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Community Development and Housing

The 1999 General Assembly modified recent community development and housing legislation to make those tools more effective. The General Assembly also provided new resources for expanding affordable housing and stimulating economic development. Most of the major initiatives addressed involve the use of tax credits, effective for tax years beginning January 1, 2000, to encourage private investment in community development and housing. The General Assembly passed An Act to Provide for Widely Shared Prosperity, which expanded eligibility for tax credits under the William S. Lee Quality Jobs and Business Expansion Act, tightened the requirements for designation as a state development zone, provided tax credits to those making contributions to improvement projects in state development zones, and created a state affordable housing tax credit program.

Community and Economic Development

Changes to the William S. Lee Quality Jobs and Business Expansion Act

Under the William S. Lee Quality Jobs and Business Expansion Act, first adopted by the General Assembly in 1996, companies receive tax credits for jobs they create. The amount of the credit is based on the designation (Tier One through Tier Five) of the county in which the jobs are created: The poorer the county (i.e., the lower the tier number), the larger the tax credit.

The procedure for designating a county's tier was set out in the original legislation. The ten poorest counties are assigned as Tier One, the next fifteen are assigned as Tier Two, and the twenty-five richest are in Tier Five. The fifty remaining counties are divided equally by level of poverty between Tier Three and Tier Four. A county's level of poverty is determined by its rate of

unemployment, average per capita income, and percentage growth in population. In prior years, a special exception to the classification scheme was made to ensure that a Tier One county could not be reclassified to a higher designation until it had received Tier One designation for two consecutive years. S.L. 1999-360 (S 1115) further modified the procedure for tier designation by excepting certain small counties from the scheme. Under this exception, counties with (1) populations of less than 10,000, 16 percent or more of which live in poverty, will be designated as Tier One; (2) populations of less than 50,000, 18 percent or more of which live in poverty, will be designated on a tier level below the designation that they would otherwise receive; and (3) populations of less than 25,000 will be designated as Tier Three. The counties potentially impacted by this small-county provision are Alleghany, Ashe, Beaufort, Bladen, Camden, Cherokee, Clay, Currituck, Duplin, Greene, Hoke, Jones, Madison, Pamlico, Pasquotank, Perquimans, Polk, Scotland, Vance, Watauga, and Yancey.

In 1997 and 1998 the General Assembly expanded the types of businesses eligible for tax credits. S.L. 1999-360 further expands eligibility by including customer service centers located in Tier One and Tier Two counties, data processing (computer systems design and related services, software publishers, software reproducing, data processing services, online information services), and an electronic mail-order house. Other changes in 1999 add a state affordable housing tax credit (see discussion under "Housing"), credits for insurance companies against the gross premiums tax, enhanced credits for "high quality jobs," research and development credit provisions, a requirement for environmental certification, and a new fee structure. The sunset date for the William S. Lee Act was extended from tax year 2002 to January 1, 2006.

See Chapter 25 (State Taxation) for information on additional changes to the William S. Lee Act.

State Development Zones

In 1998 the General Assembly complemented the William S. Lee Act by giving companies an additional \$4,000 tax credit for jobs created in state development zones. A *development zone* was defined as contiguous census tracts or block groups in which the poverty level exceeded 20 percent. No maximum size limit was set for a development zone, but to qualify the area had to have a population of 1,000 or more and be located, at least in part, in a city with a population of 5,000 or more. The definition of the development zone was modified by S.L. 1999-360. Every census tract and census block group within a development zone must now be located in whole or in part within the primary corporate limits of a city. Moreover every census tract and census block group in the zone must meet at least one of the following criteria: (1) more than 10 percent of its population was below the poverty level at the time of the last decennial census, or (2) it is immediately adjacent to another census tract or census block group with a 20 percent or higher poverty level at the time of the last decennial census. The purpose of the change is to ensure that development zones focus on urban, low-income areas rather than rural or suburban extensions of a municipality.

S.L. 1999-360 provides that a taxpayer is eligible for a credit for creating jobs or for worker training only if the taxpayer provides health insurance for the positions for which the credit is claimed. A taxpayer is considered to have provided health insurance if the enterprise pays at least 50 percent of the premiums for the health care coverage.

The state development zone legislation has new reporting requirements. An application must state the number of full-time jobs to be created in the development zone, the number of full-time jobs expected to be filled by employees who live in the development zone, and the number of full-time jobs expected to be filled by employees who live in census tracts or census block groups with 20 percent or more of the population living in poverty.

Beginning January 1, 1999, a development zone designation is effective for twenty-four rather than forty-eight months. Therefore the fifty-eight currently approved development zones will expire December 31, 2000.

The 1999 General Assembly also provided a new tax credit for development zone projects. A taxpayer who contributes cash or property to a development zone agency for an improvement

project in a development zone is allowed a credit equal to 25 percent of the value of the contribution. Qualified development zone agencies are community-based development organizations, community action agencies, community development corporations, community development financial institutions, community housing development organizations, and local housing authorities. *Improvement projects* are defined as efforts to acquire or improve real property for community development purposes. The total amount of all tax credits allowed to taxpayers in a calendar year may not exceed \$4 million.

A proposal to develop enterprise zones (S 136; H 142) did not pass. An *enterprise zone* was defined as a census tract in the most recent decennial census that (1) is located in a city with a population of 25,000 or more and (2) has more than 30 percent of its population below the poverty level. The objective was to encourage business development in these zones by providing the following incentives: (1) income tax exclusion for gain from appreciation of zone property, (2) income tax credit for property tax increase due to improvements within the zone, (3) income tax credit for installation of machinery and equipment within the zone, (4) state sales tax refund for a zone corporation's purchases (effective Jan. 1, 2000, with respect to taxes paid on or after that date), (5) income tax credit for creating jobs in the zone, and (6) Industrial Development Fund financing for local government projects within the zone.

