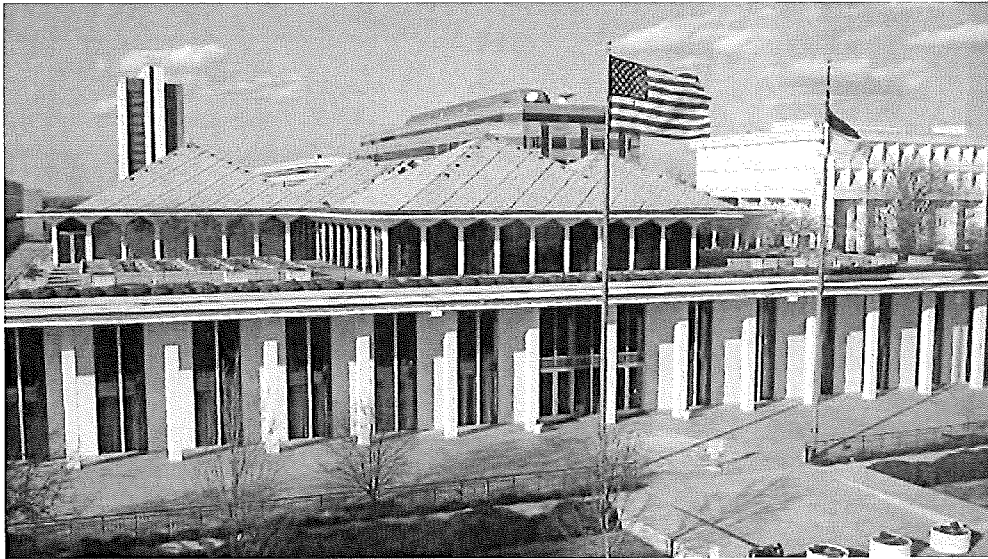


North Carolina 2017 Legislative Update



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NCLTA Annual Meeting 2017
The Greenbrier
White Sulphur Springs, West Virginia
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North Carolina Land Title Association

Final Legislative Report
2017

The legislature adjourned the 2017 “long” session at 2:00 a.m. on the morning of June 30, 2017, wrapping up an approximate 6-month session that began January 11, 2017. This legislative session marked the first in four years where the legislature was controlled by the Republicans and the Executive Branch was controlled by the Democrats. The Republican legislature held a veto-proof majority in both the House and Senate, and exercised that advantage five times by the end of the June, by overriding Governor Cooper’s vetoes of various legislation. It is anticipated that Governor Cooper will veto additional legislation, and the legislature could have the opportunity to override additional vetoes in the next month or so. Governor Cooper has until July 30 to either sign or veto a bill that was approved by the legislature in the last days of the legislative session; otherwise it would become law without his signature.

When the legislature adjourns its "long session" in odd-numbered years, lawmakers typically do not return in a formal legislative session until the "short session" begins the following spring. Not this year. The adjournment resolution adopted by the House and Senate as one of their last acts of the session adds two more legislative sessions this year - one starting on August 3, and another starting on September 6.

In the August session, the legislature could address a variety of topics, including overriding any vetoes from Governor Roy Cooper, making appointments, approving bills currently in negotiations between the House and Senate or bills involving impeachment of an elected official, and responding to lawsuits -- including any court order on redistricting. The September session will likely focus on state legislative redistricting, and the legislature could consider redistricting plans for judicial and prosecutorial districts as well. A plan to redraw judicial districts that was released this week did not move forward this session due to strong opposition from judges and others. The September session could also involve appointments, veto overrides, referendums on constitutional amendments and impeachment matters.

The adjournment resolution also includes a final deadline of November 15 for court-order legislative redistricting to be completed. However, the process could happen much earlier depending on the deadlines imposed by judges.

Once these 2017 sessions are adjourned, the General Assembly is scheduled to be out of session until they reconvene on Wednesday, May 16, 2018 at 12:00 noon for the 2018 “short” session.

This Final Legislative Report for 2017 includes a summary of all the bills enacted by this year's General Assembly that are of interest to the association, and some bills that were considered but not enacted.

BILLS OF INTEREST THAT WERE ENACTED INTO LAW

Senate Bill 131, Regulatory Reform Act of 2016. Provisions of interest include:

- Streamlines certain mortgage notice requirements.
- Exempts from the subdivision requirements the division of a tract into parcels in accordance with the terms of a probated will or in accordance with intestate succession.
- Provides that a city or county may require only a plat for recordation for the division of a tract or parcel of land in single ownership if all the following criteria are met:
 - (1) The tract or parcel to be divided is not exempted under subdivision (2) of subsection (a) of G.S. 153A-335 or G.S. 160A-376.
 - (2) No part of the tract or parcel to be divided has been divided under this subsection in the 10 years prior to division.
 - (3) The entire area of the tract or parcel to be divided is greater than five acres.
 - (4) After division, no more than three lots result from the division.
 - (5) After division, all resultant lots comply with all of the following:
 - a. Any lot dimension size requirements of the applicable land-use regulations, if any.
 - b. The use of the lots is in conformity with the applicable zoning requirements, if any.
 - c. A permanent means of ingress and egress is recorded for each lot.
- Makes certain changes to the statutes governing obtaining copies of public records, specifically public computer databases. The bill provides that notwithstanding G.S. 132-6.2(a), a public agency may satisfy the requirement under G.S. 132-6 to provide access to public records in computer databases by making public records in computer databases individually available online in a format that allows a person to view the public record and print or save the public record to obtain a copy. A public agency that provides access to public records under this subsection is not required to provide access to the public records in the computer database in any other way; provided, however, that a public agency that provides access to public records in computer databases shall also allow inspection of any of such public records that the public agency also maintains in a nondigital medium.
- Amends statute of limitations statutes to provide that there is a 6-year statute of limitations against the owner of an interest in real property by a unit of local government for a violation of a land-use statute, ordinance, or permit or any other official action concerning land use carrying the effect of law. This subdivision does not limit the remedy of injunction for conditions that are actually injurious or dangerous to the public health or safety. The claim for relief accrues upon the occurrence of the earlier of any of the following:
 - a. The facts constituting the violation are known to the governing body, an agent, or an employee of the unit of local government.
 - b. The violation can be determined from the public record of the unit of local government.

- Amends statute of limitations statutes to provide that there is a 7-year statute of limitations against the owner of an interest in real property by a unit of local government for a violation of a land-use statute, ordinance, or permit or any other official action concerning land use carrying the effect of law. This subdivision does not limit the remedy of injunction for conditions that are actually injurious or dangerous to the public health or safety but does prescribe an outside limitation of six years from the earlier of the occurrence of any of the following:
 - a. The violation is apparent from a public right-of-way.
 - b. The violation is in plain view from a place to which the public is invited.

Effective: May 4, 2017. Session Law 2017-10.

Senate Bill 257, Appropriations Act of 2017, the State Budget bill, sets the percentage insurance regulatory charge for insurance companies for 2017-2018 at 6.5%. **Effective: July 1, 2017. Session Law 2017-57.**

Senate Bill 450, Uniform Trust Decanting Act, adopts the North Carolina Uniform Trust Decanting Act. The bill defines *decanting power* as the power of an authorized fiduciary under Article 8B to distribute property of a first trust to one or more second trusts or to modify the terms of the first trust. The bill defines *first trust* as a trust over which an authorized fiduciary can exercise the decanting power. The bill defines *second trust* as a first trust after modification pursuant to Article 8B or a trust to which a distribution of property from first trust is or can be made pursuant to Article 8B. The bill establishes that Article 8B would not limit the power of a trustee, power holder, or other person to distribute or appoint property in further trust or to modify a trust under the trust instrument, law of this State other than this Article, common law, a court order, or a nonjudicial settlement. The bill provides that this Article does not affect the ability of a settlor to provide in a trust instrument for the distribution of the trust property or appointment in further trust of the trust property or for modification of the trust instrument.

The bill details the criteria of a trust that would make this Article applicable to the particular trust. The criteria would include (1) the trust has its principal place of administration in the State, including a trust that has had its principal place of administration changed to this State and (2) the trust provides by its trust instrument that is governed by this State's law or is governed by the law of this State for the purposes of administration, construction of terms of the trust, or determination of the meaning or effect of the terms of trust. **Effective: July 18, 2017. Session Law 2017-121.**

Senate Bill 567, Reform/Correct/Wills and Trusts, provides for the judicial reformation of wills to correct mistakes and the judicial modification of wills to achieve the testator's tax objectives. The bill revises the North Carolina Uniform Trust Code to achieve consistency in the reformation of trusts with the reformation of wills, as recommended by the General Statutes Commission. **Effective: January 1, 2018. Session Law 2017-152.**

Senate Bill 569, Uniform Power of Attorney Act, adopts the Uniform Power of Attorney Act in North Carolina. The bill provides that a power of attorney created pursuant to this Chapter would

be durable unless the instrument expressly provides that it is terminated by the incapacity of the principal. The bill provides that this Act applies to all powers of attorney except the following:

- (1) A power to the extent it is coupled with an interest in the subject of the power, including a power given to or for the benefit of a creditor in connection with a credit transaction.
- (2) A power to make health care decisions.
- (3) A proxy or other delegation to exercise voting rights or management rights with respect to an entity.
- (4) A power created on a form prescribed by a government or governmental subdivision, agency, or instrumentality for a governmental purpose.

Regarding real property, the bill provides that unless the power of attorney otherwise provides, language in a power of attorney granting general authority with respect to real property authorizes the agent to do all of the following:

- (1) Demand, buy, lease, receive, accept as a gift or as security for an extension of credit, or otherwise acquire or reject an interest in real property or a right incident to real property.
- (2) Sell; exchange; convey with or without covenants, representations, or warranties; quitclaim; release; surrender; retain title for security; encumber; partition; consent to partitioning; subject to an easement or covenant; subdivide; apply for zoning or other governmental permits; plat or consent to platting; develop; grant an option concerning; lease; sublease; contribute to an entity in exchange for an interest in that entity; or otherwise grant or dispose of an interest in real property or a right incident to real property.
- (3) Pledge or encumber an interest in real property or right incident to real property as security for the principal or any entity in which the principal has an ownership interest to borrow money or to pay, renew, or extend the time of payment of (i) a debt of the principal, (ii) or a debt guaranteed by the principal, (iii) a debt of any entity in which the principal has an ownership interest, or (iv) a debt guaranteed by any entity in which the principal has an ownership interest.
- (4) Release, assign, satisfy, or enforce by litigation or otherwise a mortgage, deed of trust, conditional sale contract, encumbrance, lien, or other claim to real property which exists or is asserted.
- (5) Manage or conserve an interest in real property or a right incident to real property owned or claimed to be owned by the principal or to be acquired by the principal, including all of the following:
 - a. Insuring against liability or casualty or other loss.
 - b. Obtaining or regaining possession of or protecting the interest or right by litigation or otherwise.
 - c. Paying, assessing, compromising, or contesting taxes or assessments or applying for and receiving refunds in connection with them.
 - d. Purchasing supplies, hiring assistance or labor, and making repairs or alterations to the real property.
 - e. Obtaining title insurance for the benefit of the principal and/or any lender that has or will obtain a mortgage or deed of trust encumbering the real property.

- (6) Use, develop, alter, replace, remove, erect, or install structures or other improvements upon real property in or incident to which the principal has, or claims to have, an interest or right.
- (7) Participate in a reorganization with respect to real property or an entity that owns an interest in or right incident to real property and receive, hold, and act with respect to stocks and bonds or other property received in a plan of reorganization, including all of the following:
 - a. Selling or otherwise disposing of them.
 - b. Exercising or selling an option, right of conversion, or similar right with respect to them.
 - c. Exercising any voting rights in person or by proxy.
- (8) Change the form of title of an interest in or right incident to real property.
- (9) Dedicate to public use, with or without consideration, easements or other real property in which the principal has, or claims to have, an interest.
- (10) With respect to any real property owned or claimed to be owned by the principal's spouse and in which the principal's only interest is a marital interest, waive, release, or subordinate the principal's inchoate right pursuant to G.S. 29-30 to claim an elective life estate in the real property, regardless of whether the waiver, release, or subordination will benefit the agent or a person to whom the agent owes an obligation of support.

Effective: January 1, 2018. Session Law 2017-153.

House Bill 144, Credit Union/Trust Institution Changes, makes various changes to the statutes applicable to credit unions and trust institutions. The bill changes the reference to banks, savings and loan institutions, etc. in various statutes to “federally insured depository institution lawfully doing business in this State”. **Effective: June 2, 2017. Session Law 2017-25.**

House Bill 205, WC Changes/Legal Notice Modification, modernizes publication of legal advertisements and notices by allowing legal notices to be posted in statewide newspapers that meet certain requirements. The bill allows Guilford County and any municipality in Guilford County to use electronic means to provide public notice in lieu of publication; and to allow Guilford County to opt to post legal advertisements and notices on the county web site for a fee, with monies collected to be used for local supplements for teacher salary and other county needs. The bill was vetoed by Governor Cooper, and the legislature could vote to override the veto at the August 3 or September 6, 2017 legislative sessions.

House Bill 228, Postpone Assumed Name Revisions, postpones from July 1, 2017 to December 1, 2017 the implementation of new Article 14A of Chapter 66 of the General Statutes, which revised the law on assumed business names, as recommended by the General Statutes Commission. It appears the postponement is due in part to a lack of funding for the program which was to be implemented by the Secretary of State’s Office. **Effective: June 2, 2017. Session Law 2017-23.**

House Bill 229, GSC Technical Corrections 2017, makes technical changes to various statues, as recommended by the General Statutes Commission. The bill, among other things, repeals

NCGS 39-33 (method of release of limitation of power) and 39-34 (method prescribed in 39-33 not exclusive).

