

1997

**HOUSE
COMMERCE –
BUSINESS & LABOR**

MINUTES

1997-1998 Session

COMMERCE/Business & Labor Subcommittee

Representative Don Davis, Chairman

HOUSE SUBCOMMITTEE ON BUSINESS & LABOR
1997-98 SESSION

MEMBER (Clerk)	TEL	OFFICE	SEAT
Donald Davis, Chairman	5-3003	419-C	89
Audrey Johnson			
Martha Alexander	3-5605	1209	34
Margy Blackmon			
Rex Baker	3-5787	632	50
Jo Hinton			
Daniel Blue	5-2528	1227	80
Lin Threatt			
Joanne Bowie	3-5853	1206	26
Sharon Gaudette			
Flossie Boyd-McIntyre	3-5905	507	84
Angel Artis			
Robert Brawley	3-5931	513	3
Bonnie Trivette			
Billy Creech	3-5829	635	42
Betty Anne Lennon			
Ruth Easterling	3-5786	606	79
Judy Willis			
Wayne Goodwin	3-4838	502	111
Ann Smith			
Dewey Hill	3-5830	1309	21
Ginny McCann			
Mia Morris	3-5741	1315	99
Monty Floyd			
John Rayfield	5-3009	418-C	97
Karen George			
David Redwine	3-4948	1211	117
Katie Shull			
Drew Saunders	3-5530	1017	110
Ruth Fish			
Wilma Sherrill	3-5601	2215	51
Rosa Kelley			
Gene Wilson	3-7727	1109	52
Rebecca Jones			
Bill Gilkeson, research	3-2578	545	
Karen Cochrane-Brown, research	3-2578	545	



CHAIRMAN

Donald Spencer Davis



Martha Bedell Alexander



Rex L. Baker



Daniel T. Blue, Jr.



Joanne W. Bowie



Flossie Boyd-McIntyre



C. Robert Brawley



Billy James Creech



Ruth M. Easterling



Wayne Goodwin



Dewey L. Hill



Mia Morris



John M. Rayfield



E. David Redwine



Drew P. Saunders



Wilma M. Sherrill



Gene Wilson



David Miner



Cherie Killian Berry



Walter Church, Sr.



William S. Hiatt



Timothy N. Tallent

STANDING CHAIRS



N. Leo Daughtry



Julia Craven Howard



Stephen Wood

EX OFFICIO

ATTENDANCE

HOUSE COMMITTEE ON BUSINESS & LABOR

(Name of Committee)

[illegible]

NORTH CAROLINA GENERAL ASSEMBLY
COMMITTEE SUMMARY REPORT

1997-98 Regular Session

HOUSE: COMMERCE--BUSINESS AND LABOR

Valid Through 7-AUG-1997

BILL	INTRODUCER	SHORT TITLE	LATEST ACTION ON BILL	IN DATE	OUT DATE
H 27=	THOMPSON	INCREASE PENALTY/PYRAMID SCHEMES	*S -RE-REF COM ON APPROPR	02-04-97	04-23-97
H 41=	DAVIS D	DOWNTOWN LOAN GUARANTEE FUND	H -REPTD TO COMM	02-05-97	
H 45=	DAVIS D	BUILDING CODE COUNCIL MEMBERSHIP	H -REPTD TO COMM	02-05-97	
H 46=	DAVIS D	HOUSING TRUST FUND/DOWNTOWNS	H -REF TO COM ON COMM-B&L	02-05-97	
H 48=	DAVIS D	DOWNTOWN DATABASE	H -REPTD TO COMM	02-05-97	
H 49=	DAVIS D	BUILDING CODE TRAINING FUNDS	H -REPTD TO COMM	02-05-97	
H 499	THOMPSON	GIS RECORD EXCEPTION	*R -CH. SL 97-0193	04-03-97	04-09-97
H1173=	DEDMON	CONSTRUCTION WORKER TRAINING CREDIT	H -ASSIGNED TO COMM-B&L	05-15-97	
S 486=	LUCAS	CLARIFY FOOD ESTAB. DEFINITION	*H -REPTD TO COMM	05-28-97	06-05-97

NOTES- = AFTER BILL NUMBER SHOWS THAT BILL IS IDENTICAL, AS INTRODUCED, TO ANOTHER BILL.
* AFTER NUMBERS INDICATES THAT TEXT OF BILL WAS ALTERED BY ACTION ON THE BILL.
BOLDED LINE INDICATES BILL INDEXED AS AFFECTING APPROPRIATIONS.

HOUSE COMMERCE COMMITTEE
Subcommittee on Business and Labor
Minutes
February 26, 1997

The Subcommittee on Business and Labor of the Standing Committee on Commerce met on February 26, 1997 in Room 425, Legislative Office Building. The following members were present: Representative Davis, Subcommittee Chairman, Representative Hiatt, Commerce Committee Cochairman, and Representatives Alexander, Baker, Bowie, Boyd-McIntyre, Brawley, Creech, Easterling, Goodwin, Morris, Rayfield, Redwine, Saunders, Sherrill, G. Wilson.

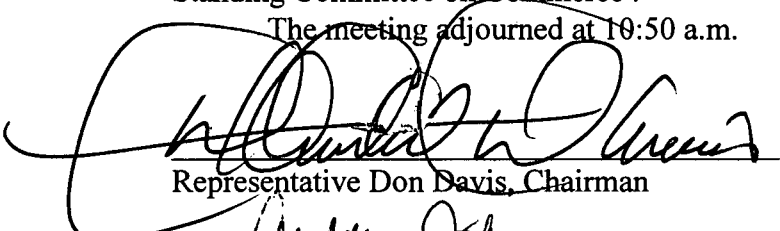
Representative Davis called the meeting to order at 11:00 a.m. and asked the Committee Members to introduce themselves and give a brief history of his or her business and labor background. Representative Davis then introduced staff: Bill Gilkeson, staff attorney, Karen Cochrane-Brown, staff attorney, Beth Farr, sergeant at arms, Audrey Johnson, committee clerk.

House Bill 48 - DOWNTOWN DATABASE-was before the committee for consideration. Representative Hiatt presided for Representative Davis, bill sponsor, to explain the bill. He explained that House Bill 48 was recommended by the Downtown Revitalization Study Committee. It would require the Department of Commerce to maintain a computerized database of properties in downtown areas which are available for industrial recruitment. The information would be available to the public, particularly to industry and local governments.

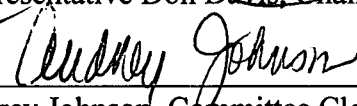
Representative Redwine offered an amendment that would make the information available to regional economic development partnerships, and moved for its adoption. Motion carried.

Several members expressed concern that the bill would benefit larger cities and not smaller towns. After committee discussion, Representative Bowie moved to give House Bill 48 a favorable recommendation, as amended. A voice vote was taken and the chair announced that the "yeas" appear to have the majority. Division was called and the vote was seven (yes) to six (no), motion carried. House Bill 48 was reported back to the Standing Committee on Commerce.

The meeting adjourned at 10:50 a.m.



Representative Don Davis, Chairman



Audrey Johnson, Committee Clerk

House Sub-Committee Business & Labor

Agenda

February 26, 1997

Room 425 LOB

10:00 AM

OPENING REMARKS

Representative Davis, Chairman

INTRODUCTIONS

BILLS TO BE CONSIDERED

House Bill 48 Downtown Database

Sponsor Representative Davis

ADJOURNMENT

**1997 PERMANENT SUBCOMMITTEE REPORT
HOUSE OF REPRESENTATIVES**

FOR RECOMMENDING BILLS TO STANDING COMMITTEE OR TO THE FLOOR OF THE HOUSE
The following report(s) from permanent sub committee(s) is/are presented:

By Representative(s) Davis for the Permanent Subcommittee on Business and Labor of the Standing Committee on COMMERCE .

☐ Committee Substitute for

H.B. 48

☒ A BILL TO BE ENTITLED AN ACT TO REQUIRE THE
DEPARTMENT OF COMMERCE TO MAINTAIN A DATABASE OF DOWNTOWN
PROPERTIES AVAILABLE FOR INDUSTRIAL RECRUITMENT.

