

**GENERAL ASSEMBLY OF NORTH CAROLINA**  
**SESSION 2007**

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**SENATE BILL 1458**

Short Title: Tobacco Dependent Community Trust Fund. (Public)

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Sponsors: Senators Jenkins; Allran, Apodaca, Atwater, Berger of Franklin, Berger of Rockingham, Bingham, Blake, Boseman, Brown, East, Forrester, Goodall, Goss, Hartsell, Hoyle, Hunt, Jones, Kerr, Nesbitt, Preston, Rand, Smith, Snow, Stevens, Tillman, and Weinstein.

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Referred to: Appropriations/Base Budget.

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March 26, 2007

A BILL TO BE ENTITLED

1 AN ACT TO DISSOLVE AND REPEAL THE CHARTER OF GOLDEN LEAF, INC.,  
2 AND TO DIRECT UNENCUMBERED ASSETS AND FUNDS OF GOLDEN  
3 LEAF, INC., TO THE TOBACCO DEPENDENT COMMUNITY TRUST FUND.

4 The General Assembly of North Carolina enacts:

5 **SECTION 1.(a)** Pursuant to Section 3 of S.L. 1999-2 and Section 1 of  
6 Article VIII of the North Carolina Constitution, the General Assembly hereby dissolves  
7 and repeals the charter of the nonprofit corporation, The Golden L.E.A.F. (Long-Term  
8 Economic Advancement Foundation), Inc., created pursuant to S.L. 1999-2 and the  
9 Consent Decree and Final Judgment entered on December 21, 1998, in the action of  
10 State of North Carolina v. Philip Morris Incorporated, et al., 98 CVS 14377. Pursuant  
11 to G.S. 143-16.4 and Section 3(5) of S.L. 1999-2, all unencumbered assets and funds of  
12 the nonprofit corporation, including the right to receive future funds pursuant to Section  
13 2 of S.L. 1999-2, are transferred to the Settlement Reserve Fund.

14 **SECTION 1.(b)** The Attorney General shall take all necessary actions to  
15 notify the court in the action entitled State of North Carolina v. Philip Morris  
16 Incorporated, et al., 98 CVS 14377, in the General Court of Justice, Superior Court  
17 Division, Wake County, North Carolina, and the administrators of the State Specific  
18 Account established under the Master Settlement Agreement, of this action by the  
19 General Assembly redirecting these payments.

20 **SECTION 2.** Section 6 of S.L. 1999-2 reads as rewritten:

21 "Section 6. It is the intent of the General Assembly that the funds under the Master  
22 Settlement Agreement, which is incorporated into the Consent Decree, be allocated as  
23 follows:  
24

- 25 (1) Fifty percent (50%) to ~~the nonprofit corporation as provided by the~~  
26 ~~Consent Decree.~~ a trust fund to be established by the General

1           Assembly for the benefit of tobacco dependent communities to be  
2           governed by a board of trustees representing these interests.

3           (2) Twenty-five percent (25%) to a trust fund to be established by the  
4           General Assembly for the benefit of tobacco producers, tobacco  
5           allotment holders, and persons engaged in tobacco-related businesses,  
6           with this trust fund to be governed by a board of trustees representing  
7           these interests. To carry out this purpose, this trust fund may provide  
8           direct and indirect financial assistance, in accordance with criteria  
9           established by the trustees of the trust fund and to the extent allowed  
10          by law, to (i) indemnify tobacco producers, allotment holders, and  
11          persons engaged in tobacco-related businesses from the adverse  
12          economic effects of the Master Settlement Agreement, (ii) compensate  
13          tobacco producers and allotment holders for the economic loss  
14          resulting from lost quota, and (iii) revitalize tobacco dependent  
15          communities.

16          (3) Twenty-five percent (25%) to a trust fund to be established by the  
17          General Assembly for the benefit of health, with this trust fund to be  
18          governed by a board of trustees comprised of a broad representation of  
19          health interests. to the Settlement Reserve Fund established pursuant to  
20          G.S. 143-16.4 to be used for General Fund expenditures."

21          **SECTION 3.** G.S. 143-16.4 reads as rewritten:

22          **"§ 143-16.4. Settlement Reserve Fund.**

23          (a) The "Settlement Reserve Fund" is established as a restricted reserve in the  
24          General Fund. Except as otherwise provided in this section, funds shall be expended  
25          from the Settlement Reserve Fund only by specific appropriation by the General  
26          Assembly.

27          (a1) A Health Trust Account is established in the Settlement Reserve Fund. The  
28          portion of each Master Settlement Agreement payment identified in Section 6(3) of S.L.  
29          1999-2 shall be credited to the Health Trust Account. The State Controller shall transfer  
30          all funds in the Health Trust Account to the Health and Wellness Trust Fund created in  
31          Article 6C of Chapter 147 of the General Statutes.