The bill includes a provision that appears directed at the tenancy by the entirety issue. The bill adds two new definitions in NCGS 12-3 as follows:

"Husband and Wife" and similar terms. – The words "husband and wife," "wife and husband," "man and wife," "woman and husband," "husband or wife," "wife or husband," "man or wife," "woman or husband," or other terms suggesting two individuals who are then lawfully married to each other shall be construed to include any two individuals who are then lawfully married to each other.

"Widow" and "Widower." – The words "widow" and "widower" mean the surviving spouse of a deceased individual."

Effective: July 12, 2017. Session Law 2017-102.

House Bill 236, NCAOC Omnibus Bill, makes various changes to the law as requested by the Administrative Office of the Courts (AOC). The bill provides for the clerk to appoint an interim guardian ad litem on the clerk's own motion. The bill allows the clerk to extend the time for filing inventory in the property of the deceased. The bill provides for issuance of an order for an arrest when a person fails to appear after being served with a show cause in a civil proceeding. The bill amends how costs in administration of estates are assessed.

The bill addresses the effect of orders entered by Clerks of Superior Court that may not contain a file stamp, **which is a provision supported by NCLTA**. This provision was included in a bill in the 2016 legislative session, but was not enacted into law that session. By way of background, there are some Clerk's Offices that apparently do not always file stamp orders that are signed by the Clerk. So, although the Clerk may sign, record and enter an order in their docketing system, it may not contain a file stamp. A Court of Appeals case, In re Thompson, ruled that such an order was not effective and set aside subsequent orders and proceeding that relied on the order that lacked a file stamp. This has caused great concern among Clerks and others, such as title insurance companies that rely on orders as a part of the chain of title.

I worked with the Administrative Office of the Courts (AOC) to draft language to address this issue, which clarifies that the clerk's order is valid and can be relied upon regardless of whether it contains a file stamp. The provisions of the bill apply to future orders and orders entered previously – so it would have retroactive application. The language states:

“The failure to affix a date stamp or file stamp on any order or judgment filed in a civil action, estate proceeding, or special proceeding shall not affect the sufficiency, validity, or enforceability of the order or judgment if the clerk or the court, after giving the parties adequate notice and opportunity to be heard, enters the order or judgment nunc pro tunc to the date of filing.”

Effective: July 12, 2017. Session Law 2017-102.

House Bill 239, Reduce Court of Appeals to 12 Judges, reduces the number of judges on the Court of Appeals to 12. The bill provides that on or after January 1, 2017, whenever the seat of an incumbent judge becomes vacant prior to the expiration of the judge's term due to the death, resignation, retirement, impeachment, or removal of the incumbent judge, that seat is abolished until the total number of Court of Appeals seats is decreased to 12.

The bill also provides for an appeal directly to the Supreme Court for cases from the NC Business Court or cases designated as complex business cases or exceptional under Rule 2.1 of the General Rules of Practice. The bill allows discretionary review by the Supreme Court when the subject matter of the appeal is important in overseeing the jurisdiction and integrity of the court system. The Governor vetoed this bill, but the legislature successfully voted to override the veto, so the bill became law. **Effective: April 26, 2017. Session Law 2017-7.**

House Bill 454, Surveying and Plat Recording Changes, modernizes and makes changes to the recording requirements for plats and subdivisions, and eliminates the use of control corners in favor of grid control in the preparation of plats and subdivisions. The bill provides that the information required by G.S. 47-30(c) shall be listed prominently on the plat, and information listed in the notes contained on the plat does not satisfy the requirements of this G.S. 47-30(c). The bill specifically states that the presence of the personal signature and seal of a professional land surveyor shall constitute a certification that the map conforms to the standards of practice for land surveying in this State as defined in the rules of the North Carolina State Board of Examiners for Engineers and Surveyors. **Effective: July 1, 2017 and applies to plats and subdivisions submitted for recording on or after that date. Session Law 2017-27.**

House Bill 501, DOT/Surveying Information in Plans, requires the Department of Transportation to include surveying information in any plans prepared for the purpose of acquiring certain property rights, including rights-of-way, permanent easements, or both.

The bill requires the coordinates and associated localization metadata to be based upon and tied to the NC State Plan Coordinate system, and to be clearly identified within the plans. The bill further requires each property corner marker to be accurately tied to the design alignment or the NC State Plane Coordinate system by either a system of bearings and distances or by station and offset. **Effective: October 1, 2017. Session Law 2017-137.**

House Bill 530, Counties/Condemnations of Unsafe Buildings/Liens, grants counties the same authority as cities to declare certain buildings or structures unsafe and to remove or demolish unsafe buildings or structures. The bill provides that a lien would be placed on the owner's real property for the costs incurred. **Effective: July 12, 2017. Session Law 2017-109.**

House Bill 584, Real Prop./Error Correction & Title Curative, amends the procedures for correcting typographical, obvious description, or other minor errors in recorded instruments. This bill was introduced at the request of Investors Title Insurance Company.

The bill amends G.S 47-36.1, regarding the corrective notice of nonmaterial typographical and other minor errors in a deed or other similar instrument. For purposes of this

section, an error that would affect the respective rights of any party to the instrument is not a nonmaterial typographical or minor error.

The bill provides for a “corrective affidavit” process in certain situations, to take the place of a reformation action. The bill creates a new G.S. 47-36.2 titled “cure of obvious descriptive errors in recorded instruments.” The bill defines obvious descriptive error as an error in the legal description of real property that is contained in an instrument affecting title to real property recorded in the office of the register of deeds in the county in which the real property or any part or parts thereof is located that is evidenced by any of the following:

- a. One or more of the following, as stated in the instrument, are inconsistent in that one or more identify the property incorrectly, and the error is made apparent by reference to other information contained in the instrument, contained in an attachment to the instrument, or contained in another instrument in the chain of title for the subject parcel, including a recorded plat:
 1. The legal description of the property.
 2. The physical address of the property.
 3. The tax map identification number of the property.
 4. A plat reference.
 5. A prior deed reference.
- b. The legal description of the real property in the instrument contains one or more errors transcribing courses and distances, including, for example, the omission of one or more lines of courses and distances, the omission of angles and compass directions, or the reversal of courses.
- c. The instrument contains an error in a lot or unit number or designation, and the lot or unit described is not owned by the grantor, trustor, mortgagor, or assignor at the time the instrument is executed.
- d. The instrument omits an exhibit, attachment, or other descriptive information intended to supply the legal description of the subject property, and the correct legal description may be determined by reference to other information contained in the instrument, including, but not limited to, one or more of the items described in sub-subdivision a. of this subdivision.

The bill requires notice to interested parties as a part of the “corrective affidavit” process. The bill provides a form for the corrective affidavit.

The bill creates a new G.S. 47-108.28 to provide for a seven-year curative provision for certain defects in recorded instruments. The bill provides that an instrument conveying an interest in real property that contains a defect, irregularity, or omission shall be deemed effective to vest title as stated therein and to the same extent as though the instrument had not contained the material defect, irregularity, or omission, if both of the following conditions are met:

- (1) The instrument is recorded by the register of deeds in the county or counties where the property is situated.

- (2) The material defect, irregularity, or omission is not corrected within seven years after the instrument was recorded.

The bill provides that for this section only, an instrument shall be deemed to contain a "defect, irregularity, or omission" when any of the following conditions are met:

- (1) The recorded instrument lacks any of the following:
 - a. A properly executed form of acknowledgment as provided under Article 3 of this Chapter or Chapter 10B of the General Statutes.
 - b. The proper recital of consideration paid.
 - c. The residence of a party.
 - d. The address of the property
 - e. The address of a party.
 - f. The date of the instrument.
 - g. The date of any instrument or obligation secured by the instrument.

The bill makes other conforming changes to carry out the 7-year curative statute.

Effective: August 31, 2018 and applied to curative affidavits filed on or after that date. Session Law 2017-110.

House Bill 462, Banking Law Amends, makes technical, clarifying, and other amendments to provisions applicable to commercial banks, provisions applicable to bank holding companies, and provisions relating to mortgage notice requirements. **Effective: June 28, 2017. Session Law 2017-165.**

House Bill 707, Lien Agent/Notice of Cancellation. House Bill 707 was introduced at the request of NCLTA by Representatives Jordan, Stevens and Turner. Senator Lee introduced a Senate companion bill. House Bill 707 is intended to assist with certain improvements and enhancements to the LiensNC system for managing notices to lien agent on construction projects in North Carolina. Prior to the introduction of the bill, we met with a number of construction and other interest groups to discuss our intended enhancements to the LiensNC system. The primary objectives with the legislation was to provide for the cancellation of notices to lien agent from the LiensNC system once a potential lien claimant has been paid final payment on a project; and provide for statutory authority to rely on such a cancellation in the closing and transfer of the real property. We also wanted to provide for an end date for notices, similar to the way UCC filings expire; and provide for a renewal or extension of a filing. This will allow LiensNC to remove and archive notices on closed projects, to make the system and search functions more user friendly. We continued to work with interested parties once the bill was introduced, and made a number of changes to the bill to address questions and concerns raised by various stakeholders.

The bill requires cancellation of a notice to lien agent on the LiensNC system in one - and two - family residential projects within a reasonable time of acknowledgement by the potential lien claimant of final payment for the improvement at issue. For all other projects (commercial), cancellation would be optional. The bill clarifies that canceling a notice to lien agent would not cancel a filed claim of lien on real property or affect priority of lien rights.

The bill provides a process for renewing a notice to lien agent on the LiensNC system for one 5-year renewal period, and provides that a timely renewal would relate back to the original filing date.

The bill provides that any protections provided to a potential lien claimant under this law shall terminate upon the cancellation or automatic expiration of their notice to lien agent pursuant to this section and shall not thereafter be revived or renewed by subsequent delivery of a notice to lien agent by that potential lien claimant.

The bill also raises the fee paid by the owner to establish and appoint a lien agent from \$25 to \$30 for one - and two - family residential projects, and from \$50 to \$58 for all other projects where a lien agent is required.

We expect the LiensNC staff to develop the changes and enhancements to the system between now and the beginning of the 2018 legislative session in May 2018.

Effective: October 1, 2018. Session Law 2017-168.

House Bill 740, SAR Rename/Disputed County Boundaries/Mapping, allows the North Carolina geodetic survey to ratify results of county boundary resurveys, and clarifies that protective ridgeline maps are housed with the North Carolina geodetic survey rather than the Department of Environmental Quality.

The bill directs the North Carolina Geodetic Survey (NCGS) on a cooperative basis to assist counties in defining and monumenting the location of an uncertain or disputed boundary, upon receiving written request from all counties adjacent to the uncertain or disputed boundary. The bill provides that if the requesting counties have not ratified a survey plat submitted by NCGS within one year of receiving the map survey plat, the plat becomes conclusive as to the location of the boundary, and will be recorded in the Register of Deeds in each affected county, and the Secretary of State's office. The bill requires the Chief of the North Carolina Geodetic Survey to notify affected parties in writing of that action. The bill would require counties establishing a boundary between them to define the boundaries by natural monuments. The use of base maps prepared from orthophotography may be used if the natural monuments are visible, which base maps show the monuments of the National Geodetic Survey and North Carolina Coordinate System. The bill requires the orthophotography to be prepared in compliance with the State's adopted orthophotography standard. **Effective: July 21, 2017. Session Law 2017-170.**

BILLS OF INTEREST THAT WERE NOT ENACTED INTO LAW

Senate Bill 99, DOI Report Certain CTR Data, would provide for the reporting by the Department of Insurance of certain aggregate property insurance consent to rate data, as recommended by the Legislative Research Commission Committee on Regulatory and Rate Issues in Insurance. The bill does not apply to the North Carolina Title Insurance Rate Bureau or require any reporting of rate data of title insurance. This bill was not enacted into law, but is

eligible for consideration in the August 3, 2017 legislative session, the September 6, 2017 legislative session, and the 2018 legislative session.

Senate Bill 114, Annual Report Modernization, would revise the laws governing the submission of annual reports by various business entities to the Secretary of State. The bill would require non-profit corporations to file annual reports with the Secretary of State; similar to the requirements for for-profit corporations. Annual reports would be filed electronically. The corporation would be required to provide an email address for the corporation in the annual report, as well as identify, in addition to its officers, “any other person who has actual authority to bind the corporation”.

The purpose of this bill is to add non-profits to filing of annual reports so attorneys and others will know who the officers are, and to strengthen the penalty for not providing all required information, to encourage compete and accurate records. Proponents of the bill state that Senate Bill 114 should allow title and corporate attorneys who are checking the records to see if resolutions and other similar documents contain and/or are executed by the proper officers or persons who hold themselves out as having the authority to sign documents. The intent is to give those dealing with corporations a way to verify “authority” by these records.

The bill would allow the Secretary of State to levy a \$200 civil penalty on the corporation if the annual report does not contain all required information. The bill sets the fee for filing an annual report electronically at \$125. There would be no annual report filing fee for a corporation organized under Ch 55A of the General Statutes (non-profit corporation). This bill was not enacted into law, but is eligible for consideration in the August 3, 2017 legislative session, the September 6, 2017 legislative session, and the 2018 legislative session.