REPORTED TO THE STANDING COMMITTEE ON **COMMERCE**

RECOMMENDED ACTION:

- ☐ With a favorable recommendation.
- ☐ With a favorable recommendation and recommend that the bill be re-referred to the Committee on
- ☒ With a favorable recommendation, as amended.
- ☐ With a favorable recommendation, as amended, and recommend that the bill be re-referred to the Committee on
- ☐ With an unfavorable recommendation.
- ☐ With a unfavorable recommendation as to proposed committee substitute bill which changes the title, unfavorable as to original bill.
- ☐ With a favorable recommendation as to proposed House committee substitute bill, which changes the title, unfavorable as to Senate committee substitute bill.
- ☐ Without prejudice.
- ☐ Other recommended action: _____

WITH APPROVAL OF STANDING COMMITTEE CHAIR FOR REPORT TO BE MADE DIRECTLY
TO THE FLOOR OF THE HOUSE:

Rep. _____ for the Standing Committee on _____.

s/ _____

- ☐ With a favorable report.
- ☐ With a favorable report, as amended.
- ☐ With a favorable report as to committee substitute bill which changes the title, unfavorable as to original bill.
- ☐ And having received a unanimous vote in committee, be placed on the Consent Calendar.-

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

H

1

HOUSE BILL 48

Short Title: Downtown Database.

(Public)

Sponsors: Representatives Davis, Brawley, Fox, Hill; Allred, Moore, Mosley, Rogers, and Tolson.

Referred to: Commerce Subcommittee on Business and Labor.

February 5, 1997

1 A BILL TO BE ENTITLED
2 AN ACT TO REQUIRE THE DEPARTMENT OF COMMERCE TO MAINTAIN
3 A DATABASE OF DOWNTOWN PROPERTIES AVAILABLE FOR
4 INDUSTRIAL RECRUITMENT.
5 The General Assembly of North Carolina enacts:
6 Section 1. G.S. 143B-431 is amended by adding a new subsection (c1) to
7 read:
8 "(c1) The Department of Commerce shall maintain a computerized database of
9 downtown properties available for industrial recruitment and shall make information
10 contained in the database available to the public including industry, municipalities,
11 and counties."
12 Section 2. This act becomes effective July 1, 1997.

NORTH CAROLINA GENERAL ASSEMBLY AMENDMENT

(Please type or use ballpoint pen)

EDITION No. _____

H. B. No. _____

DATE _____

S. B. No. _____

Amendment No. _____

COMMITTEE SUBSTITUTE _____

(to be filled in by
Principal Clerk)

Rep.)

)

Sen.)

1 moves to amend the bill on page _____, line _____

2 () WHICH CHANGES THE TITLE

3 by _____

4 _____

5 _____

6 _____

7 _____

8 by rewriting the line to read:

9 counties, and regional economic development partnerships."

10 _____

11 _____

12 _____

13 _____

14 _____

15 _____

16 _____

17 _____

18 _____

19 _____

SIGNED _____

ADOPTED _____ FAILED _____ TABLED _____



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February 25, 1997

MEMORANDUM

TO: Representative Don Davis, Chairman, House Business and Labor Sub-Committee

FROM: Karen Cochrane Brown, Committee Counsel *KB*

RE: House Bill 48 - Downtown Database

House Bill 48 was recommended by the Downtown Revitalization Study Committee. The bill adds a provision to G.S. 143B-431 to require the Department of Commerce to maintain a computerized database of properties in downtown areas which are available for industrial recruitment. The information is to be available to the public, particularly to industry and local governments.

The Committee found that a database in the Department of Commerce of downtown properties available for industrial use would provide valuable assistance to industries interested in locating in downtown areas and to local governments in recruiting such businesses. Currently, there is no central location where such information can be obtained on a Statewide basis. The Committee concluded that since downtown areas already possess the water, sewer, electric, telecommunications and road infrastructures necessary for business and industry, the State's past investments in these infrastructures areas are well served by the recruitment of business to downtowns.

This act would become effective July 1, 1997.

VISITOR REGISTRATION SHEET

Business & Labor

February 26, 1997

Name of Committee

Date _____

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK

NAME

FIRM OR AGENCY AND ADDRESS[illegible]

SPEAKER SIGN UP SHEET

NAME

EMPLOYER

Angie Harris

Commerce

HOUSE COMMERCE COMMITTEE

Subcommittee on Business and Labor

Minutes

April 9, 1997

The Subcommittee on Business and Labor of the Standing Committee on Commerce met on April 9, 1997 in Room 425, Legislative Office Building. The following members were present: Representative Davis, Subcommittee Chairman, Representative Hiatt, Commerce Committee Cochairman, and Representatives Alexander, Baker, Blue, Bowie, Boyd-McIntyre, Brawley, Creech, Easterling, Goodwin, Goodwin, Morris, Rayfield, Redwine, Saunders, G. Wilson. Representative Davis called the meeting to order at 10:00 a.m.

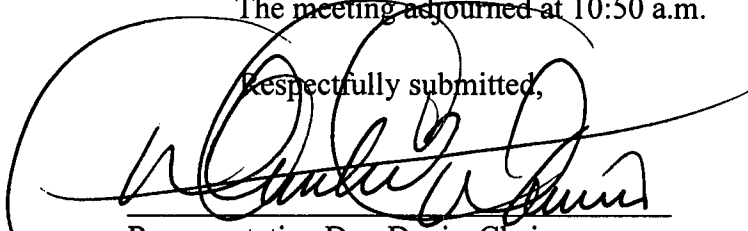
HB 499 - GIS RECORD EXEMPTION - was before the committee for consideration. Representative Thompson, the bill sponsor, was introduced to explain the bill. Representative Brawley moved to give HB 499 a favorable recommendation. Representative Baker had a question about resale. A voice vote was taken and the bill passed with a favorable recommendation and that it be re-referred to Judiciary I.

HB 27 - INCREASE PENALTY/PYRAMID SCHEMES was taken up next. Representative Thompson was the sponsor for this bill. Two representatives from the Attorney General's Office were present to answer questions. Representative Alexander moved for a favorable report. A voice vote was taken and HB 27 passed with a favorable recommendation and reported back to the Standing Committee on Commerce.

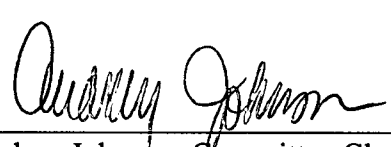
HB 41 - DOWNTOWN LOAN GUARANTEE FUND was the next bill on the agenda. Representative Hiatt presided for Representative Davis, bill sponsor, to explain the bill. A representative from Downtown Smithfield Development Corporation was present to answer questions. One concern expressed was if there was a default on the loan, who would be responsible for the risk, the state or the bank. Staff counsel, Karen Cockrane Brown, explained the bill in detail. Another concern was that once the business was established that it would upgrade to a larger mall and move out of the downtown areas. It was explained that the rental by square foot was substantially higher at malls vs. the downtown areas making it unfeasible for most small businesses to move out. Representative Hill moved for a favorable recommendation. A voice vote was taken and HB 41 passed with a favorable recommendation and was reported back to the Standing Committee on Commerce.

The meeting adjourned at 10:50 a.m.

Respectfully submitted,



Representative Don Davis, Chairman



Audrey Johnson, Committee Clerk

AGENDA

COMMERCE/Business & Labor Subcommittee

**April 9, 1997
ROOM 425 LOB
10:00 AM**

CALL TO ORDER Chairman Davis

BILLS TO BE CONSIDERED

HB 499	GIS Record Exemption	Rep. Thompson
HB 41	Downtown Loan Guarantee Fund	Rep Davis
HB 27	Increase Penalty/Pyramid Schemes	Rep. Thompson

ADJOURMENT

**1997 PERMANENT SUBCOMMITTEE REPORT
HOUSE OF REPRESENTATIVES**

FOR RECOMMENDING BILLS TO STANDING COMMITTEE OR TO THE FLOOR OF THE HOUSE
The following report(s) from permanent sub committee(s) is/are presented:

By Representative(s) Davis for the Permanent Subcommittee on Business and Labor of the Standing Committee on COMMERCE.

☐ Committee Substitute for

H.B. 499

☐ A BILL TO BE ENTITLED AN ACT RELATING TO THE USE
OF GEOGRAPHICAL INFORMATION SYSTEM DATABASE INFORMATION BY REAL
ESTATE TRADE ASSOCIATIONS.

REPORTED TO THE STANDING COMMITTEE ON **COMMERCE**

RECOMMENDED ACTION:

☐ With a favorable recommendation.

☒ With a favorable recommendation and recommend that the bill be re-referred to the Committee on
JUDICIARY I.

☐ With a favorable recommendation, as amended.

☐ With a favorable recommendation, as amended, and recommend that the bill be re-referred to the
Committee on

☐ With an unfavorable recommendation.

☐ With a favorable recommendation as to proposed committee substitute bill which changes the
title, unfavorable as to original bill.

☐ With a favorable recommendation as to proposed House committee substitute bill, which
changes the title, unfavorable as to Senate committee substitute bill.

☐ Without prejudice.