32          (a2) A Tobacco Trust Account is established in the Settlement Reserve Fund. The  
33          portion of each Master Settlement Agreement payment identified in Section 6(2) of S.L.  
34          1999-2 shall be credited to the Tobacco Trust Account. The State Controller shall  
35          transfer all funds in the Tobacco Trust Account to the Tobacco Trust Fund created in  
36          Article 75 of Chapter 143 of the General Statutes.

37          (a3) A Tobacco Dependent Community Trust Account is established in the  
38          Settlement Reserve Fund. The unencumbered assets and funds transferred pursuant to  
39          the dissolution and repeal of The Golden L.E.A.F. (Long-Term Economic Advancement  
40          Foundation), Inc., and the portion of each Master Settlement Agreement payment  
41          identified in Section 6(1) of S.L. 1999-2 shall be credited to the Tobacco Dependent  
42          Community Trust Account. The State Controller shall transfer all funds in the Tobacco  
43          Community Dependent Trust Account to the Tobacco Dependent Community Trust  
44          Fund created in Article 79 of Chapter 143 of the General Statutes.

1 (b) Unless prohibited by federal law, federal funds provided to the State by block  
2 grant or otherwise as part of federal legislation implementing a settlement between  
3 United States tobacco companies and the states shall be credited to the Settlement  
4 Reserve Fund. Unless otherwise encumbered or distributed under a settlement  
5 agreement or final order or judgment of the court, funds paid to the State or a State  
6 agency pursuant to a tobacco litigation settlement agreement, or a final order or  
7 judgment of a court in litigation between tobacco companies and the states, shall be  
8 credited to the Settlement Reserve Fund."

9 **SECTION 4.** Chapter 143 of the General Statutes is amended by adding a  
10 new Article to read:

11 "Article 79.

12 "Tobacco Dependent Community Trust Fund.

13 **"§ 143-740. Policy; purpose.**

14 The General Assembly finds that in order to promote the social welfare and lessen  
15 the burden of government, the State should receive and distribute funds from the Master  
16 Settlement Agreement to provide impact assistance to economically affected or  
17 tobacco-dependent regions of the State, including education assistance, job training and  
18 employment assistance, scientific research, economic hardship assistance, public works  
19 and industrial recruitment, health and human services, and community assistance.

20 **"§ 143-741. Definitions.**

21 The following definitions apply in this Article:

- 22 (1) Commission. – The Tobacco Dependent Community Trust Fund  
23 Commission.  
24 (2) Fund. – The Tobacco Dependent Community Trust Fund.  
25 (3) Master Settlement Agreement. – The settlement agreement between  
26 certain tobacco manufacturers and the states, as incorporated in the  
27 consent decree entered in the action of State of North Carolina v.  
28 Philip Morris, Incorporated, et al., 98 CVS 14377, in the General  
29 Court of Justice, Superior Court Division, Wake County, North  
30 Carolina.

31 **"§ 143-742. Commission.**

32 (a) Creation. – The Tobacco Dependent Community Trust Fund Commission is  
33 created. All administrative expenses of the Commission shall be paid from the Fund.

34 (b) Membership. – The Commission shall consist of the board of directors of the  
35 Rural Economic Development Center, Inc.

36 (c) Officers. – The Commission shall elect from its membership a chair,  
37 vice-chair, and other officers as necessary for two-year terms beginning July 1 at the  
38 first meeting of the Commission held on or after July 1 of every even-numbered year.  
39 The vice-chair may act for the chair in the absence of the chair as authorized by the  
40 Commission.

41 (d) Frequency of Meetings. – The Commission shall meet at least quarterly each  
42 year and may hold special meetings at the call of the chair or of a majority of members.  
43 The Governor shall call the initial meeting of the Commission.

1       (e) Quorum; Majority. – A quorum of the board of directors of the North  
2 Carolina Rural Economic Development Center, Inc., shall constitute a quorum of the  
3 Commission. The Commission may act upon a majority vote of the members of the  
4 Commission on matters involving the disbursement of funds and personnel matters  
5 properly before the Commission. On all other matters, the Commission may act by  
6 majority vote of the members of the Commission at a meeting at which a quorum is  
7 present.

8       (f) Per Diem and Expenses. – The members of the Commission shall receive per  
9 diem and necessary travel and subsistence expenses in accordance with the provisions  
10 of G.S. 138-5. Per diem, subsistence, and travel expenses of the members shall be paid  
11 from the Fund.