Senate Bill 203, Establish Ownership of Mineral Rights, would establish a uniform procedure to determine title to oil, gas or mineral rights. The bill provides that where it appears on the public records that the fee simple title to any oil, gas, or mineral interest in an area of land has been severed or separated from the surface fee simple estate of that land and the interest is not currently being mined, drilled, worked, or operated, or in the adverse possession of another, or that the record title holder of any oil, gas, or mineral interest has not listed the same for ad valorem tax purposes in the county in which the oil, gas, or mineral interests are located for a period of 10 years prior to the effective date of this section, the oil, gas, or mineral interests shall be deemed to have merged with the surface fee simple estate subject to the interests and defects as are inherent in the provisions and limitations contained in the monuments of which the chain of record title is formed --- provided, however, the title holder on the surface fee simple estate has the legal capacity to own land in this State and has an unbroken chain of title of record to the surface fee simple estate of the area of land for at least 30 years and the surface fee simple estate is not in the adverse possession of another.

The bill provides that every person claiming any oil, gas, or mineral interest that is severed from the surface fee simple estate as provided above shall register the oil, gas, or mineral rights with the register of deeds office in the county or counties in which the oil, gas, or mineral rights are located. The registration would be accompanied by a deed demonstrating ownership of the oil, gas, or mineral rights. Any oil, gas, or mineral rights which are severed from the surface fee simple estate and not registered with the register of deeds office in the county or counties in which the

minerals are located by January 1, 2020, shall be null and void, and the oil, gas, or mineral rights shall merge with the surface fee simple estate. The bill provides that any oil, gas, or mineral interests registered under the provisions of NCGS 1-42.1 through NCGS 1-42.9 are not affected by this section. This bill was not enacted into law and is not eligible for consideration in the 2018 legislative session.

Senate Bill 293, Insurance Technical Corrections, would revise the loan to value requirements for insurer mortgage investments. The bill amends G.S. 58-7-179(c) as follows: “No such mortgage loan or loans made or acquired by an insurer on any one property shall, at the time of investment by the insurer, exceed the larger of the following amounts, as applicable: (1) 97% (was, 95%) of the value of the real property or leasehold securing the real property in the case of a mortgage on a dwelling primarily intended for occupancy by not more than four families if they insure down to 80% (was, 75%) with a licensed mortgage insurance company, or seventy-five percent (75%) of the value in the case of other real estate mortgages.” This bill was not enacted into law and is not eligible for consideration in the 2018 legislative session.

Senate Bill 371, Building Code Regulatory Reform, would make various changes and clarifications to the statutes governing the creation and enforcement of building codes. The bill provides that when a submission is required from either an architect or engineer, the submission may be from a person under the direct supervisory control of the licensed architect or licensed engineer. The bill provides that no certification by a licensed architect or licensed engineer shall be required for any component or element engineered by the manufacturer of the component or element when the manufacturer has certified that the component or element complies with the North Carolina State Building Code or the North Carolina Residential Code for One- and Two-Family Dwellings.

The bill provides that each inspection department shall create a process for an informal internal review of inspection decisions made by the department's inspectors. This process shall include, at a minimum, the following:

- (1) Initial review by the supervisor of the inspector.
- (2) The provision in or with each permit issued by the department of (i) the name, phone number, and email address of the supervisor of each inspector and (ii) a notice of availability of the informal internal review process.
- (3) Procedures the department shall follow when a permit holder or applicant requests an internal review of an inspector's decision.

This bill was not enacted into law and is not eligible for consideration in the 2018 legislative session.

Senate Bill 451, Joint Survivorship Clarifications, would replace and clarify the general statutes pertaining to the creation and severance of joint tenancy with right of survivorship pertaining to real property. The bill provides that a conveyance to two or more persons creates a joint tenancy with right of survivorship if the instrument expresses an intent to create a joint tenancy with right of survivorship. The following words in the instrument would be deemed to express an intent to create a joint tenancy with right of survivorship unless the instrument

otherwise provides: "joint tenants with right of survivorship," "joint tenants," "joint tenancy," "tenants in common with right of survivorship," "joint with right of survivorship," "with right of survivorship," "to them or to the survivor of them," or words of similar import. The bill contains the methods to create and sever a joint tenancy. The bill provides that a joint tenancy interest conveyed to individuals married to each other and to one or more other joint tenants in the same instrument of conveyance shall be held by the married individuals in a tenancy by the entirety, and the married individuals shall be treated as a single joint tenant, unless otherwise provided in the instrument. This bill was not enacted into law, but is eligible for consideration in the 2018 legislative session.

Senate Bill 454, LEO Personal Info and Public Records, would clarify the nature of personal information of law enforcement officers not subject to the public records law. The bill provides that the only information in employee personnel records for sworn law enforcement officers that may be disclosed is the list of names of all such current employees. The bill would clarify that information regarding the residence, emergency contact information, or identifying information of a sworn law enforcement officer must not be disclosed except in accordance with the State Personnel Act.

The bill specifies that public records may not disclose the mobile telephone numbers issued by any government to sworn law enforcement officers, nonsworn employees of public law enforcement agencies, fire department employees, or any employee whose duties include responding to an emergency, except upon consent of the employee. This bill was not enacted into law and is not eligible for consideration in the 2018 legislative session.

Senate Bill 493, C-PACE Program, would authorize cities and counties to participate in the Commercial Property Assessed Capital Expenditures (C-PACE) Program, which would allow property owners to voluntarily agree to assessments to finance upgrades or improvements to their real property. The bill would give C-PACE loans etc. priority over prior recorded mortgages and other recorded interests in property. It is unclear whether these interests in real property would be of record, or would amount to a "hidden lien" on the property. It also appears the tax assessment piece of this legislation would be unconstitutional.

The proponents of this legislation sought feedback from NCLTA and other interest groups during the legislative session. We expressed our concerns with this legislation, as did the NC Bankers Association and other interest groups. Ultimately, the proponents of the legislation did not attempt to have this legislation considered in committee this session. This bill was not enacted into law, but is eligible for consideration in the 2018 legislative session.

Senate Bill 582, Agency Technical Corrections, would make various technical changes to the general statutes. The bill would amend G.S. 4-10 to provide that an attorney who serves as the trustee or substitute trustee shall not represent either the noteholders or the interest of the borrower while initiating a foreclosure proceeding. The bill defines "noteholder" as the holders or owners of a majority in the amount of the indebtedness, notes, bonds, or other instruments evidencing a promise to pay money and secured by mortgages, deeds of trust, or other instruments conveying real property, or creating a lien thereon.

The bill would the statutes applicable to city and county requirements for recordation of plats when tracts are subdivided, to provide that after division, all resulting lots must either front an existing public right-of-way or may be accessed by a recorded permanent means of ingress and egress and such is indicated on the plat.

This bill was not enacted into law, but is eligible for consideration in the August 3, 2017 legislative session, the September 6, 2017 legislative session, and the 2018 legislative session.

Senate Bill 607, Job Order Contracting Method, would allow public contracts to utilize the job order contracting method of construction or repair contracts. The bill would amend G.S. 143-49 to authorize and direct the Secretary of Administration to establish procedures permitting State government, or any of its departments, institutions, or agencies, to join with any nonprofit organization in this state or another state, in addition to the currently listed governmental entities, in cooperative purchasing plans, projects arrangements or agreements, including for construction or repair work through job order contracting. The procedures may not require a governmental entity to secure informal quotes or any other competition for construction or repair work through job order contracting if the initial contract was competitively bid. This bill would require contractors to provide a payment and performance bond to the governmental entity for job orders. This bill was not enacted into law and is not eligible for consideration in the 2018 legislative session.

Senate Bill 614, Withholdings for Property Sales: Nonresidents, would require a person who purchases residential real property, or residential real property and associated tangible personal property, from a nonresident seller to withhold the lesser of (1) the net proceeds payable to the nonresident seller, or (2) an amount equal to the product of the individual income tax percentage provided in G.S. 105-153.7 multiplied by the gain recognized on sale.

The bill defines *nonresident seller* as (1) an individual whose permanent home is outside of NC on the date of the sale; (2) a partnership whose principal place of business is located outside of NC; (3) a trust administered outside of NC; or (4) an estate of a decedent whose permanent home was outside of NC at the time of death. The bill defines *sale* to mean a transfer where gain or loss is computed in accordance with Section 1001 of the Internal Revenue Code (Code) together with any modifications provided in Part 2 of Article 4 of Subchapter I of GS Chapter 105 (concerning individual income tax). The bill provides that sale does not include (1) tax exempt or tax deferred transactions other than installment sales, (2) transactions to the extent the gain on the sale of a principal residence is excluded in accordance with Section 121 of the Code, or (3) other transactions excluded by the Department of Revenue because the benefits to the State are insufficient to justify the burdens imposed by the statute.

The bill provides in the case where the seller finances all or part of the transaction, in lieu of remitting the tax due on each installment payment, the seller can give the buyer an affidavit stating that for State income tax purposes the seller will elect out of installment sales treatment, as defined by Section 453 of the Code, and remit the entire amount of tax to be due over the period of the installment agreement.

The bill would except from the provisions of the statute a nonresident seller who (1) has filed at least one State income tax return and is not delinquent with respect to filing State income tax returns; (2) has been in business in NC during the last two taxable years, including the year of sale, and will continue in substantially the same business in NC after the sale; and (3) is registered to do business in NC.

Concerning remittance, the bill establishes that a person who holds an amount pursuant to the statute is liable for the collection and payment of the amount, and must remit the amount withheld to the Department of Revenue on or before the fifteenth day of the month following the month in which the sale takes place, unless the time for remittance is extended by the Department for a seller-financed sale. The bill clarifies that the statute does not make a lending institution, real estate agent, or closing attorney liable for collection and payment of amounts withheld, however the statute does require those entities and agents to remit the amount the entity or agent has withheld within the time frame provided.

The bill details information the closing attorney is required to report to the Department of Revenue for every sale for which withholding is required by the statute.

The bill would be effective July 1, 2017, and apply to sales of residential real property, or residential real property and associated tangible personal property, occurring on or after that date. This bill was not enacted into law, but is eligible for consideration in the 2018 legislative session.

Senate Bill 616, Limit Look-Back for Immaterial Irregularities, provides that immaterial irregularities in listing, appraisal, or assessment of property for taxation, or in the levy or collection of the property tax or any other property tax proceeding or requirement, would be taxed for the year in which the immaterial irregularity was discovered and for any of the preceding five years (previously, 10 years) during which the property escaped proper taxation. The taxation would be for the assessed value it should have been assigned in each of the years for which it is to be taxed, coupled with the rate of tax imposed in each such year. This bill was not enacted into law, but is eligible for consideration in the 2018 legislative session.

Senate Bill 617, Eliminate Emergency Recall Judges, would eliminate all emergency justices and judges except for retired special superior court judges who retired from the Business Court who may be recalled to serve as emergency judges on the Business Court. This bill was not enacted into law, but is eligible for consideration in the 2018 legislative session.

Senate Bill 622, Business Corporation Act Revisions, would make various revisions to the North Carolina Business Corporation Act. The bill would enact new G.S. Chapter 55, Article 1, Part 6 (Ratification of Defective Corporate Actions). The bill provides that defective corporate actions are not void or voidable if ratified or validated. The bill provides that ratification or validation are not the exclusive means of ratifying or validating defective corporate action, and absence or failure of ratification or verification does not affect validity or effectiveness of ratification under common law or otherwise, nor does it create a presumption of voidness or voidability. This bill was not enacted into law, but is eligible for consideration in the 2018 legislative session.

Senate Bill 633, Reduce Annual State Bar Fees, would reduce the annual fees charged by the North Carolina State Bar. The bill would lower the maximum membership fee from \$300 to \$50 and would lower the maximum fee for paying membership fees late from \$30 to \$5. This bill was not enacted into law, but is eligible for consideration in the 2018 legislative session.

Senate Bill 649, Public Records Access - NC Residents Only, would provide that access to North Carolina public records are for North Carolina residents only. However, the bill provides that public records maintained by the clerk of court and register of deeds of every county shall be open to inspection and copying by any person, subject to the requirements and conditions of the Public Records Act. This bill was not enacted into law and is not eligible for consideration in the 2018 legislative session.

House Bill 3, Eminent Domain Const. Amendment, would amend the North Carolina constitution to prohibit condemnation of private property except for a public use (deletes reference to public benefit). This bill was not enacted into law, but is eligible for consideration in the 2018 legislative session.

House Bill 10, Eminent Domain Statutory Revision, would amend North Carolina's eminent domain statutes, to make conforming changes to outlined in House Bill 3. The bill would also specifically provide for utilities to be able to connect customers through condemnation. This bill was not enacted into law, but is eligible for consideration in the 2018 legislative session.

House Bill 31, Material Fact Disclosure Clarifications, provides that if offering property for conveyance, rent or lease, it shall not be deemed a material fact that the real property is included in a comprehensive transportation plan, nor shall it be considered a required disclosure under NCGS 47E-4; provided however that a party or agent to the real estate transaction may not knowingly make a false statement regarding any such fact. This bill was not enacted into law, but is eligible for consideration in the 2018 legislative session.

House Bill 56, Amend Environmental Laws, was amended to, among other things, exempt from taxation portions of real property that are a part of certain riparian buffers. The provision that exempted certain classes of property subject to riparian buffers from taxation was deleted and replaced with a provision to require the legislature's fiscal research division to estimate the value of the property subject to these areas, to determine the value of land that would be exempt from taxation, and to report to the legislature by May 1, 2018. This bill was not enacted into law, but is eligible for consideration in the August 3, 2017 legislative session, the September 6, 2017 legislative session, and the 2018 legislative session.

