

**GENERAL ASSEMBLY OF NORTH CAROLINA**  
**SESSION 2019**

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**HOUSE BILL 1224**

Short Title: Pandemic Emergency Asst.: Restaurants/Lodging. (Public)

Sponsors: Representatives K. Hall, B. Jones, Ross, and B. Turner (Primary Sponsors).  
*For a complete list of sponsors, refer to the North Carolina General Assembly web site.*

Referred to: Appropriations, if favorable, Rules, Calendar, and Operations of the House

May 27, 2020

A BILL TO BE ENTITLED  
AN ACT TO PROVIDE PANDEMIC EMERGENCY ASSISTANCE FOR RESTAURANTS  
AND LODGING.

The General Assembly of North Carolina enacts:

**SECTION 1.(a)** Transfer of Funds from Reserves to Relief Fund. – The State Controller shall transfer the sum of one hundred twenty-five million dollars (\$125,000,000) for the 2019-2020 fiscal year from the Coronavirus Relief Reserve established in Section 2.1 of S.L. 2020-4 to the Coronavirus Relief Fund established in Section 2.2 of S.L. 2020-4.

**SECTION 1.(b)** Appropriation of Funds from Relief Fund. – There is appropriated from the Coronavirus Relief Fund to the Office of State Budget and Management the sum of one hundred twenty-five million dollars (\$125,000,000) in nonrecurring funds for the 2019-2020 fiscal year to be allocated and used as provided in Sections 2 and 2.1 of this act. The funds appropriated in this section shall not revert at the end of the 2019-2020 fiscal year but shall remain available to expend as provided in Sections 2 and 2.1 of this act.

**SECTION 2.(a)** Restaurant Stabilization Program. – Fifty million dollars (\$50,000,000) of the funds appropriated by Section 1(b) of this act shall be allocated to one or more community development financial institutions (CDFI) selected by the Director of the Budget for the purpose of making loans to assist qualifying businesses with business needs during periods of economic hardship occasioned by the COVID-19 pandemic.

**SECTION 2.(b)** Definitions. – The following definitions apply in this section:

- (1) Compensation. – Defined in section 3401 of the Internal Revenue Code.
- (2) Employee. – Defined in G.S. 143B-437.02A.
- (3) Net loan funds. – The total loan fund appropriated in this act less (i) the cost of administering the loans made under the program, not to exceed five percent (5%) of the total amount loaned under the program, (ii) any loan amount forgiven pursuant to subdivision (9) of subsection (c) of this section, and (iii) the State's loan funds that are not recaptured.
- (4) North Carolina small farm. – A farm that (i) is enrolled in the present-use value program for agricultural or horticultural land under Article 11 of Subchapter II of Chapter 105 of the General Statutes and (ii) has provided an attestation that the farm has neither derived more than eighty-five percent (85%) of its revenue in any of the previous three fiscal years from a contractual relationship with a single business entity nor is directly or indirectly controlled by a business entity that is not an affiliate of the farm.
- (5) Office. – The Office of State Budget and Management.



1 (6) Qualifying business. – A restaurant or similar establishment located in this  
2 State, (ii) with the primary purpose of preparing and serving food subject to  
3 the taxes imposed by Article 5 of this Chapter, and (iii) capable of showing  
4 economic losses in gross revenue of greater than fifty percent (50%) as a result  
5 of the State of Emergency. The term does not include restaurants with more  
6 than 25 locations.

7 (7) State of Emergency. – Executive Order No. 116 issued March 10, 2020, by  
8 Governor Roy A. Cooper, including any amendments issued by executive  
9 order.

10 **SECTION 2.(c)** The following shall apply to loans made under the assistance  
11 program authorized by this section:

12 (1) The CDFI shall provide assistance to, or direct to an appropriate entity that  
13 provides assistance to, a qualifying business with applying for available  
14 federal assistance.

15 (2) The CDFI shall prioritize loans for establishments on the following bases:

16 a. The establishment is independently owned.

17 b. The degree to which the establishment is capable of showing greater  
18 economic losses as a result of the State of Emergency. Showing of loss  
19 can be through filed tax returns or profit and loss statements or both.

