



Bill Draft 2019-MQ-168: Housing Finance Agency-PED Recommendations.

2019-2020 General Assembly

Committee:
Introduced by:
Analysis of: 2019-MQ-168

Date: May 29, 2020
Prepared by: Matthew Meinig
Staff Attorney

OVERVIEW: *This bill draft would implement various changes to the North Carolina Housing Finance Agency (HFA) and direct further study and changes to its programmatic functions, as recommended by the Program Evaluation Division.*

BILL ANALYSIS: This bill draft would do the following:

- Section 1.1 requires HFA to modify various programs it administers to ensure that all areas of the State have access to the programs, particularly for counties that may have fewer resources available.
- Section 1.2 requires HFA to develop and implement a strategic plan, to be updated at least once every five years, and a performance management system to enable the Agency to establish goals and objectives and to measure its progress. The Agency must contract with an independent entity to develop its initial strategic plan and begin to incorporate cost-benefit analyses into its programs.
- Section 1.3 consolidates all statutory reporting requirements for HFA into a single, annual reporting requirement.
- Section 1.4 directs HFA to discontinue funding for the Construction Training Partnership and to redirect that funding for affordable housing programs.
- Section 2.1 clarifies that HFA and all of its funds are subject to the State Budget Act in Chapter 143C of the General Statutes. HFA must also establish a formal policy governing the contribution of Agency funds to nonprofit entities, and any contribution must be approved by the Board.
- Section 2.2 repeals several statutory funds that are no longer used by the Agency and directs remaining monies to be transferred to the North Carolina Housing Trust Fund.
- Section 2.3 makes any funds within the North Carolina Housing Trust Fund only spendable upon an act of appropriation by the General Assembly. In addition, it alters the North Carolina Housing Partnership to make it function as an advisory body, rather than having oversight functions.
- Section 2.4 requires HFA to adhere to the State Budget Manual in its procurement of services and to assess the ongoing need to continue utilizing outside counsel to serve as general counsel to the Board.
- Section 3.1 directs HFA to study potential changes to (i) the administration of the Low-Income Housing Tax Credit program in furtherance of maintaining the ongoing affordability of projects exiting the program and (ii) the amenities policies in its Qualified Allocation Plan used to determine scoring for certain projects.

Kory Goldsmith
Director



Legislative Drafting
919-733-6660

Draft

Page 2

- Section 3.2 directs HFA to develop policies and procedures governing the awarding of Rental Production Program loans to ensure that all loans are awarded uniformly and within program parameters, regardless of participation in associated programs.
- Section 3.3 directs HFA to examine and update its criteria for administering the Workforce Housing Loan Program under G.S. 122A-5.15 to ensure that the income designations used in its application are specific, transparent, and uniformly applied.

EFFECTIVE DATE: This bill would be effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2019

U

D

BILL DRAFT 2019-MQ-168 [v.8]

(THIS IS A DRAFT AND IS NOT READY FOR INTRODUCTION)
6/4/2020 3:28:12 PM

Short Title: Housing Finance Agency-PED Recommendations.

(Public)

Sponsors:

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT TO MAKE VARIOUS CHANGES TO PROGRAMS AND PROCEDURES WITHIN
3 THE NORTH CAROLINA HOUSING FINANCE AGENCY, AS RECOMMENDED BY
4 A PROGRAM EVALUATION DIVISION REPORT.

5 The General Assembly of North Carolina enacts:

6 **PART I. PROGRAMMATIC MODIFICATIONS AND STRATEGIC PLANNING**

7 **SECTION 1.1.(a)** The North Carolina Housing Finance Agency (Agency) shall
8 examine and implement modifications to the Community Partners Loan Pool, the Self-Help Loan
9 Pool, the Urgent Repair Program, and the Essential Single-Family Rehabilitation Loan Pool to
10 ensure that all areas of the State have access to the programs. In particular, the Agency shall
11 consider methods to ensure that counties with fewer resources can access the programs.

