

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2021

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SENATE BILL 423

Short Title: Housing Finance Agency/PED Study. (Public)

Sponsors: Senators Edwards, Corbin, and Davis (Primary Sponsors).

Referred to: Rules and Operations of the Senate

April 1, 2021

1 A BILL TO BE ENTITLED  
2 AN ACT TO MAKE VARIOUS CHANGES TO PROGRAMS AND PROCEDURES WITHIN  
3 THE NORTH CAROLINA HOUSING FINANCE AGENCY, AS RECOMMENDED BY  
4 THE JOINT LEGISLATIVE PROGRAM EVALUATION OVERSIGHT COMMITTEE.

5 The General Assembly of North Carolina enacts:

6  
7 **PART I. PROGRAMMATIC MODIFICATIONS AND STRATEGIC PLANNING**

8 **SECTION 1.1.(a)** The North Carolina Housing Finance Agency (Agency) shall  
9 examine and implement modifications to the Community Partners Loan Pool, the Self-Help Loan  
10 Pool, the Urgent Repair Program, and the Essential Single-Family Rehabilitation Loan Pool to  
11 ensure that all areas of the State have access to the programs. In particular, the Agency shall  
12 consider methods to ensure that counties with fewer resources can access the programs.

13 **SECTION 1.1.(b)** The Agency shall submit a report detailing the modifications to  
14 the programs listed in this section to the Joint Legislative Oversight Committee on General  
15 Government and the Fiscal Research Division on or before July 1, 2022.

16 **SECTION 1.1.(c)** The Agency shall discontinue the imposition of the two hundred  
17 thousand dollars (\$200,000) per-partner cap utilized for the Urgent Repair Program.

18 **SECTION 1.2.(a)** G.S. 122A-5.1 reads as rewritten:

19 "**§ 122A-5.1. Rules and regulations governing Agency ~~activity~~ activity; strategic planning**  
20 **and performance management system.**

21 ...

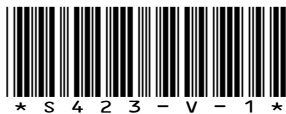
22 (d) The Agency shall develop a strategic plan to be updated at least once every five years.  
23 The strategic plan shall be informed by the legislative findings and programs provided in this  
24 Chapter and related legislation and shall consist of the following:

25 (1) Goals. – Broad, detailed programmatic statements that the Agency intends to  
26 pursue over a long period of time.

27 (2) Objectives. – Narrow, specific programmatic targets and actions based upon  
28 stated goals that the Agency will pursue over a short period of time.

29 (3) Environmental scan. – An assessment of the Agency's strengths, weaknesses,  
30 opportunities, and obstacles, including potential changes to funding sources  
31 and programmatic shifts.

32 (e) The Agency shall establish a performance management system, taking into account  
33 the current programs administered by the Agency and the strategic plan implemented pursuant  
34 to this section. The performance management system shall include annual objectives for the  
35 Agency to meet, and the Agency shall establish performance measures, in the form of inputs,  
36 activities, and outcomes, which shall be used to assess attainment of the established objectives."



1           **SECTION 1.2.(b)** The Agency shall contract with an independent entity with  
2 expertise in state government strategic planning to assist in developing the initial strategic plan  
3 required by this section. The initial strategic plan required by this section shall be completed and  
4 implemented by June 1, 2022.

5           **SECTION 1.2.(c)** The Agency shall transition to the incorporation of cost-benefit  
6 analysis for the allocation of programmatic resources and shall develop its strategic plan to  
7 produce the collection of outcome data for that purpose. On or before January 1, 2026, the  
8 Agency shall incorporate cost-benefit analysis into its allocation of programmatic resources and  
9 in requests for funding from the General Assembly.

10           **SECTION 1.3.(a)** G.S. 45-104 reads as rewritten:

11 **"§ 45-104. State Home Foreclosure Prevention Project and Fund.**

12 ...

