

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

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HOUSE BILL 1819*

Short Title: Rural Redevelopment Authority Funds.

(Public)

Sponsors: Representatives Tolson, Baddour, Redwine, Easterling; and Sexton.

Referred to: Ways and Means, if favorable, Appropriations.

May 30, 2000

A BILL TO BE ENTITLED

1 AN ACT TO APPROPRIATE FUNDS TO CREATE THE RURAL
2 REDEVELOPMENT AUTHORITY TO FINANCE RURAL ECONOMIC
3 DEVELOPMENT PROJECTS AND INVEST IN RURAL BUSINESS
4 DEVELOPMENT.
5

6 The General Assembly of North Carolina enacts:

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

9 **"PART 2D. NORTH CAROLINA RURAL REDEVELOPMENT AUTHORITY.**

10 **"§ 143B-437.20. Short title and intent.**

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

14 **"§ 143B-437.21. Definitions.**

15 The following definitions apply in this Part:

16 (1) Authority. – The North Carolina Rural Redevelopment Authority.

17 (2) Board. – The Board of Directors of the Authority.

18 (3) Bonds. – The revenue bonds or other interest-bearing obligations
19 authorized to be issued by the Authority under this Part.

20 (4) Costs. – The capital cost of a project, including:

- 1 a. The costs of doing any or all of the following:
2 1. Acquiring, constructing, erecting, providing, developing,
3 installing, furnishing, and equipping.
4 2. Reconstructing, remodeling, altering, renovating,
5 replacing, refurnishing, and reequipping.
6 3. Enlarging, expanding, and extending.
7 4. Demolishing, relocating, improving, grading, draining,
8 landscaping, paving, widening, and resurfacing.
9 b. The costs of all property, both real and personal and both
10 improved and unimproved, and of plants, works, appurtenances,
11 structures, facilities, furnishings, machinery, equipment, vehicles,
12 easements, water rights, air rights, franchises, and licenses used
13 or useful in connection with the project.
14 c. The costs of demolishing or moving structures from land
15 acquired and acquiring land to which the structures are to be
16 moved.
17 d. Financing charges, including estimated interest during the
18 acquisition or construction of a project and for one year
19 thereafter.
20 e. The costs of services to provide plans, specifications, studies,
21 reports, surveys, and estimates of costs and revenues.
22 f. The costs of paying any interim financing, including principal,
23 interest and premium, related to the acquisition or construction of
24 the project.
25 g. Administrative and legal expenses and administrative charges.
26 h. The costs of obtaining bond and reserve fund insurance and
27 investment contracts, of credit-enhancement facilities,
28 derivatives, liquidity facilities, and interest-rate agreements, and
29 of establishing and maintaining debt service and other reserves.
30 i. Any other services, costs, and expenses necessary or incidental to
31 the project.
32 (5) Development project. – Any investment that enables or makes more
33 likely the location or expansion of industrial and commercial businesses
34 in rural counties, which may include sites and industrial parks or
35 centers, together with improvements, such as shell buildings and
36 internal infrastructure.
37 (6) Financial institution. – A business that is (i) a bank holding company, as
38 defined in the Bank Holding Company Act of 1956, 12 U.S.C. §§ 1841,
39 et seq., or its wholly owned subsidiary, (ii) registered as a broker-dealer
40 under the Securities Exchange Act of 1934, 15 U.S.C. §§ 78a, et seq., or
41 its wholly owned subsidiary, (iii) an investment company as defined in
42 the Investment Company Act of 1940, 15 U.S.C. §§ 80a-1, et seq.,
43 whether or not it is required to register under that act, (iv) a small

1 business investment company as defined in the Small Business
2 Investment Act of 1958, 15 U.S.C. §§ 661, et seq., (v) a pension or
3 profit-sharing fund or trust, or (vi) a bank, savings institution, trust
4 company, financial services company, or insurance company. The term
5 does not include, however, a business that does not generally market its
6 services to the public and is controlled by a business that is not a
7 financial institution.

