

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 1999

SESSION LAW 2000-148
HOUSE BILL 1819

AN ACT TO CREATE THE RURAL REDEVELOPMENT AUTHORITY TO
FINANCE RURAL ECONOMIC DEVELOPMENT PROJECTS AND INVEST IN
RURAL BUSINESS DEVELOPMENT.

The General Assembly of North Carolina enacts:

Section 1. Article 10 of Chapter 143B of the General Statutes is amended by adding a new Part to read:

"Part 2D. North Carolina Rural Redevelopment Authority.

"§ 143B-437.20. Short title and intent.

This Part is the 'North Carolina Rural Redevelopment Authority Act'. The purpose of the North Carolina Redevelopment Authority is to finance rural economic development projects and invest in rural business development.

"§ 143B-437.21. Definitions.

The following definitions apply in this Part:

- (1) Authority. – The North Carolina Rural Redevelopment Authority.
- (2) Board. – The Board of Directors of the Authority.
- (3) Development project. – Any investment that enables or makes more likely the location or expansion of industrial and commercial businesses in rural counties, which may include sites and industrial parks or centers, together with improvements, such as shell buildings and internal infrastructure.
- (4) Financial institution. – A business that is (i) a bank holding company, as defined in the Bank Holding Company Act of 1956, 12 U.S.C. §§ 1841, et seq., or its wholly owned subsidiary, (ii) registered as a broker-dealer under the Securities Exchange Act of 1934, 15 U.S.C. §§ 78a, et seq., or its wholly owned subsidiary, (iii) an investment company as defined in the Investment Company Act of 1940, 15 U.S.C. §§ 80a-1, et seq., whether or not it is required to register under that act, (iv) a small business investment company as defined in the Small Business Investment Act of 1958, 15 U.S.C. §§ 661, et seq., (v) a pension or profit-sharing fund or trust, or (vi) a bank, savings institution, trust company, financial services company, or insurance company. The term does not include, however, a business that does not generally market its services to the public and is controlled by a business that is not a financial institution.

- (5) Intermediate-term loan. – A loan whose term does not exceed three years.
- (6) Regional partnership. – Any of the following:
 - a. The Western North Carolina Regional Economic Development Commission created in G.S. 158-8.1.
 - b. The Northeastern North Carolina Regional Economic Development Commission created in G.S. 158-8.2.
 - c. The Southeastern North Carolina Regional Economic Development Commission created in G.S. 158-8.3.
 - d. The Global TransPark Development Commission created in G.S. 158-33.
 - e. The Carolinas Partnership, Inc.
 - f. The Research Triangle Regional Partnership.
 - g. The Piedmont Triad Partnership.
- (7) Revenues. – The receipts of the Authority during an accounting period, including interest and dividends on investments, realized capital gains, income from lending and consulting activities, rent or lease income, appropriations from the General Assembly, grants from the Golden L.E.A.F. (Long-term Economic Advancement Foundation), Inc., and grants and gifts from public and private entities to further the purposes of the Authority.
- (8) Rural county. – A county in North Carolina with a density of fewer than 200 people per square mile based on the most recent United States decennial census.
- (9) Small business investment company. – A small business investment company as defined in the Small Business Investment Act of 1958, 15 U.S.C. §§ 661, et seq.

"§ 143B-437.22. Creation of Authority and Board.

(a) Creation. – The North Carolina Rural Redevelopment Authority is created as a body corporate and politic with the powers and jurisdiction as provided under this Part or any other law. The Authority is a State agency created to perform essential governmental and public functions. The Authority is located within the Department of Commerce, but exercises all of its powers, including the power to employ, direct, and supervise all personnel, independently of the Secretary of Commerce and, notwithstanding any other provision of law, is subject to the direction and supervision of the Secretary of Commerce only with respect to the management functions of coordinating and reporting.

(b) Board of Directors. – The Authority is governed by a Board of Directors, which consists of the following 11 members:

- (1) Three members appointed by the Governor, two of whom must be representatives of financial institutions and one of whom must be an elected official representing a local government of or in a rural county.
- (2) Three members appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives in

accordance with G.S. 120-121, one of whom must be a representative of a regional partnership with a predominantly rural constituency and one of whom must be a representative of a financial institution.

