

For-Profit Economic Development Corporations

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Practices

Economic Development

Article

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The above title is not a misprint!

Every economic development professional is quite familiar with the utilization of non-profit economic development corporations as a tool in economic development efforts. In North Carolina there is a tool available that has seldom been used, which is a for-profit economic development corporation. To this writer's knowledge, this has been used one time in the history of the State in a transaction in which this writer's former law firm was involved.

G.S. § 78A-17 in subsection (13) provides for for-profit economic development corporations. To qualify as a for-profit economic development corporation it must be a domestic, that is a North Carolina entity, which in offering its securities for sale meets the following qualifications:

- The entity is organized for the purpose of promoting community, agricultural or industrial development in the area in which the principal office is located.
- The offer or sale of securities has been approved by a resolution of the local government, which might be a county or a municipality.
- No commission or other compensation is paid or given directly or indirectly to anyone for soliciting purchasers of the securities.
- The entity is both organized and operated principally to promote some community, industrial, or agricultural development that confers a public benefit, rather than organized and operated principally to generate a pecuniary profit.

It should be noted as to the last point above, that the securities can generate a pecuniary profit, but that would not be the principal purpose of the entity.

What are the advantages of an economic development corporation which can sell securities to raise funds?

Under G.S. § 78A-17(13), the for-profit economic development corporation is exempt from the registration and documentation requirements typically required of other for-profit companies seeking to raise money via the sale of securities. Hence, the time and expense of raising money via the sale of securities is significantly reduced when the proceeds are to be used for economic development purposes consistent with G.S. § 78A-17(13).

A for-profit economic development corporation could be an exceptionally effective means to raise funds for economic development projects. Not only would the investors benefit from the appeal that is present for a non-profit corporation of saying that they are supporting economic development efforts and opportunities in their community. In addition, those individuals investing in the for-profit economic development corporation have the potential for realizing a return on their investment.

This type of entity could have a myriad of uses for economic development organizations. It would require some detailed discussion to determine whether a for-profit economic development corporation would be an effective and appropriate tool for a particular project as opposed to other entities. Further consultation on this is encouraged. Representatives of Nexsen Pruet are available to discuss this.

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