13           (f) The Housing Finance Agency shall report ~~to the General Assembly describing each~~  
14 year on the operation of the program established by this act not later than May 1 of each year as  
15 a part of the annual report required pursuant to G.S. 122A-16 until the funds are completely  
16 disbursed from the State Home Foreclosure Prevention Trust Fund. Information in the report  
17 shall be presented in aggregate form and may include the number of clients helped, the  
18 effectiveness of the funds in preventing home foreclosure, recommendations for further efforts  
19 needed to reduce foreclosures, and provide any other aggregated information the Housing  
20 Finance Agency determines is pertinent or that the General Assembly requests."

21           **SECTION 1.3.(b)** G.S. 122A-5.14 reads as rewritten:

22 **"§ 122A-5.14. Home Protection Program and Fund.**

23 ...

24           (d) Annual Report. – ~~By April 1 of each year, the The~~ Agency shall report ~~to the House~~  
25 ~~Appropriations Subcommittee on General Government and Senate Appropriations~~  
26 ~~Subcommittee on General Government and Information Technology each year~~ on the  
27 effectiveness of the Program in accomplishing its purposes and provide any other information  
28 the Agency determines is pertinent or that the General Assembly ~~requests requests~~ as a part of  
29 the annual report required pursuant to G.S. 122A-16."

30           **SECTION 1.3.(c)** G.S. 122A-5.15 reads as rewritten:

31 **"§ 122A-5.15. Workforce Housing Loan Program.**

32 ...

33           (d) ~~By February 1 of each year, the The~~ Agency shall report ~~to the Joint Legislative~~  
34 ~~Commission on Governmental Operations and the Fiscal Research Division each year~~ on the  
35 number of loans made under this section, the amount of each loan, and whether the low-income  
36 housing development is located in a low-, moderate-, or high-income county, as designated by  
37 the ~~Agency~~ Agency as a part of the annual report required pursuant to G.S. 122A-16."

38           **SECTION 1.3.(d)** Section 20.1(a) of S.L. 2005-276 reads as rewritten:

39           **"SECTION 20.1.(a)** Funds appropriated in this act to the Housing Finance Agency for the  
40 federal HOME Program shall be used to match federal funds appropriated for the HOME  
41 Program. In allocating State funds appropriated to match federal HOME Program funds, the  
42 Agency shall give priority to HOME Program projects, as follows:

- 43           (1) First priority to projects that are located in counties designated as Tier One,  
44 Tier Two, or Tier Three Enterprise Counties under G.S. 105-129.3; and
- 45           (2) Second priority to projects that benefit persons and families whose incomes  
46 are fifty percent (50%) or less of the median family income for the local area,  
47 with adjustments for family size, according to the latest figures available from  
48 the United States Department of Housing and Urban Development.

49           The Housing Finance Agency shall report ~~to the Joint Legislative Commission on~~  
50 ~~Governmental Operations by April 1 of each year each year~~ concerning the status of the HOME  
51 Program and shall include in the report information on priorities met, types of activities funded,

1 and types of activities not ~~funded~~ funded as a part of the annual report required pursuant to  
2 G.S. 122A-16."

3 **SECTION 1.3.(e)** G.S. 122A-16 reads as rewritten:

4 "**§ 122A-16. Oversight by committees of General Assembly; annual reports.**

5 (a) ~~The Finance Committee of the House of Representatives and the Finance Committee~~  
6 ~~of the Senate Joint Legislative Oversight Committee on General Government~~ shall exercise  
7 continuing oversight of the Agency in order to assure that the Agency is effectively fulfilling its  
8 statutory purpose; provided, however, that nothing in this Chapter shall be construed as required  
9 by the Agency to receive legislative approval for the exercise of any of the powers granted by  
10 this Chapter. The Agency shall, ~~promptly following the close of each fiscal year, on or before~~  
11 December 1 each year, submit an annual comprehensive report of its activities for the preceding  
12 year to the Governor, the Office of State Budget and Management, State Auditor, ~~the~~  
13 ~~mentioned committees of the General Assembly and the Local Government Commission.~~  
14 Each such Commission, the Joint Legislative Oversight Committee on General Government, and  
15 the Fiscal Research Division. The annual comprehensive report shall include at least all of the  
16 following:

