

GENERAL ASSEMBLY OF NORTH CAROLINA
1989 SESSION

CHAPTER 751
HOUSE BILL 381

AN ACT TO CHANGE THE NAME OF THE DEPARTMENT OF COMMERCE TO THE DEPARTMENT OF ECONOMIC AND COMMUNITY DEVELOPMENT, TO PROVIDE FOR A DIVISION OF HOUSING IN THE DEPARTMENT OF ECONOMIC AND COMMUNITY DEVELOPMENT, TO PROVIDE FOR A TOLL-FREE TELEPHONE NUMBER FOR HOUSING ASSISTANCE INFORMATION WITHIN THE DEPARTMENT OF ECONOMIC AND COMMUNITY DEVELOPMENT, AND TO MAKE TECHNICAL AND CONFORMING AMENDMENTS TO VARIOUS LAWS.

The General Assembly of North Carolina enacts:

Section 1. Article 10 of Chapter 143B of the General Statutes is amended by deleting the existing title and substituting "**Department of Economic and Community Development**".

Sec. 2. G.S. 143B-431, as amended by Section 25 of Chapter 76 of the 1989 Session Laws, reads as rewritten:

"§ 143B-431. **Department of ~~Commerce~~ Economic and Community Development – functions.**

(a) The functions of the Department of ~~Commerce~~ Economic and Community Development, except as otherwise expressly provided by Article 1 of this Chapter or by the Constitution of North Carolina, shall include:

- (1) All of the executive functions of the State in relation to economic development including by way of enumeration and not of limitation, the expansion and recruitment of environmentally sound industry, labor force development, the promotion of and assistance in the orderly development of North Carolina counties and communities, the promotion and growth of the travel and tourism industries, the development of our State's ports, energy resource management and energy policy development;
- (2) All functions, powers, duties and obligations heretofore vested in any agency enumerated in Article 15 of Chapter 143A, to wit:
 - a. The State Board of Alcoholic Control,
 - b. The North Carolina Utilities Commission,
 - c. The Employment Security Commission,
 - d. The North Carolina Industrial Commission,
 - e. State Banking Commission and the Commissioner of Banks,
 - f. Savings and Loan Association Division,

- g. The State Savings Institutions Commission,
- h. Credit Union Commission,
- i. The North Carolina Milk Commission,
- j. The North Carolina Mutual Burial Association Commission,
- k. The North Carolina Rural Electrification Authority,
- l. The North Carolina State Ports Authority, all of which enumerated agencies are hereby expressly transferred by a Type II transfer, as defined by G.S. 143A-6, to this recreated and reconstituted Department of ~~Commerce~~ Economic and Community Development; and,

(3) All other functions, powers, duties and obligations as are conferred by this Chapter, delegated or assigned by the Governor and conferred by the Constitution and laws of this State. Any agency transferred to the Department of ~~Commerce~~ Economic and Community Development by a Type II transfer, as defined by G.S. 143A-6, shall have the authority to employ, direct and supervise professional and technical personnel, and such agencies shall not be accountable to the Secretary of ~~Commerce~~ Economic and Community Development in their exercise of quasi-judicial powers authorized by statute, notwithstanding any other provisions of this Chapter, provided that the authority of the North Carolina State Ports Authority to employ, direct and supervise personnel shall be as provided in Part 10 of this Article.

(b) The Department of ~~Commerce~~ Economic and Community Development is authorized to establish and provide for the operation of North Carolina nonprofit corporations to achieve the purpose of aiding the development of small businesses and to achieve the purposes of the United States Small Business Administration's 504 Certified Development Company Program.

