

**GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2007**

**SESSION LAW 2007-515  
HOUSE BILL 1595**

AN ACT TO CLARIFY PROVISIONS IN THE LOCAL DEVELOPMENT ACT, TO CLARIFY URBAN PROGRESS ZONES AND AGRARIAN GROWTH ZONES, TO ALLOW MORE THAN ONE AGRARIAN GROWTH ZONE IN A COUNTY, TO CLARIFY WHEN THE LAST REPORT IS DUE FOR THE REPEALED LEE ACT CREDITS, TO MAKE TECHNICAL CHANGES CONCERNING THE TAX CREDITS FOR GROWING BUSINESSES; TO PROVIDE FOR PUBLICATION, MONITORING, AND REPORTING ON ECONOMIC DEVELOPMENT INCENTIVE CLAWBACKS; AND TO REQUIRE CLAWBACK PROVISIONS IN LOCAL ECONOMIC DEVELOPMENT AGREEMENTS.

The General Assembly of North Carolina enacts:

**SECTION 1.** G.S. 158-7.1(b)(4) reads as rewritten:

"(b) A county or city may undertake the following specific economic development activities. (This listing is not intended to limit by implication or otherwise the grant of authority set out in subsection (a) of this section). The activities listed in this subsection may be funded by the levy of property taxes pursuant to G.S. 153A-149 and G.S. 160A-209 and by the allocation of other revenues whose use is not otherwise restricted by law.

~~(4)~~ A county or city may ~~acquire or construct one or more "shell buildings", which are structures of flexible design adaptable for use by a variety of industrial or commercial businesses. A county or city may convey or lease a shell building or space in a shell building pursuant to subsection (e) of this section.~~ acquire, construct, convey, or lease a building suitable for industrial or commercial use."

**SECTION 2.** G.S. 143B-437.09(a) reads as rewritten:

"(a) Urban Progress Zone Defined. – An urban progress zone is an area that meets all of the following conditions:

~~(1)~~ It is comprised of part or all of one or more contiguous census tracts, census block groups, or both, or parts thereof, in the most recent federal decennial census that meets all conditions in this subsection.

~~(1)(2)~~ All land within the zone of the area is located in whole within the primary corporate limits of a municipality with a population of more than in excess of 10,000 according to the most recent annual population estimates certified by the State Budget Officer.

~~(2)(3)~~ Every census tract and census block group that composes part of the zone comprises the area meets at least one of the following conditions:

a. More It has a population that meets the poverty level threshold. The population of a census tract or census block group meets the poverty level threshold if more than twenty percent (20%) of its population is below the poverty level according to the most recent federal decennial census.

b. At It is located adjacent to a census tract or census block group whose population meets the poverty level threshold and at least

~~fifty percent (50%) of the area of the portion that is within the primary corporate limits of the municipality part of it that is included in the area is zoned as nonresidential and the census tract or census block group is adjacent to a census tract or block group of which at least twenty percent (20%) of the population is below the poverty level nonresidential. No more than thirty-five percent (35%) of the area of a zone may consist of census tracts or census block groups that satisfy this condition only.~~

c. It has a population that has a poverty level that is greater than the poverty level of the population of the State and a per capita income that is at least ten percent (10%) below the per capita income of the State according to the most recent federal decennial census, and it has experienced a major plant closing and layoff within the past 10 years. A census tract or census block group has experienced a major plant closing and layoff if one of its industries has closed one or more facilities in the census tract or census block group resulting in a layoff of at least 3,000 employees working in the census tract or census block group and if the number of employees laid off is greater than seven percent (7%) of the population of the municipality according to the most recent federal decennial census.

~~(3) The area of the zone zoned as nonresidential does not exceed thirty five percent (35%) of the total area of the zone."~~

**SECTION 3.** G.S. 143B-437.10 reads as rewritten:

**"§ 143B-437.10. Agrarian growth zone designation.**

(a) Agrarian Growth Zone Defined. – An agrarian growth zone is an area that meets all of the following conditions:

(1) It is comprised of one or more contiguous census tracts, census block groups, or both, in the most recent federal decennial census that meets all conditions in this subsection. A county may have no more than one agrarian growth zone census.

~~(1)~~(2) All land within the zone of the area is located in whole within a county that has no municipality with a population in excess of 10,000.

~~(2)~~(3) Every census tract and census block group that composes part of the zone comprises the area has more than twenty percent (20%) of its population below the poverty level according to the most recent federal decennial census.

