

**GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2007**

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**HOUSE BILL 1595  
Committee Substitute Favorable 5/24/07  
Senate Finance Committee Substitute Adopted 8/1/07**

Short Title: Economic Development Modifications. (Public)

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Sponsors:

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Referred to:

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April 19, 2007

A BILL TO BE ENTITLED

1 AN ACT TO CLARIFY PROVISIONS IN THE LOCAL DEVELOPMENT ACT, TO  
2 CLARIFY URBAN PROGRESS ZONES AND AGRARIAN GROWTH ZONES,  
3 TO ALLOW MORE THAN ONE AGRARIAN GROWTH ZONE IN A COUNTY,  
4 TO CLARIFY WHEN THE LAST REPORT IS DUE FOR THE REPEALED LEE  
5 ACT CREDITS, TO MAKE TECHNICAL CHANGES CONCERNING THE TAX  
6 CREDITS FOR GROWING BUSINESSES; TO PROVIDE FOR PUBLICATION,  
7 MONITORING, AND REPORTING ON ECONOMIC DEVELOPMENT  
8 INCENTIVE CLAWBACKS; AND TO REQUIRE CLAWBACK PROVISIONS  
9 IN LOCAL ECONOMIC DEVELOPMENT AGREEMENTS.

10 The General Assembly of North Carolina enacts:

11 **SECTION 1.** G.S. 158-7.1(b)(4) reads as rewritten:

12 "(b) A county or city may undertake the following specific economic development  
13 activities. (This listing is not intended to limit by implication or otherwise the grant of  
14 authority set out in subsection (a) of this section). The activities listed in this subsection  
15 may be funded by the levy of property taxes pursuant to G.S. 153A-149 and  
16 G.S. 160A-209 and by the allocation of other revenues whose use is not otherwise  
17 restricted by law.  
18

19 ...

20 (4) A county or city may ~~acquire or construct one or more "shell~~  
21 ~~buildings", which are structures of flexible design adaptable for use by~~  
22 ~~a variety of industrial or commercial businesses. A county or city may~~  
23 ~~convey or lease a shell building or space in a shell building pursuant to~~  
24 ~~subsection (c) of this section.~~ acquire, construct, convey, or lease a  
25 building suitable for industrial or commercial use."

26 **SECTION 2.** G.S. 143B-437.09(a) reads as rewritten:

27 "(a) Urban Progress Zone Defined. – An urban progress zone is an area that meets  
28 all of the following conditions:

- 1           (1) It is comprised of part or all of one or more contiguous census tracts,  
2           census block groups, or both, ~~or parts thereof,~~ in the most recent  
3           federal decennial census that meets all conditions in this  
4           subsection.  
5           ~~(1)(2)~~ All land within the zone of the area is located in whole within the  
6           primary corporate limits of a municipality with a population of more  
7           than in excess of 10,000 according to the most recent annual  
8           population estimates certified by the State Budget Officer.  
9           ~~(2)(3)~~ Every census tract and census block group that composes part of the  
10           zone comprises the area meets at least one of the following conditions:  
11           a. More-It has a population that meets the poverty level threshold.  
12           The population of a census tract or census block group meets  
13           the poverty level threshold if more than twenty percent (20%)  
14           of its population is below the poverty level according to the  
15           most recent federal decennial census.  
16           b. At-It is located adjacent to a census tract or census block group  
17           whose population meets the poverty level threshold and at least  
18           fifty percent (50%) of the area of the portion that is within the  
19           primary corporate limits of the municipality part of it that is  
20           included in the area is zoned as nonresidential and the census  
21           tract or census block group is adjacent to a census tract or block  
22           group of which at least twenty percent (20%) of the population  
23           is below the poverty level.nonresidential. No more than  
24           thirty-five percent (35%) of the area of a zone may consist of  
25           census tracts or census block groups that satisfy this condition  
26           only.  
27           c. It has a population that has a poverty level that is greater than  
28           the poverty level of the population of the State and a per capita  
29           income that is at least ten percent (10%) below the per capita  
30           income of the State according to the most recent federal  
31           decennial census, and it has experienced a major plant closing  
32           and layoff within the past 10 years. A census tract or census  
33           block group has experienced a major plant closing and layoff if  
34           one of its industries has closed one or more facilities in the  
35           census tract or census block group resulting in a layoff of at  
36           least 3,000 employees working in the census tract or census  
37           block group and if the number of employees laid off is greater  
38           than seven percent (7%) of the population of the municipality  
39           according to the most recent federal decennial census.  
40           ~~(3)~~ The area of the zone zoned as nonresidential does not exceed  
41           thirty-five percent (35%) of the total area of the zone."

42           **SECTION 3.** G.S. 143B-437.10 reads as rewritten:

43           **"§ 143B-437.10. Agrarian growth zone designation.**

1 (a) Agrarian Growth Zone Defined. – An agrarian growth zone is an area that  
2 meets all of the following conditions:

3 (1) It is comprised of one or more contiguous census tracts, census block  
4 groups, or both, in the most recent federal decennial census that meets  
5 all conditions in this subsection. A county may have no more than one  
6 agrarian growth zone.