☐ Other recommended action: _____

WITH APPROVAL OF STANDING COMMITTEE CHAIR FOR REPORT TO BE MADE DIRECTLY
TO THE FLOOR OF THE HOUSE:

Rep. _____ for the Standing Committee on _____.

s/ _____

☐ With a favorable report.

☐ With a favorable report, as amended.

☐ With a favorable report as to committee substitute bill which changes the title, unfavorable
as to original bill.

☐ And having received a unanimous vote in committee, be placed on the Consent Calendar.-

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

H

1

HOUSE BILL 499

Short Title: GIS Record Exception.

(Public)

Sponsors: Representatives Thompson; Boyd-McIntyre, Buchanan, Davis, Decker, Dedmon, Hill, Howard, Miner, Nichols, Sherrill, Tallent, and C. Wilson.

Referred to: Commerce, if favorable, Judiciary I.

March 11, 1997

A BILL TO BE ENTITLED

AN ACT RELATING TO THE USE OF GEOGRAPHICAL INFORMATION
SYSTEM DATABASE INFORMATION BY REAL ESTATE TRADE
ASSOCIATIONS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 132-10 reads as rewritten:

"§ 132-10. **Qualified exception for geographical information systems.**

Geographical information systems databases and data files developed and operated by counties and cities are public records within the meaning of this Chapter. The county or city shall provide public access to such systems by public access terminals or other output devices. Upon request, the county or city shall furnish copies, in documentary or electronic form, to anyone requesting them at reasonable cost. As a condition of furnishing an electronic copy, whether on magnetic tape, magnetic disk, compact disk, or photo-optical device, a county or city may require that the person obtaining the copy agree in writing that the copy will not be resold or otherwise used for trade or commercial purposes. For purposes of this section, publication or broadcast by the news ~~media~~ media, real estate trade associations, or Multiple Listing Services operated by real estate trade associations shall not constitute a resale or use of the data for trade or commercial purposes and use of information without resale by a licensed professional in the course of practicing the professional's profession shall not constitute use for a commercial purpose."

Section 2. This act is effective when it becomes law.



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April 9, 1997

MEMORANDUM

TO: Representative Don Davis, Chair, House Commerce Subcommittee on Business and Labor

FROM: Karen Cochrane-Brown and O. Walker Reagan, House Commerce Committee Co-Counsel

RE: HOUSE BILL 499 - GIS RECORD EXEMPTION - Representative Thompson

House Bill 499 would add another exemption to the general prohibition against reselling or otherwise using for trade or commercial purposes, geographical information developed by counties and cities, to allow resale of this data by real estate trade associations and multiple listing services.

G.S. 132-10 was added to the public records law in 1995. This statute makes the geographic information systems databases and data files developed and operated by counties and cities public records and requires that the public have access to public terminals to retrieve the information contained in these databases. Under this statute when a person requests an electronic copy of the database the person must agree in writing that the copy will not be resold or otherwise used for trade or commercial purposes. The statute makes an exception from this requirement that publication or broadcast by the news media does not constitute resale, trade or commercial use. The statute also currently makes clear that use of the data by a licensed professional in the course of practicing the professional's profession is not use for a commercial purpose.

This bill adds real estate trade associations and multiple listing services to the news media as entities that may resale this information.

The bill would become effective when it becomes law.

If the bill is reported favorably by the Commerce Committee, the bill will be serially referred to the Judiciary I Committee.

H499-SMRU-001

**1997 PERMANENT SUBCOMMITTEE REPORT
HOUSE OF REPRESENTATIVES**

FOR RECOMMENDING BILLS TO STANDING COMMITTEE OR TO THE FLOOR OF THE HOUSE
The following report(s) from permanent sub committee(s) is/are presented:

By Representative(s) Davis for the Permanent Subcommittee on Business and Labor of the Standing Committee on COMMERCE.

☐ Committee Substitute for

H.B. 41

☐ A BILL TO BE ENTITLED AN ACT TO CREATE A
DOWNTOWN LOAN GUARANTEE FUND THAT WILL GUARANTEE TWENTY-FIVE
PERCENT OF ELIGIBLE LOANS MADE BY PARTICIPATING LENDING INSTITUTIONS FOR
DOWNTOWN DEVELOPMENT.

REPORTED TO THE STANDING COMMITTEE ON **COMMERCE**

RECOMMENDED ACTION:

- ☒ With a favorable recommendation.
- ☐ With a favorable recommendation and recommend that the bill be re-referred to the Committee on
- ☐ With a favorable recommendation, as amended.
- ☐ With a favorable recommendation, as amended, and recommend that the bill be re-referred to the Committee on
- ☐ With an unfavorable recommendation.
- ☐ With a favorable recommendation as to proposed committee substitute bill which changes the title, unfavorable as to original bill.
- ☐ With a favorable recommendation as to proposed House committee substitute bill, which changes the title, unfavorable as to Senate committee substitute bill.
- ☐ Without prejudice.
- ☐ Other recommended action: _____

WITH APPROVAL OF STANDING COMMITTEE CHAIR FOR REPORT TO BE MADE DIRECTLY
TO THE FLOOR OF THE HOUSE:

Rep. _____ for the Standing Committee on _____.

s/ _____

- ☐ With a favorable report.
- ☐ With a favorable report, as amended.
- ☐ With a favorable report as to committee substitute bill which changes the title, unfavorable as to original bill.
- ☐ And having received a unanimous vote in committee, be placed on the Consent Calendar.-

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

H

1

HOUSE BILL 41

Short Title: Downtown Loan Guarantee Fund.

(Public)

Sponsors: Representatives Davis, Brawley, Fox, Hill; Cole, Moore, Mosley, Rogers, and Tolson.

Referred to: Commerce Subcommittee on Business and Labor, if favorable, Finance.

February 5, 1997

1 A BILL TO BE ENTITLED

2 AN ACT TO CREATE A DOWNTOWN LOAN GUARANTEE FUND THAT
3 WILL GUARANTEE TWENTY-FIVE PERCENT OF ELIGIBLE LOANS MADE
4 BY PARTICIPATING LENDING INSTITUTIONS FOR DOWNTOWN
5 DEVELOPMENT.

6 The General Assembly of North Carolina enacts:

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

9 "Part 16. Downtown Loan Guarantee Program.

10 "§ 143B-472.40. Purpose and intent.

11 (a) Downtown Loan Guarantee Fund. -- The Downtown Loan Guarantee Fund is
12 created as a special revenue fund. Revenue in the Fund does not revert at the end of
13 a fiscal year, and interest and other investment income earned by the Fund accrues to
14 the Fund. The Department of Commerce shall administer the Fund or may contract
15 for the administration of the Fund.

16 (b) Downtown Loan Guarantee Program. -- The Fund shall be used to guarantee a
17 private loan made by a federally insured lending institution for downtown economic
18 development. The guarantee may not exceed twenty-five percent (25%) of the
19 amount of the unpaid balance of the loan or one hundred twenty-five thousand
20 dollars (\$125,000), whichever is less. The loan proceeds must be used for building
21 purchase or rehabilitation. The term of the loan may not exceed 20 years and must
22 be callable at up to seven years. The loan applicant must invest equity of at least ten

1 percent (10%) of the project amount. The Fund shall charge a fee of one percent
2 (1%) of the guaranteed amount of a loan.

3 (c) Defined Downtown Area. -- Local municipalities shall define, for purposes of
4 this Fund, the boundaries of the 'downtown area' qualified for loan guarantees. The
5 local government body must adopt a map showing the downtown boundaries and the
6 map must be certified by the municipal clerk.

7 (d) Application for Loan Guarantee. -- A participating lender may apply to the
8 Department of Commerce for a loan guarantee on behalf of a loan applicant. The
9 application must include the following:

10 (1) Borrower's name.

11 (2) Borrower's address and business address, if it is different.

12 (3) Loan amount.

13 (4) Terms of the loan.

14 (5) Purpose of the loan.

15 (6) A copy of a certified map showing the downtown boundaries of
16 the city in which the borrower's business is located and the
17 location of the business on the map.

18 (e) Loan Guarantee Approvals. -- All guarantees must be approved by the
19 Department of Commerce. The approval must be based on the location of the
20 business in a designated downtown area. The total amount of guarantees issued may
21 not exceed three times the amount of money in the Fund. The Department may not
22 pledge any money other than money in the Fund for payment of a loss. No action by
23 the Department constitutes the creation of a debt secured by a pledge of the taxing
24 power or of the faith and credit of the State or any of its political subdivisions. The
25 face of each guarantee issued must contain a statement that the Department is
26 obligated to pay the guarantee only from the revenue in the Fund and that neither
27 the taxing power nor the faith and credit of the State or any of its political
28 subdivisions is pledged in payment of the guarantee.