House Bill 80, Bona Fide Ownership of Timber Parcels, would protect bona fide owners of timber from the unlawful cutting or removal of timber from their lands. The bill would amend NCGS 1-539.1 to provide that a person, firm, or corporation that cuts or removes wood, timber, shrubs, or trees from the property of another and fails to prospectively establish bona fide ownership pursuant to this section would be presumed to have acted with willfulness and knowledge, and shall liable for double the value of the timber or crops cut or damaged as well as being subject to criminal penalties. A landowner would establish "bona fide ownership" under

this section by mutual agreement of the owners of the adjoining parcels prior to the cutting or removal of the wood, timber, shrubs, or trees. In the event of a dispute over a boundary line or failure of the owners to reach mutual agreement, the owner of the parcel seeking to cut or remove the wood, timber, shrubs, or trees would bear the cost of a boundary line survey required to establish only the location of the boundary line between the affected parcels. This bill was not enacted into law and is not eligible for consideration in the 2018 legislative session.

House Bill 181, First Responders Act of 2017, would among other things provide a property tax homestead exclusion for surviving spouse of qualifying “emergency personnel”, which would include firefighting, search and rescue, or emergency medical services personnel or any employee of any duly accredited State or local government agency possessing authority to enforce the criminal laws of the State who (i) is actively serving in a position with assigned primary duties and responsibilities for prevention and detection of crime or the general enforcement of the criminal laws of the State and (ii) possesses the power of arrest by virtue of an oath administered under the authority of the State. This bill was not enacted into law, but is eligible for consideration in the 2018 legislative session.

House Bill 227, Preserve Tenancy By The Entirety, would make conforming changes to various North Carolina statutes to clarify that tenancy by the entirety is preserved in North Carolina in light of the Supreme Court of the United States case of *Oberfell v. Hodges*, as recommended by the General Statutes Commission. This bill was not enacted into law and is not eligible for consideration in the 2018 legislative session.

House Bill 240, GA Appoint For District Court Vacancies, provides that District Court vacancies would be filled by appointment of the General Assembly. This bill was not enacted into law, but is eligible for consideration in the 2018 legislative session.

House Bill 241, Special Sup. Ct. Judgeship Appointed by the GA, provides that District Court vacancies would be filled by appointment of the General Assembly. This bill was not enacted into law, but is eligible for consideration in the 2018 legislative session.

House Bill 261, Displaced Residential Land Tax Deferral, would create a property tax deferral program for permanent residences that are subsequently rezoned for nonresidential uses. The bill provides that displaced residential land is designated a special class of property under Section 2(2) of Article V of the North Carolina Constitution and must be appraised, assessed, and taxed in accordance with this section. For purposes of this section, "displaced residential land" means a person's legal residence, including the dwelling, the dwelling site, and related improvements. The dwelling may be a single-family residence, a unit in a multifamily residential complex, or a manufactured home. The bill establishes the procedure for an owner to apply for the designation. This bill was not enacted into law, but is eligible for consideration in the 2018 legislative session.

House Bill 405, Impact Fees/Refund to Homeowners, provides that if a homebuilder is awarded, by a court or pursuant to a settlement, a refund of impact fees paid to a county because the ordinance imposing the impact fees exceeded the county's authority under law, the homebuilder would be required to reimburse any homeowner who paid any portion of the impact fee refunded as part of the home purchased from the homebuilder. For purposes of this section,

the term "impact fee" includes a facility fee, project fee, capacity fee, or any other fee that requires a developer or homeowner to pay an amount to help defray capital costs associated with new construction. This bill was not enacted into law, but is eligible for consideration in the 2018 legislative session.

House Bill 457, Performance Guarantees/Subdivision Streets, would make changes to state law concerning performance guarantees on county subdivision streets offered for public dedication. The bill would apply to county subdivision streets located outside municipal jurisdiction. The bill would apply to all developments approved on or after August 1, 2017, and retroactively to all county residential subdivisions or development plans approved on or after October 1, 2010, that include an offer of dedication of roads and the roads that have been constructed and opened for travel and are fully completed. The bill describes the use of performance guarantees, the amounts of guarantees, and release of the guarantees.

The bill provides that the Department of Transportation shall work cooperatively with each county to provide the necessary information to the counties to enable the counties to compile a readily available "County Public Street Information Database" and place it in operation on or before January 1, 2019. The information provided shall accurately convey the status of roads within the jurisdictional area of the county, including municipal extraterritorial jurisdictions, and it shall be updated at least monthly. The data shall reside on any existing database system chosen by the county for this purpose, such as, but not limited to, a geographic information system (GIS) mapping system or property tax records system. The system chosen shall be able to convey clear and concise information regarding the status of roads to the public and more particularly to those individuals involved in the research of real property records and information.

The bill provides that the status of roads to be conveyed shall be:

- (1) Federally maintained with a federal route number assigned.
- (2) State-maintained with a State road number assigned.
- (3) City-maintained.
- (4) Pending public acceptance with a financial consideration in place for the maintenance and repair of the street until it is accepted. This subdivision shall only apply to new streets offered for public dedication after October 1, 2017.
- (5) Pending public acceptance without a financial consideration being in place for the maintenance and repair of the street until it is accepted.
- (6) Private street requiring private maintenance.

This bill was not enacted into law, but is eligible for consideration in the 2018 legislative session.

House Bill 470, Responsible Wind Energy Implementation, would minimize interference with military operations, environmental degradation, reduction of property rights, and harms to public health, safety, and welfare resulting from the siting and operation of industrial wind energy facilities. The bill would require an application for a proposed wind energy facility ("WEF") provide that if there are residential properties within two miles of the proposed WEF, a study of the possible human health impacts of the proposed WEF's turbines. This study shall use

established industry standards to thoroughly and objectively assess the potential impacts of such concerns as infrasound; audible noise vibrations; electromagnetic fields; shadow flicker; blade glint; ice throw; and component liberation due to major storms, lightning, or other causes on humans within two miles of the WEF. The study shall be conducted by independent experts selected from a list of providers approved by the Department of Health and Human Services and paid for by the applicant.

The application would include documentation for the applicant's proposed property value guarantee (PVG) for all residential properties within two miles of the perimeter of the WEF. The specific terms and conditions of the PVG are the responsibility of each local governing body where the WEF is located. The bill provides that a PVG must effectively protect the property values of all residential property owners within two miles of the perimeter of the WEF.

The bill provides that turbines in a WEF shall maintain a setback from the property line of any residential or residentially zoned parcels outside the perimeter of the WEF. The setback shall be the greater of one mile or 10 times the maximum height of the turbine's blade tip.

This bill was not enacted into law and is not eligible for consideration in the 2018 legislative session.

House Bill 484, Servicemembers Civil Relief Act, would extend the right service members have to terminate certain contracts due to active military service to their dependents. The contracts that are subject to termination under this Act include those for rent, installment contracts, mortgages, liens, assignments, and leases. This bill was not enacted into law and is not eligible for consideration in the 2018 legislative session.

House Bill 507, Land-Use Regulatory Changes, would make various changes to the land-use regulatory laws. The bill provides that amendments by cities or counties to land development regulations are not applicable or enforceable without the written consent of the owner with regard to uses of buildings or land, or subdivisions of land, for which a development permit has been issued that authorizes the use or subdivision of land, or for which a building permit has been issued under, or if a vested right has been established. The bill provides for the expiration of local development permits in one year unless work has substantially commenced. The bill provides that vested rights preclude actions by a city or county that would change, alter, impair, prevent, diminish, or otherwise delay the development or use of the property as set forth in the application, except where a subsequent change in the law has a fundamental and retroactive effect on the development or use.

The bill provides that zoning map amendments may not be initiated or enforced without the written consent of all property owners whose property is the subject of the zoning map amendment, unless the amendment was initiated by the city or county respectively.

The bill provides for landowners, permit applicants, or tenants aggrieved by final and binding decisions of administrative officials involving application or enforcement of an ordinance regulating land use or development may file an action in superior court for relief, where the aggrieved party makes any of a list of specified claims or defenses, so long as the party has not already presented the

claims or defenses to the Board of Adjustment. This bill was not enacted into law, but is eligible for consideration in the 2018 legislative session.

House Bill 573, Vacant Building Receivership, would authorize municipalities to petition the superior court to appoint a receiver to rehabilitate, demolish, or sell a vacant building, structure, or dwelling where the owner has failed to comply with an order to do so, and would charge the owner an administrative fee.

The bill requires the city, within 10 days after filing the petition, to give notice of the pendency and nature of the proceeding by regular and certified mail to the last known address of all judgment creditors and lienholders with a recorded interest in the property. The bill would allow a judgment creditor or lienholder, within 30 days of the date on which the notice was mailed, to apply to intervene in the proceeding and to be appointed as receiver. If the city fails to give required notice, the proceeding may continue, but the receiver's lien for expenses incurred in rehabilitating, demolishing, or selling the vacant building, structure, or dwelling will not have priority over the lien of that judgment creditor or lienholder. This bill was not enacted into law, but is eligible for consideration in the 2018 legislative session.

House Bill 616, North Carolina Public Benefit Corporation Act, would enact the North Carolina Public Benefit Corporation Act. The bill defines a public benefit corporation as a corporation for profit that is incorporated under and subject to the requirements G.S. Chapter 55 and that is intended to produce one or more public benefits (a positive effect or reduction of a negative effect on one or more categories of persons, entities, communities, or interests); and to operate in a responsible manner by managing in a manner that balances the stockholders' pecuniary interests, the best interests of those materially affected by the corporation's conduct, and the one or more specific public benefits identified in its articles of incorporation.

The bill would require the articles of incorporation to include: (1) a statement that the corporation is a public benefit corporation; and (2) an identification of one or more specific public benefits to be promoted by the corporation. This bill was defeated on the House floor and thus is not eligible for consideration in the 2018 legislative session.

House Bill 625, HOA/Condo Crime & Fidelity Insurance Policies, would require homeowners associations, condominium associations, and their management companies to acquire crime and fidelity insurance policies to protect the associations' membership from loss due to the illegal conduct of the association, the executive board and its employees, or a management company. The bill would require annual financial audits to be performed by homeowners associations and condominium associations. This bill was not enacted into law, but is eligible for consideration in the 2018 legislative session.

House Bill 675, Clerk of Court Notify AOC Judge Ends Early, would require the clerk of superior court to notify the Administrative Office of the Courts when a superior court session ends early, so that the presiding judge may be reassigned to another district if necessary. This bill was not enacted into law and is not eligible for consideration in the 2018 legislative session.

House Bill 676, Special Superior Court Judge Assignment, would prohibit a special judge from being assigned to a district unless there is at least four hours of work as determined by the Chief Resident Superior Court Judge of that district. This bill was not enacted into law and is not eligible for consideration in the 2018 legislative session.

House Bill 677 Amend Who Can Serve on Three-Judge Panel, would authorize the Chief Justice to appoint district court judges, in addition to the currently authorized superior court judges, to the 3-judge panels for actions challenging the validity of acts of the General Assembly. This bill was not enacted into law, but is eligible for consideration in the 2018 legislative session.

House Bill 693, Study/Public Records & Open Meetings, would create the 10-member Joint Legislative Study Committee on Public Records and Open Meetings to study ways to improve transparency of state and local government in the state. The bill would require the Committee to examine existing laws regarding public access to government records and meetings, and legislation enacted in other states that allows greater public access than we currently have in North Carolina. The bill would require five members of the House of Representatives to be appointed by the Speaker of the House and five members of the Senate to be appointed by the President Pro Tem of the Senate. The bill would require an interim report to the 2018 legislature, and require a final report be delivered to the 2019 General Assembly. This bill was not enacted into law and is not eligible for consideration in the 2018 legislative session.

House Bill 709, Solicitation for Copies/Register of Deeds Fees, would regulate the process and actions of persons, firms, or corporations who solicit a fee in exchange for providing a copy of a record available at the register of deeds office. The bill would prohibit a document used for solicitation governed by this statute from containing deadline dates or be in a form or contain language designed to make the document appear to be issued by a State agency or local unit of government, or appear to impose a legal duty on the person being solicited. The bill would prohibit a person, firm, or corporation soliciting a fee in exchange for providing a copy of a record from charging a fee that is greater than four times the amount the register of deeds with custody of the record would charge for a copy of the same record. The bill would establish that a violation of the statute constitutes an unfair trade practice under G.S. 75-1.1. The bill would define “solicit” to mean to advertise or market to a person with whom the solicitor has no preexisting business relationship. This provision would be effective July 1, 2017.

The bill would amend G.S. 161-10 (Uniform fees of registers of deeds) to establish that the fees detailed in subdivision (1) of subsection (a) of the statute apply to the registration or filing of any subsequent instrument that relates to a previously recorded deed of trust or mortgage. The bill adds a new subsection (d) to define subsequent instrument to have the same meaning as set forth in G.S. 161-14.1(a)(3).

The bill would amend G.S. 161-14.1(a)(3) and the examples set forth for “subsequent instruments” to include an “amended and restated instrument.”

The last two provisions described herein would be effective October 1, 2017, and apply to instruments submitted for registration on or after that date. This bill was not enacted into law, but is eligible for consideration in the 2018 legislative session.