20 (3) The CDFI shall operate the program in two phases. In phase one, loans may  
21 be awarded only to qualifying businesses with franchises or restaurants with  
22 fewer than five locations and with cumulative gross receipts from business  
23 activities for the taxable year of less than ten million dollars (\$10,000,000).  
24 Phase one shall be held open for eight weeks. After eight weeks, the CDFI  
25 shall open phase two, in which loans may additionally be awarded to  
26 qualifying businesses not meeting the eligibility requirements of phase one.

27 (4) The CDFI shall work with the Golden L.E.A.F. (Long-Term Economic  
28 Advancement Foundation), Inc., the N.C. Small Business Center Network, the  
29 Office of Historically Underutilized Businesses within the Department of  
30 Administration, the N.C. Small Business and Technology Development  
31 Center, the North Carolina Institute of Minority Economic Development, Inc.,  
32 and other similar entities with the goal of ensuring all qualifying businesses  
33 are aware of the program.

34 (5) The loan shall have an interest rate of three and one-half percent (3.5%).

35 (6) The term of the loan shall not exceed 120 months and shall be amortized over  
36 the term of the loan.

37 (7) A qualifying business shall certify in writing that (i) it will use a loan provided  
38 under the program for employee compensation, mortgage, rent, utilities, and  
39 other operating costs and expenses incurred on behalf of a business located in  
40 this State and (ii) it has not and will not seek a duplication of benefits in the  
41 form of a loan for small business assistance authorized in S.L. 2020-4 and  
42 allocated to the Golden L.E.A.F. (Long-Term Economic Advancement  
43 Foundation), Inc., for business needs during periods of economic hardship  
44 occasioned by COVID-19.

45 (8) A loan provided under the program is limited to no more than fifty thousand  
46 dollars (\$50,000) per qualifying business.

47 (9) The CDFI shall forgive the portion of the amount loaned to a qualifying  
48 business in an amount equal to the sum of the following:

49 a. Any portion of the loan that is used by December 30, 2020, by the  
50 business to purchase from a North Carolina small farm, directly or  
51 indirectly, produce, dairy, meat, or fish. A qualifying business may use

- 1 a large food wholesaler invoice that provides evidence that a portion  
2 of the loan should be forgiven pursuant to this subdivision.
- 3 b. The pro rata amount of property taxes owed by the business under  
4 Article 11 of Subchapter II of Chapter 105 of the General Statutes for  
5 the period of the year to which the State of Emergency applies.
- 6 c. The amount of income tax owed by the business under Part 2 of Article  
7 4 of Subchapter I of Chapter 105 of the General Statutes.
- 8 (10) Loans are made pursuant to an agreement with a qualifying business that  
9 includes at least the following:
- 10 a. A provision requiring a qualifying business to certify in writing that it  
11 will use a loan provided under the program for employee  
12 compensation, mortgage, rent, utilities, and other operating costs and  
13 expenses incurred on behalf of a business located in this State.
- 14 b. A provision establishing the method for determining compliance with  
15 the program.
- 16 c. A provision requiring the qualifying business to (i) first repay the loan  
17 amount with any federal assistance received by the business that  
18 represents a duplication of benefits; provided, that the repayment does  
19 not disqualify or impair the federal assistance available to the business  
20 and (ii) reject or return, as applicable, any State assistance offered to  
21 or received by the business in the form of a loan from funds authorized  
22 by S.L. 2020-4 and allocated to the Golden L.E.A.F. (Long-Term  
23 Economic Advancement Foundation), Inc., for business needs during  
24 periods of economic hardship occasioned by COVID-19 to the extent  
25 the State assistance represents a duplication of benefits.
- 26 d. A provision requiring the loan is secured through a Uniform  
27 Commercial Code financing statement.
- 28 e. A provision requiring recapture of loan funds if a business fails to  
29 comply with the requirements of the program. The CDFI shall  
30 recapture loan funds only if the CDFI determines there is a reasonable  
31 expectation that the recovery of funds will exceed the cost of recovery.
- 32 (11) The awarding of new loans shall cease upon six months following the date the  
33 State of Emergency ends.
- 34 (12) Every six months, the Office shall submit a report on the program to the Joint  
35 Legislative Economic Development and Global Engagement Oversight  
36 Committee and the Fiscal Research Division. The duty to report pursuant to  
37 this section shall cease after the submission of the report following when the  
38 Office has remitted the entirety of the net loan funds to the Coronavirus Relief  
39 Reserve. Each report shall contain all of the following:
- 40 a. The number of jobs retained.
- 41 b. The number of loans awarded.
- 42 c. The average loan amount.
- 43 d. The total amount loaned to date.
- 44 e. The total amount of loans repaid to date.
- 45 f. The total amount of loans defaulted on to date.
- 46 g. The total amount of loans defaulted that have been recaptured.