7 (1)(2) All land within the zone of the area is located in whole within a county  
8 that has no municipality with a population in excess of 10,000.  
9 10,000  
10 according to the most recent annual population estimates certified by  
11 the State Budget Officer.

12 (2)(3) Every census tract and census block group that composes part of the  
13 zone comprises the area has more than twenty percent (20%) of its  
14 population below the poverty level according to the most recent  
15 federal decennial census.

16 (3) The area of the zone less the smallest census tract included in the zone  
17 does not exceed five percent (5%) of the total area of the county in  
18 which the zone is located.

19 (b) Limitation and Designation. – The area of a county that is included in one or  
20 more agrarian growth zones shall not exceed five percent (5%) of the total area of the  
21 county. Upon application of a county, the Secretary of Commerce shall make a written  
22 determination whether an area is an agrarian growth zone that satisfies the conditions  
23 ~~and limitations~~ of subsection (a) of this section. The application shall include all of the  
24 information listed in this subsection. A determination under this section is effective until  
25 December 31 of the year following the year in which the determination is made. The  
26 Department of Commerce shall publish annually a list of all ~~urban progress agrarian~~  
27 growth zones with a description of their boundaries.

28 (1) A map showing the census tracts and block groups that would  
29 comprise the zone.

30 (2) A detailed description of the boundaries of the area that would  
31 comprise the zone.

32 (3) A certification regarding the size of the proposed zone.

33 (4) Detailed census information on the county and the proposed zone.

34 (5) A resolution of the board of county commissioners requesting the  
35 designation of the area as an agrarian growth zone.

36 (6) Any other material required by the Secretary of Commerce.

37 (c) Parcel of Property Partially in Agrarian Growth Zone. – For the purposes of  
38 this section, a parcel of property that is located partially within an agrarian growth zone  
39 is considered entirely within the zone if all of the following conditions are satisfied:

40 (1) At least fifty percent (50%) of the parcel is located within the zone.

41 (2) The parcel was in existence and under common ownership prior to the  
42 most recent federal decennial census.

43 (3) The parcel is a portion of land made up of one or more tracts or tax  
44 parcels of land that is surrounded by a continuous perimeter  
boundary."

1           **SECTION 4.** G.S. 105-129.2A(d) reads as rewritten:

2           "(d) Report. – The Department of Commerce shall report the results of these  
3 studies and its recommendations to the General Assembly biennially with the first report  
4 due by April 1, 2001.2001, and the last report due by June 1, 2007."

5           **SECTION 5.** G.S. 105-129.2A(a) reads as rewritten:

6           "(a) Sunset. – This Article is repealed ~~effective~~ for business activities that occur in  
7 taxable years beginning on or after January 1, 2007."

8           **SECTION 6.** Article 10 of Chapter 143B of the General Statutes is amended  
9 by adding the following new sections to read:

10       "§ 143B-435.1. Clawbacks.

11       (a) Clawback Defined. – For the purpose of this Article, a clawback is a  
12 requirement that all or part of an economic development incentive will be returned or  
13 forfeited if the recipient business does not fulfill its responsibilities under the incentive  
14 law, contract, or both.

15       (b) Findings. – The General Assembly finds that in order for a clawback to be  
16 effective, there must be monitoring and reporting regarding the business's performance  
17 of its responsibilities and a mechanism for obtaining repayment if the clawback  
18 requiring the return of previously disbursed funding is triggered. Clawback provisions  
19 are essential to protect the State's investment in a private business and ensure that the  
20 public benefits from the incentive will be secured.

21       (c) Catalog. – The Department of Commerce shall catalog all clawbacks in State  
22 and federal programs it administers, whether provided by statute, by rule, or under a  
23 contract. The catalog must include a description of each clawback, the program to  
24 which it applies, and a citation to its source. The Department shall publish the catalog  
25 on its Web site and update it every six months.

26       (d) Report. – The Department of Commerce shall report to the Revenue Laws  
27 Study Committee by April 1 and October 1 of each year on all clawbacks that have been  
28 triggered under programs it administers and its progress on obtaining repayments. The  
29 report must include the name of each business, the event that triggered the clawback,  
30 and the amount forfeited or to be repaid."

31           **SECTION 7.** G.S. 158-7.1 is amended by adding a new subsection to read:

32           "(h) Each economic development agreement entered into between a private  
33 enterprise and a city or county shall clearly state their respective responsibilities under  
34 the agreement. Each agreement shall contain provisions regarding remedies for a breach  
35 of those responsibilities on the part of the private enterprise. These provisions shall  
36 include a provision requiring the recapture of sums appropriated or expended by the city  
37 or county upon the occurrence of events specified in the agreement. Events that would  
38 require the city or county to recapture funds would include the creation of fewer jobs  
39 than specified in the agreement, a lower capital investment than specified in the  
40 agreement, and failing to maintain operations at a specified level for a period of time  
41 specified in the agreement."

42           **SECTION 8.** This act is effective when it becomes law.