House Bill 755, Bankruptcy and Receivership Amendments, would amend G.S. 44A-12(a), concerning the filing of a statutory lien on real property, to require a copy of the claim of lien on real property to be filed with any receiver, bankruptcy trustee, debtor in possession, or assignee (previously, with any receiver, referee in bankruptcy, or assignee) for benefit of creditors who obtain legal authority over the real property. The bill would amend G.S. 44A-13(a) to add the filing of a proof of claim pursuant to 11 USC 501 to the specified filings that satisfy the requirement for the commencement of the action if filed within the time required.

The original version of the bill would not have required the filing of the claim of lien on the land records with the register of deeds. We worked with the bill sponsor and he agreed to amend the bill to continue to require the filing to be with the register of deeds office. The bill provides that a copy of the petition with the schedules omitted beginning a proceeding under Title 11 of the US Code or of any form, order, or certificate of a US Bankruptcy Court in the proceeding must be recorded in the office of any register of deeds in North Carolina. It would be the duty of the register of deeds, on request, to record the form, order, or certificate. The register of deeds would be entitled to the same fees for this registration as the register of deeds is now entitled to for recording conveyances. This bill was not enacted into law, but is eligible for consideration in the 2018 legislative session.

House Bill 814, Planned Community Act Changes, would amend the Planned Community Act and the Condominium Act for the purpose of creating consistency and enhancing consumer protections. The bill contains a number of control and management provisions, including: would require certain information be contained in the community's declaration, provides for how common expenses must be allocated, provides for how and when declarant control will cease, addresses tort and contract liability of the association, provides for certain records that must be maintained by the association and the duration for maintenance of records, and provides for non-binding alternative dispute resolution for disputes arising under this law, or an association's declaration, bylaws, or rules and regulations.

The bill provides that a claim of lien against a lot that is the primary residence of the owner may only be foreclosed by judicial foreclosure. A claim of lien against a lot that is not the primary residence of the owner may continue to be foreclosed in like manner as a mortgage or deed of trust on real estate under power of sale.

The bill would create Article 4 of Chapter 47 titled "Protection of Purchasers", which would require a disclosure certificate be delivered to a purchaser of a lot in a planned community. The bill states that this article applies to the disposition of all lots that are part of a planned community subject to this Chapter, except as exempted by this Act or as modified or waived by agreement of purchasers of lots in a planned community in which all lots are restricted to nonresidential use. The Act would not apply to dispositions of lots that are classified as: gratuitous, pursuant to court order, by foreclosure or deed in lieu of foreclosure, to a dealer, or property restricted to nonresidential purposes.

The bill would require a purchaser to be provided with a copy of the certificate before conveyance of the lot, and not later than the date of any contract of sale. The bill provides that unless a purchaser is given the disclosure certificate more than five days before execution of a contract for the purchase of the lot, the purchase contract is voidable by the purchaser until the certificate has been provided and for five days thereafter or until conveyance, whichever occurs first. The bill lists the information to be provided in the disclosure. This bill was not enacted into law, but is eligible for consideration in the 2018 legislative session.

House Bill 852, Real Property Technical Corrections, would make corrections and other amendments to various statutes impacting real property ownership and to make other conforming changes, as recommended by the Real Property Section of the North Carolina Bar Association. **This bill includes NCLTA's proposed clarifying changes to G.S. 39-13 as follows:**

"§ 39-13. Spouse need not join in purchase-money mortgage.

~~The purchaser of real estate who does not pay the whole of the purchase money at the time when he or she takes a deed for title may make a mortgage or deed of trust for securing the payment of such purchase money, or such part thereof as may remain unpaid, which~~ A mortgage or deed of trust given by the purchaser of real property to secure a loan, the proceeds of which were used to pay all or a portion of the purchase price of the encumbered real property, regardless of whether the secured party is the seller of the real property or a third-party lender, shall be good and effectual against his or her the purchaser's spouse as well as the purchaser, without requiring the spouse to join in the execution of such the mortgage or deed of trust."

The bill amends G.S. 161-10(a)(1), Deeds of Trust, Mortgages, and Cancellation of Deeds of Trust and Mortgages, to provide that in all other cases, the fees provided in subdivision (1) of this subsection would apply to the registration or filing of any subsequent instrument that relates to a previously recorded deed of trust or mortgage. The bill states that for the purposes of this section, the term "subsequent instrument" has the same meaning as set forth in G.S. 161-14.1(a)(3).

The bill amends G.S. 47-17.1, Documents registered or ordered to be registered in certain counties to designate draftsman; exceptions, by adding the following underlined text to the statute:

"The register of deeds of any county in North Carolina shall not accept for registration, nor shall any judge order registration pursuant to G.S. 47-14, of any deeds or deeds of trust, executed after January 1, 1980, unless the first page of the deeds or deeds of trust bears an entry showing the name of either the person or law firm who drafted the instrument. This section shall not apply to other instruments presented for registration. For the purposes of this section, the register of deeds shall accept the verbal or written representation of the individual presenting the deed or deed of trust for registration, or any individual reasonably related to the transaction, including, but not limited to, any employee of a title insurance company or agency purporting to be involved with the transaction, that the individual or law firm listed on the first page is a validly licensed attorney or validly existing law firm in this State or another jurisdiction within the United States."

This bill was not enacted into law, but is eligible for consideration in the 2018 legislative session.

House Bill 865, Community Association Property Management Act, would regulate the practice of community association property management by creating a licensure process with the North Carolina Real Estate Commission, and to provide education and training for board members of community associations. This bill was not enacted into law and is not eligible for consideration in the 2018 legislative session.

For more information about legislation described in the legislative reports, feel free to contact me at dferrell@nexsenpruet.com or (919) 573-7421. Information is also available on the General Assembly's website: www.ncga.state.nc.us

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2017-2018 Session

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- Visit the **Committee's website**
- Meets: Every Tuesday at 10:00 AM in 1027 LB, Every Tuesday at 11:00 AM in 1027 LB, Every Wednesday at 2:00 PM in 1027 LB
- Bills in Committee: H488, H509, H706, H744, H774, H776, S21, S29, S57, S60, S61, S66, S106, S189, S255, S345, S347, S372, S433, S501, S568, S570, S584, S594, S601, S602, S605, S617, S633
- Meeting notices via e-mail

Members

Co-Chairman

Sen. Tamara Barringer

Co-Chairman

Sen. Warren Daniel

Co-Chairman

Sen. Shirley B. Randleman

Members

Sen. Dan Bishop, Sen. Dan Blue, Sen. Danny Earl Britt, Jr., Sen. Harry Brown, Sen. Angela R. Bryant, Sen. Jim Davis, Sen. Cathy Dunn, Sen. Rick Gunn, Sen. Rick Horner, Sen. Jeff Jackson, Sen. Brent Jackson, Sen. Michael V. Lee, Sen. Paul A. Lowe, Jr., Sen. Floyd B. McKissick, Jr., Sen. Paul Newton, Sen. Jerry W. Tillman, Sen. Terry Van Duyn, Sen. Andy Wells

North Carolina House Leadership

2017-2018 Session

Speaker:

Speaker Pro Tempore:

Majority Leader:

Deputy Majority Leader:

Majority Whip:

Deputy Majority Whips:

Joint Caucus Liaison:

Conference Leader:

Deputy Conference Leader:

Majority Freshman Leader:

Majority Freshman Whip:

Democratic Leader:

Deputy Democratic Leader:

Democratic Whips:

Democratic Freshman Chair:

Democratic Freshman Vice-Chairs:

House Officers

Principal Clerk:

Sergeant-at-Arms:

Speaker Tim Moore

Representative Sarah Stevens

Representative John R. Bell, IV

Representative Stephen M. Ross

Representative Jon Hardister

Representative James L. Boles, Jr.

Representative John R. Bradford, III

Representative Chris Malone

Representative Pat B. Hurley

Representative John Szoka

Representative Holly Grange

Representative Destin Hall

Representative Brenden H. Jones

Representative Darren G. Jackson

Representative Robert T. Reives, II

Representative Verla Insko

Representative Rodney W. Moore

Representative Garland E. Pierce

Representative Bobbie Richardson

Representative Cynthia Ball

Representative Terry E. Garrison

Representative Amos L. Quick, III

Mr. James White

Mr. Garland Shepheard

Judiciary I

House Standing Committee

- Meets: Every Wednesday at 1:00 PM in 415 LOB
- Bills In Committee: H44, H52, H69, H72, H201, H263, H309, H328, H341, H345, H392, H404, H412, H452, H484, H525, H562, H598, H599, H609, H628, H682, H693, H711, H723, H727, H739, H749, H763, H766, H788, H817, H836, H865, S563, S566
- Meeting notices via e-mail

Members

Chairman

Rep. Davis

Vice Chairman

Rep. Duane Hall

Vice Chairman

Rep. Jackson

Vice Chairman

Rep. Stevens

Vice Chairman

Rep. R.Turner

Members

Rep. Arp, Rep. Farmer-Butterfield, Rep. Howard, Rep. G. Martin, Rep. McNeill, Rep. Meyer, Rep. Rogers, Rep. Steinburg

Judiciary II

House Standing Committee

- Meets: Every Tuesday at 1:00 PM in 421 LOB
- Bills in Committee: H122, H123, H249, H336, H364, H664, H785, S162
- Meeting notices via e-mail

Members

Chairman	Rep. Blust
Vice Chairman	Rep. Faircloth
Vice Chairman	Rep. Hurley
Vice Chairman	Rep. McGrady
Vice Chairman	Rep. Michaux
Members	Rep. Bumgardner, Rep. Fisher, Rep. Destin Hall, Rep. Harrison, Rep. John, Rep. Brenden Jones, Rep. Sauls

Judiciary III

House Standing Committee

- Meets: Every Wednesday at 1:00 PM in 421 LOB
- Bills in Committee: H80, H99, H104, H152, H178, H237, H439, H577, H635, H675, H676, H771, H814
- Meeting notices via e-mail

Members

Chairman

Rep. Jordan

Chairman

Rep. Zachary

Vice Chairman

Rep. Reives

Members

Rep. Conrad, Rep. Hastings, Rep. Horn, Rep. Johnson, Rep. Morey, Rep. Quick, Rep. W. Richardson, Rep. Szoka, Rep. B. Turner, Rep. White

Judiciary IV

House Standing Committee

- Meets: Every Wednesday at 10:00 AM in 1327 LB
- Bills in Committee: H251, H279, H305, H438, H588, H750
- Meeting notices via e-mail

Members

Chairman

Rep. Blackwell

Chairman

Rep. Burr

Members

Rep. Alexander, Rep. Beasley, Rep. Belk, Rep. Butler, Rep. Cleveland, Rep. Garrison, Rep. Bert Jones, Rep. Potts, Rep. B. Richardson, Rep. Riddell, Rep. Setzer, Rep. Torbett, Rep. Warren

Rules and Operations of the Senate

Senate Standing Committee

- Visit the **Committee's website**
- No meeting schedule has been set
- Bills in Committee: H2, H3, H6, H9, H10, H11, H12, H14, H15, H16, H17, H24, H28, H29, H31, H32, H33, H35, H36, H37, H45, H65, H68, H74, H81, H87, H92, H94, H97, H101, H105, H113, H118, H131, H134, H143, H148, H150, H160, H164, H174, H187, H192, H199, H206, H207, H211, H214, H216, H217, H222, H223, H240, H241, H242, H244, H250, H260, H262, H274, H277, H280, H282, H284, H285, H287, H290, H293, H295, H297, H300, H302, H306, H307, H311, H315, H319, H320, H321, H322, H325, H327, H330, H333, H335, H340, H342, H351, H352, H357, H358, H361, H369, H370, H371, H373, H375, H376, H379, H382, H388, H389, H409, H411, H414, H424, H425, H429, H444, H450, H451, H455, H457, H459, H468, H483, H489, H490, H492, H496, H502, H507, H512, H514, H515, H549, H551, H556, H566, H569, H571, H573, H585, H590, H591, H595, H596, H597, H611, H613, H615, H623, H625, H629, H631, H632, H636, H646, H650, H651, H659, H661, H665, H668, H669, H670, H673, H677, H681, H683, H684, H688, H690, H701, H702, H703, H708, H710, H718, H725, H732, H736, H741, H743, H746, H751, H752, H754, H755, H773, H779, H784, H794, H796, H797, H802, H803, H806, H807, H808, H809, H810, H816, H819, H820, H823, H826, H829, H833, H835, H844, H849, H852, H855, H863, H869, H890, H894, S3, S4, S7, S9, S10, S11, S16, S17, S18, S20, S23, S25, S26, S30, S31, S32, S33, S34, S35, S40, S41, S43, S44, S45, S46, S47, S49, S50, S52, S56, S58, S59, S65, S67, S70, S71, S72, S73, S76, S77, S79, S80, S83, S84, S85, S86, S87, S89, S90, S91, S92, S93, S95, S96, S97, S98, S101, S103, S109, S110, S111, S112, S113, S114, S116, S121, S123, S127, S128, S135, S136, S137, S139, S141, S142, S143, S146, S147, S149, S150, S151, S152, S157, S158, S159, S164, S165, S166, S167, S170, S171, S172, S173, S174, S176, S177, S178, S179, S180, S183, S187, S188, S190, S191, S192, S193, S194, S195, S197, S198, S199, S200, S201, S202, S203, S204, S207, S208, S210, S211, S212, S213, S214, S215, S221, S223, S226, S227, S228, S229, S230, S233, S236, S237, S239, S243, S246, S247, S248, S250, S251, S256, S258, S259, S262, S264, S267, S268, S269, S277, S279, S281, S284, S286, S287, S288, S290, S293, S294, S295, S296, S297, S298, S300, S301, S302, S309, S311, S313, S314, S317, S318, S321, S324, S328, S329, S330, S332, S337, S339, S340, S342, S348, S349, S350, S352, S354, S355, S356, S360, S361, S362, S363, S364, S365, S366, S369, S373, S376, S377, S378, S379, S380, S382, S385, S386, S387, S389, S390, S394, S395, S396, S397, S399, S400, S401, S402, S403, S404, S405, S406, S409, S417, S418, S422, S425, S427, S428, S429, S430, S431, S435, S437, S438, S439, S440, S441, S442, S443, S446, S453, S454, S455, S456, S457, S458, S463, S464, S465, S471, S472, S473, S474, S477, S478, S479, S480, S481, S482, S487, S488, S491, S492, S493, S494, S497, S498, S500, S502, S503, S504, S505, S506, S507, S508, S509, S511, S512, S513, S514, S515, S516, S519, S520, S522, S524, S525, S526, S527, S528, S529, S530, S532, S534, S535, S536, S537, S538, S540, S542, S543, S546, S549, S550, S551, S553, S554, S555, S556, S558, S562, S564, S565, S571, S572, S573, S574, S575, S576, S579, S580, S581, S585, S586, S587, S588, S591, S595, S596, S597, S603, S607, S608, S609, S610, S611, S612, S613, S618, S619, S620, S623, S625, S626, S627, S629, S631, S632, S634, S635, S636, S637, S638, S639, S640, S641, S642, S643, S644, S645, S646, S648, S649, S650, S651, S652, S653, S654, S655, S658, S662, S663, S665, S666, S667, S668, S670, S671, S672, S673, S674, S675, S677, S684
- Meeting notices via e-mail

