

4

Community Development and Housing

The 2003 General Assembly responded to the state's declining economy with considerable legislative debate over the effectiveness of a variety of community and economic development tools. Relatively little new legislation resulted, although the General Assembly authorized local governments to employ a few additional means to support their development efforts and sought to stimulate private sector activity by extending expiring business tax credits. Some proposals that were not enacted remain eligible for consideration in 2004. As a result of the state's budget deficit, however, affordable housing initiatives generated little in the way of interest or funding this session.

Community and Economic Development Tools

Project Development Financing

Subject to voter approval of an amendment to the North Carolina Constitution, S.L. 2003-403 (S 725) seeks to allow local governments to borrow money to finance public improvements associated with private development projects. This local economic development tool, which is commonly referred to as *tax increment financing*, can be used for industrial site development, redevelopment of existing industrial and brownfields sites, and the restoration of blighted areas. Because it is intended to support quality jobs, tax increment financing can only be used to create manufacturing positions that meet specific wage and benefit requirements. The proposed constitutional amendment will come before voters on the ballot of the November 2004 general election.

S.L. 2003-417 (H 1301) permits local governments to share financing, expenditures, and revenues related to joint undertakings. The new law is expected to facilitate the expansion of regional economic development projects as well as provide needed financing options for projects in rural areas of the state. See Chapter 14, "Local Government and Local Finance," for a more comprehensive discussion of these two provisions.

Tax Credits

In S.L. 2003-414 (H 1294) the General Assembly extended the State Ports Tax Credit and the Qualified Business Investments Tax Credit to January 1 of 2009 and 2007, respectively, as recommended by the North Carolina Economic Development Board, an advisory group to the Governor and the Department of Commerce. The State Ports Tax Credit aims to encourage North Carolina businesses to increase their use of state ports. The Qualified Business Credit encourages investments in entrepreneurial start-ups. The legislature expanded its applicability to include investments in companies that commercialize university-developed technologies. Both tax credits were to expire on December 31, 2003.

Senate Bill 944 and House Bill 1284 included proposals to significantly expand the tax credit available in North Carolina for research and development activity. The bills did not pass this session despite the North Carolina Economic Development Board's contention that the legislation would significantly increase research and development activity in the state. Currently a limited research and development credit is available only to companies that qualify for the William S. Lee Quality Jobs and Business Expansion Act (Bill Lee Act). The Bill Lee Act, enacted in 1996, 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 purposes of applying many of the credits, counties receive one of five tier designations based on per capita income, unemployment rates, and population growth. The lower the designation of the area in which a company is located—that is, the more economically distressed the county—the larger the available tax credit will be. Proponents of an expanded research and development tax credit complain that many research and development activities are not well suited for the economically distressed areas the Bill Lee Act was designed to target.

The General Assembly also failed to enact S 944, a sales tax incentive to benefit large, advanced, or high technology manufacturing facilities. The bill would have authorized a refund of sales taxes paid on construction materials to companies building facilities for aerospace, automotive, semiconductor, pharmaceutical, or biological manufacturing that would have cost more than \$100 million to construct.

One North Carolina—Industrial Recruitment Competitive Fund

Last session the General Assembly appropriated \$15 million to the One North Carolina—Industrial Recruitment Fund. This fund provides financial assistance to businesses or industries (1) that the Governor deems vital to a healthy and growing state economy and (2) that are making significant efforts to locate or expand in North Carolina. This session the General Assembly made no appropriation to this fund. S.L. 2003-284 (H 397), the appropriations act, directs the Department of Commerce to allot \$1 million of the fund's 2001–2003 appropriation to provide financial assistance to Johnson and Wales University to support the creation and expansion of that educational institution's presence in North Carolina.

Workforce Development

The General Assembly considered, but took little action on, several strategies to respond to the high rates of dislocated workers in the state. Most of these proposals involved increased funding for workforce training; others were to be included in the study bill, which was not enacted.

S.L. 2003-418 (S 168) allows boards of county commissioners to create special economic development and training districts under Section 2(4) of Article V of the North Carolina Constitution.

These districts would support training workers for jobs with pharmaceutical, biotechnical, life sciences, chemical, telecommunications, and electronics companies. A county (through its community college) may provide targeted skills training centers in a district if it would be impossible or impractical to provide similar training facilities and services on a countywide basis to all existing and future employers. S.L. 2003-418 also authorizes county commissioners to finance, provide, or maintain a skills training center by levying additional property taxes in the economic development and training district. Finally, the act defines the property that may be initially included within an economic and training district in Johnston County, subject to selection by the Johnston County Board of Commissioners.