Work Force Development

S.L. 1999-237 (H 168) establishes a Workforce Development Commission within the Department of Commerce to provide employment and training grants to be administered through local workforce development boards.

Community Development Block Grants

S.L. 1999-237 provides that at least 20 percent of any increase in federal community development block grant dollars must be spent on economic development. Any remaining increase not otherwise obligated may be allocated to the Housing Development program category.

The legislation also provides that any 1999 funds remaining in the Community Empowerment category may be used for nonprofit capacity building. These funds would be available to nonprofits to design and develop community development projects in partnership with local governments.

Efforts to reallocate Community Development Block Grants on a regional basis (H 1226) failed. H 1226 would have directed the Department of Commerce to establish regions in the state and allocate funds to each region based on the number of persons in poverty and the number of substandard housing units, excluding bonus points for Tier One counties and projects seeking to eliminate pit privies.

Housing

Affordable Housing Tax Credit

S.L. 1999-360 creates a state affordable housing tax credit program patterned after the federal Low Income Housing Tax Credit. The federal program provides about 50 percent investor equity of the cost of a typical rental development, which still results in rents that are too high for many low-income North Carolinians.

The new state program provides 8 to 25 percent more investor equity for these rental developments. In Tier One and Tier Two counties (see the earlier discussion on the William S. Lee Act), the state credit is 75 percent of the total federal credit. In all other counties the state credit is 25 percent of the total federal credit.

Qualified projects in Tier One and Tier Two counties are all those that qualify for the federal tax credit. Projects in Tier Three and Tier Four counties are entitled to a state credit if 40 percent of the residential units are rent restricted and occupied by individuals with incomes at 50 percent or less of the area's median income. Projects in Tier Five counties are entitled to the 8 percent credit if 40 percent of the residential units are rent restricted and occupied by individuals with incomes at 35 percent or less of the area's median.

The state tax credit is not intended to generate any additional units of affordable housing. It will generate units with deeper subsidies, however, which should increase the stock of housing targeted to lower-income households. [See Chapter 25 (State Taxation) for more information on the Affordable Housing Tax Credit.]

The Housing Trust Fund

The Housing Trust Fund received \$11.3 million for fiscal year 1999–2000 and \$5.3 million for fiscal year 2000–2001. S.L. 1999-237 directs the Housing Finance Agency, which administers the Trust Fund, to give first priority to projects in Tier One, Tier Two, and Tier Three counties and second priority to projects that benefit persons and families whose incomes are 50 percent or less of the median family income for the local area. The agency must spend \$2.5 million of its funds for 1999–2000 and \$500,000 for 2000–2001 for housing for the elderly.

Public Housing

Although public housing authorities in North Carolina have routinely reserved at least one seat on the housing authority commission for a tenant of the authority or a recipient of housing assistance, they have not been required by state law to do so. In fact almost half of the counties were barred from allowing a tenant to serve as a commissioner. S.L. 1999-146 (H 951) makes it mandatory for housing authorities, including regional authorities, to have at least one appointee who is directly assisted by the public housing authority. The only exception provided is rather limited. Exempted are those authorities operating fewer than 300 public housing units that, after reasonable notice of a vacancy and a reasonable waiting period, receive no indication from a resident advisory board that anyone is willing to serve. The new law specifies that, unless the authority's rules require that the representative be selected by other persons receiving assistance from the authority, the mayor (of a city authority) or the commissioners (of a regional authority) will appoint the person. In addition S.L. 1999-146 amended G.S. 157-5 to increase from nine to eleven the maximum number of members that may be appointed to a housing authority board.

The General Assembly clarified that housing authorities are exempt from real estate licensure requirements. Under S.L. 1999-409 regular, salaried employees of housing authorities may engage in real estate transactions involving property owned or leased by the housing authority without a real estate license. However, the exemption does not extend to those contracting with housing authorities to sell or manage property owned or leased by the housing authority.

County Authority for Affordable Housing

Counties are authorized by S.L. 1999-366 (S 708) to appropriate and expend funds for residential housing construction (new and rehabilitated) for sale or rental to persons or families of low and moderate income. A county may develop a mixed-income housing project that serves persons not of low or moderate income if at least 40 percent of the units are exclusively reserved for persons of low or moderate income. Counties may levy taxes or borrow funds for these purposes. However, no rent subsidy may be paid from bond proceeds.

Close Loophole in Minimum Housing Standards

S 414 would have authorized local governments to order repair or demolition of structures for which a repair or vacate order had previously been issued but which remained boarded up after a

year. The bill passed both the House and the Senate but remained in conference when the 1999 session ended. A related bill, S 1152, which authorized the demolition of nonresidential abandoned structures, passed the Senate and remains eligible for consideration in the 2000 session.

Duty to Provide Heat for Rental Properties

Over the years it has been unclear whether local governments could require landlords to provide a permanent source of heat for rental dwellings. The General Assembly has resolved the issue by directing, rather than authorizing, some cities to obligate landlords to provide heat to rental property. Cities with a population of 200,000 or more at the time of the most recent decennial census will have to adopt ordinances requiring every dwelling unit leased as rental property within the city to have a heating system by January 1, 2000. Acceptable heating systems include a central or electric heating system or chimneys, flues, or gas vents with heating appliances connected. The system must be sufficient to heat at least one habitable room, excluding the kitchen, to a minimum of 68 degrees Fahrenheit. S.L. 1999-14 makes it clear that although portable kerosene heaters may serve as a supplementary source of heat, they may not serve to discharge a landlord's obligation to provide a permanent source of heat.

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