47 Six months following the date the State of Emergency ends and every six months  
48 thereafter, each CDFI shall remit the net loan funds that have been received to the Office, which  
49 shall deposit the funds into the Coronavirus Relief Reserve. Amounts deposited into the Reserve  
50 under this subsection are receipts that do not constitute an "appropriation made by law," as that  
51 phrase is used in Section 7(1) of Article V of the North Carolina Constitution.

1           **SECTION 2.1.(a)** Hotel Stabilization Program. – Seventy-five million dollars  
2 (\$75,000,000) of the funds appropriated by Section 1(b) of this act shall be allocated to one or  
3 more community development financial institutions (CDFI) selected by the Director of the  
4 Budget for the purpose of making loans to assist qualifying businesses with business needs during  
5 periods of economic hardship occasioned by the COVID-19 pandemic.

6           **SECTION 2.1.(b)** Definitions. – The following definitions apply in this section:

- 7           (1) Compensation. – Defined in section 3401 of the Internal Revenue Code.
- 8           (2) Employee. – Defined in G.S. 143B-437.02A.
- 9           (3) Net loan funds. – The total loan fund appropriated in this act less (i) the cost  
10 of administering the loans made under the program, not to exceed five percent  
11 (5%) of the total amount loaned under the program and (ii) the State's loan  
12 funds that are not recaptured.
- 13           (4) Office. – The Office of State Budget and Management.
- 14           (5) Qualifying business. – A hotel, motel, or similar establishment located in this  
15 State with the primary purpose of providing temporary lodging at a per-night  
16 cost that is capable of showing economic losses in gross revenue of greater  
17 than fifty percent (50%) as a result of the State of Emergency. The term does  
18 not include vacation rentals by owner or other systems by which homeowners  
19 lease out space for short-term rentals using a facilitator.
- 20           (6) State of Emergency. – Executive Order No. 116 issued March 10, 2020, by  
21 Governor Roy A. Cooper, including any amendments issued by executive  
22 order.

23           **SECTION 2.1.(c)** The following shall apply to loans made under the assistance  
24 program authorized by this section:

- 25           (1) The CDFI shall provide assistance to, or direct to an appropriate entity that  
26 provides assistance to, a qualifying business with applying for available  
27 federal assistance.
- 28           (2) The CDFI shall prioritize loans for qualifying businesses based on the degree  
29 to which the business is capable of showing greater economic losses as a result  
30 of the State of Emergency. Showing of loss can be through filed tax returns or  
31 profit and loss statements or both.
- 32           (3) The CDFI shall operate the program in two phases. In phase one, loans may  
33 be awarded only to qualifying businesses with cumulative gross receipts from  
34 business activities for the taxable year of less than ten million dollars  
35 (\$10,000,000). Phase one shall be held open for eight weeks. After eight  
36 weeks, the CDFI shall open phase two, in which loans may additionally be  
37 awarded to qualifying businesses not meeting the eligibility requirement of  
38 phase one.
- 39           (4) The CDFI shall work with the Golden L.E.A.F. (Long-Term Economic  
40 Advancement Foundation), Inc., the N.C. Small Business Center Network, the  
41 Office of Historically Underutilized Businesses within the Department of  
42 Administration, the N.C. Small Business and Technology Development  
43 Center, the North Carolina Institute of Minority Economic Development, Inc.,  
44 and other similar entities with the goal of ensuring all qualifying businesses  
45 are aware of the program.
- 46           (5) The loan shall have an interest rate of three and one-half percent (3.5%).
- 47           (6) The term of the loan shall not exceed 120 months and shall be amortized over  
48 the term of the loan.
- 49           (7) A qualifying business shall certify in writing that (i) it will use a loan provided  
50 under the program for employee compensation, mortgage, rent, utilities, and  
51 other operating costs and expenses incurred on behalf of a business located in