(3) Three members appointed by the General Assembly upon the recommendation of the President Pro Tempore of the Senate in accordance with G.S. 120-121, two of whom must be representatives of financial institutions.

(4) The Secretary of Commerce, who shall serve ex officio.

(5) The chief executive officer of the Authority.

(c) Oath. – As the holder of an office, each member of the Board must take the oath required by Section 7 of Article VI of the North Carolina Constitution before assuming the duties of a Board member.

(d) Selection Criteria. – In making appointments to the Board, the Governor and the General Assembly shall give consideration to the geographical representation of the State. In addition, members appointed representing financial institutions ideally would be experienced in areas such as commercial lending and commercial real estate lending, public finance, and economic development; work assignments or experiences in rural counties also would be desirable.

(e) Terms. – The term of office of a member of the Board is three years, except that the Governor shall designate two of the initial members appointed under subdivision (b)(1) of this section to serve a term of one year, and the General Assembly shall designate one of the initial members appointed under subdivision (b)(2) of this section and one of the initial members appointed under subdivision (b)(3) of this section to serve a term of two years. The term of office for the chief executive officer of the Authority shall coincide with the officer's employment by the Board.

(f) Chair and Vice-Chair of the Board. – The Governor shall designate one of the members appointed by the Governor as the Chair of the Board. The Governor shall convene the first meeting of the Board, at which time the members of the Board shall elect from their membership a Vice-Chair of the Board.

(g) Vacancies. – All members of the Board shall remain in office until their successors are appointed and qualify. A vacancy in an appointment made by the Governor shall be filled by the Governor for the remainder of the unexpired term. A vacancy in an appointment made by the General Assembly shall be filled in accordance with G.S. 120-122. A person appointed to fill a vacancy must qualify in the same manner as a person appointed for a full term.

(h) Removal of Board Members. – The Governor may remove any member of the Board for misfeasance, malfeasance, or nonfeasance in accordance with G.S. 143B-13(d). The Governor or the person who appointed a member of the Board may remove the member for using improper influence in accordance with G.S. 143B-13(c).

(i) Organization of the Board. – The Board shall adopt bylaws with respect to the calling of meetings, quorums, voting procedures, the keeping of records, and other organizational and administrative matters as the Board may determine. A quorum shall consist of a majority of the members of the Board. No vacancy in the membership of the

Board shall impair the right of a quorum to exercise all rights and to perform all the duties of the Board and the Authority.

(j) Compensation of the Board. – No part of the revenues or assets of the Authority shall inure to the benefit of or be distributable to the members of the Board or officers or other private persons. The members of the Board other than the chief executive officer shall receive no salary for their services but may receive per diem and allowances in accordance with G.S. 138-5.

(k) Treasurer. – The Board shall select the Authority's treasurer. The Board shall require a surety bond of the appointee in the amount as the Board may fix, and the premium shall be paid by the Authority as a necessary expense of the Authority.

(l) Chief Executive Officer and Other Employees. – The Board shall appoint a full-time professional chief executive officer, whose salary shall be fixed by the Board, to serve at its pleasure. The chief executive officer or a person designated by the chief executive officer shall appoint, employ, dismiss, and, within the limits of available funding, fix the compensation of other employees as considered necessary.

(m) Office. – The Board shall establish an office for the transaction of the Authority's business at the place the Board finds advisable or necessary to implement the provisions of this Part.

"§ 143B-437.23. Powers of the Authority.