(c) The Department of Economic and Community Development shall have the following powers and duties with respect to local planning assistance:

- (1) To provide planning assistance to municipalities and counties and joint and regional planning boards established by two or more governmental units in the solution of their local planning problems. Planning assistance as used in this section shall consist of making population, economic, land use, traffic, and parking studies and developing plans based thereon to guide public and private development and other planning work of a similar nature. Planning assistance shall also include the preparation of proposed subdivision regulations, zoning ordinances, capital budgets, and similar measures that may be recommended for the implementation of such plans. The term planning assistance shall not be construed to include the providing of plans for specific public works.
- (2) To receive and expend federal and other funds for planning assistance to municipalities and counties and to joint and regional planning boards, and to enter into contracts with the federal government,

municipalities, counties, or joint and regional planning boards with reference thereto.

- (3) To perform planning assistance, either through the staff of the Department or through acceptable contractual arrangements with other qualified State agencies or institutions, local planning agencies, or with private professional organizations or individuals.
- (4) To assume full responsibility for the proper execution of a planning program for which a grant of State or federal funds has been made and for carrying out the terms of a federal grant contract.
- (5) To cooperate with municipal, county, joint and regional planning boards, and federal agencies for the purpose of aiding and encouraging an orderly, coordinated development of the State.
- (6) To establish and conduct, either with its own staff or through contractual arrangements with institutions of higher education, State agencies, or private agencies, training programs for those employed or to be employed in community development activities."

Sec. 3. The Secretary of Economic and Community Development shall establish the functions of community development and housing within the Department of Economic and Community Development and shall establish the position of Deputy or Assistant Secretary for Community Development and Housing within the Department, which Deputy or Assistant Secretary shall be of the same status and position as the Deputy or Assistant Secretary for Economic Development. The functions of the Division of Community Assistance as transferred by this act shall be located under the Deputy or Assistant Secretary for Community Development and Housing.

Sec. 4. Chapter 143B of the General Statutes is amended by adding a new Part to read:

"Part 1A.

"Housing Coordination and Policy Council.

"§ 143B-433.1. Housing Coordination and Policy Council; creation; duties.

(a) There is created the Housing Coordination and Policy Council of the Department of Economic and Community Development. The Housing Coordination and Policy Council shall have the following functions and duties:

- (1) To advise the Secretary of Economic and Community Development and the Deputy Secretary of Community Development and Housing regarding the coordination of various public and private low and moderate income housing programs;
- (2) To advise the Secretary of Economic and Community Development and the Deputy Secretary of Community Development and Housing in the preparation of an overall, comprehensive State housing plan with specific recommendations to address identified areas of need, which report shall be presented to the Governor and General Assembly;
- (3) To advise the Secretary of Economic and Community Development and the Deputy Secretary of Community Development and Housing

with respect to the best use of housing resources under the Deputy Secretary; and

- (4) To advise the Secretary of Economic and Community Development regarding any other matter relating to housing the Secretary may refer to it.

(b) Nothing herein shall abrogate the existing statutory responsibility of any other agency to develop housing plans and policies relating to specific housing programs.

"§ 143B-433.2. Council membership; compensation; procedures.

(a) The Housing Coordination and Policy Council shall consist of 15 representatives, as follows:

- (1) Two members of the N.C. Housing Partnership who are experienced with housing programs for low-income persons, as designated by the chairman.
- (2) Two members of the Community Development Council who are experienced with federal, state and local housing programs, as designated by the chairman.
- (3) Two members of the N.C. Housing Finance Agency Board of Directors who are experienced with real estate finance and development, as designated by the chairman.
- (4) One member of the Weatherization Policy Advisory Council who is experienced with community weatherization programs, as designated by the chairman.
- (5) One member of the Governor's Advocacy Council for Persons with Disabilities who is familiar with the housing needs of the disabled.
- (6) The executive director of the Commission of Indian Affairs, or a designee familiar with Indian housing programs.
- (7) The Deputy Secretary or Assistant Secretary of Community Development and Housing, or a designee familiar with housing programs related to community development and housing functions.
- (8) The assistant secretary of the Division of Aging, or a designee familiar with the housing programs of the division.
- (9) The executive director of the N.C. Housing Finance Agency, or a designee familiar with the housing programs of the agency.
- (10) The director of the Division of Mental Health or a designee familiar with housing for those with mental disabilities.
- (11) The executive director of the N.C. Human Relations Council or a designee familiar with federal and state fair housing laws.
- (12) A chairman designated by the Secretary of Economic and Community Development.