~~(3) The area of the zone less the smallest census tract included in the zone does not exceed five percent (5%) of the total area of the county in which the zone is located.~~

(b) Limitation and Designation. – The area of a county that is included in one or more agrarian growth zones shall not exceed five percent (5%) of the total area of the county. Upon application of a county, the Secretary of Commerce shall make a written determination whether an area is an agrarian growth zone that satisfies the conditions ~~and limitations~~ of subsection (a) of this section. The application shall include all of the information listed in this subsection. A determination under this section is effective until December 31 of the year following the year in which the determination is made. The Department of Commerce shall publish annually a list of all ~~urban progress agrarian growth~~ zones with a description of their boundaries.

(1) A map showing the census tracts and block groups that would comprise the zone.

(2) A detailed description of the boundaries of the area that would comprise the zone.

(3) A certification regarding the size of the proposed zone.

- (4) Detailed census information on the county and the proposed zone.
  - (5) A resolution of the board of county commissioners requesting the designation of the area as an agrarian growth zone.
  - (6) Any other material required by the Secretary of Commerce.
- (c) Parcel of Property Partially in Agrarian Growth Zone. – For the purposes of this section, a parcel of property that is located partially within an agrarian growth zone is considered entirely within the zone if all of the following conditions are satisfied:
- (1) At least fifty percent (50%) of the parcel is located within the zone.
  - (2) The parcel was in existence and under common ownership prior to the most recent federal decennial census.
  - (3) The parcel is a portion of land made up of one or more tracts or tax parcels of land that is surrounded by a continuous perimeter boundary."

**SECTION 4.** G.S. 105-129.2A(d) reads as rewritten:

"(d) Report. – The Department of Commerce shall report the results of these studies and its recommendations to the General Assembly biennially with the first report due by April 1, ~~2001-2001~~, and the last report due by June 1, 2007."

**SECTION 5.** G.S. 105-129.2A(a) reads as rewritten:

"(a) Sunset. – This Article is repealed ~~effective~~ for business activities that occur in taxable years beginning on or after January 1, 2007."

**SECTION 6.** Article 10 of Chapter 143B of the General Statutes is amended by adding the following new sections to read:

**"§ 143B-435.1. Clawbacks.**

(a) Clawback Defined. – For the purpose of this Article, a clawback is a requirement that all or part of an economic development incentive will be returned or forfeited if the recipient business does not fulfill its responsibilities under the incentive law, contract, or both.

(b) Findings. – The General Assembly finds that in order for a clawback to be effective, there must be monitoring and reporting regarding the business's performance of its responsibilities and a mechanism for obtaining repayment if the clawback requiring the return of previously disbursed funding is triggered. Clawback provisions are essential to protect the State's investment in a private business and ensure that the public benefits from the incentive will be secured.

(c) Catalog. – The Department of Commerce shall catalog all clawbacks in State and federal programs it administers, whether provided by statute, by rule, or under a contract. The catalog must include a description of each clawback, the program to which it applies, and a citation to its source. The Department shall publish the catalog on its Web site and update it every six months.

(d) Report. – The Department of Commerce shall report to the Revenue Laws Study Committee by April 1 and October 1 of each year on all clawbacks that have been triggered under programs it administers and its progress on obtaining repayments. The report must include the name of each business, the event that triggered the clawback, and the amount forfeited or to be repaid."

**SECTION 7.** G.S. 158-7.1 is amended by adding a new subsection to read:

"(h) Each economic development agreement entered into between a private enterprise and a city or county shall clearly state their respective responsibilities under the agreement. Each agreement shall contain provisions regarding remedies for a breach of those responsibilities on the part of the private enterprise. These provisions shall include a provision requiring the recapture of sums appropriated or expended by the city or county upon the occurrence of events specified in the agreement. Events that would require the city or county to recapture funds would include the creation of fewer jobs than specified in the agreement, a lower capital investment than specified in the agreement, and failing to maintain operations at a specified level for a period of time specified in the agreement."

**SECTION 8.** This act is effective when it becomes law.  
In the General Assembly read three times and ratified this the 2<sup>nd</sup> day of August, 2007.

s/ Charlie S. Dannelly  
Deputy President Pro Tempore of the Senate

s/ Joe Hackney  
Speaker of the House of Representatives

s/ Michael F. Easley  
Governor

Approved 1:19 p.m. this 30<sup>th</sup> day of August, 2007