

April 5, 2007

**H 1360. SMALL BUSINESS CONTRACTOR ACT.** Filed 4/5/07. *TO REENACT THE SMALL BUSINESS CONTRACTOR ACT, TO PROVIDE FOR CONTRACT FINANCING AND SURETY BONDS FOR SMALL BUSINESSES THAT CONTRACT WITH GOVERNMENTAL AGENCIES.*

Enacts new GS Chapter 143B, Article 10, Part 20, Small Business Contractor Act. Stated purpose of law is to foster economic development and creation of jobs by providing financial assistance to financially responsible small businesses that are unable to obtain adequate financing and bonding assistance in connection with contracts. Establishes the 11-member NC Small Business Contractor Authority (Authority), within the Department of Commerce, specifies terms of office and the groups from which certain members must come, and sets some of the Authority's operating procedures.

Empowers the Authority to accept grants and loans; to employ staff, procure supplies, enter into contracts, including buying reinsurance, to carry out the Authority's purposes; to acquire and otherwise broadly deal with property; to specify forms; to take assignments of documents; to fix and collect premiums and fees; and to adopt rules under GS Chapter 150B; and requires the Authority to report on its activities quarterly to the Joint Legislative Commission on Governmental Operations.

To qualify to receive assistance, an applicant must be a small business concern that meets applicable size standards of the US Small Business Administration (SBA). If the application is for bonding assistance, the applicant may not have receipts for construction and service contracts in excess of the SBA maximum for surety bond guarantee assistance. All assistance applicants must be individuals, or the business must be at least 70% owned by individuals, with a reputation for financial responsibility. All applicants must be state residents or incorporated in NC and have their principal place of business in NC, and must demonstrate that they have been unable to obtain adequate financing or bonding on reasonable terms through an authorized company. If the applicant is applying for a loan guarantee, the applicant must have applied for and been denied a loan by a financial institution. Bonding applicants must also meet other eligibility requirements; for example, that they will not subcontract more than 75% of the face value of the contract.

The Authority may make direct loans and guarantee loan payments, using the Small Business Contract Financing Fund established by the act. The Authority may also guarantee a surety for losses incurred under a bid bond, payment bond, or performance bond on an applicant's contract of which the majority of the funding is provided by a government agency or a combination of government agencies, up to 90% of the surety's losses or \$900,000, whichever is less. The guaranty term may not exceed the contract term. The Authority may itself execute and perform specified types of bonds as a surety for the benefit of an applicant in connection with a contract that is majority government-funded. Surety activities are conducted using the Small Business Surety Bond Fund, which is also set up by the act.

Specifies funding sources for the two Funds, including state appropriations; investment income; proceeds from sales of any property the Authority holds; premiums; and loan repayments. Specifies other requirements for loans, including a limit on how much one business may borrow from the fund annually, a requirement for geographic diversity, and requirements concerning how money is to be disbursed. Says that new loans or bonds after a default may be obtained in limited circumstances.

Before issuing a guaranty or bond, the Authority must determine that the contract has a substantial economic effect. It must consider the amount of the guaranty, the bond terms, the number of new jobs the contract will create, and any other factor it considers relevant.

Makes it a Class 2 misdemeanor to knowingly make or cause any false statement or report to be made in any application or document submitted to the Authority, or to make or cause any false statement or report to be made to the Authority for the purpose of influencing the action of the Authority on an application. Effective January 1, 2008, and applies to offenses or causes of action arising on or after that date.

**Intro. by Hall.**

GS 143B

May 16, 2007

**H 1360. SMALL & HIST. UNDERUTILIZED BUS. CONTR. ACT (NEW).** Filed 4/5/07. House committee substitute makes the following changes to 1st edition. Changes title to *AN ACT TO ESTABLISH THE SMALL AND HISTORICALLY UNDERUTILIZED BUSINESS CONTRACTOR ACT, TO PROVIDE FOR CONTRACT FINANCING AND SURETY BONDS FOR SMALL AND HISTORICALLY UNDERUTILIZED BUSINESSES THAT CONTRACT WITH GOVERNMENT AGENCIES*. Changes the title of proposed new GS Chapter 143B, Article 10, Part 20 from "Small Business Contractor Act" to "Small and Historically Underutilized Business Contractor Act" and changes references to small businesses to *small and historically underutilized businesses* throughout the proposed new Part 20.