Moving Ahead Transportation Initiatives

This session Governor Easley advocated for significant improvements of roads and public transit systems as part of his overall economic development initiative. S.L. 2003-383 (H 48) appropriates \$700 million from the Highway Trust Fund over the next two years to these improvement efforts across the state. A more detailed discussion of this legislation can be found in Chapter 13, "Land Use, Community Planning, Code Enforcement, and Transportation."

Tourism Grants

A bill to create a travel and tourism capital investment program (H 1316) would have provided grants to local governments for travel and tourism projects that (1) demonstrate a positive economic impact, (2) create at least ten jobs consistent with the Bill Lee Act's applicable wage standard [G.S. 105-129.4(b)], and (3) attract new visitors to the area. The requirements for eligible projects differed depending on the enterprise tier designation of the county. Communities in tier one through three counties were required to target tourists who reside outside of the state or more than twenty-five miles from the project and to create at least three new full-time jobs. Communities in tier four and five counties were required to target tourists who reside outside of the state or more than fifty miles from the project and to create at least ten full-time jobs. Similarly, the maximum grant percentages of the total project funds allotted to participating communities were determined by tier designation. Tier one and two communities were entitled to grants of up to 40 percent of the total project funds, grants for tier three and four were set at 30 percent, and grants for tier five were limited to 25 percent. The proceeds of the grants could be used only for capital costs associated with related projects. House Bill 1316, which was not enacted, is also discussed in Chapter 14, "Local Government and Local Finance."

Redevelopment

S.L. 2003-66 (H 1065) allows local governments to convey redevelopment property to nonprofits without receiving full cash consideration. Under the new law, redevelopment property can be conveyed under the procedures outlined in G.S. 160A-279. S.L. 2003-66 is discussed in more detail in Chapter 14, "Local Government and Local Finance."

Also, to encourage redevelopment in central cities, H 1301 sought to give local governments broader authority to defer increases in tax value for redeveloped property. The bill was not enacted.

Internet Access

In 2000 the General Assembly created the Rural Internet Access Authority (RIAA) to address the digital divide existing between the state's urban and rural communities. Finding that the objectives of the RIAA had been largely met but noting the need to ensure that the citizens of rural North Carolina keep pace with technological changes in telecommunications and information networks, the General Assembly enacted S.L. 2003-425 (H 1194). This new legislation allows the RIAA to sunset and creates in its place the e-NC Authority. Unlike the RIAA, which focused on rural areas, the e-NC Authority is charged with promoting efforts to provide high-speed broadband

Internet access to both rural and urban financially distressed areas. S.L. 2003-425 was effective December 31, 2003. The authority will be governed by a commission of nine voting members (to be selected by the Governor, President Pro Tempore of the Senate, and the Speaker of the House) and six nonvoting members [to include the Secretary of Commerce; the State Chief Information Officer; the President of the North Carolina Rural Economic Development Center, Inc.; the Executive Director of the North Carolina Justice and Community Development Center; the Executive Director of the North Carolina League of Municipalities; and the Executive Director of the North Carolina Association of County Commissioners (or their designees)].

Board of Science and Technology

S.L. 2003-210 (H 665) amends G.S. 143B-472.80 to add the General Assembly as an entity to which the North Carolina Board of Science and Technology will provide advice on the role of science and technology in the economic growth and development of North Carolina. Previously, the board advised the Governor, the Department of Commerce, and the Economic Development Board.

Affordable Housing

Manufactured Housing

S.L. 2003-400 (H 1006) provides consumer protections to purchasers of manufactured homes and increases the likelihood that this popular source of affordable housing will create equity for its owners. The law now reclassifies manufactured housing subject to a long-term ground lease (a primary term of twenty years or more) as real estate. This change gives manufactured home purchasers access to loans with terms similar to conventional mortgages. In an attempt to curb rampant abuses in the manufactured housing industry, the law requires criminal background checks for applicants seeking licensure as manufactured home manufacturers, dealers, salespersons, or setup contractors. It makes clear that a buyer of a manufactured home has the right to cancel a home purchase if the dealer changes the terms of the sales agreement and directs the Department of Insurance to develop new rules to improve protections to buyer's deposits when dealers file for bankruptcy. It also requires that a manufacturer's suggested retail price, if one exists, be displayed on the home. In addition, dealers must prominently display information on how to contact the Manufacturing Housing Board, on how to file a consumer complaint with the board, and on the warranties and protections that must be provided for new manufactured homes. The law also requires owners of manufactured home parks to give 180-day notices (rather than the 30-day notices under prior law) to tenants when they are selling or closing the park. If the state or a unit of local government orders the park to close, the owner must give residents notice of the closure within three business days of the order. As further protection for consumers, S.L. 2003-400 amends G.S. 149-139.1 to provide minimum construction and design standards for modular homes. A detailed analysis of these standards is included in Chapter 13, "Land Use, Community Planning, Code Enforcement, and Transportation."

