term 'manufacturing facility' means any  
10 facility that is used in the manufacturing or production of tangible personal property,  
11 including the processing resulting in a change in the condition of the property.

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

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

34 (g) Plan Adoption. – Before adopting a plan for a development financing district,  
35 the city council shall hold a public hearing on the plan. The council shall, no less than  
36 30 days before the day of hearing, cause notice of the hearing to be mailed by first-class  
37 mail to all property owners and mailing addresses within the proposed development  
38 financing district. The council shall also, no more than 30 days and no less than 14 days  
39 before the day of the hearing, cause notice of the hearing to be published once in a  
40 newspaper of general circulation in the city. The notice shall state the time and place of  
41 the hearing, shall specify its purpose, and shall state that a copy of the proposed plan is  
42 available for public inspection in the office of the city clerk. At the public hearing, the  
43 council shall hear anyone who wishes to speak with respect to the proposed district and  
44 proposed plan. Unless a board of county commissioners or the Secretary of

1 Environment and Natural Resources has disapproved the plan pursuant to subsection (e)  
2 or (f) of this section, the council may adopt the plan, with or without amendment, at any  
3 time after the public hearing. However, the plan and the district do not become effective  
4 until the city's application to issue project development financing debt instruments has  
5 been approved by the Local Government Commission, pursuant to Article 6 of Chapter  
6 159 of the General Statutes.

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

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

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

22 **"§ 158-7.3. Development financing.**

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

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

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

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

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

1        (b) Authorization. – A unit of local government may finance public  
2 improvements that are part of a development project with the proceeds of project  
3 development financing debt instruments, issued pursuant to Article 6 of Chapter 159 of  
4 the General Statutes, together with any other revenues that are available to the unit.  
5 Before it receives the approval of the Local Government Commission for issuance of  
6 project development financing debt instruments, the unit's governing body must define a  
7 development financing district and adopt a development financing plan for the district.

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

- 11            (1) Blighted, deteriorated, deteriorating, undeveloped, or inappropriately  
12 developed from the standpoint of sound community development and  
13 growth.
- 14            (2) Appropriate for rehabilitation or conservation activities.
- 15            (3) Appropriate for the economic development of the community.

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

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

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

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

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

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

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

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

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

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

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