8 (7) Intermediate-term loan. – A loan whose term does not exceed three
9 years.

10 (8) Local Government Commission. – The Local Government Commission
11 of the Department of State Treasurer, established by Article 2 of
12 Chapter 159 of the General Statutes.

13 (9) Operator. – The person entitled to the use or occupancy of a special user
14 project.

15 (10) Person. – An individual, a fiduciary, a firm, an association, a
16 partnership, a limited liability company, a corporation, a unit of
17 government, or another group acting as a unit.

18 (11) Regional partnership. – Any of the following:

19 a. The Western North Carolina Regional Economic Development
20 Commission created in G.S. 158-8.1.

21 b. The Northeastern North Carolina Regional Economic
22 Development Commission created in G.S. 158-8.2.

23 c. The Southeastern North Carolina Regional Economic
24 Development Commission created in G.S. 158-8.3.

25 d. The Global TransPark Development Commission created in G.S.
26 158-33.

27 e. The Carolinas Partnership, Inc.

28 f. The Research Triangle Regional Partnership.

29 g. The Piedmont Triad Partnership.

30 (12) Revenues. – The receipts of the Authority during an accounting period,
31 including interest and dividends on investments, realized capital gains,
32 fees from lending and consulting activities, rent or lease income,
33 appropriations from the General Assembly, grants from the G.O.L.D.
34 Leaf Foundation, and grants and gifts from public and private entities to
35 further the purposes of the Authority.

36 (13) Rural county. – A county in North Carolina with a density of fewer than
37 200 people per square mile based on the most recent United States
38 decennial census.

39 (14) Small business investment company. – A small business investment
40 company as defined in the Small Business Investment Act of 1958, 15
41 U.S.C. §§ 661, et seq.

42 (15) Special user project. – Any land, equipment, or buildings or other
43 structures and the addition to or the rehabilitation, improvement,

1 renovation, or enlargement of a structure when the property is to be used
2 as or in connection with any of the following:

3 a. An undertaking for industry, including an industrial or a
4 manufacturing factory, mill, assembly plant, or fabricating plant,
5 a freight terminal, an industrial research, development, or
6 laboratory facility, or an industrial processing or distribution
7 facility for industrial or manufactured products.

8 b. A commercial, processing, mining, transportation, distribution,
9 storage, marine, aviation, or environmental facility or
10 improvement.

11 c. Any combination of items mentioned in subparts a. and b.

12 A special user project, during its economic life, is to be principally used
13 by one or more for-profit entities other than as lessee under a true lease.

14 A special user project may include all appurtenances and incidental
15 facilities such as land, a headquarters or office facility, warehouses,
16 distribution centers, access roads, sidewalks, utilities, railway sidings,
17 trucking and similar facilities, parking facilities, waterways, docks,
18 wharves, and other improvements necessary or convenient for the
19 construction, maintenance, and operation of any structure.

20 (16) True lease. – A lease that has a fair market value rental and is not
21 treated as a financing lease or installment sale for federal tax law
22 purposes.

23 **"§ 143B-437.22. Creation of Authority and Board.**

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

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

34 (1) Two members appointed by the Governor, both of whom must be
35 representatives of financial institutions.

36 (2) Two members appointed by the General Assembly upon the
37 recommendation of the Speaker of the House of Representatives in
38 accordance with G.S. 120-121, one of whom must be a representative of
39 a regional partnership with a predominantly rural constituency and one
40 of whom must be a representative of a financial institution.