- 17 (1) Objectives identified for each program.
- 18 (2) Performance measures associated with each program, including outcome  
19 performance measures.
- 20 (3) Performance measure benchmarks compared against the same measures for  
21 each of the three previous fiscal years.
- 22 (4) Management discussion and analysis, including a discussion of the prior year's  
23 performance.
- 24 (5) Reasons for failure to achieve prior year strategic goals or objectives, if  
25 applicable.
- 26 (6) Any changes to strategic goals or objectives for the upcoming year.

27 (b) The annual comprehensive report required pursuant to this section shall set forth a  
28 complete operating and financial statement of the Agency during ~~such~~ the previous year. The  
29 operating and financial statement shall include at least all of the following:

- 30 (1) Consolidated financial statements for the most recent fiscal year.
- 31 (2) Budgeted-to-actual expenditures for the most recently completed fiscal year  
32 in line-item detail for both operations and programs.
- 33 (3) Program expenditures by funding source.
- 34 (4) Current credit ratings for the Agency, including an explanation for any  
35 changes to the credit ratings.

36 The Agency shall cause an audit of its books and accounts to be made at least once in each  
37 year by an independent certified public accountant and the cost thereof may be paid from any  
38 available moneys of the Agency. ~~The Agency shall on January 1 and July 1 of each year submit~~  
39 ~~a written report of its activities to the Joint Legislative Commission on Governmental Operations.~~  
40 ~~The Agency shall also at the end of each fiscal year submit a written report of its budget~~  
41 ~~expenditures by line item to the Joint Legislative Commission on Governmental Operations."~~

42 **SECTION 1.4.** The North Carolina Housing Finance Agency shall discontinue its  
43 funding for the Construction Training Partnership and redirect funding for that program to fund  
44 existing affordable housing programs administered by the Agency.

## 45 **PART II. FISCAL AND BUDGETARY CONTROLS AND POLICY CHANGES**

46 **SECTION 2.1.(a)** G.S. 122A-4 reads as rewritten:

47 "**§ 122A-4. North Carolina Housing Finance Agency.**

48 (a) There is hereby created a body politic and corporate to be known as "North Carolina  
49 Housing Finance Agency" which shall be constituted a public agency and an instrumentality of  
50 the State for the performance of essential public functions. The Agency and all funds established  
51

1 pursuant to this Chapter shall be subject to the provisions of the State Budget Act contained in  
2 Chapter 143C of the General Statutes except that no unexpended surplus of funds shall revert to  
3 the General Fund.

4 ...

5 (g) The Board of Directors shall establish a policy governing the contribution of funds to  
6 nonprofit entities. The Board shall establish criteria to limit contributions of Agency funds to  
7 nonprofit entities and shall require each individual contribution to a nonprofit entity to be  
8 approved by the Board. The Board shall provide a copy of the initial policy, and any subsequent  
9 updates to the policy, in the annual report required pursuant to G.S. 122A-16."

10 **SECTION 2.1.(b)** The Board shall submit a copy of the initial nonprofit contribution  
11 policy required under this section to the Joint Legislative Oversight Committee on General  
12 Government and the Fiscal Research Division no later than six months after the effective date of  
13 this act.

14 **SECTION 2.2.(a)** The North Carolina Housing Finance Agency shall transfer to the  
15 North Carolina Housing Trust Fund any remaining funds and shall close all of the following  
16 funds:

- 17 (1) The Housing Mortgage Insurance Fund, established in G.S. 122A-5.2.
- 18 (2) The Homeownership Assistance Fund, established in G.S. 122A-5.7.
- 19 (3) The Adult Care Home, Group Home, and Nursing Home Fire Protection Fund,  
20 established in G.S. 122A-5.13.
- 21 (4) The Home Protection Program Fund, established in G.S. 122A-5.14.
- 22 (5) The Multi-Family Residential Assistance Fund, established in Section 133 of  
23 Chapter 1034 of the 1983 Session Laws, as amended by Chapter 769 of the  
24 1985 Session Laws.