(a) The Authority has all of the powers necessary to execute the provisions of this Part, including at least the following powers:

- (1) The powers of a corporate body, including the power to sue and be sued, to make contracts, to adopt and use a common seal, and to alter the adopted seal as needed.
- (2) To finance the purchase of real or personal property.
- (3) To contract and enter into agreements with the State, local governments, other authorities of North Carolina, and other states for the interchange of business.
- (4) To create and operate agencies and departments needed to implement this Part.
- (5) To pay all necessary costs and expenses in the formation, organization, administration, and operation of the Authority.
- (6) To apply for, accept, and administer grants of money from any federal agency, from the State or its political subdivisions, or from any other public or private sources available, and to expend the money in accordance with the requirements imposed by the donor.
- (7) To adopt, alter, or repeal its own bylaws or rules implementing the provisions of this Part.
- (8) To execute financing agreements, security documents, and other instruments necessary in exercising its power under this Part.
- (9) To fix, charge, collect, pledge, or assign revenues of the Authority.
- (10) To employ consulting engineers, architects, attorneys, real estate counselors, appraisers, and other consultants and employees as may be

required in the judgment of the Board and to fix and pay their compensation from funds available to the Authority.

- (11) To provide consulting and advisory services to government entities and to private, nonprofit entities.
- (12) To procure and maintain adequate insurance or otherwise provide for adequate protection to indemnify the Authority and its officers, directors, agents, employees, adjoining property owners, or the general public against loss or liability resulting from any act or omission by or on behalf of the Authority.
- (13) To exercise the powers granted counties and cities under G.S. 158-7.1(a).
- (14) With the approval of any unit of local government, to use officers, employees, agents, and facilities of the unit of local government for the purposes and upon the terms as may be mutually agreeable.
- (15) To receive and use appropriations from the State, including an appropriation from the proceeds of State general obligation bonds or notes.
- (16) To create and administer the Rural Investment Fund and the Long-Term Rural Development Fund, as provided in this Part.
- (17) To invest in securities of a small business investment company or in a limited partnership interest in a partnership that invests principally in companies in rural counties.
- (18) To act as a regrating agency for government grants specifically designated for that purpose.

(b) To execute the powers provided in subsection (a) of this section, the Board shall determine the policies of the Authority by majority vote of the members of the Board present and voting, a quorum having been established. Once a policy is determined, the Board shall communicate it to the chief executive officer, who has the exclusive authority to execute the policy of the Authority. No member of the Board is authorized to give operational directives to any employee of the Authority other than the chief executive officer.

(c) The Authority does not have the power of eminent domain or the power to levy any tax.

"§ 143B-437.24: Reserved.

"§ 143B-437.25: Reserved.

"§ 143B-437.26. Authority funds.

Funds of the Authority may be paid out only upon warrants signed by the treasurer or assistant treasurer of the Authority and countersigned by the Chair, the acting Chair, or the chief executive officer. No warrants may be drawn or issued disbursing any of the funds of the Authority except for a purpose authorized by this Part and unless the account or expenditure has been audited and approved by the Authority or its chief executive officer.

"§ 143B-437.27. Rural Investment Fund.

The Authority may create a revolving loan fund to be called the Rural Investment Fund. The Authority shall use monies in the Investment Fund only to make intermediate-term loans to government entities and to private, nonprofit entities for self-liquidating projects, such as shell buildings, in rural counties. The Authority shall adopt rules establishing interest rates, maximum loans, security requirements, eligibility standards, application procedures, award criteria, and award schedules, and otherwise providing for the administration of the Investment Fund. The Authority shall give priority to applications from regional partnerships.

"§ 143B-437.28. Long-Term Rural Development Fund.

(a) The Authority may create a fund to be known as the Long-Term Rural Development Fund. The Authority may invest and reinvest the assets of the Development Fund.

(b) The income derived from the investment or deposit of the Development Fund shall be used for the following purposes:

- (1) To pay the administrative expenses of the Authority.
- (2) To make intermediate-term loans and longer-term loans to government entities and to private, nonprofit entities for self-liquidating projects, such as shell buildings, in rural counties.
- (3) To provide for the development of property for industrial sites and industrial parks in rural counties, including any of the following:
 - a. Providing water, sewer, gas, or electrical distribution lines or equipment for an industrial site or industrial park.
 - b. Providing road or railroad improvements for an industrial site or industrial park.
 - c. Providing fiber optic or coaxial cable, towers, and other infrastructure items to accommodate high-speed Internet access.
 - d. Providing air or water pollution control facilities.