12 **SECTION 1.1.(b)** The Agency shall submit a report detailing the modifications to
13 the programs listed in this section to the Joint Legislative Oversight Committee on General
14 Government and the Fiscal Research Division on or before July 1, 2021.

15 **SECTION 1.1.(c)** The Agency shall discontinue the imposition of the \$200,000 per-
16 partner cap utilized for the Urgent Repair Program.

17 **SECTION 1.2.(a)** G.S. 122A-5.1 reads as rewritten:

18 "**§ 122A-5.1. Rules and regulations governing Agency activity-activity; strategic planning**
19 **and performance management system.**

20 ...

21 (d) The Agency shall develop a strategic plan, to be updated at least once every five years.
22 The strategic plan shall be informed by the legislative findings and programs provided in this
23 Chapter and related legislation and shall consist of the following:

24 (1) Goals. – Broad, detailed programmatic statements that the Agency intends to
25 pursue over a long period of time.

26 (2) Objectives. – Narrow, specific programmatic targets and actions, based upon
27 stated goals, that the Agency will pursue over a short period of time.

28 (3) Environmental scan. – An assessment of the Agency's strengths, weaknesses,
29 opportunities, and obstacles, including potential changes to funding sources
30 and programmatic shifts.

31 (e) The Agency shall establish a performance management system, taking into account
32 the current programs administered by the Agency and the strategic plan implemented pursuant
33 to this section. The performance management system shall include annual objectives for the



Agency to meet, and the Agency shall establish performance measures, in the form of inputs, activities, and outcomes, which shall be used to assess attainment of the established objectives."

SECTION 1.2.(b) The Agency shall contract with an independent entity with expertise in state government strategic planning to assist in developing the initial strategic plan required by this section. The initial strategic plan required by this section shall be completed and implemented by June 1, 2021.

SECTION 1.2.(c) The Agency shall transition to the incorporation of cost-benefit analysis for the allocation of programmatic resources and shall develop its strategic plan to produce the collection of outcome data for that purpose. On or before January 1, 2025, the Agency shall incorporate cost-benefit analysis into its allocation of programmatic resources and in requests for funding from the General Assembly.

SECTION 1.3.(a) G.S. 45-104 reads as rewritten:

"§ 45-104. State Home Foreclosure Prevention Project and Fund.

...

(f) The Housing Finance Agency shall report each year to the General Assembly describing on the operation of the program established by this act not later than May 1 of each year as a part of the annual report required pursuant to G.S. 122A-16 until the funds are completely disbursed from the State Home Foreclosure Prevention Trust Fund. Information in the report shall be presented in aggregate form and may include the number of clients helped, the effectiveness of the funds in preventing home foreclosure, recommendations for further efforts needed to reduce foreclosures, and provide any other aggregated information the Housing Finance Agency determines is pertinent or that the General Assembly requests."

SECTION 1.3.(b) G.S. 122A-5.14 reads as rewritten:

"§ 122A-5.14. Home Protection Program and Fund.

...

(d) Annual Report. – ~~By April 1 of each year, the~~ The Agency shall report each year to the House Appropriations Subcommittee on General Government and Senate Appropriations Subcommittee on General Government and Information Technology on the effectiveness of the Program in accomplishing its purposes and provide any other information the Agency determines is pertinent or that the General Assembly requests requests as a part of the annual report required pursuant to G.S. 122A-16."

SECTION 1.3.(c) G.S. 122A-5.15 reads as rewritten:

"§ 122A-5.15. Workforce Housing Loan Program.

...

(d) ~~By February 1 of each year, the~~ The Agency shall report each year to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division on the number of loans made under this section, the amount of each loan, and whether the low-income housing development is located in a low-, moderate-, or high-income county, as designated by the Agency Agency as a part of the annual report required pursuant to G.S. 122A-16."