(b) All members except those serving ex officio shall be appointed by the Secretary of Economic and Community Development. The Secretary of Economic and Community Development shall designate one member of the Council to serve as Chair.

(c) The initial members of the Council other than those serving ex officio shall be appointed to serve for terms of four years and until their successors are appointed

and qualified. Any appointment to fill a vacancy created by resignation, dismissal, death, or disability of a member shall be for the balance of the term.

(d) Members of the Council may receive per diem and necessary travel and subsistence expenses in accordance with the provisions of G.S. 138-5.

(e) A majority of the Council shall constitute a quorum for the transaction of business.

(f) All clerical and other services required by the Council shall be supplied by the Secretary of Economic and Community Development.

"§ 143B-433.3. Council meetings; report.

(a) The Housing Coordination and Policy Council shall meet at least quarterly and may hold special meetings at any time and place within the State at the call of the Chair or upon written request of a majority of the members.

(b) The Council shall assist in the preparation and filing of an annual written report which contains a review of work completed, a review of ongoing activities, and housing policy recommendations. This report shall be filed with the General Assembly and the Governor by May 1. The report to the 1991 Session of the General Assembly shall contain specific recommendations regarding the further consolidation of housing programs within State government."

Sec. 5. G.S. 143-323(c) is repealed.

Sec. 6. There shall be established in the Department of Economic and Community Development a toll-free telephone number to provide information on housing assistance to the citizens of the State.

Sec. 7. The phrase "Department of Commerce" is deleted and replaced by the phrase "Department of Economic and Community Development" wherever it occurs in each of the following sections of the General Statutes:

- (1) G.S. 20-81.3. Special personalized registration plates.
- (2) G.S. 54-109.11. Duties of Administrator.
- (3) G.S. 54B-4. Definitions and application of terms.
- (4) G.S. 58-27.31. State Fire Commission – Powers and duties.
- (5) G.S. 65-49. The North Carolina Cemetery Commission.
- (6) G.S. 105-130.40. Credit for creating jobs in severely distressed county.
- (7) G.S. 105-151.17. Credit for creating jobs in severely distressed county.
- (8) G.S. 105-228.24A. Income tax credit for supervisory fees.
- (9) G.S. 113-28.23. Designation of administering agency powers and responsibilities.
- (10) G.S. 113B-11. Powers and authority.
- (11) G.S. 114-4.2D. Employment of attorney for Energy Division of Department of Commerce.
- (12) G.S. 122E-4. North Carolina Housing Partnership created; compensation; organization.
- (13) G.S. 126-5. Employees subject to Chapter; exemptions.

