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## Community Development and Housing

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In 2001, proposed changes to the William S. Lee Quality Jobs and Business Expansion Act dominated the community development legislative agenda. The proposals ranged from eliminating the act to significantly strengthening it. The changes that ultimately were made were fairly moderate; some were designed to either expand or restrict benefits under the act, but most served to clarify various ambiguities.

### **Community Development**

#### **Changes to the Bill Lee Act**

The William S. Lee Quality Jobs and Business Expansion Act, enacted in 1996, is now considered the state's main economic development legislation. The act offers tax credits to companies in specifically named industrial classifications that create jobs or invest in machinery and equipment, worker training, research and development, and central offices. For many of the credits, the state is divided into five tiers based on per capita income, unemployment rates, and population growth. The lower the tier designation—that is, the more economically distressed the county—the larger the available tax credit. The General Assembly has sought to bolster or better focus the act in sessions subsequent to the original enactment, and this session was no exception. This year the General Assembly's changes to the act included:

- Modifying the rules governing the tier categorization of two-county industrial parks, making it easier for them to qualify for lower tier status [S.L. 2001-94 (S 538)].

- Directing the Department of Revenue to make the final decision on a company's qualification for tax credits [S.L. 2001-476 (S 748)].
- Extending the carryforward period for the research and development tax credit from five to fifteen years.
- Rewriting industry definitions to clarify that a taxpayer is not considered to be part of an eligible industry classification unless the establishment for which the credits are claimed is part of the taxpayer's primary business.
- Clarifying that the minimum investment threshold applies separately to each establishment's site or location.
- Adjusting the thresholds for the small county exceptions to provide that (1) a county with a population of less than 12,000 (formerly 10,000) and a poverty rate of higher than 16 percent must be designated a tier one county (under the current tier ranking, only Alleghany and Jones counties would be affected), and (2) a county with a population of under 35,000 that would otherwise be designated a tier four or five county must be designated tier three (using 2001 data, this provision affects Alexander, Dare, Davie, Macon, and Transylvania counties).
- Making a customer service center or electronic mail order house located in a tier three county eligible for credits. The credit was previously limited to those establishments that were located in tier one or two counties.
- Giving tax credits to companies that invest at least \$10 million in real estate in a tier one or tier two county and hire at least two hundred workers within two years. This is considered the most significant change made to the act in the 2001 session.
- Reducing the sales tax rate of electricity sold to manufacturers for use at a manufacturing facility from 2.83 percent to .17 percent for industries that use over 1.2 million megawatts per year. This reduction is effective July 1, 2002. Beginning July 1, 2005, a new tax rate structure will be based on annual megawatt hours used in the manufacturing process. Firms using 5,000 megawatts or less in a year will continue paying a sales tax of 2.83 percent on electricity. Firms using over 5,000 and up to 250,000 megawatts annually will be taxed at 2.25 percent; those using over 250,000 and up to 1.2 million megawatts annually will be taxed at 2 percent; and those using over 1.2 million megawatts annually will be taxed at .17 percent. The rate changes allow Alcoa to claim a tax credit for electricity it uses at its plant in Badin. The company contended that the changes were consistent with an agreement that it had made with legislators.

### **Community Development Training Study**

The budget bill, S.L. 2001-424 (S 1005), directs the Department of Commerce to explore the development of a training program for administrators of Community Development Block Grants. The department has contracted with the Institute of Government to conduct the study. Findings and recommendations will be reported to the House and Senate Appropriations subcommittees on Natural and Economic Resources and the Fiscal Research Division of the General Assembly by February 1, 2002.

### **Governor's Competitive Fund**

The General Assembly appropriated \$15 million for the Industrial Recruitment Competitive Fund. This fund, which is commonly referred to as the Governor's Competitive Fund, grants the Governor significant discretion to provide perquisites to employers considering moving their companies to North Carolina. S.L. 2001-424 provided the largest appropriation since the creation of the fund.

## **Water and Sewer Bonds**

S.L. 2001-238 (S 123) amends G.S. 159I-30(a) to authorize local governments to issue special obligation bonds for water supply systems, water conservation projects, water reuse projects, wastewater collection systems, and wastewater treatment works.

## **Affordable Housing**

### **Mortgage Lending Act**

In S.L. 2001-393 (S 904) the General Assembly repealed the laws governing registration of mortgage brokers and bankers (Article 19 of Chapter 53 of the General Statutes) and enacted G.S. 53-243 to require licensure of these professionals. Under the prior law, it was clear that governments providing first mortgage loans were exempt from registration. It was not clear, however, whether governments were exempt from registration when providing second mortgage loan programs.

The new Mortgage Lending Act provides that, except for some exemptions, it is now unlawful to act as a mortgage broker or banker or engage in the business of a mortgage broker or banker without first obtaining a license from the Commissioner of Banking. Governments are specifically exempt from the licensure requirements when providing any mortgage loan authorized by law.

### **Housing Finance Agency Changes**

The Housing Finance Agency was granted greater authority to invest Housing Trust Funds and issue bonds. S.L. 2001-181 (S 311) amends G.S. 122A-11 to expand the classes of securities in which the Housing Finance Agency may invest Housing Trust Fund dollars. In S.L. 2001-185 (S 236), the cap on outstanding bonds for the Housing Finance Agency was increased from \$1.5 billion to \$3 billion.

The General Assembly also enacted S.L. 2001-299 (S 367), which exempts the agency from Administrative Procedure Act requirements when it adopts a qualified allocation plan as required by 26 U.S.C. § 429(m). The changes to G.S. 143-433.9 set forth the following alternative procedure: The agency must publish the proposed plan in the North Carolina Register at least thirty days prior to the adoption of the final plan, notify any person who has applied for the low-income housing credit in the previous year and any other interested parties of the intent to adopt the plan, accept oral and written comments on the proposed plan, and hold at least one public hearing on the plan.

### **Minimum Housing Ordinances**

Last session the General Assembly authorized municipalities located in counties with populations of more than 71,000 to require owners of buildings that have been vacated and closed for a year to either repair or demolish the building [G.S. 160A-443(5a)]. In S.L. 2001-283 (H 307) the legislature clarifies that these provisions are available to any municipality located in more than one county if at least one of the counties has a population of more than 71,000.

### **Floyd Recovery**

Localities that participated in the Hazard Mitigation Grant Program after Hurricane Floyd sought authority this session to allow persons displaced by the federal buyout program to repurchase their homes and move them to another location. S.L. 2001-29 (H 18) allows a county to sell the property back to the property owner as part of a private sale if (1) the property owner

will initially occupy the dwelling, (2) the dwelling is properly repaired in compliance with the North Carolina Building Code, and (3) the sale takes place on or before July 31, 2001.

### **Public Housing**

The General Assembly extended the Local Government Budget and Fiscal Control Act to housing authorities. See Chapter 16, "Local Government and Local Finance," for a detailed discussion about this new law.

### **Local Affordable Housing Act**

S.L. 2001-104 (H 866) authorizes the City of Greenville to require absentee owners of rental property located within the city to authorize an agent residing in Pitt County to accept service of process. The owner must notify the city clerk of the authorized agent's name and address. Owners who live in Pitt County are exempt from the requirements of this law.

*Anita R. Brown-Graham*