SECTION 1.3.(d) Section 20.1(a) of S.L. 2005-276 reads as rewritten:

"SECTION 20.1.(a) Funds appropriated in this act to the Housing Finance Agency for the federal HOME Program shall be used to match federal funds appropriated for the HOME Program. In allocating State funds appropriated to match federal HOME Program funds, the Agency shall give priority to HOME Program projects, as follows:

- (1) First priority to projects that are located in counties designated as Tier One, Tier Two, or Tier Three Enterprise Counties under G.S. 105-129.3; and
- (2) Second priority to projects that benefit persons and families whose incomes are fifty percent (50%) or less of the median family income for the local area, with adjustments for family size, according to the latest figures available from the United States Department of Housing and Urban Development.

1 The Housing Finance Agency shall report each year to the Joint Legislative
2 Commission on Governmental Operations by April 1 of each year concerning the status of the
3 HOME Program and shall include in the report information on priorities met, types of activities
4 funded, and types of activities not ~~funded~~. funded as a part of the annual report required pursuant
5 to G.S. 122A-16.

6 **SECTION 1.3.(e)** G.S. 122A-16 reads as rewritten:

7 **"§ 122A-16. Oversight by committees of General Assembly; annual reports.**

8 (a) The Finance Committee of the House of Representatives and the Finance Committee
9 of the Senate Joint Legislative Oversight Committee on General Government shall exercise
10 continuing oversight of the Agency in order to assure that the Agency is effectively fulfilling its
11 statutory purpose; provided, however, that nothing in this Chapter shall be construed as required
12 by the Agency to receive legislative approval for the exercise of any of the powers granted by
13 this Chapter. The Agency shall, promptly following the close of each fiscal year, on or before
14 December 1 each year, submit an annual comprehensive report of its activities for the preceding
15 year to the Governor, the Office of State Budget and Management, State Auditor, the
16 aforementioned committees of the General Assembly and the Local Government
17 Commission. Commission, the Joint Legislative Oversight Committee on General Government,
18 and the Fiscal Research Division. Each such The annual comprehensive report shall include at
19 least all of the following:

- 20 (1) Objectives identified for each program.
- 21 (2) Performance measures associated with each program, including outcome
22 performance measures.
- 23 (3) Performance measure benchmarks compared against the same measures for
24 each of the three previous fiscal years.
- 25 (4) Management discussion and analysis, including a discussion of the prior year's
26 performance.
- 27 (5) Reasons for failure to achieve prior year strategic goals or objectives, if
28 applicable.
- 29 (6) Any changes to strategic goals or objectives for the upcoming year.

30 (b) The annual comprehensive report required pursuant to this section shall set forth a
31 complete operating and financial statement of the Agency during such the previous year. The
32 operating and financial statement shall include at least all of the following:

- 33 (1) Consolidated financial statements for the most recent fiscal year.
- 34 (2) Budgeted-to-actual expenditures for the most recently completed fiscal year
35 in line-item detail for both operations and programs.
- 36 (3) Program expenditures by funding source.
- 37 (4) Current credit ratings for the Agency, including an explanation for any
38 changes to the credit ratings.

39 The Agency shall cause an audit of its books and accounts to be made at least once in each
40 year by an independent certified public accountant and the cost thereof may be paid from any
41 available moneys of the Agency. ~~The Agency shall on January 1 and July 1 of each year submit~~
42 ~~a written report of its activities to the Joint Legislative Commission on Governmental Operations.~~
43 ~~The Agency shall also at the end of each fiscal year submit a written report of its budget~~
44 ~~expenditures by line item to the Joint Legislative Commission on Governmental Operations."~~

45 **SECTION 1.4.** The North Carolina Housing Finance Agency shall discontinue its
46 funding for the Construction Training Partnership and redirect funding for that program to fund
47 existing affordable housing programs administered by the Agency.