29 (f) Disbursements. -- The Department of Commerce shall pay a participating
30 lender the amount owed under a guarantee on a defaulted loan upon certification of
31 the lender that all collateral for that loan that can be reasonably liquidated has been
32 liquidated."

33 Section 2. There is appropriated from the General Fund to the
34 Downtown Loan Guarantee Fund, created by this act, the sum of five million dollars
35 (\$5,000,000) for the 1997-98 fiscal year.

36 Section 3. This act becomes effective July 1, 1997.



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April 9, 1997

MEMORANDUM

TO: Representative Don Davis, Chairman, Business and Labor Subcommittee

FROM: Karen Cochrane Brown, Committee Counsel

RE: House Bill 41 - Downtown Loan Guarantee Fund.

House Bill 41 is a recommendation of the LRC Downtown Revitalization Study Committee. The bill establishes a fund to provide a 25% guarantee for loans made by federally insured lending institutions to a person investing in a downtown property or business.

The bill provides that the guarantee may not exceed 25% of the amount of the unpaid balance of the loan or \$125,000, whichever is less. The loan must be used for building purchase or renovation in a downtown area and the loan applicant must invest equity of at least 10% of the project amount. The term of the loan cannot exceed 20 years and it must be callable at up to seven years. A fee of one percent of the guaranteed amount of the loan would be charged by the Fund. The lending institution may apply for the guarantee on behalf of the applicant and must include a certified map of the downtown boundaries as determined by the local governing body.

The application would need to be approved by the Department of Commerce. The only basis upon which the guarantee can be approved is that it is located in a downtown area. The total amount of guarantees cannot exceed three times the amount of money in the fund and the Department of Commerce cannot create a debt secured by the taxing power or the faith and credit of the State.

Money from the fund would be dispersed only in the event of a loan default. In order to receive the guarantee on default of the loan, the lender must certify that all collateral that can be reasonably liquidated has been liquidated. The bill appropriates \$5,000,000 to the fund for the 1997-98 fiscal year.

The act would become effective July 1, 1997.

**1997 PERMANENT SUBCOMMITTEE REPORT
HOUSE OF REPRESENTATIVES**

FOR RECOMMENDING BILLS TO STANDING COMMITTEE OR TO THE FLOOR OF THE HOUSE
The following report(s) from permanent sub committee(s) is/are presented:

By Representative(s) Davis for the Permanent Subcommittee on Business & Labor of the Standing Committee on COMMERCE.

☐ Committee Substitute for

H.B. 27

☐ A BILL TO BE ENTITLED AN ACT TO INCREASE THE
PENALTY FOR THE ESTABLISHMENT OF PYRAMID DISTRIBUTION PLANS.

REPORTED TO THE STANDING COMMITTEE ON **COMMERCE**

RECOMMENDED ACTION:

☒ With a favorable recommendation.

☐ With a favorable recommendation and recommend that the bill be re-referred to the Committee on

☐ With a favorable recommendation, as amended.

☐ With a favorable recommendation, as amended, and recommend that the bill be re-referred to the Committee on

☐ With an unfavorable recommendation.

☐ With a favorable recommendation as to proposed committee substitute bill which changes the title, unfavorable as to original bill.

☐ With a favorable recommendation as to proposed House committee substitute bill, which changes the title, unfavorable as to Senate committee substitute bill.

☐ Without prejudice.

☐ Other recommended action: _____

WITH APPROVAL OF STANDING COMMITTEE CHAIR FOR REPORT TO BE MADE DIRECTLY
TO THE FLOOR OF THE HOUSE:

Rep. _____ for the Standing Committee on _____

s/ _____

☐ With a favorable report.

☐ With a favorable report, as amended.

☐ With a favorable report as to committee substitute bill which changes the title, unfavorable as to original bill.

☐ And having received a unanimous vote in committee, be placed on the Consent Calendar.-

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

H

1

HOUSE BILL 27*

Short Title: Increase Penalty/Pyramid Schemes.

(Public)

Sponsors: Representatives Thompson, Beall, Cunningham, Preston, Rayfield; Hill, Hardy, and Weatherly.

Referred to: Commerce Subcommittee on Business and Labor, if favorable, Judiciary II.

February 4, 1997

1 A BILL TO BE ENTITLED
2 AN ACT TO INCREASE THE PENALTY FOR THE ESTABLISHMENT OF
3 PYRAMID DISTRIBUTION PLANS.

4 The General Assembly of North Carolina enacts:

5 Section 1. G.S. 14-291.2 reads as rewritten:

6 "§ 14-291.2. Pyramid and chain schemes prohibited.

7 (a) ~~Any No person who shall establish, promote, operate or participate in operate,~~
8 participate in, or otherwise promote any pyramid distribution plan, program, device
9 or scheme whereby a participant pays a valuable consideration for the opportunity or
10 chance to receive a fee or compensation upon the introduction of other participants
11 into the program, whether or not such opportunity or chance is received in
12 conjunction with the purchase of ~~merchandise, shall be deemed to have participated~~
13 merchandise. A person who establishes or operates a pyramid distribution plan is
14 guilty of a Class H felony. A person who participates in or otherwise promotes a
15 pyramid distribution plan is deemed to participate in a lottery and ~~shall be is~~ guilty of
16 a Class 2 misdemeanor.

17 (b) 'Pyramid distribution plan' means any program utilizing a pyramid or chain
18 process by which a participant gives a valuable consideration for the opportunity to
19 receive compensation or things of value in return for inducing other persons to
20 become participants in the program; and

1 'Compensation' does not mean payment based on sales of goods or services to
2 persons who are not participants in the scheme, and who are not purchasing in order
3 to participate in the ~~scheme, and scheme.~~

4 ~~'Promotes' shall mean inducing one or more other persons to become a~~
5 ~~participant.~~

6 (c) Any judge of the superior court shall have jurisdiction, upon petition by the
7 Attorney General of North Carolina or district attorney of the superior court, to
8 enjoin, as an unfair or deceptive trade practice, the continuation of the scheme
9 described in subsection (a); in such proceeding the court may assess civil penalties
10 and attorneys' fees to the Attorney General or the District Attorney pursuant to G.S.
11 75-15.2 and 75-16.1; and the court may appoint a receiver to secure and distribute
12 assets obtained by any defendant through participation in any such scheme.

13 (d) Any contract hereafter created for which a part of the consideration consisted
14 of the opportunity or chance to participate in a program described in subsection (a) is
15 hereby declared to be contrary to public policy and therefore void and
16 unenforceable."

17 Section 2. This act is effective when it becomes law and applies to
18 offenses committed on and after that date.



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April 8, 1997

MEMORANDUM

TO: Representative Don Davis, Chairman, Business and Labor Sub-Committee

FROM: Karen Cochrane Brown, Committee Counsel

RE: **House Bill 27 - INCREASE PENALTY/PYRAMID SCHEMES**

House Bill 27 is a recommendation of the LRC Consumer Protection Issues Committee. It would increase the penalty for establishing or operating a pyramid distribution plan. A pyramid distribution plan is defined as a pyramid or chain process by which a participant gives consideration for the opportunity to receive compensation for inducing others to become participants in the program, but compensation, in this case, does not include payments for the sale of goods or services to third parties who are not participants in the program and are not purchasing in order to participate in it.

Under current law, it is a Class 2 misdemeanor to establish, promote, operate or participate in any pyramid distribution plan. The bill would create two classes of offenses. The first makes it a Class H felony to establish or operate a pyramid distribution plan. Under the second class, the penalty for participating in or otherwise promoting such a plan remains a Class 2 misdemeanor.

The bill also deletes the definition of "promotes". The study committee found that the definition is not needed because it does nothing to clarify the offense. Promotion is an activity that is inherent in the establishment and operation of pyramid schemes, as well as in the participation of the scheme as an investor.

The bill would become effective when it becomes law and apply to offenses occurring on or after that date.

SPEAKER SIGN UP SHEET
COMMERCE/Business & Labor
April 9, 1997

NAME

Justice Lanning
Jane P. Gray
Ray Gibbs

EMPLOYER

A.G.
Attorney General's Office
North Carolina Downtown Dev. Assoc.

VISITOR REGISTRATION SHEET

Business & Labor

April 9, 1997

Name of Committee

Date

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK

NAME

FIRM OR AGENCY AND ADDRESS

Sherron Hampton

Triangle M45 - RTP, NC

Tr. M.

NC Association of REALTORS, Inc.

Randy Hermann

North Carolina Beantown Dev. Assoc.