25 Future monies credited to the funds repealed in this section shall instead be credited  
26 to the Trust Fund.

27 **SECTION 2.2.(b)** G.S. 122A-5.2 is repealed.

28 **SECTION 2.2.(c)** G.S. 122A-5.7 is repealed.

29 **SECTION 2.2.(d)** G.S. 122A-5.13 is repealed.

30 **SECTION 2.2.(e)** G.S. 122A-5.14 is repealed.

31 **SECTION 2.2.(f)** Chapter 582 of the 1991 Session Laws is repealed.

32 **SECTION 2.3.(a)** G.S. 122E-3 reads as rewritten:

33 **"§ 122E-3. North Carolina Housing Trust Fund.**

34 (a) There is established a North Carolina Housing Trust Fund, separate and distinct from  
35 the General Fund.

36 (b) The Fund shall consist of monies received under this act and any other sources of  
37 revenue, public or private, dedicated for inclusion in the Fund.

38 (c) The State Treasurer shall serve as trustee for the Fund. The Treasurer shall invest the  
39 North Carolina Housing Trust Fund revenues he receives as provided in G.S. 147-69.2(b). The  
40 Treasurer shall provide the Agency with quarterly and annual reports of Fund revenues and  
41 interest earnings.

42 (d) Funds reserved to the Fund shall be available for expenditure only upon an act of  
43 appropriation by the General Assembly."

44 **SECTION 2.3.(b)** G.S. 122E-4 reads as rewritten:

45 **"§ 122E-4. North Carolina Housing Partnership created; compensation; organization.**

46 (a) The North Carolina Housing Partnership is hereby created ~~within as an advisory board~~  
47 ~~to the North Carolina Housing Finance Agency to establish policy, promulgate rules and~~  
48 ~~regulations, and oversee the operation of the Fund.~~ Agency. The Partnership shall be constituted  
49 to ~~coordinate private enterprise and investment with public efforts~~ assist the North Carolina  
50 Housing Finance Agency in its mandate to address the serious shortage of decent, safe, and  
51 affordable housing for low and moderate income citizens of this State.

1 (b) The Partnership shall consist of 13 members as follows:

2 (1) ~~The Executive Director of the North Carolina Housing Finance Agency shall~~  
3 ~~serve ex officio; The Secretary of Health and Human Services, or the~~  
4 ~~Secretary's designee, as an ex officio member.~~

5 (2) The Secretary of the Department of Commerce or ~~his~~ the Secretary's designee  
6 ~~shall serve as an ex officio; officio member.~~

7 (3) The State Treasurer or ~~his~~ the Treasurer's designee ~~shall serve as an ex~~  
8 ~~officio; officio member.~~

9 (4) In accordance with G.S. 120-121, five members shall be appointed by the  
10 General Assembly upon the recommendation of the President Pro Tempore of  
11 the Senate, provided that one member shall be a representative of the  
12 homebuilding industry, one member shall be a low income housing advocate,  
13 and one member shall be a representative of the League of  
14 ~~Municipalities; Municipalities.~~

15 (5) In accordance with G.S. 120-121, five members shall be appointed by the  
16 General Assembly upon the recommendation of the Speaker of the House of  
17 Representatives, provided that one member shall be a representative of the  
18 real estate lending industry; one member shall be a representative of a  
19 non-profit housing development corporation; and one member shall be a  
20 resident of low income housing.

21 The members of the Partnership shall elect one of their members to serve as ~~Chairman~~ Chair  
22 for a term of one year. Seven members of the Partnership shall constitute a quorum. All members  
23 shall have the right to vote on all issues before the Partnership.