49 **PART II. FISCAL AND BUDGETARY CONTROLS AND POLICY CHANGES**

50 **SECTION 2.1.(a)** G.S. 122A-4 reads as rewritten:

51 **"§ 122A-4. North Carolina Housing Finance Agency.**

(a) There is hereby created a body politic and corporate to be known as "North Carolina Housing Finance Agency" which shall be constituted a public agency and an instrumentality of the State for the performance of essential public functions. The Agency and all funds established pursuant to this Chapter shall be subject to the provisions of the State Budget Act contained in Chapter 143C of the General Statutes except that no unexpended surplus of funds shall revert to the General Fund.

...

(g) The Board of Directors shall establish a policy governing the contribution of funds to nonprofit entities. The Board shall establish criteria to limit contributions of Agency funds to nonprofit entities and shall require each individual contribution to a nonprofit entity to be approved by the Board. The Board shall provide a copy of the initial policy, and any subsequent updates to the policy, in the annual report required pursuant to G.S. 122A-16."

SECTION 2.1.(b) The Board shall submit a copy of the initial nonprofit contribution policy required under this section to the Joint Legislative Oversight Committee on General Government and the Fiscal Research Division no later than six months after the effective date of this act.

SECTION 2.2.(a) The North Carolina Housing Finance Agency shall transfer to the North Carolina Housing Trust Fund any remaining funds and shall close all of the following funds:

- (1) The Housing Mortgage Insurance Fund, established in G.S. 122A-5.2.
- (2) The Homeownership Assistance Fund, established in G.S. 122A-5.7.
- (3) The Adult Care Home, Group Home, and Nursing Home Fire Protection Fund, established in G.S. 122A-5.13.
- (4) The Home Protection Program Fund, established in G.S. 122A-5.14.
- (5) The Multi-Family Residential Assistance Fund, established in Section 133 of Chapter 1034 of the 1983 Session Laws, as amended by Chapter 769 of the 1985 Session Laws.

Future monies credited to the funds repealed in this section shall instead be credited to the Trust Fund.

SECTION 2.2.(b) G.S. 122A-5.2 is repealed.

SECTION 2.2.(c) G.S. 122A-5.7 is repealed.

SECTION 2.2.(d) G.S. 122A-5.13 is repealed.

SECTION 2.2.(e) G.S. 122A-5.14 is repealed.

SECTION 2.2.(f) Chapter 582 of the 1991 Session Laws is repealed.

SECTION 2.3.(a) G.S. 122E-3 reads as rewritten:

"§ 122E-3. North Carolina Housing Trust Fund.

(a) There is established a North Carolina Housing Trust Fund, separate and distinct from the General Fund.

(b) The Fund shall consist of monies received under this act and any other sources of revenue, public or private, dedicated for inclusion in the Fund.

(c) The State Treasurer shall serve as trustee for the Fund. The Treasurer shall invest the North Carolina Housing Trust Fund revenues he receives as provided in G.S. 147-69.2(b). The Treasurer shall provide the Agency with quarterly and annual reports of Fund revenues and interest earnings.

(d) Funds reserved to the Fund shall be available for expenditure only upon an act of appropriation by the General Assembly."

SECTION 2.3.(b) G.S. 122E-4 reads as rewritten:

"§ 122E-4. North Carolina Housing Partnership created; compensation; organization.

(a) The North Carolina Housing Partnership is hereby created as an advisory board to within the North Carolina Housing Finance Agency. ~~to establish policy, promulgate rules and regulations, and oversee the operation of the Fund.~~ The Partnership shall be constituted to

~~coordinate private enterprise and investment with public efforts~~ assist the North Carolina Housing Finance Agency in its mandate to address the serious shortage of decent, safe, and affordable housing for low and moderate income citizens of this State.