KAY V GIBBS

NORTH CAROLINA DOWNTOWN CV. ASSOC.

DOWNTOWN SMITHFIELD DEV. CORP

Kristie Jennings

Consumer Protection

Edna Lykes

NC Gen. Assembly Clerk

Amy Tindus

Hunter & Williams

Ami Blackburn

Assoc of County Commissioners

Lawrence McGowan

NC Retail MERCHANTS

4. 11

NC 7th

Emery P. Dalesio

The Associated Press

James O. Gray

DOJ

John Hirsch

Atty Gen's Office

Mary L. Carnilia

Mecklenburg County

HOUSE COMMERCE COMMITTEE
Subcommittee on Business and Labor
Minutes
April 16, 1997

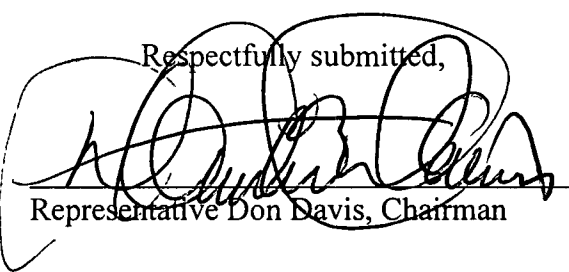
The Subcommittee on Business and Labor of the Standing Committee on Commerce met on April 16, 1997 in Room 425, Legislative Office Building. The following members were present: Representative Davis, Subcommittee Chairman, Representative Hiatt, Commerce Committee Cochairman, and Representatives Alexander, Baker, Blue, Bowie, Boyd-McIntyre, Brawley, Easterling, Goodwin, Goodwin, Morris, Rayfield, Saunders, Sherrill. Representative Davis called the meeting to order at 10:00 a.m.

HB 45 Membership/Building Code Council was before the Committee for consideration. Representative Baker presided for Representative Davis, the bill sponsor. Representative Davis explained the bill. An amendment was offered by Davis deleting 3 words from line 8-9. Representative Alexander moved to adopt the amendment. The amendment passed. Rep. Davis asked for a favorable recommendation as to the proposed committee substitute, unfavorable to original bill. The bill passed and was re-referred back to the Standing Committee on Commerce.

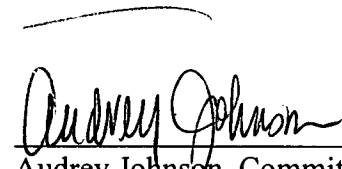
HB 49 Building Code Officials/ Training was taken up next. This was also Representative Davis' bill and Representative Hiatt presided for him on this bill. A question was asked about how much money it would cost to train the officials. A fiscal note was requested. A motion for a favorable report was called by Representative Brawley and by voice vote the bill passed with a favorable recommendation back to the Standing Committee on Commerce.

The meeting adjourned at 10:50 a.m.

Respectfully submitted,



Representative Don Davis, Chairman



Audrey Johnson, Committee Clerk

AGENDA

COMMERCE/Business & Labor Subcommittee

**April 16, 1997
ROOM 425 LOB
10:00 AM**

CALL TO ORDER Chairman Davis

BILLS TO BE CONSIDERED

**HB 45 Membership/Building Code Council
Rep. Davis**

**HB 49 Building Code Officials/Training
Rep. Davis**

ADJOURMENT

**1997 PERMANENT SUBCOMMITTEE REPORT
HOUSE OF REPRESENTATIVES**

FOR RECOMMENDING BILLS TO STANDING COMMITTEE OR TO THE FLOOR OF THE HOUSE
The following report(s) from permanent sub committee(s) is/are presented:

By Representative(s) Davis for the Permanent Subcommittee on Business & Labor of the Standing Committee on COMMERCE.

☐ Committee Substitute for

H.B. 45

☐ A BILL TO BE ENTITLED AN ACT TO ADD A DOWNTOWN DEVELOPMENT REPRESENTATIVE TO THE MEMBERSHIP OF THE BUILDING CODE COUNCIL.

REPORTED TO THE STANDING COMMITTEE ON **COMMERCE**

RECOMMENDED ACTION:

- ☐ With a favorable recommendation.
- ☐ With a favorable recommendation and recommend that the bill be re-referred to the Committee on
- ☐ With a favorable recommendation, as amended.
- ☐ With a favorable recommendation, as amended, and recommend that the bill be re-referred to the Committee on
- ☐ With an unfavorable recommendation.
- x With a favorable recommendation as to proposed committee substitute bill, unfavorable as to original bill.
- ☐ With a favorable recommendation as to proposed House committee substitute bill, which changes the title, unfavorable as to Senate committee substitute bill.
- ☐ Without prejudice.
- ☐ Other recommended action: _____

WITH APPROVAL OF STANDING COMMITTEE CHAIR FOR REPORT TO BE MADE DIRECTLY TO THE FLOOR OF THE HOUSE:

Rep. _____ for the Standing Committee on _____

s/ _____

- ☐ With a favorable report.
- ☐ With a favorable report, as amended.
- ☐ With a favorable report as to committee substitute bill which changes the title, unfavorable as to original bill.
- ☐ And having received a unanimous vote in committee, be placed on the Consent Calendar.-

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

H

D

HOUSE BILL 45
Proposed Committee Substitute H45-PCS8184

Short Title: Membership/Building Code Council.

(Public)

Sponsors:

Referred to:

February 5, 1997

1 A BILL TO BE ENTITLED
2 AN ACT TO ADD A DOWNTOWN DEVELOPMENT REPRESENTATIVE TO
3 THE MEMBERSHIP OF THE BUILDING CODE COUNCIL.
4 The General Assembly of North Carolina enacts:
5 Section 1. G.S. 143-136(a) reads as rewritten:
6 "(a) Creation; Membership; Terms. -- There is hereby created a Building Code
7 Council, which shall be composed of ~~15~~ 16 members appointed by the Governor,
8 consisting of one registered architect, one licensed general contractor, one ~~registered~~
9 ~~architect~~ or licensed general contractor specializing in residential design or
10 construction, one registered engineer practicing structural engineering, one registered
11 engineer practicing mechanical engineering, one registered engineer practicing
12 electrical engineering, one licensed plumbing and heating contractor, one municipal
13 or county building inspector, one licensed liquid petroleum gas dealer/contractor
14 involved in the design of natural and liquid petroleum gas systems who has expertise
15 and experience in natural and liquid petroleum gas piping, venting and appliances, a
16 representative of the public who is not a member of the building construction
17 industry, a licensed electrical contractor, a registered engineer on the engineering
18 staff of a State agency charged with approval of plans of State-owned buildings, a
19 municipal elected official or city manager, a county commissioner or county manager,
20 a representative of a downtown development group or association, and an active
21 member of the North Carolina fire service with expertise in fire safety. In selecting
22 the municipal and county members, preference should be given to members who
23 qualify as either a registered architect, registered engineer, or licensed general

1 contractor. Of the members initially appointed by the Governor, three shall serve for
2 terms of two years each, three shall serve for terms of four years each, and three shall
3 serve for terms of six years each. Thereafter, all appointments shall be for terms of six
4 years. The Governor may remove appointive members at any time. Neither the
5 architect nor any of the above named engineers shall be engaged in the manufacture,
6 promotion or sale of any building material, and any member who shall, during his
7 term, cease to meet the qualifications for original appointment (through ceasing to be
8 a practicing member of the profession indicated or otherwise) shall thereby forfeit his
9 membership on the Council. In making new appointments or filling vacancies, the
10 Governor shall ensure that minorities and women are represented on the Council.
11 The Governor may make appointments to fill the unexpired portions of any terms
12 vacated by reason of death, resignation, or removal from office. In making such
13 appointment, he shall preserve the composition of the Council required above."
14 Section 2. This act becomes effective October 1, 1997.



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April 16, 1997

MEMORANDUM

TO: Representative Don Davis, Chairman, Business and Labor Subcommittee

FROM: Karen Cochrane Brown, Committee Counsel *KB*

RE: **House Bill 45 - Membership/Building Code Council.**

House Bill 45 is a recommendation of the LRC Downtown Revitalization Study Committee. It increases the membership of the North Carolina Building Code Council from 15 to 16 and provides that the new member will be a representative of a downtown development group or association. All member of the Building Code Council are appointed by the Governor.

This act would become effective October 1, 1997.

**1997 PERMANENT SUBCOMMITTEE REPORT
HOUSE OF REPRESENTATIVES**

FOR RECOMMENDING BILLS TO STANDING COMMITTEE OR TO THE FLOOR OF THE HOUSE
The following report(s) from permanent sub committee(s) is/are presented:

By Representative(s) Davis for the Permanent Subcommittee on Business & Labor of the Standing Committee on COMMERCE.