12       (g) Limit on Operating and Administrative Expenses. – No more than two and  
13 one-half percent (2 ½%) of the annual receipts of the Fund for the fiscal year beginning  
14 July 1 or a total sum of one million dollars (\$1,000,000), whichever is less, may be used  
15 each fiscal year for administrative and operating expenses of the Commission and its  
16 staff. All administrative expenses of the Commission shall be paid from the Fund.

17 **§ 143-743. Powers and duties.**

18       The Commission shall have the following powers and duties to do all of the  
19 following:

- 20       (1) Educational assistance. – Provide funds for educational programs for  
21 tobacco farmers and other workers impacted or projected to be  
22 impacted by a decline in demand for, or production of, tobacco or  
23 tobacco products.
- 24       (2) Job training and employment assistance. – Provide loans and grants, to  
25 be used for job training and other employment-related programs, to  
26 organizations assisting tobacco farmers and other workers dependent  
27 on tobacco farming, production, and sales to transition to other sources  
28 of income.
- 29       (3) Scientific research. – Provide funds for scientific research to develop  
30 new uses for tobacco or for the development of alternative cash crops.
- 31       (4) Economic hardship assistance. – Provide direct grants, loans, and other  
32 assistance programs to alleviate economic hardship, poverty, or need  
33 experienced by tobacco farmers, quota owners, their families, and  
34 others as a result of decline in quota or production of tobacco or  
35 tobacco products.
- 36       (5) Public works and industrial recruitment. – Provide grants and loans to  
37 local governments for upgrading utilities, transportation, and other  
38 public service infrastructure to attract new businesses or for more  
39 general economic development purposes.
- 40       (6) Health and human services. – Provide funds for improved health care  
41 and other social services needed to maintain the stability of  
42 tobacco-dependent communities.

- 1           (8) Community assistance. – Provide direct grants and loans to  
2 economically depressed and deteriorating tobacco-dependent  
3 communities, to be used exclusively for public purposes.  
4           (9) Make provisions for an efficient mechanism to monitor the activities  
5 of those persons receiving grants, loans, or other assistance from the  
6 Fund, to assure that the funds are in fact being used for the purposes  
7 intended by the Fund.  
8           (10) Hire staff for the administration of the Fund.  
9           (11) Contract with other persons to assist in the administration of the  
10 Commission's programs, including the Rural Economic Development  
11 Center, Inc.  
12           (12) Accept gifts or grants from other sources.  
13           (13) Adopt rules to implement this Article.  
14           (14) Serve as trustee of the Fund and administer the Fund in accordance  
15 with the provisions of this Article.

16 **"§ 143-744. Tobacco Dependent Community Trust Fund; creation; investment;**  
17 **priority use.**

18       (a) Fund Established. – The Tobacco Dependent Community Trust Fund is  
19 established in the Office of the State Treasurer. The Fund shall be used for the purposes  
20 provided in this Article.

21       (b) Fund Earnings, Assets, and Balances. – The State Treasurer shall hold the  
22 Fund separate and apart from all other moneys, funds, and accounts. The State Treasurer  
23 is the custodian of the Fund and shall invest the assets in accordance with G.S. 147-69.2  
24 and G.S. 147-69.3. Investment earnings credited to the Fund become part of the Fund.  
25 Any balance remaining in the Fund at the end of any fiscal year is carried forward in the  
26 Fund for the next succeeding fiscal year. Payments from the Fund shall be made on the  
27 warrant of the chair of the Commission, pursuant to the directives of the Commission.

28 **"§ 143-745. Reporting.**

29       (a) The chair of the Commission shall report each year by November 1 to the  
30 Joint Legislative Commission on Governmental Operations and the chairs of the House  
31 and Senate Appropriations Committees regarding the implementation of this Article,  
32 including a report on funds disbursed during the fiscal year by amount, purpose, and  
33 category of recipient, and other information as requested by the Joint Legislative  
34 Commission on Governmental Operations. A written copy of the report shall also be  
35 sent to the Legislative Library by November 1 each year.

36       (b) Any non-State entity, as that term is defined in G.S. 143C-1-1, that receives,  
37 uses, or expends any funds from the Commission is subject to the applicable reporting  
38 requirements of G.S. 143C-6-23.

39 **"§ 143-746. Open meetings; public records; audit.**

40       The Open Meetings Law (Article 33 of Chapter 143 of the General Statutes) and the  
41 Public Records Act (Chapter 132 of the General Statutes) shall apply to the Fund and  
42 the Commission, and the Fund and the Commission shall be subject to audit by the State  
43 Auditor as provided by law. The Commission shall reimburse the State Auditor for the  
44 actual cost of the audit.

- 1 **"§§ 143-747 through 143-749: Reserved for future codification purposes.**  
2 **SECTION 4.** This act becomes effective July 1, 2007.