- 1 this State and (ii) it has not and will not seek a duplication of benefits in the  
2 form of a loan for small business assistance authorized in S.L. 2020-4 and  
3 allocated to the Golden L.E.A.F. (Long-Term Economic Advancement  
4 Foundation), Inc., for business needs during periods of economic hardship  
5 occasioned by COVID-19.
- 6 (8) A loan provided under the program is limited to no more than fifty thousand  
7 dollars (\$50,000) per qualifying business.
- 8 (9) The CDFI shall forgive the portion of the amount loaned to a qualifying  
9 business in an amount equal to the sum of the following:
- 10 a. The amount of occupancy taxes collected and remitted pursuant to  
11 G.S. 153A-155 and pursuant to G.S. 160A-215.
- 12 b. The pro rata amount of property taxes owed by the business under  
13 Article 11 of Subchapter II of Chapter 105 of the General Statutes for  
14 the period of the year to which the State of Emergency applies.
- 15 c. The amount of income tax owed by the business under Part 2 of Article  
16 4 of Subchapter I of Chapter 105 of the General Statutes.
- 17 (10) Loans are made pursuant to an agreement with a qualifying business that  
18 includes at least the following:
- 19 a. A provision requiring a qualifying business to certify in writing that it  
20 will use a loan provided under the program for employee  
21 compensation, mortgage, rent, utilities, and other operating costs and  
22 expenses incurred on behalf of a business located in this State.
- 23 b. A provision establishing the method for determining compliance with  
24 the program.
- 25 c. A provision requiring the qualifying business to (i) first repay the loan  
26 amount with any federal assistance received by the business that  
27 represents a duplication of benefits; provided, that the repayment does  
28 not disqualify or impair the federal assistance available to the business  
29 and (ii) reject or return, as applicable, any State assistance offered to  
30 or received by the business in the form of a loan from funds authorized  
31 by S.L. 2020-4 and allocated to the Golden L.E.A.F. (Long-Term  
32 Economic Advancement Foundation), Inc., for business needs during  
33 periods of economic hardship occasioned by COVID-19 to the extent  
34 the State assistance represents a duplication of benefits.
- 35 d. A provision requiring the loan is secured through a Uniform  
36 Commercial Code financing statement.
- 37 e. A provision requiring recapture of loan funds if a business fails to  
38 comply with the requirements of the program. The CDFI shall  
39 recapture loan funds only if the CDFI determines there is a reasonable  
40 expectation that the recovery of funds will exceed the cost of recovery.
- 41 (11) The awarding of new loans shall cease upon six months following the date the  
42 State of Emergency ends.
- 43 (12) Every six months, the Office shall submit a report on the program to the Joint  
44 Legislative Economic Development and Global Engagement Oversight  
45 Committee and the Fiscal Research Division. The duty to report pursuant to  
46 this section shall cease after the submission of the report following when the  
47 Office has remitted the entirety of the net loan funds to the Coronavirus Relief  
48 Reserve. Each report shall contain all of the following:
- 49 a. The number of jobs retained.
- 50 b. The number of loans awarded.
- 51 c. The average loan amount.

- 1                   d.       The total amount loaned to date.
- 2                   e.       The total amount of loans repaid to date.
- 3                   f.       The total amount of loans defaulted on to date.
- 4                   g.       The total amount of loans defaulted that have been recaptured.

5                   Six months following the date the State of Emergency ends and every six months  
6 thereafter, each CDFI shall remit the net loan funds that have been received to the Office, which  
7 shall deposit the funds into the Coronavirus Relief Reserve. Amounts deposited into the Reserve  
8 under this subsection are receipts that do not constitute an "appropriation made by law," as that  
9 phrase is used in Section 7(1) of Article V of the North Carolina Constitution.

10                   **SECTION 3.** Except as otherwise provided, this act is effective when it becomes  
11 law.