41 (3) Two members appointed by the General Assembly upon the
42 recommendation of the President Pro Tempore of the Senate in

- 1 accordance with G.S. 120-121, both of whom must be representatives of
2 financial institutions.
- 3 (4) The Secretary of Commerce, who shall serve ex officio.
- 4 (5) The chief executive officer of the Authority.
- 5 (c) Oath. – As the holder of an office, each member of the Board must take the
6 oath required by Section 7 of Article VI of the North Carolina Constitution before
7 assuming the duties of a Board member.
- 8 (d) Selection Criteria. – In making appointments to the Board, the Governor and
9 the General Assembly shall give consideration to the geographical representation of the
10 State. In addition, members appointed representing financial institutions ideally would
11 be experienced in areas such as commercial lending and commercial real estate lending,
12 public finance, and economic development; work assignments or experiences in rural
13 counties also would be desirable.
- 14 (e) Terms. – The term of office of a member of the Board is three years, except
15 that the Governor shall designate one of the initial members appointed under subdivision
16 (b)(1) of this section to serve a term of two years, and the General Assembly shall
17 designate one of the initial members appointed under subdivision (b)(2) of this section
18 and one of the initial members appointed under subdivision (b)(3) of this section to serve
19 a term of two years.
- 20 (f) Chair and Vice-Chair of the Board. – The Governor shall designate one of the
21 members appointed by the Governor as the Chair of the Board. The Governor shall
22 convene the first meeting of the Board, at which time the members of the Board shall
23 elect from their membership a Vice-Chair of the Board.
- 24 (g) Vacancies. – All members of the Board shall remain in office until their
25 successors are appointed and qualify. A vacancy in an appointment made by the
26 Governor shall be filled by the Governor for the remainder of the unexpired term. A
27 vacancy in an appointment made by the General Assembly shall be filled in accordance
28 with G.S. 120-122. A person appointed to fill a vacancy must qualify in the same manner
29 as a person appointed for a full term.
- 30 (h) Removal of Board Members. – The Governor may remove any member of the
31 Board for misfeasance, malfeasance, or nonfeasance in accordance with G.S. 143B-13(d).
32 The person who appointed a member of the Board may remove the member for using
33 improper influence in accordance with G.S. 143B-13(c).
- 34 (i) Organization of the Board. – The Board shall adopt bylaws with respect to the
35 calling of meetings, quorums, voting procedures, the keeping of records, and other
36 organizational and administrative matters as the Board may determine. A quorum shall
37 consist of a majority of the members of the Board. No vacancy in the membership of the
38 Board shall impair the right of a quorum to exercise all rights and to perform all the
39 duties of the Board and the Authority.
- 40 (j) Compensation of the Board. – No part of the revenues or assets of the
41 Authority shall inure to the benefit of or be distributable to the members of the Board or
42 officers or other private persons. The members of the Board other than the chief

1 executive officer shall receive no salary for their services but may receive per diem and
2 allowances in accordance with G.S. 138-5.

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

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

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

14 **"§ 143B-437.23. Powers of the Authority.**

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

17 (1) The powers of a corporate body, including the power to sue and be sued,
18 to make contracts, to adopt and use a common seal, and to alter the
19 adopted seal as needed.

20 (2) To establish, finance, purchase, construct, operate, and regulate
21 development projects and to own, finance, lease, sell, or manage real or
22 personal property.

23 (3) To charge and collect fees and rents for the use of the Authority's
24 property or for services rendered in the operation of the property.

25 (4) To contract and enter into agreements with the State, local governments,
26 other authorities of North Carolina, and other states for the interchange
27 of business.

28 (5) To rent, lease, purchase, acquire, own, encumber, dispose of, or
29 mortgage real or personal property.

30 (6) To create and operate agencies and departments needed to implement
31 this Part.

32 (7) To pay all necessary costs and expenses in the formation, organization,
33 administration, and operation of the Authority.

34 (8) To apply for, accept, and administer loans and grants of money from
35 any federal agency, from the State or its political subdivisions, or from
36 any other public or private sources available, to expend the money in
37 accordance with the requirements imposed by the lender or donor, and
38 to give any evidences of indebtedness that are required. No
39 indebtedness of any kind incurred or created by the Authority shall
40 constitute an indebtedness of the State or its political subdivisions, and
41 no indebtedness of the Authority shall involve or be secured by the
42 faith, credit, or taxing power of the State or its political subdivisions.