Members

Chairman

Sen. Bill Rabon

Members

Sen. Chad Barefoot, Sen. Dan Blue, Sen. Harry Brown, Sen. Ben Clark, Sen. Warren Daniel, Sen. Joel D. M. Ford, Sen. Kathy Harrington, Sen. Ralph Hise, Sen. Brent Jackson, Sen. Michael V. Lee, Sen. Paul A. Lowe, Jr., Sen. Floyd B. McKissick, Jr., Sen. Wesley Meredith, Sen. Louis Pate, Sen. Shirley B. Randleman, Sen. Jerry W. Tillman, Sen. Tommy Tucker, Sen. Terry Van Duyn, Sen. Trudy Wade

Rules, Calendar, and Operations of the House

House Standing Committee

- Meets: Upon Call
- Bills in Committee: H18, H22, H43, H48, H73, H78, H82, H91, H96, H102, H107, H124, H126, H137, H145, H146, H147, H156, H157, H162, H182, H185, H186, H200, H221, H227, H233, H238, H266, H289, H303, H308, H323, H334, H350, H354, H363, H366, H374, H380, H381, H391, H401, H413, H435, H453, H463, H474, H493, H508, H518, H533, H558, H561, H563, H568, H572, H579, H580, H602, H604, H621, H643, H652, H653, H660, H674, H687, H699, H700, H713, H714, H721, H722, H724, H726, H728, H729, H734, H735, H737, H742, H753, H757, H762, H767, H768, H778, H780, H783, H786, H789, H790, H801, H805, H812, H815, H821, H822, H824, H827, H830, H831, H842, H843, H845, H846, H848, H850, H851, H853, H856, H857, H861, H864, H877, H881, H896, H900, H904, H910, H923, H925, S36, S124, S125, S145, S181, S224, S299, S308, S325, S346, S374, S375, S419, S420, S432, S434, S451, S469, S470, S510, S559, S561, S616, S622
- Meeting notices via e-mail

Members

Chairman

Rep. Lewis

Vice Chairman

Rep. Davis

Vice Chairman

Rep. Stevens

Vice Chairman

Rep. Szoka

Vice Chairman

Rep. Torbett

Members

Rep. J. Bell, Rep. Blust, Rep. Boles, Rep. Brawley, Rep. Bumgardner, Rep. Burr, Rep. Carney, Rep. Dollar, Rep. Dulin, Rep. Earle, Rep. Floyd, Rep. Fraley, Rep. Goodman, Rep. Hanes, Rep. Hardister, Rep. Hastings, Rep. Jackson, Rep. Johnson, Rep. S. Martin, Rep. McGrady, Rep. R. Moore, Rep. Reives, Rep. Ross, Rep. Saine, Rep. Sauls, Rep. Willingham, Rep. Wray

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2017
RATIFIED BILL

RESOLUTION 2017-15
SENATE JOINT RESOLUTION 692

A JOINT RESOLUTION ADJOURNING THE SESSION RECONVENED PURSUANT TO SECTION 2.1 OF RESOLUTION 2017-12, AS AMENDED BY RESOLUTION 2017-14, AND FURTHER AMENDING RESOLUTION 2017-12.

Be it resolved by the Senate, the House of Representatives concurring:

SECTION 1. When the House of Representatives and the Senate jointly adjourn on the date this resolution is ratified, they stand adjourned to reconvene as provided in Resolution 2017-12, as amended by Resolution 2017-14, and as further amended by this resolution.

SECTION 2. Resolution 2017-12, as amended by Resolution 2017-14, reads as rewritten:

"...
SECTION 3.1. ~~Subject to Section 2.2(8) of this Resolution, when~~ When the House of Representatives and the Senate jointly adjourn the session convened on Friday, August 18, 2017, they stand adjourned to reconvene on ~~Wednesday, May 16, 2018,~~ October 4, 2017, at 12:00 noon.

SECTION 3.1A. During the regular session that reconvenes on Wednesday, October 4, 2017, only the following matters may be considered:

- (1) Bills:
 - a. Revising the judicial divisions of the State, the superior court districts, the district court districts, and the prosecutorial districts and the apportionment of judges and district attorneys among those districts and containing no other matter.
 - b. Revising districts for cities, counties, and other political subdivisions of the State and the apportionment of elected officials among those districts and containing no other matter.
 - c. Revising the Senate districts and the apportionment of Senators among those districts and containing no other matter.
 - d. Revising the Representative districts and the apportionment of Representatives among those districts and containing no other matter.
- (2) Bills:
 - a. Proposing an amendment or amendments to the North Carolina Constitution and containing no other matter.
 - b. Proposing an amendment or amendments to the North Carolina Constitution and containing no other matter other than statutory conforming changes to implement such bills.
 - c. Solely making statutory and transitional changes to implement bills under sub-subdivision a. of this subdivision.



- (3) Bills returned by the Governor with his objections under Section 22 of Article II of the North Carolina Constitution, but solely for the purpose of considering overriding of the veto upon reconsideration of the bill.
- (4) Bills providing for selection, appointment, or confirmation as required by law, including the filling of vacancies of positions, for which appointees are elected by the General Assembly upon recommendation of the Speaker of the House of Representatives, President of the Senate, or President Pro Tempore of the Senate.
- (5) Bills providing for action on gubernatorial nominations or appointments.
- (6) Bills providing for impeachment pursuant to Article IV of the North Carolina Constitution or Chapter 123 of the General Statutes.
- (7) Bills responding to actions related to litigation concerning the districts for Congressional, State House, State Senate, judicial, municipal, county, and other elected officials' actions and any other litigation challenging the legality of legislative enactments.
- (8) Bills returned on or after Wednesday, June 28, 2017, to the house in which the bill originated for concurrence.
- (9) Adoption of conference reports for bills which were in conference on or after Wednesday, June 28, 2017, and conferees had been appointed by both houses on or after that date.
- (10) Bills relating to election laws.
- (11) Bills making technical corrections to S.L. 2017-57, S.L. 2017-119, or both.
- (12) Local bills having passed third reading in the house in which introduced, received in the other house in accordance with Senate Rule 41 or House Rule 31.1(h), as appropriate, and not disposed of in the other house by tabling, unfavorable committee report, indefinite postponement, or failure to pass any reading, and which do not violate the rules of the receiving house.
- (13) A joint resolution further adjourning the 2017 Regular Session or amending a joint resolution adjourning the 2017 Regular Session to a date certain.

"SECTION 3.1B. Subject to Section 3.1A(13) of this Resolution, when the House of Representatives and the Senate jointly adjourn the session convened on Wednesday, October 4, 2017, they stand adjourned to reconvene on Wednesday, May 16, 2018, at 12:00 noon.

...."

SECTION 3. This resolution is effective upon ratification.

In the General Assembly read three times and ratified this the 31st day of August, 2017.

s/ Rick Gunn
Presiding Officer of the Senate

s/ Tim Moore
Speaker of the House of Representatives

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2017

SESSION LAW 2017-168
HOUSE BILL 707

AN ACT TO MAKE VARIOUS CHANGES TO THE STATUTES GOVERNING LIEN AGENTS FOR THE PURPOSE OF PROVIDING FOR THE CANCELLATION AND RENEWAL OF A NOTICE TO LIEN AGENT.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 44A-11.1 reads as rewritten:

"§ 44A-11.1. Lien agent; designation and duties.

...
(f) Any attorney who, in connection with a transaction involving improved real property subject to this section for which the attorney is serving as the closing attorney, contacts the lien agent in writing and requests copies of the notices to lien agent, renewals of notices to lien agent, and cancellations of notices to lien agent received by the lien agent relating to the real property not more than five business days prior to the date of recordation of a deed or deed of trust on the real property, shall be deemed to have fulfilled the attorney's professional obligation as closing attorney to check such notices to lien agent, renewals of notices to lien agent, and cancellations of notices to lien agent and shall have no further duty to request that the lien agent provide information pertaining to notices or cancellations received subsequently by the lien agent."

SECTION 2. G.S. 44A-11.2 reads as rewritten:

"§ 44A-11.2. Identification of lien agent; notice to lien agent; effect of notice.

...
(q) For any improvement to real property subject to G.S. 44A-11.1, a potential lien claimant may cancel a Notice to Lien Agent by utilizing the Internet Web site approved for such use by the designated lien agent. For any improvement to real property subject to G.S. 44A-11.1 comprising one- or two-family dwellings, a potential lien claimant shall cancel a Notice to Lien Agent by utilizing the Internet Web site approved for such use by the designated lien agent within a reasonable time after the potential lien claimant has confirmed its receipt of final payment for the improvement to which the Notice to Lien Agent relates.

(r) A Notice to Lien Agent not otherwise cancelled or renewed pursuant to this section expires and is discharged five years from its date of delivery to the lien agent.

(s) A Notice to Lien Agent may be renewed prior to its cancellation or automatic expiration for one five-year period by utilizing the Internet Web site approved for such use by the designated lien agent. Such renewal shall extend the date of expiration by five years.

(t) If a Notice to Lien Agent is timely renewed prior to cancellation or expiration pursuant to this section, the renewal shall maintain and relate back to the original delivery date of the Notice to Lien Agent.

(u) Any protections provided to a potential lien claimant under this section as the result of its delivery of a Notice to Lien Agent shall terminate upon the cancellation or automatic expiration of that Notice to Lien Agent pursuant to this section and shall not thereafter be revived or renewed by subsequent delivery of a Notice to Lien Agent by that potential lien claimant.



(v) Cancellation or expiration of a Notice to Lien Agent pursuant to this section has no affect upon the validity of a previously filed claim of lien or upon the priority of lien rights."

SECTION 3. G.S. 58-26-45 reads as rewritten:

"§ 58-26-45. **Registration as a lien agent.**

...
(b) Upon receipt of the notice of designation by the owner pursuant to G.S. 44A-11.1, a lien agent shall have the duty to do all of the following:

...
(9) Receive cancellations of notices to lien agent and renewals of notices to lien agent pursuant to G.S. 44A-11.2.

...
(d) For services rendered pursuant to each designation as a lien agent for improvements to real property comprising one- or two-family dwellings, a lien agent shall collect a fee of ~~twenty-five-thirty~~ dollars (~~\$25.00~~)-(~~\$30.00~~) from the owner. For services rendered pursuant to each designation as a lien agent for all other improvements to real property, the lien agent shall collect a fee of ~~fifty-fifty-eight~~ dollars (~~\$50.00~~)-(~~\$58.00~~) from the owner.

(e) The Department shall publish on its Web site a current list of lien agents registered pursuant to this section."

SECTION 4. This act becomes effective October 1, 2018.