(b) The Partnership shall consist of 13 members as follows:

- (1) ~~The Executive Director of the North Carolina Housing Finance Agency shall serve ex officio; The Secretary of Health and Human Services, or the Secretary's designee, as an ex officio member.~~
- (2) The Secretary of the Department of Commerce or ~~his~~ the Secretary's designee shall ~~serve as an ex officio; officio member.~~
- (3) The State Treasurer or ~~his~~ the Treasurer's designee shall ~~serve as an ex officio; officio member.~~
- (4) In accordance with G.S. 120-121, five members shall be appointed by the General Assembly upon the recommendation of the President Pro Tempore of the Senate, provided that one member shall be a representative of the homebuilding industry, one member shall be a low income housing advocate, and one member shall be a representative of the League of ~~Municipalities; Municipalities.~~
- (5) In accordance with G.S. 120-121, five members shall be appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives, provided that one member shall be a representative of the real estate lending industry; one member shall be a representative of a non-profit housing development corporation; and one member shall be a resident of low income housing.

The members of the Partnership shall elect one of their members to serve as ~~Chairman~~ Chair for a term of one year. Seven members of the Partnership shall constitute a quorum. All members shall have the right to vote on all issues before the Partnership.

(c) Members of the Partnership shall serve for three year terms. Initial terms shall begin on September 1, 1987. Appointed members shall serve until their successors are appointed and qualify.

(d) Vacancies in the offices of any appointed members shall be filled in accordance with G.S. 120-122 for the remainder of the unexpired term. No vacant office shall be included in the determination of a quorum. No vacancy in office shall impair the rights of the members to exercise all rights and conduct the official business of the Partnership.

(e) Members of the Partnership shall receive per diem and reimbursement for travel and subsistence as provided in G.S. 138-5 and G.S. 138-6, as appropriate, as compensation for each day spent on work for the Partnership ~~Partnership, such actual expenses as may be incurred for such travel and subsistence in the performance of official duties and such per diem as is allowed by law for other such State boards and commissions.~~ Members shall not receive a salary for the performance of their duties as members.

(f) The Partnership shall have the following powers and duties:

- (1) To ~~advise the Agency on the promulgate~~ promulgate rules and regulations governing all policy matters relating to the implementation of all programs for uses of the Fund ~~and the Partnership's oversight of the Agency's administration of the Fund.~~
- (2) To ~~promote~~ assist in the development of a coordinated State low income housing plan.
- (3) To obtain necessary information from other State agencies concerning ~~housing; and~~ housing.
- (4) ~~To allocate monies contained in the Fund.~~

~~(g) The Partnership may appoint an Executive Director. The Executive Director shall be empowered to employ such additional professional and clerical assistance as the Partnership may~~

1 ~~deem necessary to administer the provisions of this Chapter. All employees of the Partnership,~~
2 ~~other than the Executive Director, shall be compensated in accordance with the salary schedules~~
3 ~~adopted pursuant to the North Carolina Human Resources Act. The Partnership and the Agency~~
4 ~~may enter into agreements for the use of Agency staff to assist the Partnership and the provision~~
5 ~~of administrative support for the Partnership by the Agency.~~

6 (h) The Partnership shall meet quarterly and can meet more regularly upon the call of the
7 ~~Chairman~~ Chair or upon written request of four members.

8 (i) Members of the Partnership may not receive any direct benefit from, or participate in,
9 the programs of the Fund. Members of the Partnership may be employed by, or serve as a board
10 member of, a nonprofit entity participating in a program of the Fund if the member discloses the
11 employment or the membership in the minutes of the Partnership and does not vote on any matter
12 pertaining to the entity's participation. This policy applies ~~to~~ to all of the following:

13 (1) Individual members of the ~~Partnership;~~ Partnership.

14 (2) Businesses, corporations, or partnerships owned in whole or in part by
15 members of the ~~Partnership;~~ and Partnership.

16 (3) The immediate family members of the members of the Partnership."

17 **SECTION 2.4.(a)** G.S. 122A-5 reads as rewritten:

18 **"§ 122A-5. General powers.**

19 The Agency shall have all of the powers necessary or convenient to carry out the provisions
20 of this Chapter, including the power:

21 ...

