

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1991

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HOUSE BILL 764

Short Title: Durham Density Bonus.

(Local)

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Sponsors: Representative Luebke.

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Referred to: Local and Regional Government II.

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April 15, 1991

A BILL TO BE ENTITLED

1 AN ACT TO AUTHORIZE THE CITY AND COUNTY OF DURHAM TO ALLOW  
2 ZONING DENSITY BONUSES IN PROJECTS CONTAINING SPECIFIED  
3 AMOUNTS OF LOW AND MODERATE INCOME HOUSING.  
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5 The General Assembly of North Carolina enacts:

6 Section 1. Chapter 671 of the 1975 Session Laws, being the Charter of the  
7 City of Durham, is amended by adding a new section to read:

8 "Sec. 94.2. **Low and Moderate Income Housing; Density Bonuses.** – (a) The  
9 City Council may provide for the granting of density bonuses in one or more zoning  
10 districts in which residential uses are permitted, or provide other incentives of value to a  
11 developer of housing within the city and its extraterritorial zoning jurisdiction (if any),  
12 if the developer agrees to construct at least fifteen percent (15%) of the total housing  
13 units within the development for persons and families of low and moderate income.  
14 The size of the density bonus may vary with the percentage of housing units constructed  
15 within the development for persons or families of low and moderate income.

16 (b) The City Council may provide for the enforcement of a developer's  
17 commitment to provide low and moderate income housing by ordinance or through the  
18 adoption of rules and regulations. Such ordinance or rules and regulations may require  
19 the developer to record restrictive covenants applicable to the property, to convey real  
20 estate interests in the property, to enter into binding contracts satisfactory to the city or  
21 to take any other lawful action prescribed by the city. The city may prescribe the period  
22 of time during which the developer's commitment shall be binding.

23 (c) When used in this section, the following words or terms have the meanings  
24 indicated:

1 (1) 'Density bonus' means an increase in the number of housing units  
2 allowed on the tract of land upon which the development is located,  
3 when compared to the maximum number of housing units which  
4 would be allowed on the tract of land in the absence of the density  
5 bonus.

6 (2) 'Low and moderate income' has the meaning prescribed by regulations  
7 of the United States Department of Housing and Urban Development  
8 applicable to the City of Durham's metropolitan area. In the absence  
9 of such regulations, the term 'low and moderate income' shall have the  
10 meaning prescribed by the City Council by ordinance or resolution.  
11 The term 'low and moderate income' shall also be construed to mean  
12 low or moderate income."

13 Sec. 2. In addition to the other authorization granted by law, Durham County  
14 may provide density bonuses in projects containing low and moderate income housing  
15 under the provisions:

16 (a) The County Board of Commissioners may provide for the granting of density  
17 bonuses in one or more zoning districts in which residential uses are permitted, or  
18 provide other incentives of value to a developer of housing within the county and its  
19 extraterritorial zoning jurisdiction (if any), if the developer agrees to construct at least  
20 fifteen percent (15%) of the total housing units within the development for persons and  
21 families of low and moderate income. The size of the density bonus may vary with the  
22 percentage of housing units constructed within the development for persons or families  
23 of low and moderate income.

24 (b) The County Board of Commissioners may provide for the enforcement of a  
25 developer's commitment to provide low and moderate income housing by ordinance or  
26 through the adoption of rules and regulations. Such ordinance or rules and regulations  
27 may require the developer to record restrictive covenants applicable to the property, to  
28 convey real estate interests in the property, to enter into binding contracts satisfactory to  
29 the county or to take any other lawful action prescribed by the county. The county may  
30 prescribe the period of time during which the developer's commitment shall be binding.

31 (c) When used in this section, the following words or terms have the meanings  
32 indicated:

33 (1) " Density bonus" means an increase in the number of housing units  
34 allowed on the tract of land upon which the development is located,  
35 when compared to the maximum number of housing units which  
36 would be allowed on the tract of land in the absence of the density  
37 bonus.

38 (2) " Low and moderate income" has the meaning prescribed by  
39 regulations of the United States Department of Housing and Urban  
40 Development applicable to the County of Durham. In the absence of  
41 such regulations, the term "low and moderate income" shall have the  
42 meaning prescribed by the County Board of Commissioners by  
43 ordinance or resolution. The term "low and moderate income" shall  
44 also be construed to mean low or moderate income.

1           Sec. 3. This act is effective upon ratification.