Minimum Housing Ordinances

S.L. 2003-42 (S 23) and S.L. 2003-23 (S 465) add the cities of Clinton, Goldsboro, High Point, and Lumberton and the town of Franklin to the growing list of municipalities authorized to declare residential buildings in community development target areas unsafe and to demolish those buildings by using the same process authorized under G.S. 160A-426 for the demolition of unsafe nonresidential buildings.

S.L. 2003-76 (S 290) and S.L. 2003-320 (S 357) grant authority to the cities of Greensboro and Roanoke Rapids to order owners of residential properties to repair (rather than vacate) dilapidated housing to meet the city's minimum code standards. House Bill 628 would have permitted all local governments concerned about blight and the loss of affordable housing to

exercise this option. At adjournment the bill remained in the House committee to which it was referred.

Fair Housing

S.L. 2003-136 (H 1175) amends G.S. 41A-7(a) to permit fair housing organizations to file complaints with the State Human Relations Commission on behalf of a person who either claims to have been injured by or reasonably believes he or she will be injured by an unlawful discriminatory housing practice.

Late Fees on Rent

S.L. 2003-370 (S 847) clarifies that if a rental unit is subsidized by a government agency, any late fee must be calculated on the tenant's share of the contract rent only; the rent subsidy is not to be included. If the unit is not subsidized and rent is due in monthly installments, a landlord may charge a late fee not to exceed \$15 or 5 percent of the rent, whichever is greater. If the rent is due in weekly installments, the landlord may charge a late fee not to exceed \$4 or 5 percent of the weekly rent, whichever is greater.

Inclusionary Zoning

As a result of work by a regional task force staffed by the Triangle J Council of Governments' Affordable Housing Center and advised by the UNC Chapel Hill School of Government, the Town of Carrboro sought authorization to use inclusionary zoning to promote the development of affordable housing for sale and rent to persons of low and moderate income. Senate Bill 493 would have allowed Carrboro to develop a zoning scheme under which prospective housing developers of projects of fifty units or more would be required to make a percentage of the dwellings affordable to lower-income households in exchange for a density bonus and as a condition of zoning approval. As with prior similar efforts by other jurisdictions, the bill remained at adjournment in the committee to which it was originally assigned.

Consumer Lending

North Carolina's community development practitioners actively fight against laws permitting predatory lending practices. This year the Coalition of Responsible Lending, which includes 128 organizations associated with affordable housing interests, community development, consumer protection, and financial institutions, sought to defeat H 1213, which would have reauthorized payday lending in North Carolina. Payday lending (sometimes called "cash advances") involves loans marketed to low-income working consumers as an easy way to borrow cash for short-term emergencies. However, its detractors point out that the average payday customer in North Carolina takes out fourteen loans a year, resulting in significant wealth depletion for the state's financially fragile families.

The debate over payday lending is not new. In 1997 the General Assembly authorized a four-year payday lending experiment. In 2001 the experiment expired and the state's Commissioner of Banking ordered payday lenders to cease making loans in North Carolina. While many smaller payday lenders complied with this order, large chains continued to make loans in the state by affiliating with out-of-state banks. This practice, known as "renting-a-charter," allowed these lenders to claim that the out-of-state bank charters rendered the lenders exempt from North Carolina law. As they believed themselves exempt from any state regulations, some lenders began raising fees to as high as 30 percent of the loan's value. In 2002 the state's Attorney General and the Commissioner of Banks successfully sued one of these large companies for abusive business practices. Also in that year, industry supporters introduced a bill reauthorizing payday lending. Consumer groups successfully opposed the bill.

House Bill 1213 would have brought payday lending back under the state's authority. However, the Coalition for Responsible Lending (including the 128 organizations) and the Attorney General argued successfully that new regulations issued by the Federal Deposit Insurance Corporation on July 3, 2003, would offer additional protection to consumers but would be undermined by H 1213. The new regulations prohibit banks from tying up more than 25 percent of their capital in payday loans and require them to write off as losses any payday loans that are not repaid within sixty days. Such loans should then be declared "substandard" and as a result will face higher regulatory scrutiny.

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