- (14) G.S. 130B-6. Organization and administration of the Commission. (as enacted by Section 1 of Chapter 168 of the 1989 Session Laws.)
- (15) G.S. 143-166.13. Persons entitled to benefits under Article.
- (16) G.S. 143-169.2. Definitions.
- (17) G.S. 143A-11. Principal departments.
- (18) G.S. 143B-2. Interim applicability of the Executive Organization Act of 1973.
- (19) G.S. 143B-6. Principal departments.
- (20) G.S. 143B-390. North Carolina Marine Science Council – membership; terms; rules of procedure; meetings; quorum; expenses.
- (21) G.S. 143B-417. North Carolina Internship Council – creation; powers and duties.
- (22) G.S. 143B-426.39. Powers and duties of the State Controller.
- (23) G.S. 143B-427. Department of Commerce – creation.
- (24) G.S. 143B-428. Department of Commerce – declaration of policy.
- (25) G.S. 143B-429. Department of Commerce – duties.
- (26) G.S. 143B-430. Secretary of Commerce – powers and duties.
- (27) G.S. 143B-432. Transfers to Department of Commerce.
- (28) G.S. 143B-433. Department of Commerce – organization.
- (29) G.S. 143B-434. Economic Development Board – creation, duties, membership.
- (30) G.S. 143B-435. Publications.
- (31) G.S. 143B-436. Advertising of State Resources and Advantages.
- (32) G.S. 143B-437. Investigation of impact of proposed new and expanding industry.
- (33) G.S. 143B-437.1. Community Development Council – creation; powers and duties. (as amended by Sections 199 and 200 of Chapter 727 of the 1989 Session Laws.)
- (34) G.S. 143B-437.2. Community Development Council – members; chairman; selection; removal; compensation; quorum; services. (as amended by Sections 199 and 201 of Chapter 727 of the 1989 Session Laws.)
- (35) G.S. 143B-438.4. Coordinating Council. (as amended by Sections 202 and 203 of Chapter 727 of the 1989 Session Laws.)
- (36) G.S. 143B-439. Credit Union Commission.
- (37) G.S. 143B-443. Administration by Department of Commerce.
- (38) G.S. 143B-448. Energy Division.
- (39) G.S. 143B-450. Reporting of stocks of coal and petroleum fuels.
- (40) G.S. 143B-450.1. Authority to collect data; administration and enforcement; confidentiality.
- (41) G.S. 143B-471. Creation of Technological Development Authority.
- (42) G.S. 143B-475. Department of Crime Control and Public Safety – functions.

- (43) G.S. 147-69.1. Investments authorized for General Fund and Highway Fund assets.
- (44) G.S. 150B-1. Policy and scope.
- (45) G.S. 150B-38. Scope; hearing required; notice; venue.
- (46) G.S. 159-30. Investment of idle funds.
- (47) G.S. 159C-4. Creation of Authorities.
- (48) G.S. 159C-7. Approval of project.
- (49) G.S. 159C-8. Approval of bonds.
- (50) G.S. 159D-4. Creation of the Authority.
- (51) G.S. 159D-7. Approval of project.
- (52) G.S. 159D-8. Approval of bonds.

Sec. 8. The phrase "Secretary of Commerce" and the phrase "Secretary of the Department of Commerce" are deleted and replaced by the phrase "Secretary of Economic and Community Development" wherever they occur in each of the following sections of the General Statutes:

- (1) G.S. 20-81. Official license plates.
- (2) G.S. 54B-53. Savings and Loan Commission.
- (3) G.S. 54B-238. Examination and certification by Secretary of Commerce.
- (4) G.S. 54B-240. Proposed amendments submitted to Secretary of Commerce.
- (5) G.S. 54B-241. Examination and certification of amendments.
- (6) G.S. 54B-246. Supervision by Secretary of Commerce.
- (7) G.S. 54B-247. Special examinations.
- (8) G.S. 54B-248. Right to enter and to conduct investigations.
- (9) G.S. 54B-249. Removal of officers or employees.
- (10) G.S. 105-130.40. Credit for creating jobs in severely distressed county.
- (11) G.S. 105-151.17. Credit for creating jobs in severely distressed county.
- (11a) G.S. 113-28.23. Designation of administering agency powers and responsibilities.
- (12) G.S. 113-315.25. Creation of N.C. Seafood Industrial Park Authority.
- (13) G.S. 113-315.26. Personnel.
- (14) G.S. 113-315.34. Jurisdiction of the Authority; application of Chapter 20; appointment and authority of special police.
- (14a) G.S. 113A-105. Coastal Resources Advisory Council.
- (15) G.S. 113B-3. Composition of Council; appointments; terms of members; qualifications.
- (16) G.S. 130B-6. Organization and administration of the Commission. (as enacted by Section 1 of Chapter 168 of the 1989 Session Laws.)
- (16a) G.S. 143B-285.12. Creation; membership; terms; chairperson; vacancies; removal; compensation; quorum.