☐ Committee Substitute for

H.B. 49

☐ A BILL TO BE ENTITLED AN ACT TO PROVIDE TRAINING FOR BUILDING CODE ENFORCEMENT OFFICIALS IN THE INSPECTION AND REVIEW OF EXISTING BUILDINGS AND HISTORIC STRUCTURES.

REPORTED TO THE STANDING COMMITTEE ON **COMMERCE**

RECOMMENDED ACTION:

☒ With a favorable recommendation.

☐ With a favorable recommendation and recommend that the bill be re-referred to the Committee on

☐ With a favorable recommendation, as amended.

☐ With a favorable recommendation, as amended, and recommend that the bill be re-referred to the Committee on

☐ With an unfavorable recommendation.

☐ With a favorable recommendation as to proposed committee substitute bill which changes the title, unfavorable as to original bill.

☐ With a favorable recommendation as to proposed House committee substitute bill, which changes the title, unfavorable as to Senate committee substitute bill.

☐ Without prejudice.

☐ Other recommended action: _____

WITH APPROVAL OF STANDING COMMITTEE CHAIR FOR REPORT TO BE MADE DIRECTLY TO THE FLOOR OF THE HOUSE:

Rep. _____ for the Standing Committee on _____.

s/ _____

☐ With a favorable report.

☐ With a favorable report, as amended.

☐ With a favorable report as to committee substitute bill which changes the title, unfavorable as to original bill.

☐ And having received a unanimous vote in committee, be placed on the Consent Calendar.-

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

H

1

HOUSE BILL 49

Short Title: Building Code Officials/Training.

(Public)

Sponsors: Representatives Davis, Brawley, Fox, Hill; Moore, Mosley, Sexton, and Tolson.

Referred to: Commerce Subcommittee on Business and Labor, if favorable, Appropriations.

February 5, 1997

1 A BILL TO BE ENTITLED
2 AN ACT TO PROVIDE TRAINING FOR BUILDING CODE ENFORCEMENT
3 OFFICIALS IN THE INSPECTION AND REVIEW OF EXISTING BUILDINGS
4 AND HISTORIC STRUCTURES.

5 The General Assembly of North Carolina enacts:

6 Section 1. The Department of Insurance, Engineering Division, shall
7 conduct training of Code-enforcement officials in the renovation of old and historic
8 structures, federal standards imposed for rehabilitation of historic buildings, and the
9 use of Volume IX of the North Carolina Building Code dealing with existing
10 buildings.

11 Section 2. There is appropriated from the General Fund to the
12 Department of Insurance, Engineering Division, the sum of twenty-five thousand
13 dollars (\$25,000) for the 1997-98 fiscal year and the sum of twenty-five thousand
14 dollars (\$25,000) for the 1998-99 fiscal year to implement the provisions of this act.

15 Section 3. This act becomes effective July 1, 1997.

NORTH CAROLINA GENERAL ASSEMBLY

LEGISLATIVE FISCAL NOTE

BILL NUMBER: HB 49 (First Edition)

SHORT TITLE: Building Code Officials/Training

SPONSOR(S): Reps. Davis, *et al.*

FISCAL IMPACT

	Yes (X)	No ()	No Estimate Available ()		
	<u>FY 1997-98</u>	<u>FY 1998-99</u>	<u>FY 1999-00</u>	<u>FY 2000-01</u>	<u>FY 2001-02</u>
REVENUES	0	0	0	0	0
EXPENDITURES	\$25,000	\$25,000	\$25,000	\$25,000	\$25,000
POSITIONS:	0	0	0	0	0
PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: Department of Insurance, Safety Services Group, Engineering Division					
EFFECTIVE DATE: July 1, 1997					

BILL SUMMARY: Appropriates \$25,000 for 1997-98 and \$25,000 for 1998-99 from General Fund to Dep't of Insurance, Engineering Division, for training of code enforcement officials concerning renovation of old and historic structures, federal standards that apply to the rehabilitation of historic buildings, and the use of volume IX of the State Building Code dealing with existing buildings.¹

¹ Legislative Reporting Service, Institute of Government: "Daily Bulletin," Vol. 1997, No. 5, p. 3.

ASSUMPTIONS AND METHODOLOGY: Assumes that all 800 building inspectors will take the training each year. Assumes that the Building Code will continue to be revised annually, thus necessitating new training annually. Assumes training will be delivered to 8 classes of 100 trainees each year. Assumes three trainers per class; classes at various locations statewide.

Class costs (space, materials, registration & postage)	\$ 7,200
Instructional costs (Salaries, travel and subsistence)	15,750
10 % Contingencies	<u>2,295</u>
Total	25,245 ~ \$25,000

TECHNICAL CONSIDERATIONS: None

FISCAL RESEARCH DIVISION

733-4910

PREPARED BY: William L. Spencer

APPROVED BY: Tom L. Covington TomC

DATE: April 16, 1997



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April 16, 1997

MEMORANDUM

TO: Representative Don Davis, Chairman, Business and Labor Subcommittee

FROM: Karen Cochrane Brown, Committee Counsel *KCB*

RE: **House Bill 49 - Building Code Officials/Training.**

House Bill 49 directs the Engineering Division of the Department of Insurance to conduct training of Code enforcement officials in the renovation of old and historic structures, federal requirements for rehabilitation of historic structures, and the use of Volume IX of the North Carolina Building Code dealing with existing buildings.

This bill is a recommendation of the LRC Downtown Revitalization Study Committee. The Committee noted that the North Carolina Building Code Council recently approved a new Code section dealing specifically with existing buildings, Volume IX. However, many Code-enforcement officials are either unaware or lack a basic understanding of this section. Also, Code-enforcement officials across the State are often unaware of federal standards imposed for the rehabilitation of structures designated as "historic". The Committee further found that this lack of understanding creates confusion and needless delay and discourages the renovation and rehabilitation of many downtown structures, and that training of these officials in these specific areas is necessary to encourage downtown revitalization.

Section 2 of the bill appropriates \$25,000 to the Department of Insurance for each of the next two fiscal years to conduct the training. This figure provides for the training of all 800 building inspectors across the State.

This act would become effective July 1, 1997.

SPEAKER SIGN UP SHEET (Sign Name)

April 16, 1997

RAY GIBBS, VICE-PRESIDENT, N.C. DOWNTOWN
DEVELOPMENT ASSOCIATION

VISITOR REGISTRATION SHEET

Business & Labor

April 16, 1997
Date

Name of Committee

Date _____

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK

NAME

FIRM OR AGENCY AND ADDRESS

RAY GIBBS

N.L. DOWNTOWN DEV. ASSOC

DOWNTOWN SMITHFIELD DEV. CORP.

Mike Carpenter

NCOSA

Pave Williams

NCB7A

Gardner Long

Power wheel

Bob Lucas

NC Horse Finance Admin

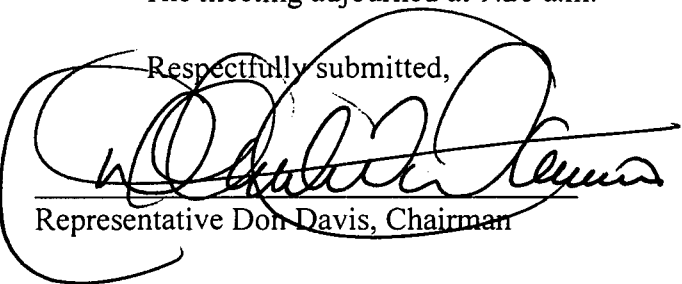
HOUSE COMMERCE COMMITTEE
Subcommittee on Business and Labor
Minutes
June 4, 1997

The Subcommittee on Business and Labor of the Standing Committee on Commerce met on June 4, 1997 in Room 425, Legislative Office Building. The following members were present: Representative Davis, Subcommittee Chairman, Representative Hiatt, Commerce Committee Cochairman, and Representatives Alexander, Blue, Brawley, Easterling, Hill, Morris, Rayfield, Saunders, Wilson. Representative Davis called the meeting to order at 10:00 a.m.

SB 486 Food Establishment/Clarify Definition, Senate Committee substitute was before the Committee for consideration. Senator Lucas, the bill sponsor, presented the bill. A House committee substitute was proposed. A motion for a favorable report was called by Rep. Brawley. Rep. Hill asked a clarifying question about whether established businesses can then open up regularly a second location. It was stated that these events are only allowed for 2 days, once a month. A voice vote on the committee substitute passed with a favorable recommendation back to the Standing Committee on Commerce.

The meeting adjourned at 9:20 a.m.