22 (21) To employ fiscal consultants, engineers, attorneys, real estate counselors,
23 appraisers and such other consultants and employees as may be required in
24 the judgment of the Agency and to fix and pay their compensation from funds
25 available to the Agency therefor; provided, however, that the guidelines
26 contained in the State of North Carolina Budget Manual are followed;

27"

28 **SECTION 2.4.(b)** The Agency shall determine the necessity for retaining outside
29 general counsel to serve the Board, taking into account the availability of attorneys with the North
30 Carolina Department of Justice to act as general counsel to the Board and the potential cost
31 savings to the Agency from discontinuing the use of outside counsel. If the Agency determines
32 that continued use of outside counsel is necessary, utilize its procurement processes and the
33 provisions of the the State Budget Act in the selection of outside counsel.

34
35 **PART III. RENTAL DEVELOPMENT PROGRAM MODIFICATIONS**

36 **SECTION 3.1.(a)** The Agency shall study potential modifications to its
37 administration of the Low-Income Housing Tax Credit program to develop a strategy to maintain
38 the affordability of projects that exit the program. In its study, the Agency shall consider at least
39 all of the following:

40 (1) Adjusting to the credit allocation for projects that rehabilitate existing
41 housing.

42 (2) Establishing longer affordability period requirements for the program.

43 (3) Adjusting the amount of credits allocated to nonprofit developers.

44 (4) Providing additional scoring for project owners that offer a nonprofit housing
45 agency or public housing authority the right of first refusal to purchase
46 properties at the end of the compliance period or affordability period.

47 (5) Best practices from other states' programs.

48 As part of the study, the Agency shall also track incidence of Low-Income Housing Tax
49 Credit units in the State that remain affordable after exiting the affordability period and those
50 that are no longer affordable and shall incorporate that data into its affordability strategy. The
51 Agency shall submit the results of the study and its proposed affordability strategy to the Joint

Legislative Oversight Committee on General Government, the North Carolina Federal Tax Reform Allocation Committee, established pursuant to Article 51B of Chapter 143 of the General Statutes, and the Fiscal Research Division no later than one year from the effective date of this act.

SECTION 3.1.(b) The Agency shall study potential modifications to its amenities policies in the Qualified Allocation Plan it uses to establish selection criteria and application requirements for housing credits to allow for siting in high-opportunity neighborhoods and other areas. In its study, the Agency shall consider at least all of the following:

- (1) Eliminating or deprioritizing and re-defining the "shopping" category in the amenity scoring model to include a more diverse range of retail and commercial businesses.
- (2) Eliminating the distinction between primary and secondary amenities in the scoring model.
- (3) Establishing a threshold score to include amenities and measures of opportunity.
- (4) Best practices from other states' programs.

The Agency shall submit the results of the study and its proposed modifications to the amenities policies in the Qualified Allocation Plan to the North Carolina Federal Tax Reform Allocation Committee (Tax Allocation Committee), established pursuant to Article 51B of Chapter 143 of the General Statutes, and the Fiscal Research Division no later than one year from the effective date of this act. The Tax Allocation Committee shall propose any recommended modifications resulting from the study as part of the 2022 Qualified Action Plan.

SECTION 3.2. The Agency shall develop policies and procedures that complement existing policies and procedures governing the awarding of Rental Production Program (RPP) loans, irrespective of the Qualified Allocation Plan for the awarding of Low-Income Housing Tax Credits. The Agency's policies and procedures shall ensure a uniform process for awarding all RPP loans, regardless of whether the project conforms or fails to conform to the parameters of the Qualified Action Plan. The Agency shall publish on its Internet Web site and submit a copy of the modified RPP policies and procedures to the Joint Legislative Oversight Committee on General Government and the Fiscal Research Division within one year of the effective date of this act.

SECTION 3.3. The Agency shall examine and update the criteria used to administer the Workforce Housing Loan Program pursuant to G.S. 122A-5.15, to ensure that the income designations it uses are specific, measurable, transparently stated, and uniformly applied. The Agency shall complete its update of criteria within six months of the effective date of this act.

PART IV. EFFECTIVE DATE

SECTION 4.1. Except as otherwise indicated, this act is effective when it becomes law.