- (17) G.S. 143B-426.31. North Carolina Board of Science and Technology; membership; organization; compensation; staff services.
- (18) G.S. 143B-430. Secretary of Commerce – powers and duties.
- (19) G.S. 143B-437.1. Community Development Council – creation; powers and duties. (as amended by Sections 199 and 200 of Chapter 727 of the 1989 Session Laws.)
- (20) G.S. 143B-437.2. Community Development Council – members; chairman; selection; removal; compensation; quorum; services. (as amended by Sections 199 and 201 of Chapter 727 of the 1989 Session Laws.)
- (21) G.S. 143B-438.4. Coordinating Council. (as amended by Sections 202 and 203 of Chapter 727 of the 1989 Session Laws.)
- (22) G.S. 143B-439. Credit Union Commission.
- (23) G.S. 143B-449. Organization of Energy Division.
- (24) G.S. 143B-451. Navigation and pilotage commissions.
- (25) G.S. 143B-452. Creation of Authority – membership; appointment, terms and vacancies; officers; meetings and quorum; compensation.
- (26) G.S. 146-45. Distribution of copies of State publications.
- (27) G.S. 147-33.11. Membership of North Carolina Housing Commission.
- (28) G.S. 147-45. Distribution of copies of State publications.
- (29) G.S. 159C-7. Approval of project.
- (30) G.S. 159D-7. Approval of project.

Sec. 9. (a) References in the Session Laws to any department, division, or other agency which is transferred by this act shall be deemed to refer to the successor department, division, or other agency. Every Session Law which refers to any department, division, or other agency to which this act applies or which relates to any power, duty, function, or obligation of any such department, division or agency and which continues in effect after this act becomes effective shall be construed so as to be consistent with this act.

(b) The Revisor of Statutes is authorized to correct any reference or citation in the General Statutes to any portion of the General Statutes which is recodified, transferred, subdivided, or amended by this act by deleting incorrect references and substituting correct references.

(c) The Revisor of Statutes is authorized to delete any reference to the Department of Commerce, the Secretary of Commerce, the Department of Natural Resources and Community Development, the Secretary of Natural Resources and Community Development, the Department of Human Resources, the Secretary of Human Resources, or their predecessors in any portion of the General Statutes to which conforming amendments are not made by this act and to substitute, as appropriate and consistent with this act, any of the following phrases: Department of Economic and Community Development or Secretary of Economic and Community Development.

Sec. 10. All statutory authority, powers, duties, functions, records, personnel, property, and unexpended balances of appropriations or other funds of any agency which is transferred pursuant to this act shall be transferred in their entirety. Any transfer affecting any agency to which this act applies which is not authorized by this act or by Chapter 727 of the 1989 Session Laws, including any transfer under subdivision (10) of Section 5 of Article III of the Constitution of North Carolina, is hereby specifically disapproved and is void.

Sec. 11. Section 1 of Chapter 379 of the 1989 Session Laws reads as rewritten:

"Section 1. G.S. 121-4 is amended by adding a new subdivision to read:

'(15) To encourage and develop, in cooperation with the Department of Administration and in consultation with the Department of Transportation, the Department of Economic and Community Development, the Department of Environment, Health, and Natural Resources, the North Carolina League of Municipalities, the North Carolina Association of County Commissioners, and the Historic Preservation Foundation of North Carolina, Inc., a central clearinghouse for information on historic preservation for the benefit and use of public and private agencies and persons in North Carolina.'"

Sec. 12. Section 10 of Chapter 727 of the 1989 Session Laws is repealed.

Sec. 13. The amendments made by Sections 136 and 137 of Chapter 727 of the 1989 Session Laws to G.S. 113A-134.2 and G.S. 113A-134.3 shall be made to those sections of the General Statutes as recodified by Section 2 of Chapter 344 of the 1989 Session Laws.

Sec. 14. Section 169 of Chapter 727 of the 1989 Session Laws is rewritten to read:

"Sec. 169. Section 8 of Chapter 523 of the 1989 Session Laws is rewritten to read:

'Sec. 8. G.S. 143-345.6 is amended by adding a new subsection to read:

"(d1) The Department of Environment, Health, and Natural Resources shall make comparative salary studies periodically of all registers of deeds offices and at the conclusion of each study the Secretary of Environment, Health, and Natural Resources shall present his written findings and shall make recommendations to the board of county commissioners and register of deeds of each county.'"