Respectfully submitted,



Representative Don Davis, Chairman



Audrey Johnson, Committee Clerk

AGENDA

COMMERCE/Business & Labor Subcommittee

**June 4, 1997
ROOM 425 LOB
10:00 AM**

CALL TO ORDER Chairman Davis

BILLS TO BE CONSIDERED

**SB 486 Food Establishment/Clarify Definition
Sen. Lucas**

ADJOURMENT

**1997 PERMANENT SUBCOMMITTEE REPORT
HOUSE OF REPRESENTATIVES**

FOR RECOMMENDING BILLS TO STANDING COMMITTEE OR TO THE FLOOR OF THE HOUSE

The following report(s) from permanent sub committee(s) is/are presented:

By Representative(s) Davis for the Permanent Subcommittee on Business & Labor of the Standing Committee on COMMERCE.

☒ Committee Substitute for

S.B. 486

☐ A BILL TO BE ENTITLED AN ACT TO CLARIFY THE
DEFINITION OF ESTABLISHMENTS THAT ARE SUBJECT TO REGULATION AS FOOD AND
LODGING FACILITIES.

REPORTED TO THE STANDING COMMITTEE ON **COMMERCE**

RECOMMENDED ACTION:

- ☐ With a favorable recommendation.
- ☐ With a favorable recommendation and recommend that the bill be re-referred to the Committee on
- ☐ With a favorable recommendation, as amended.
- ☐ With a favorable recommendation, as amended, and recommend that the bill be re-referred to the Committee on
- ☐ With an unfavorable recommendation.
- With a favorable recommendation as to proposed committee substitute bill, unfavorable as to original bill.
- x With a favorable recommendation as to proposed House committee substitute bill, unfavorable as to Senate committee substitute bill.
- ☐ Without prejudice.
- ☐ Other recommended action: _____

WITH APPROVAL OF STANDING COMMITTEE CHAIR FOR REPORT TO BE MADE DIRECTLY TO THE FLOOR OF THE HOUSE:

Rep. _____ for the Standing Committee on _____

s/ _____

- ☐ With a favorable report.
- ☐ With a favorable report, as amended.
- ☐ With a favorable report as to committee substitute bill (# _____), ☐ which changes the title, unfavorable as to original bill (Committee Substitute Bill # _____). (and recommendation that the committee substitute bill (# _____) be referred to the Committee on _____ .)
- ☐ And having received a unanimous vote in committee, be placed on the Consent Calendar.
(PUBLIC BILLS ONLY)

4/24/97

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

S

D

SENATE BILL 486*

Children and Human Resources Committee Substitute Adopted 4/24/97
Proposed House Committee Substitute S486-PCS8717

Short Title: Food Estab. - Clarify Def./AB.

(Public)

Sponsors:

Referred to:

March 25, 1997

1 A BILL TO BE ENTITLED
2 AN ACT TO CLARIFY THE DEFINITION OF ESTABLISHMENTS THAT ARE
3 SUBJECT TO REGULATION AS FOOD AND LODGING FACILITIES.

4 The General Assembly of North Carolina enacts:

5 Section 1. G.S. 130A-247(4) reads as rewritten:

6 "(4) 'Establishment that prepares or serves drink' means a business or
7 other entity that processes fruits and vegetables to produce juices
8 or other liquids for drinks, or otherwise puts together, portions,
9 sets out, or hands out drinks ~~in unpackaged portions using~~
10 ~~containers that are reused on the premises rather than~~
11 ~~single-service containers.~~ for human consumption."

12 Section 2. G.S. 130A-247(5) reads as rewritten:

13 "(5) 'Establishment that prepares or serves food' means a business or
14 other entity that cooks, puts together, portions, sets out, or hands
15 out food ~~in unpackaged portions for human consumption.~~ for
16 human consumption, except for establishments that only distribute
17 packaged foods which were prepared in a permitted establishment
18 or in a facility regulated by the North Carolina Department of
19 Agriculture."

20 Section 3. G.S. 130A-247 is amended by adding a new subdivision to
21 read:

22 "(8) 'Packaged' means package as defined in G.S. 106-121(13a)."

Section 4. G.S. 130A-250 reads as rewritten:

"§ 130A-250. Exemptions.

The following shall be exempt from this Part:

- (1) Establishments that provide lodging described in G.S. 130A-248(a1) with four or fewer lodging units;
- (2) Condominiums;
- (3) Establishments that prepare or serve food or provide lodging to regular boarders or permanent house guests only;
- (4) Private homes that occasionally offer lodging accommodations, which may include the providing of food, for two weeks or less to persons attending special events, provided these homes are not bed and breakfast homes or bed and breakfast inns;
- (5) Private clubs;
- (6) Curb markets operated by the State Agricultural Extension Service;
- (7) Establishments that prepare or serve food or drink for pay no more frequently than once a month for a period not to exceed two consecutive ~~days;~~ days, including establishments permitted pursuant to this Part when preparing or serving food or drink at a location other than at the permitted location;
- (8) Establishments that put together, portion, set out, or hand out only drinks that do not include the processing of fruits and vegetables to produce juices or other liquids for drinks, using single service containers that are not reused on the premises; ~~and~~
- (9) Markets where meat food products or poultry products are prepared and sold and which are under the continuous inspection by the North Carolina Department of Agriculture or the United States Department of ~~Agriculture.~~ Agriculture; and
- (10) Establishments that process fruits and vegetables to produce juices or other liquids for drinks and are under inspection by the North Carolina Department of Agriculture."

Section 4. This act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

S

2

SENATE BILL 486*

Children and Human Resources Committee Substitute Adopted 4/24/97

Short Title: Food Estab. - Clarify Def./AB.

(Public)

Sponsors:

Referred to:

March 25, 1997

A BILL TO BE ENTITLED

AN ACT TO CLARIFY THE DEFINITION OF ESTABLISHMENTS THAT ARE
SUBJECT TO REGULATION AS FOOD AND LODGING FACILITIES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 130A-247(4) reads as rewritten:

"(4) 'Establishment that prepares or serves drink' means a business or other entity that processes fruits and vegetables to produce juices or other liquids for drinks, or otherwise puts together, portions, sets out, or hands out drinks in unpackaged portions using containers that are reused on the premises rather than single-service containers. for human consumption, except for establishments that only set out or hand out drinks as regulated by the North Carolina Department of Agriculture in accordance with G.S. 106-120 through G.S. 106-145."

Section 2. G.S. 130A-247(5) reads as rewritten:

"(5) 'Establishment that prepares or serves food' means a business or other entity that cooks, puts together, portions, sets out, or hands out food in unpackaged portions for human consumption. for human consumption, except for establishments that only set out or hand out food as regulated by the North Carolina Department of Agriculture in accordance with G.S. 106-120 through G.S. 106-145."

Section 3. G.S. 130A-250 reads as rewritten:

1 "§ 130A-250. Exemptions.

2 The following shall be exempt from this Part:

- 3 (1) Establishments that provide lodging described in G.S. 130A-
4 248(a1) with four or fewer lodging units;
- 5 (2) Condominiums;
- 6 (3) Establishments that prepare or serve food or provide lodging to
7 regular boarders or permanent house guests only;
- 8 (4) Private homes that occasionally offer lodging accommodations,
9 which may include the providing of food, for two weeks or less to
10 persons attending special events, provided these homes are not bed
11 and breakfast homes or bed and breakfast inns;
- 12 (5) Private clubs;
- 13 (6) Curb markets operated by the State Agricultural Extension
14 Service;
- 15 (7) Establishments that prepare or serve food or drink for pay no more
16 frequently than once a month for a period not to exceed two
17 consecutive ~~days~~; days, including establishments permitted
18 pursuant to this Part when preparing or serving food or drink at a
19 location other than at the permitted location;
- 20 (8) Establishments that put together, portion, set out, or hand out only
21 ~~drinks~~ drinks that do not include the processing of fruits and
22 vegetables to produce juices or other liquids for drinks, using
23 single service containers that are not reused on the premises; ~~and~~
- 24 (9) Markets where meat food products or poultry products are
25 prepared and sold and which are under ~~the continuous~~ inspection
26 by the North Carolina Department of Agriculture or the United
27 States Department of ~~Agriculture~~. Agriculture; and
- 28 (10) Establishments that process fruits and vegetables to produce juices
29 or other liquids for drinks and are under inspection by the North
30 Carolina Department of Agriculture or the United States
31 Department of Agriculture."

32 Section 4. This act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

S

D

SENATE BILL 486*

Children and Human Resources Committee Substitute Adopted 4/24/97
Proposed House Committee Substitute

S486-CSRO-001

ATTENTION: LINE NUMBERS MAY CHANGE AFTER ADOPTION.