- 1 (9) To adopt, alter, or repeal its own bylaws or rules implementing the
2 provisions of this Part.
- 3 (10) To execute financing agreements, security documents, and other
4 instruments necessary in exercising its power under this Part.
- 5 (11) To fix, charge, collect, pledge, or assign revenues of the Authority.
- 6 (12) To employ consulting engineers, architects, attorneys, real estate
7 counselors, appraisers, and other consultants and employees as may be
8 required in the judgment of the Board and to fix and pay their
9 compensation from funds available to the Authority, and, when
10 approved by the Local Government Commission under G.S. 159-123(e)
11 and (f) as if the Authority were an issuing unit, to select and retain
12 financial consultants, underwriters, and bond attorneys in connection
13 with the issuance of any bonds and to pay for their services out of the
14 proceeds of any bond issue for which their services were performed.
- 15 (13) To provide consulting and advisory services to government entities and
16 to private, nonprofit entities.
- 17 (14) To procure and maintain adequate insurance or otherwise provide for
18 adequate protection to indemnify the Authority and its officers,
19 directors, agents, employees, adjoining property owners, or the general
20 public against loss or liability resulting from any act or omission by or
21 on behalf of the Authority.
- 22 (15) To purchase or finance real or personal property in the manner provided
23 for cities and counties under G.S. 160A-20.
- 24 (16) To exercise the powers granted counties and cities under G.S. 158-7.1.
- 25 (17) With the approval of any unit of local government, to use officers,
26 employees, agents, and facilities of the unit of local government for the
27 purposes and upon the terms as may be mutually agreeable.
- 28 (18) To receive and use appropriations from the State, including an
29 appropriation from the proceeds of State general obligation bonds or
30 notes.
- 31 (19) To create and administer the Rural Investment Fund and the Long-Term
32 Rural Development Fund, as provided in this Part.
- 33 (20) To invest in securities of a small business investment company or in a
34 limited partnership interest in a partnership that invests principally in
35 companies in rural counties.
- 36 (21) To act as a regrating agency for government grants specifically
37 designated for that purpose.
- 38 (b) To execute the powers provided in subsection (a) of this section, the Board
39 shall determine the policies of the Authority by majority vote of the members of the
40 Board present and voting, a quorum having been established. Once a policy is
41 determined, the Board shall communicate it to the chief executive officer, who has the
42 exclusive authority to execute the policy of the Authority. No member of the Board is

1 authorized to give operational directives to any employee of the Authority other than the
2 chief executive officer.

3 **"§ 143B-437.24. Taxation of property of Authority.**

4 Property owned by the Authority is exempt from taxation in accordance with Article
5 V, § 2 of the North Carolina Constitution.

6 **"§ 143B-437.25. Acquisition, disposition, or exchange of real property.**

7 (a) General. – The Authority may acquire real property by purchase, negotiation,
8 gift, or devise. When the Authority acquires real property owned by the State, the
9 Secretary of Administration shall execute and deliver to the Authority a deed transferring
10 fee simple title to the property to the Authority.

11 (b) Exchange. – The Authority may exchange any property it acquires for other
12 property usable in carrying out the powers conferred on the Authority and also, upon the
13 payment of just compensation, may remove a building or another structure from land
14 needed for its purposes, and reconstruct the structure on another location.

15 **"§ 143B-437.26. Authority funds.**

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

22 **"§ 143B-437.27. Rural Investment Fund.**

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

31 **"§ 143B-437.28. Long-Term Rural Development Fund.**

32 (a) The Authority may create a fund to be known as the Long-Term Rural
33 Development Fund. The Authority may invest and reinvest the assets of the Fund. The
34 Authority may pledge and vest a security interest in all or any part of the Fund as security
35 for or insurance respecting the payment of any bonds or other obligations, to the extent
36 authorized by law.