Sec. 15. G.S. 130A-131 as enacted by Chapter 333 of the 1989 Session Laws is recodified as G.S. 130A-131.5.

Sec. 16. Subdivision (84) and Subdivision (118) of Section 218 of Chapter 727 of the 1989 Session Laws are repealed.

Sec. 17. Section 226 of Chapter 727 of the 1989 Session Laws reads as rewritten:

"Sec. 226. The provisions of G.S. ~~150B-(e)(2), 150B-59(c)(2)~~, as amended by Section 2 of Chapter 538 of the 1989 Session Laws, shall apply to any agency which is a part of the Department of Human Resources on 30 June 1989, even though such agency is subsequently transferred to the Department of Environment, Health, and Natural Resources or to any other department."

Sec. 18. G.S. 143-169.2(b), as enacted by Section 3 of Chapter 715 of the 1989 Session Laws, reads as rewritten:

"(b) For the purposes of this Article, the term 'agency' shall mean and include, as the context may require, State department, institution, university, commission, committee, board, licensing board, division, bureau, officer or official; provided, however, the provisions of G.S. 143-169.1 shall not apply to the General Assembly, the Department of Revenue, the Department of ~~Commerce~~, Economic and Community Development, or to the Administrative Office of the Courts and the court system, nor shall the provisions of G.S. 143-170.2 and 143-170.3 apply to the General Assembly or to the Administrative Office of the Courts and the courts system."

Sec. 19. G.S. 143B-390(a) reads as rewritten:

"(a) The Council shall consist of 28 members appointed as follows:

- (1) Eighteen members shall be appointed by the Governor from the public and private academic and scientific institutions in the State and from the various industries and professions in the State concerned with the exploration and use of the ocean and marine resources. These members shall serve four-year terms. The terms shall be staggered so that nine terms begin July 1 of each odd-numbered year.
- (2) Three at-large members shall be appointed by the Governor. These members shall serve four-year terms. The terms shall be staggered so that one term begins July 1, 1987, and two terms begin July 1, 1989.
- (3) Three members shall be the chairpersons of the North Carolina Marine Resources Centers' local advisory committees. These members shall serve during their tenures as chairmen.
- (4) One member representing the Department of ~~Commerce~~ Economic and Community Development in the area of ports and waterways shall be appointed by and serve at the pleasure of the Secretary of ~~the Department of Commerce~~ Economic and Community Development.
- (5) Two members representing the Department of ~~Natural Resources and Community Development~~ Environment, Health, and Natural Resources in the area of coastal resources and environmental protection shall be appointed by and serve at the pleasure of the Secretary of ~~the Department of Natural Resources and Community Development~~ Environment, Health, and Natural Resources.
- (6) One member representing the Department of Human Resources in the area of health services shall be appointed by and serve at the pleasure of the Secretary of the Department of Human Resources."

Sec. 20. The citation in the introductory line of Section 191 of Chapter 727 of the 1989 Session Laws is amended to read "G.S. 143B-285.12(a)".

Sec. 21. The provisions of G.S. 150B-59(c)(2), as amended by Section 2 of Chapter 538 of the 1989 Session Laws, shall apply to any agency which is a part of the Department of Human Resources on 30 June 1989, even though such agency is subsequently transferred to the Department of Economic and Community Development or to any other department.

Sec. 22. Every act of any department, agency, or officer to which this act applies which occurred prior to the date this act is ratified and which is otherwise valid continues to be valid and effective notwithstanding any change in name or transfer of such department, agency, or officer.

Sec. 23. This act shall not be construed to obligate the General Assembly to make any appropriation to implement the provisions of this act. Each department and agency to which this act applies shall implement the provisions of this act from funds otherwise appropriated to that department or agency.

Sec. 24. This act shall become effective 1 July 1989.

In the General Assembly read three times and ratified this the 9th day of August, 1989.