In the General Assembly read three times and ratified this the 28th day of June, 2017.

s/ Daniel J. Forest
President of the Senate

s/ Tim Moore
Speaker of the House of Representatives

s/ Roy Cooper
Governor

Approved 11:44 a.m. this 21st day of July, 2017

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2017

SESSION LAW 2017-110
HOUSE BILL 584

AN ACT TO CLARIFY THE PROCESS FOR CORRECTING NONMATERIAL ERRORS IN RECORDED INSTRUMENTS OF TITLE, TO CREATE A CURATIVE PROCEDURE FOR OBVIOUS DESCRIPTION ERRORS IN DOCUMENTS OF TITLE, AND TO CREATE A SEVEN-YEAR CURATIVE PROVISION FOR CERTAIN DEFECTS IN RECORDED INSTRUMENTS OF TITLE.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 47-36.1 reads as rewritten:

"§ 47-36.1. ~~Correction~~ Notice of errors in recorded instruments. ~~instruments of title.~~

(a) Notwithstanding G.S. 47-14 and G.S. 47-17, notice of a nonmaterial typographical or other minor error in a deed or other instrument recorded with the register of deeds may be given by recording an a corrective notice affidavit. For purposes of this section, an error that would affect the respective rights of any party to the instrument is not a nonmaterial typographical or minor error. If an a corrective notice affidavit is conspicuously identified as a corrective notice or scrivener's affidavit in its title, the register of deeds shall index the name of the affiant, the names of the original parties in the instrument, the recording information of the instrument being corrected, for which the corrective notice is being given, and the original parties as they are named in the affidavit. A copy of the previously recorded instrument to which the corrective notice affidavit applies may be attached to the corrective notice affidavit and need not be a certified copy. To the extent the correction is inconsistent with the originally recorded instrument, and only to that extent, notice of the corrective information as provided by the affiant in the corrective notice affidavit is deemed to have been given as of the time the corrective notice affidavit is registered. Nothing in this section invalidates or otherwise alters the legal effect of any instrument of correction authorized by statute in effect on the date the instrument was registered.

...."

SECTION 2. Article 2 of Chapter 47 of the General Statutes is amended by adding a new section to read:

"§ 47-36.2. Cure of obvious description errors in recorded instruments.

(a) The following definitions apply to this section, unless the context requires a different meaning:

- (1) Authorized attorney. – An individual licensed to practice law under Chapter 84 of the General Statutes, who is one of the following:
 - a. The attorney who drafted the instrument containing the obvious description error to be corrected.
 - b. Any attorney for a party to the transaction for which the instrument containing the obvious description error was recorded, including, for example, but not limited to, the attorney for (i) the grantor or grantee in a deed; (ii) the mortgagor or mortgagee in a mortgage; (iii) the grantor or trustor in a deed of trust; (iv) the trustee or duly appointed substitute trustee in a deed of trust; (v) the beneficiary of record in a



deed of trust or the assignee of record of the beneficiary's interest; (vi) the assignor or assignee in an assignment of leases, rents, or profits; or (vii) any party to an instrument affecting title to real property.

c. An attorney retained or authorized by either a title insurance company or title insurance agent that either (i) has issued a policy of title insurance covering the subject property in the transaction in which the error occurred or in any subsequent transaction or (ii) proposes to issue a policy of title insurance in reliance on a curative affidavit recorded or to be recorded in accordance with the provisions of this section.

(2) Curative affidavit. – An affidavit executed by an authorized attorney to correct an obvious description error.

(3) Notice of intent. – A notice issued by an authorized attorney of the authorized attorney's intent to sign and record a curative affidavit.

(4) Obvious description error. – An error in the legal description of real property that is contained in an instrument affecting title to real property recorded in the office of the register of deeds in the county in which the real property or any part or parts thereof is located that is evidenced by any of the following:

a. One or more of the following, as stated in the instrument, are inconsistent in that one or more identify the property incorrectly, and the error is made apparent by reference to other information contained in the instrument, contained in an attachment to the instrument, or contained in another instrument in the chain of title for the subject parcel, including a recorded plat:

1. The legal description of the property.
2. The physical address of the property.
3. The tax map identification number of the property.
4. A plat reference.
5. A prior deed reference.

b. The legal description of the real property in the instrument contains one or more errors transcribing courses and distances, including, for example, the omission of one or more lines of courses and distances, the omission of angles and compass directions, or the reversal of courses.

c. The instrument contains an error in a lot or unit number or designation, and the lot or unit described is not owned by the grantor, trustor, mortgagor, or assignor at the time the instrument is executed.

d. The instrument omits an exhibit, attachment, or other descriptive information intended to supply the legal description of the subject property, and the correct legal description may be determined by reference to other information contained in the instrument, including, but not limited to, one or more of the items described in sub-subdivision a. of this subdivision.

The term "obvious description error" does not include and shall not apply to (i) missing or improper signatures or acknowledgements; (ii) any designation of the type of ownership interest or right of survivorship; or (iii) any error in the legal description that operates to convey any interest in real property that the grantor, trustor, mortgagor, or assignor owned at the time of conveyance but did not intend to convey.

- (5) Recorded plat. – A plat that has been prepared by a professional land surveyor licensed pursuant to Chapter 89C of the General Statutes and has been recorded with the register of deeds in the county where the property is situated.
- (6) Recording data. – The book and page number or document number that indicates where an instrument is recorded in the office of the register of deeds.
- (7) Title insurance agent. – A person or entity licensed by the Commissioner of Insurance and contractually authorized by one or more title insurance companies to issue commitments and policies on behalf of said title insurance company and that has issued or proposes to issue a policy of title insurance covering real property described in a recorded instrument needing correction.
- (8) Title insurance company. – A company certified pursuant to Article 26 of Chapter 58 of the General Statutes that has issued or proposes to issue a policy of title insurance covering real property described in a recorded instrument needing correction.

(b) Notwithstanding G.S. 47-14 and G.S. 47-17, obvious description errors in a recorded instrument affecting title to real property may be cured by recording a curative affidavit with the register of deeds in every county where the real property is situated.

(c) Prior to recording a curative affidavit as described in subsection (b) of this section, the authorized attorney seeking to record the affidavit shall serve a notice of intent and a copy of the unsigned proposed curative affidavit on the persons identified in this subsection. Service of the notice of intent and copy of the unsigned proposed curative affidavit shall be made in any manner prescribed for the service of a summons in accordance with Rule 4(j) or Rule 4(j5) of the North Carolina Rules of Civil Procedure. The persons entitled to service of the notice of intent and a copy of the unsigned proposed curative affidavit pursuant to this subsection are as follows:

- (1) All parties to the instrument that is the subject of the curative affidavit. In the case of a deed of trust, the parties to the instrument shall include the grantor or trustor named in the deed of trust, the beneficiary of record, and any assignee of the beneficiary known to the party filing the curative affidavit or its authorized attorney, but need not include the trustee named in the deed of trust or any substitute trustee.
- (2) Any current record mortgagee, record beneficiary, record assignee, or record secured party in any mortgage, deed of trust, assignment of leases, rents or profits, UCC fixture filing, or other recorded instrument of title that may be adversely affected by the recording of the curative affidavit. For the purposes of this subdivision, "instruments of title" means any instrument, recorded after the date of recordation of the instrument that is the subject of the curative affidavit, that affects title or constitutes the chain of title to real property, including, but not limited to, all deeds, wills, estate documents evidencing transfer of title, plats, surveys, easements, rights-of-way, outstanding mortgages and deeds of trust, judicial orders or decrees, and documents evidencing intestate succession.
- (3) The current record owner of the real property.
- (4) The attorney who prepared the instrument that is the subject of the curative affidavit, if known.
- (5) Any title insurance company, if applicable and known, and title insurance agent, if applicable and known, that (i) issued a policy of title insurance covering the subject property in the transaction in which the error occurred

or in any subsequent transaction or (ii) proposes to issue a policy of title insurance in reliance on the proposed curative affidavit.

- (6) The current record owners of all adjoining properties that may be adversely affected by the recording of the curative affidavit, the current record holders of any mineral or timber rights that may be adversely affected by the recording of the curative affidavit, and the record holders of any easement rights that may be adversely affected by the recording of the curative affidavit.

(d) Each person served with the notice of intent and a copy of the unsigned proposed curative affidavit described in subsection (c) of this section that wishes to object to the recordation of the proposed curative affidavit or dispute the facts recited in the proposed curative affidavit must do so in a writing sent in any manner provided for under subsection (e) of this section to the authorized attorney within 30 days after the service of the documents upon that person. The authorized attorney may sign and record the proposed curative affidavit at any time after more than 45 days have elapsed since the last person to be served was served with the notice of intent and a copy of the unsigned proposed curative affidavit. However, the authorized attorney may not record the proposed curative affidavit if, at any time before recording the proposed curative affidavit, the authorized attorney receives a written objection to the recordation of the proposed curative affidavit or a written statement disputing the facts recited in the proposed curative affidavit from any person served with the notice of intent and a copy of the unsigned proposed curative affidavit.

(e) In complying with any requirement for objecting to the recordation of the proposed curative affidavit or disputing the facts recited in the proposed curative affidavit pursuant to this section, the objection or document disputing the facts must be addressed to the authorized attorney and shall be delivered by at least one of the following methods:

- (1) Delivering a copy to the authorized attorney by handing it to the authorized attorney, or by leaving it at the authorized attorney's office with a partner or employee of the authorized attorney.
- (2) Mailing a copy to the authorized attorney's mailing address provided in the notice of intent.
- (3) Sending a copy by facsimile to the authorized attorney's facsimile number provided in the notice of intent, as evidenced by a facsimile receipt confirmation.
- (4) Electronic mail addressed to the authorized attorney's e-mail address provided in the notice of intent.
- (5) Depositing a copy prepaid with a designated delivery service authorized pursuant to 26 U.S.C. § 7502(f)(2) addressed to the authorized attorney's mailing address provided in the notice of intent.

(f) An affidavit is sufficient as a curative affidavit if it does all of the following:

- (1) Contains a statement that the curative affidavit should be indexed as a "subsequent instrument" pursuant to G.S. 161-14.1.
- (2) Contains a statement that the curative affidavit is recorded pursuant to this section to correct an obvious description error contained in a previously recorded instrument.
- (3) Contains a statement that the affiant is an attorney licensed to practice law in North Carolina and is an authorized attorney pursuant to subdivision (1) of subsection (a) of this section.
- (4) Identifies each instrument subject to the curative affidavit by stating the title of the instrument, the parties to the instrument, and the recording data for the instrument.

- (5) Identifies the obvious description error contained in each instrument subject to the curative affidavit.
- (6) Corrects the obvious description error by stating the correct property description.
- (7) Contains a statement that the affiant served a copy of the notice of intent required by subsection (c) of this section and a copy of the unsigned proposed curative affidavit on all persons entitled to notice pursuant to subsection (c) of this section and that service on each such person was properly effected in a manner prescribed for the service of a summons in accordance with Rule 4(j) or Rule 4(j5) of the North Carolina Rules of Civil Procedure.
- (8) Contains a statement that more than 45 days have elapsed since the last person to be served was served, and that before signing and recording the curative affidavit, the affiant did not receive from any person so served any written objection to the recordation of the curative affidavit or any written statement disputing the facts recited in the curative affidavit.
- (9) Provides the name, telephone number, e-mail address (if available), facsimile number (if available), and mailing address of the affiant.
- (10) Is signed and sworn to or affirmed by the authorized attorney as affiant before a notary public, with an appropriate jurat completed by the notary public that conforms to the requirements of Chapter 10B of the General Statutes.

(g) A curative affidavit recorded pursuant to this section in the office of the register of deeds in the county where the real property is located shall operate as a correction of the instrument being corrected that relates back to, and is effective as of, the date the instrument being corrected was originally recorded in the office of the register of deeds, with the same effect as if the description of the property was correct when the instrument was first recorded, and all parties to the instrument being corrected shall be bound by the terms contained in the recorded curative affidavit and the instrument being corrected.

(h) Upon payment of the appropriate recordation fee, the register of deeds shall accept a curative affidavit for recording unless the curative affidavit (i) is submitted by a method or in a medium not authorized for registration by the register of deeds under applicable law, (ii) is not signed by the affiant and sworn to or affirmed as required by law for an affidavit or affirmation, or (iii) lacks a proper jurat. A copy of the previously recorded instrument to which the curative affidavit applies may be attached to or recorded with the curative affidavit and need not be a certified copy. The register of deeds shall not be required to verify or make inquiry concerning (i) the truth of the matters stated in any curative affidavit or (ii) the authority of the person executing any curative affidavit to do so. The register of deeds shall index the curative affidavit in the name of the affiant and in the names of the various parties, other than a trustee or substitute trustee named in a deed of trust, to each instrument being corrected as both grantees and grantors, irrespective of their designation in the instrument being corrected. The costs associated with the recording of a curative affidavit pursuant to this section shall be paid by the party submitting the affidavit to the register of deeds.

(i) A curative affidavit recorded in compliance with this section shall be prima facie evidence of the facts stated therein. Any person who wrongfully or erroneously records a curative affidavit is liable for actual damages sustained by any party as a result of the recordation, including reasonable attorneys' fees and costs.

(j) The remedies prescribed by this section are not exclusive and do not abrogate any rights or remedies otherwise available under the laws of this State, including any rights or remedies under G.S. 47-36.1.

(k) No particular phrasing is required for a curative affidavit. A curative affidavit in substantially the following form, when properly completed, is sufficient to satisfy the requirements of subsection (f) of this section:

"Curative Affidavit

This curative affidavit should be indexed as a "subsequent instrument" pursuant to G.S. 161-14.1.

I, _____, certify as follows:

1. This curative affidavit is recorded pursuant to G.S. 47-36.2 to correct an obvious description error contained in a previously recorded instrument.
2. I am an attorney licensed to practice law in North Carolina. I am an "authorized attorney" as defined in G.S. 47-36.2(a)(1).
3. The instrument or instruments containing an obvious description error requiring correction are identified as follows:
Insert here the following information regarding each instrument to be corrected: the title of the instrument, the parties to the instrument, and the recording data for the instrument.
4. The obvious description error contained in the instrument(s) to be corrected is identified or described as follows:
Insert here the erroneous description that requires correction.
5. The erroneous property description is corrected to read as follows:
Insert here the correct description of the real property.
6. I have served a copy of a notice of my intent to sign and record this curative affidavit and a copy of this curative affidavit, unsigned, on all persons entitled to notice pursuant to G.S. 47-36.2(c). Service on each such person was properly effected in a manner prescribed for the service of a summons in accordance with Rule 4(j) or Rule 4(j5) of the North Carolina Rules of Civil Procedure, and more than 45 days have elapsed since the last person to be served was served. By signing and recording this affidavit I certify that I did not receive from any person so served any written objection to the recordation of this curative affidavit or any written statement disputing the facts recited in this curative affidavit.
7. My contact information is as follows:
Insert here the affiant's name, telephone number, email address (if available), facsimile number (if available), and mailing address.