(c) The Authority shall adopt rules establishing interest rates, maximum loans, security requirements, eligibility standards, application procedures, award criteria, and award schedules, and otherwise providing for the administration of the Development Fund. The Authority shall give priority to applications from regional partnerships.

"§ 143B-437.29. Contracting with minority businesses.

The Authority must comply with the policies regarding contracting with minority businesses as set out in G.S. 143-48, 143-128(f), and 143-135.5 and with any other applicable laws. The Authority is subject to Executive Order Number 150, issued April 20, 1999, regarding contracting with historically underutilized businesses.

"§ 143B-437.30. Conflicts of interest.

If any member, officer, or employee of the Authority is interested either directly or indirectly, or is an officer or employee of or has an ownership interest in any firm or corporation, not including units of local government, interested directly or indirectly, in any contract with the Authority, the member, officer, or employee must disclose the interest to the Board, which must set forth the disclosure in the minutes of the Board. The member, officer, or employee having an interest may not participate on behalf of the Authority in the authorization of any contract.

"§ 143B-437.31. Cooperation by other State agencies.

All State officers and agencies shall cooperate and may render services where appropriate to the Authority within their respective functions as may be requested by the Authority.

"§ 143B-437.32. Annual and quarterly reports.

The Authority must, promptly following the close of each fiscal year, submit an annual report of its activities for the preceding year to the Governor and the General Assembly. Each report must be accompanied by an audit of its books and accounts. The audit must be conducted by the State Auditor. The costs of all audits shall be paid from funds of the Authority.

Each annual report must be accompanied by data indicating the geographical distribution of development projects funded directly or indirectly by the Authority. Every three years, the Authority shall provide to the Governor and to the General Assembly an analysis of the data for the previous three-year period showing the extent to which the funding of development projects has been distributed among the rural counties of every geographical region in an equitable manner.

The Authority must submit quarterly reports to the Joint Legislative Commission on Governmental Operations. The reports must summarize the Authority's activities during the quarter and contain any information about the Authority's activities that is requested by the Commission.

"§ 143B-437.33. Dissolution.

Whenever the Board by resolution determines that the purposes for which the Authority was formed have been substantially fulfilled and that all obligations incurred by the Authority have been fully paid or satisfied, the Board may declare the Authority dissolved. On the effective date of the resolution, the title to all funds and other property owned by the Authority at the time of the dissolution vests in the State and possession of the funds and other property must be delivered to the State."

Section 2. G.S. 120-123 is amended by adding a new subdivision to read:

"(70) The North Carolina Rural Redevelopment Authority created in Part 2D of Article 10 of Chapter 143B of the General Statutes."

Section 3. G.S. 126-5(c1) is amended by adding a new subdivision to read:

"(18) Employees of the North Carolina Rural Redevelopment Authority created in Part 2D of Article 10 of Chapter 143B of the General Statutes."

Section 4. G.S. 150B-21.1(a7), as enacted by House Bill 1539, 1999 General Assembly, reads as rewritten:

"(a7) Notwithstanding the provisions of subdivision (a)(2) of this section, an agency may adopt a temporary rule to implement the provisions of any of the following acts until all rules necessary to implement the provisions of the act have become effective as either temporary or permanent rules:

- (1) The North Carolina Rural Redevelopment Authority Act, Part 2D of Article 10 of Chapter 143B of the General Statutes.
- (2) Article 34B of Chapter 115C of the General Statutes. ~~Statutes.~~ Statutes, relating to qualified zone academy bonds."

Section 5. G.S. 150B-21.1(a7)(1), as enacted by Section 4 of this act, is repealed effective July 1, 2002.

Section 6. G.S. 66-58(b) is amended by adding a new subdivision to read:

"(21) The North Carolina Rural Redevelopment Authority or a lessee of the Authority."

Section 7. This act becomes effective July 1, 2000.

In the General Assembly read three times and ratified this the 10th day of July, 2000.

s/ Marc Basnight
President Pro Tempore of the Senate

s/ James B. Black
Speaker of the House of Representatives

s/ James B. Hunt, Jr.
Governor

Approved 9:20 a.m. this 2nd day of August, 2000