24 (c) Members of the Partnership shall serve for three year terms. Initial terms shall begin  
25 on September 1, 1987. Appointed members shall serve until their successors are appointed and  
26 qualify.

27 (d) Vacancies in the offices of any appointed members shall be filled in accordance with  
28 G.S. 120-122 for the remainder of the unexpired term. No vacant office shall be included in the  
29 determination of a quorum. No vacancy in office shall impair the rights of the members to  
30 exercise all rights and conduct the official business of the Partnership.

31 (e) Members of the Partnership shall receive per diem and reimbursement for travel and  
32 subsistence as provided in G.S. 138-5 and G.S. 138-6, as appropriate, as compensation for each  
33 day spent on work for the Partnership ~~such actual expenses as may be incurred for such travel~~  
34 ~~and subsistence in the performance of official duties and such per diem as is allowed by law for~~  
35 ~~other such State boards and commissions. Partnership.~~ Members shall not receive a salary for the  
36 performance of their duties as members.

37 (f) The Partnership shall have the following powers and duties:

38 (1) To ~~promulgate~~ advise the Agency on the promulgation of rules and regulations  
39 governing all policy matters relating to the implementation of all programs for  
40 uses of the ~~Fund and the Partnership's oversight of the Agency's~~  
41 ~~administration of the Fund.~~

42 (2) To ~~promote~~ assist in the development of a coordinated State low income  
43 housing plan.

44 (3) To obtain necessary information from other State agencies concerning  
45 ~~housing; and~~ housing.

46 (4) ~~To allocate monies contained in the Fund.~~

47 (g) ~~The Partnership may appoint an Executive Director. The Executive Director shall be~~  
48 ~~empowered to employ such additional professional and clerical assistance as the Partnership may~~  
49 ~~deem necessary to administer the provisions of this Chapter. All employees of the Partnership,~~  
50 ~~other than the Executive Director, shall be compensated in accordance with the salary schedules~~  
51 ~~adopted pursuant to the North Carolina Human Resources Act. The Partnership and the Agency~~

1 may enter into agreements for the use of Agency staff to assist the Partnership and the provision  
2 of administrative support for the Partnership by the Agency.

3 (h) The Partnership shall meet quarterly and can meet more regularly upon the call of the  
4 ~~Chairman~~Chair or upon written request of four members.

5 (i) Members of the Partnership may not receive any direct benefit from, or participate in,  
6 the programs of the Fund. Members of the Partnership may be employed by, or serve as a board  
7 member of, a nonprofit entity participating in a program of the Fund if the member discloses the  
8 employment or the membership in the minutes of the Partnership and does not vote on any matter  
9 pertaining to the entity's participation. This policy applies ~~to~~to all of the following:

10 (1) Individual members of the ~~Partnership~~Partnership.

11 (2) Businesses, corporations, or partnerships owned in whole or in part by  
12 members of the ~~Partnership~~andPartnership.

13 (3) The immediate family members of the members of the Partnership."

14 **SECTION 2.4.(a)** G.S. 122A-5 reads as rewritten:

15 "**§ 122A-5. General powers.**

16 The Agency shall have all of the powers necessary or convenient to carry out the provisions  
17 of this Chapter, including the power:

18 ...

19 (21) To employ fiscal consultants, engineers, attorneys, real estate counselors,  
20 appraisers and such other consultants and employees as may be required in  
21 the judgment of the Agency and to fix and pay their compensation from funds  
22 available to the Agency therefor; provided, however, that the guidelines  
23 contained in the State of North Carolina Budget Manual are followed;

24 ...."

25 **SECTION 2.4.(b)** The Agency shall determine the necessity for retaining outside  
26 general counsel to serve the Board, taking into account the availability of attorneys with the North  
27 Carolina Department of Justice to act as general counsel to the Board and the potential cost  
28 savings to the Agency from discontinuing the use of outside counsel. If the Agency determines  
29 that continued use of outside counsel is necessary, the Agency shall utilize its procurement  
30 processes and the provisions of the State Budget Act in the selection of outside counsel.