Short Title: Food Estab. - Clarify Def./AB.

(Public)

Sponsors:

Referred to:

March 25, 1997

1 A BILL TO BE ENTITLED
2 AN ACT TO CLARIFY THE DEFINITION OF ESTABLISHMENTS THAT ARE
3 SUBJECT TO REGULATION AS FOOD AND LODGING FACILITIES.
4 The General Assembly of North Carolina enacts:
5 Section 1. G.S. 130A-247(4) reads as rewritten:
6 "(4) 'Establishment that prepares or serves drink' means
7 a business or other entity that processes fruits
8 and vegetables to produce juices or other liquids
9 for drinks, or otherwise puts together, portions,
10 sets out, or hands out drinks in unpackaged
11 portions using containers that are reused on the
12 premises rather than single-service containers. for
13 human consumption."
14 Section 2. G.S. 130A-247(5) reads as rewritten:
15 "(5) 'Establishment that prepares or serves food' means
16 a business or other entity that cooks, puts
17 together, portions, sets out, or hands out food in
18 unpackaged portions for human consumption. for
19 human consumption, except for establishments that
20 only distribute packaged foods which were prepared

1 in a permitted establishment or in a facility
2 regulated by the North Carolina Department of
3 Agriculture."

4 Section 3. G.S. 130A-247 is amended by adding a new
5 subdivision to read:

6 "(8) 'Packaged' means package as defined in G.S. 106-
7 121(13a).

8 Section 4. G.S. 130A-250 reads as rewritten:

9 "§ 130A-250. Exemptions.

10 The following shall be exempt from this Part:

- 11 (1) Establishments that provide lodging described in
- 12 G.S. 130A-248(a1) with four or fewer lodging units;
- 13 (2) Condominiums;
- 14 (3) Establishments that prepare or serve food or
- 15 provide lodging to regular boarders or permanent
- 16 house guests only;
- 17 (4) Private homes that occasionally offer lodging
- 18 accommodations, which may include the providing of
- 19 food, for two weeks or less to persons attending
- 20 special events, provided these homes are not bed
- 21 and breakfast homes or bed and breakfast inns;
- 22 (5) Private clubs;
- 23 (6) Curb markets operated by the State Agricultural
- 24 Extension Service;
- 25 (7) Establishments that prepare or serve food or drink
- 26 for pay no more frequently than once a month for a
- 27 period not to exceed two consecutive ~~days;~~ days,
- 28 including establishments permitted pursuant to this
- 29 Part when preparing or serving food or drink at a
- 30 location other than at the permitted location;
- 31 (8) Establishments that put together, portion, set out,
- 32 or hand out only ~~drinks~~ drinks that do not include
- 33 the processing of fruits and vegetables to produce
- 34 juices or other liquids for drinks, using single
- 35 service containers that are not reused on the
- 36 premises; and
- 37 (9) Markets where meat food products or poultry
- 38 products are prepared and sold and which are under
- 39 the continuous inspection by the North Carolina
- 40 Department of Agriculture or the United States
- 41 Department of ~~Agriculture.~~ Agriculture; and
- 42 (10) Establishments that process fruits and vegetables
- 43 to produce juices or other liquids for drinks and

1 are under inspection by the North Carolina
2 Department of Agriculture."
3 Section 4. This act is effective when it becomes law.



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June 4, 1997

MEMORANDUM

TO: Representative David Miner, Chair, House Commerce Committee

FROM: Karen Cochrane Brown and O. Walker Reagan, Committee Co-Counsel

RE: PROPOSED HOUSE COMMITTEE SUBSTITUTE FOR SENATE BILL 486- FOOD ESTABLISHMENTS - CLARIFY DEFINITIONS - Senator Lucas

The Proposed House Committee Substitute for Senate Bill 486 would amend the law that subjects food and lodging establishments to regulation by the Health Services Commission by clarifying the distinction between serving fresh produced juices and prepackaged juices. Under the bill most establishments that process fruits and vegetables to produce juices to be handed out for public consumption are regulated by Health Services while prepackaged juices are regulated by the Department of Agriculture.

Section 1 of the bill amends definition of "establishments that prepare and serve drink" to include businesses that process fruits and vegetables to produce juices or other liquids for drinks for human consumption.

Section 2 amends the definition of "establishment that prepares or serves food" to exclude those establishments that only serve packaged food prepared in an establishment or facility regulated by the Department of Agriculture.

Section 3 incorporates the definition of "packaged" used in the Food, Drugs and Cosmetics law (copy attached).

Section 4 amends the list of establishments that serve food and drinks that are exempt from regulation by the Health Services Commission. This section clarifies that establishments that serve food or drink for no more than two consecutive days per month, including establishments when serving at a different location, are exempt from these provisions. This section also excludes establishments that serve nonprocessed drinks, and establishments that process fruits and vegetables to produce juices and other liquids for drinks under the continuous inspection of the United States or the North Carolina Departments of Agriculture.

This act becomes effective when it becomes law.

S486-SMRU-001

§ 106-121. Definitions and general consideration.

For the purpose of this Article:

....

- (13a) The term "package" means any container or wrapping in which any consumer commodity is enclosed for use in the delivery or display of that consumer commodity to retail purchasers, but does not include:
- a. Shipping containers or wrappings used solely for the transportation of any consumer commodity in bulk or in quantity to manufacturers, packers, or processors, or to wholesale or retail distributors thereof; or
 - b. Shipping containers or outer wrappings used by retailers to ship or deliver any commodity to retail customers if such containers and wrappings bear no printed matter pertaining to any particular commodity.

§ 130A-248. Regulation of food and lodging establishments.

(a) For the protection of the public health, the Commission shall adopt rules governing the sanitation of establishments that prepare or serve drink or food for pay and establishments that prepare and sell meat food products or poultry products. However, any establishment that prepares or serves food or drink to the public, regardless of pay, shall be subject to the provisions of this Article if the establishment that prepares or serves food or drink holds an ABC permit, as defined in G.S. 18B-101, meets any of the definitions in G.S. 18B-1000, and does not meet the definition of a private club as provided in G.S. 130A-247(2).

(a1)

(a2)

(a3)

- (7) The prohibition against the offering of unwrapped food samples to the general public unless the offering and acceptance of the samples are continuously supervised by an agent of the entity preparing or offering the samples or by an agent of the entity on whose premises the samples are made available. As used in this subdivision, "food samples" means unwrapped food prepared and made available for sampling by and without charge to the general public for the purpose of promoting the food made available for sampling. This subdivision does not apply to unwrapped food prepared and offered in buffet, cafeteria, or other style in exchange for payment by the general public or by the person or entity arranging for the preparation and offering of such unwrapped food. This subdivision shall not apply to open air produce markets nor to farmer market facilities operated on land owned or leased by the State of North Carolina or any local government.

The rules shall contain a system for grading establishments, such as Grade A, Grade B, and Grade C. The rules shall be written in a manner that promotes consistency in both the interpretation and application of the grading system.

(a4) For the protection of the public health, the Commission shall adopt rules governing the sanitation of limited food service establishments. In adopting the rules, the Commission shall not limit the number of days that limited food service establishments may operate. Limited food service establishment permits shall be issued only to political subdivisions of the State, establishments operated by volunteers that prepare or serve food in conjunction with amateur athletic events, or for establishments operated by other charitable organizations. On and after January 1, 1996, limited food service establishment permits shall be issued only to political subdivisions of the State, establishments operated by volunteers that prepare or serve food in conjunction with

amateur athletic events, or for establishments operated by organizations that have applied for exemption or are exempt from federal income tax under section 501(c)(3) or section 501(c)(4) of the Internal Revenue Code. On and after January 1, 1997, limited food service establishment permits shall be issued only to political subdivisions of the State, establishments operated by volunteers that prepare or serve food in conjunction with amateur athletic events, or for establishments operated by organizations that are exempt from federal income tax under section 501(c)(3) or section 501(c)(4) of the Internal Revenue Code.

(b)

(b1).....

(c)

(c1) The Commission shall adopt rules governing the sanitation of pushcarts and mobile food units. A pushcart or mobile food unit shall be operated in conjunction with a permitted restaurant.

(d)

VISITOR REGISTRATION SHEET

Business & Labor

June 4, 1997
Date

Name of Committee

Date _____

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK

NAME

FIRM OR AGENCY AND ADDRESS

John Bailey	DOJ/for DEHNR
Barry Campbell	DEHNR
Don McQuinn	NCRMA
Don McQuinn	NCRMA
Mike Allen	NC ARC-cv
John Case	DEHNR