37 (b) The income derived from the investment or deposit of the Funds shall be used
38 for the following purposes:

39 (1) To pay the administrative expenses of the Authority.

40 (2) To make intermediate-term loans and longer-term loans to government
41 entities and to private, nonprofit entities for self-liquidating projects,
42 such as shell buildings, in rural counties.

1 (3) To acquire property and develop it for industrial sites and industrial
2 parks in rural counties, including any of the following:

3 a. Providing water, sewer, gas, or electrical distribution lines or
4 equipment for an industrial site or industrial park.

5 b. Providing road or railroad improvements for an industrial site or
6 industrial park.

7 c. Providing fiber optic or coaxial cable, towers and other
8 infrastructure items to accommodate high-speed Internet access.

9 d. Providing air or water pollution control facilities that are
10 necessary to the businesses of an operator or operators.

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

15 **"§ 143B-437.29. Goals for participation by minorities, women, and the disabled.**

16 (a) The Authority must verify its efforts to achieve the goals established in this
17 section for participation by minority business enterprises, women's business enterprises,
18 and disabled business enterprises in the total value of contracts awarded by the Authority
19 in each of the following categories:

20 (1) Contracts for capital construction or repair projects.

21 (2) Contracts for goods.

22 (3) Contracts for professional and other services.

23 (b) The goals for the Authority are as follows:

24 (1) Ten percent (10%) participation by minority business enterprises.

25 (2) Five percent (5%) participation by women's business enterprises.

26 (3) Two percent (2%) participation by disabled business enterprises.

27 (c) In determining participation in contract awards, a contract shall be counted as
28 participation by a minority business enterprise without regard to the gender of the owner,
29 but only if the business does not qualify as a disabled business enterprise. A contract
30 shall be counted as participation by a women's business enterprise only if the business
31 does not also qualify as a disabled business enterprise. A contract shall be counted as
32 participation by a disabled business enterprise without regard to the race or gender of the
33 owner. The goals in this section, instead of any goals in Article 8 of Chapter 143 of the
34 General Statutes, apply to the Authority. With respect to projects for which the Authority
35 would not receive federal funds if it adhered to the goals in this section because the goals
36 are contrary to or are inconsistent with federal law, the federal law and regulations
37 supersede this section to the extent it is contrary to or inconsistent with the federal law
38 and regulations.

39 (d) The following definitions apply in this section:

40 (1) Disabled business enterprise. – A legal entity, other than a joint venture,
41 that is organized to engage in commercial transactions and is at least
42 fifty-one percent (51%) owned and controlled by one or more disabled
43 persons.

- 1 (2) Disabled person. – A handicapped person as defined in G.S. 168A-3.
2 (3) Minority business enterprise. – A legal entity, other than a joint venture,
3 that is organized to engage in commercial transactions and is at least
4 fifty-one percent (51%) owned and controlled by one or more minority
5 persons.
6 (4) Minority person. – A member of one of the following groups: African-
7 Americans, Hispanic-Americans, American Indians, or Asian-
8 Americans.
9 (5) Women's business enterprise means a legal entity, other than a joint
10 venture, that is organized to engage in commercial transactions and is at
11 least fifty-one percent (51%) owned and controlled by one or more
12 women.

13 **"§ 143B-437.30. Conflicts of interest.**

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

21 **"§ 143B-437.31. Cooperation by other State agencies.**

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

24 **"§ 143B-437.32. Annual and quarterly reports.**

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

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

34 **"§ 143B-437.33. Dissolution.**

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

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

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

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

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

4 Section 4. There is appropriated from the General Fund to the Rural
5 Redevelopment Authority created in this act the sum of two hundred fifty thousand
6 dollars (\$250,000) for the 2000-2001 fiscal year to implement the provisions of this act.

7 Section 5. This act becomes effective July 1, 2000.