### 31 **PART III. RENTAL DEVELOPMENT PROGRAM MODIFICATIONS**

32 **SECTION 3.1.(a)** The Agency shall study potential modifications to its  
33 administration of the Low-Income Housing Tax Credit program to develop a strategy to maintain  
34 the affordability of projects that exit the program. In its study, the Agency shall consider at least  
35 all of the following:

36 (1) Adjusting to the credit allocation for projects that rehabilitate existing  
37 housing.

38 (2) Establishing longer affordability period requirements for the program.

39 (3) Adjusting the amount of credits allocated to nonprofit developers.

40 (4) Providing additional scoring for project owners that offer a nonprofit housing  
41 agency or public housing authority the right of first refusal to purchase  
42 properties at the end of the compliance period or affordability period.

43 (5) Best practices from other states' programs.

44 As part of the study, the Agency shall also track incidence of Low-Income Housing  
45 Tax Credit units in the State that remain affordable after exiting the affordability period and those  
46 that are no longer affordable and shall incorporate that data into its affordability strategy. The  
47 Agency shall submit the results of the study and its proposed affordability strategy to the Joint  
48 Legislative Oversight Committee on General Government, the North Carolina Federal Tax  
49 Reform Allocation Committee, established pursuant to Article 51B of Chapter 143 of the General  
50

1 Statutes, and the Fiscal Research Division no later than one year from the effective date of this  
2 act.

3 **SECTION 3.1.(b)** The Agency shall study potential modifications to its amenities  
4 policies in the Qualified Allocation Plan it uses to establish selection criteria and application  
5 requirements for housing credits to allow for siting in high-opportunity neighborhoods and other  
6 areas. In its study, the Agency shall consider at least all of the following:

- 7 (1) Eliminating or deprioritizing and redefining the "shopping" category in the  
8 amenity scoring model to include a more diverse range of retail and  
9 commercial businesses.
- 10 (2) Eliminating the distinction between primary and secondary amenities in the  
11 scoring model.
- 12 (3) Establishing a threshold score to include amenities and measures of  
13 opportunity.
- 14 (4) Best practices from other states' programs.

15 The Agency shall submit the results of the study and its proposed modifications to the  
16 amenities policies in the Qualified Allocation Plan to the North Carolina Federal Tax Reform  
17 Allocation Committee (Tax Allocation Committee), established pursuant to Article 51B of  
18 Chapter 143 of the General Statutes, and the Fiscal Research Division no later than one year from  
19 the effective date of this act. The Tax Allocation Committee shall propose any recommended  
20 modifications resulting from the study as part of the 2023 Qualified Action Plan.

21 **SECTION 3.2.** The Agency shall develop policies and procedures that complement  
22 existing policies and procedures governing the awarding of Rental Production Program (RPP)  
23 loans, irrespective of the Qualified Allocation Plan for the awarding of Low-Income Housing  
24 Tax Credits. The Agency's policies and procedures shall ensure a uniform process for awarding  
25 all RPP loans, regardless of whether the project conforms or fails to conform to the parameters  
26 of the Qualified Action Plan. The Agency shall publish on its internet website and submit a copy  
27 of the modified RPP policies and procedures to the Joint Legislative Oversight Committee on  
28 General Government and the Fiscal Research Division within one year of the effective date of  
29 this act.

30 **SECTION 3.3.** The Agency shall examine and update the criteria used to administer  
31 the Workforce Housing Loan Program pursuant to G.S. 122A-5.15 to ensure that the income  
32 designations it uses are specific, measurable, transparently stated, and uniformly applied. The  
33 Agency shall complete its update of criteria within six months of the effective date of this act.

#### 34 **PART IV. EFFECTIVE DATE**

35 **SECTION 4.1.** Except as otherwise indicated, this act is effective when it becomes  
36 law.  
37