Date: _____

Signature of Affiant

COUNTY OF _____, STATE OF _____

The foregoing curative affidavit was sworn to or affirmed and subscribed before me this day by

_____.

Date: _____

Signature of Notary Public

Official Seal

_____, Notary Public
Print or Type Notary's Name

My commission expires: _____"

(l) The form of the notice of intent to be given as described in subsection (c) of this section shall be substantially as follows (including capitalization and bold typeface as shown):

"NOTICE OF INTENT TO CORRECT AN OBVIOUS DESCRIPTION ERROR"

This is an important legal document that requires your immediate attention. Your property rights may be affected, and you may need to respond to this notice in writing.

I am an attorney licensed to practice law in North Carolina. My contact information is as follows:

Insert the name, telephone number, email address (if available), facsimile number (if available), and mailing address of the authorized attorney issuing the notice.

I have discovered or have been advised of an error in the description of real property contained in one or more instruments recorded as part of a real estate-related transaction. A copy of a proposed Curative Affidavit accompanies this notice. The proposed Curative Affidavit identifies the previously recorded instrument or instruments that contain the description errors that I plan to correct, the description error or errors that require correction, and the correct description of the real property. If I sign and record the proposed Curative Affidavit, it will have the legal effect of correcting the erroneous property description in the listed instrument or instruments that contain the description errors.

Real property you own may be affected if I correct the erroneous description of the real property in the instrument or instruments identified in the proposed Curative Affidavit. You should consult with your attorney and your title insurance company, if known, promptly to determine whether and the extent to which my correction of the legal description in the instrument or instruments that need to be corrected will impact your property or property rights.

IF YOU WISH TO OBJECT TO MY SIGNING AND RECORDING THE PROPOSED CURATIVE AFFIDAVIT OR DISPUTE THE FACTS RECITED IN THE PROPOSED CURATIVE AFFIDAVIT, YOU MUST DO SO IN A WRITING SENT OR DELIVERED TO ME WITHIN 30 DAYS AFTER THE DATE YOU WERE SERVED WITH THIS NOTICE AND THE PROPOSED CURATIVE AFFIDAVIT.

Your writing must be sent or delivered to me by one of the following methods:

- (1) Delivering a copy by handing it to me or by leaving it at my office with a partner or employee of mine.
- (2) Mailing a copy to me at the mailing address provided in this notice of intent.
- (3) Sending a copy by facsimile to my facsimile number, if provided in this notice of intent, as evidenced by a facsimile receipt confirmation.
- (4) Electronic mail sent to my e-mail address, if provided in this notice of intent.
- (5) Depositing a copy prepaid with a designated delivery service authorized pursuant to 26 U.S.C. § 7502(f)(2) addressed to the mailing address provided in this notice of intent.

I am not permitted to sign or record the Curative Affidavit if, at any time before I actually sign and record it, I receive a written objection to my signing and recording the Curative Affidavit or a written statement disputing the facts contained in the Curative Affidavit from any person served with this notice and a copy of the unsigned proposed Curative Affidavit. However, assuming I do not receive any such objection or statement disputing the facts, Section 47-36.2 of the North Carolina General Statutes permits me to sign and record the Curative Affidavit at any time after more than 45 days have elapsed since the last person to be served was served with this notice and a copy of the unsigned proposed Curative Affidavit, and I intend to do so.

If you object to my signing and recording the Curative Affidavit or dispute the facts recited in the proposed Curative Affidavit, you need to send or deliver your written objection or

written statement disputing the facts recited in the proposed Curative Affidavit to me promptly using one of the methods described above. While I encourage you to call me if you have questions, your telephone call will not be sufficient – you must write to me if you dispute the facts recited in the proposed Curative Affidavit or object to my signing and recording the Curative Affidavit.

Date: _____

Signature of authorized attorney"

(m) Nothing in this section requires that a curative affidavit be attached to an original or certified copy of a previously recorded instrument that is unchanged but rerecorded. Nothing in this section requires that a curative affidavit be attached to a copy of a previously recorded instrument that includes identified corrections or an original execution by a party or parties of the corrected instrument after the original recording with proof or acknowledgment of their execution of the correction of the instrument.

(n) The period prescribed for the commencement of an action contesting the validity or efficacy of a curative affidavit recorded under this statute shall be one year from the date of recordation of the curative affidavit. This subsection does not apply to an action for damages sustained by any party as a result of the wrongful or erroneous recordation of a curative affidavit as provided in subsection (i) of this section."

SECTION 3. Article 4 of Chapter 47 of the General Statutes is amended by adding a new section to read:

"§ 47-108.28. Seven-year curative statute.

(a) An instrument conveying or purporting to convey an interest in real property that contains a defect, irregularity, or omission shall be deemed effective to vest title as stated therein and to the same extent as though the instrument had not contained the material defect, irregularity, or omission, if both of the following conditions are met:

- (1) The instrument is recorded by the register of deeds in the county or counties where the property is situated.
- (2) The material defect, irregularity, or omission is not corrected within seven years after the instrument was recorded.

The proper recordation and indexing of a curative instrument or a notice of lis pendens shall toll the seven-year curative period.

(b) For the purposes of this section only, an instrument shall be deemed to contain a "defect, irregularity, or omission" when any of the following conditions are met:

- (1) The recorded instrument lacks any of the following:
 - a. A properly executed form of acknowledgment as provided under Article 3 of this Chapter or Chapter 10B of the General Statutes.
 - b. The proper recital of consideration paid.
 - c. The residence of a party.
 - d. The address of the property
 - e. The address of a party.
 - f. The date of the instrument.
 - g. The date of any instrument or obligation secured by the instrument.
 - h. The proper affixation of seal by any person authorized to execute an instrument by virtue of an office or appointment held by the grantor that is required to affix the seal to the recorded instrument under applicable law.
- (2) The name of a grantor, trustor, mortgagor, assignor, borrower, or other person with an interest in the property does not appear in any part of the

instrument, but the person executed the instrument without limitation or qualification. The person who executed the instrument without limitation or qualification shall be deemed to have conveyed or encumbered (as applicable) any interest or right such person then had in the property conveyed or encumbered by the terms of the instrument.

(c) Nothing in this section is intended to modify any provisions of law pertaining to the competency or infancy of the grantor or the provisions of Chapter 22 of the General Statutes or to limit any remedies available under the laws of this State."

SECTION 4. G.S. 161-14.1(a) reads as rewritten:

"§ 161-14.1. Recording subsequent entries as separate instruments.

(a) As used in this section, the following terms mean:

- ...
- (3) Subsequent instrument. – Any instrument presented for registration that indicates in its title or within the first two pages of its text that it is intended or purports to correct, modify, amend, supplement, assign, satisfy, terminate, revoke, or cancel a previously registered instrument. Examples of subsequent instruments include the following:
- a. The appointment or designation of a substitute trustee in a deed of trust.
 - b. A corrective notice affidavit registered pursuant to G.S. 45-36.1, G.S. 47-36.1 or a curative affidavit registered pursuant to G.S. 47-36.2.

...."

SECTION 5. This act becomes effective August 31, 2018, and applies to curative affidavits filed on or after that date.

In the General Assembly read three times and ratified this the 29th day of June, 2017.

s/ Daniel J. Forest
President of the Senate

s/ Tim Moore
Speaker of the House of Representatives

s/ Roy Cooper
Governor

Approved 6:57 p.m. this 12th day of July, 2017

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2017

SESSION LAW 2017-102
HOUSE BILL 229

AN ACT TO MAKE TECHNICAL CORRECTIONS TO THE GENERAL STATUTES, AS RECOMMENDED BY THE GENERAL STATUTES COMMISSION, AND TO MAKE OTHER TECHNICAL, CONFORMING, AND CLARIFYING CHANGES.

The General Assembly of North Carolina enacts:

PART I. TECHNICAL CORRECTIONS RECOMMENDED BY THE GENERAL STATUTES COMMISSION

SECTION 1. G.S. 1-117 reads as rewritten:

"§ 1-117. Cross-index of lis pendens.

Every notice of pending litigation filed under this Article shall be cross-indexed by the clerk of the superior court in a record, called the "Record of Lis Pendens," to be kept by him pursuant to ~~G.S. 2-42(6)~~ the clerk under G.S. 7A-109."

SECTION 2. G.S. 7B-302(a) reads as rewritten:

"(a) When a report of abuse, neglect, or dependency is received, the director of the department of social services shall make a prompt and thorough assessment, using either a family assessment response or an investigative assessment response, in order to ascertain the facts of the case, the extent of the abuse or neglect, and the risk of harm to the juvenile, in order to determine whether protective services should be provided or the complaint filed as a petition. When the report alleges abuse, the director shall immediately, but no later than 24 hours after receipt of the report, initiate the assessment. When the report alleges neglect or dependency, the director shall initiate the assessment within 72 hours following receipt of the report. When the report alleges abandonment of a ~~[juvenile]~~ juvenile or unlawful transfer of custody under G.S. 14-321.2, the director shall immediately initiate an assessment. When the report alleges abandonment, the director shall also take appropriate steps to assume temporary custody of the juvenile, and take appropriate steps to secure an order for nonsecure custody of the juvenile. The assessment and evaluation shall include a visit to the place where the juvenile resides, except when the report alleges abuse or neglect in a child care facility as defined in Article 7 of Chapter 110 of the General Statutes. When a report alleges abuse or neglect in a child care facility as defined in Article 7 of Chapter 110 of the General Statutes, a visit to the place where the juvenile resides is not required. When the report alleges abandonment, the assessment shall include a request from the director to law enforcement officials to investigate through the North Carolina Center for Missing Persons and other national and State resources whether the juvenile is a missing child."

SECTION 3. G.S. 14-118.6(b1) reads as rewritten:

"(b1) When a lien or encumbrance is presented to a clerk of superior court for filing and the clerk of court has a reasonable suspicion that the lien or encumbrance is false as described in subsection (a) of this section, the clerk of court may refuse to file the lien or encumbrance. Neither the clerk of court nor the clerk's staff shall be liable for filing or the refusal to file a lien or encumbrance under this subsection. The clerk of superior court shall not file, index, or docket the document against the property of a public officer or public employee until that document is approved by any judge of the judicial district having subject matter jurisdiction for



filing by the clerk of superior court ~~by any judge of the judicial district having subject matter jurisdiction.~~ court. If the judge determines that the filing is not false, the clerk shall index the claim of lien. A lien or encumbrance filed upon order of the court under this subsection shall have a priority interest as of the date and time of indexing by the clerk of superior court. If the court finds that there is no statutory or contractual basis for the proposed filing, the court shall enter an order that the proposed filing is null and void as a matter of law, and that it shall not be filed or indexed. The clerk of superior court shall serve the order and return the original denied filing to the person or entity that presented it. The person or entity shall have 30 days from the entry of the order to appeal the order. If the order is not appealed within the applicable time period, the clerk may destroy the filing."

SECTION 4. G.S. 14-159.3(a1) reads as rewritten:

"(a1) A landowner who gives a person written consent to operate an all-terrain vehicle on ~~his or her~~ the landowner's property owes the person the same duty of care that ~~he or she~~ the landowner owes a trespasser."

SECTION 5. G.S. 14-208.6 reads as rewritten:

"§ 14-208.6. Definitions.

The following definitions apply in this Article:

- ...
- (5) "Sexually violent offense" means a violation of former G.S. 14-27.6 (attempted rape or sexual offense), G.S. 14-27.21 (first-degree forcible rape), G.S. 14-27.22 (second-degree forcible rape), G.S. 14-27.23 (statutory rape of a child by an adult), G.S. 14-27.24 (first-degree statutory rape), G.S. 14-27.25(a) (statutory rape of a person who is 15 years of age or younger and where the defendant is at least six years older), G.S. 14-27.26 (first-degree forcible sexual offense), G.S. 14-27.27 (second-degree forcible sexual offense), G.S. 14-27.28 (statutory sexual offense with a child by an adult), G.S. 14-27.29 (first-degree statutory sexual offense), G.S. 14-27.30(a) (statutory sexual offense with a person who is 15 years of age or younger and where the defendant is at least six years older), G.S. 14-27.31 (sexual activity by a substitute parent or custodian), G.S. 14-27.32 (sexual activity with a student), G.S. 14-27.33 (sexual battery), G.S. 14-43.11 (human trafficking) if (i) the offense is committed against a minor who is less than 18 years of age or (ii) the offense is committed against any person with the intent that they be held in sexual servitude, G.S. 14-43.13 (subjecting or maintaining a person for sexual servitude), G.S. 14-178 (incest between near relatives), G.S. 14-190.6 (employing or permitting minor to assist in offenses against public morality and decency), G.S. 14-190.9(a1) (felonious indecent exposure), G.S. 14-190.16 (first degree sexual exploitation of a minor), G.S. 14-190.17 (second degree sexual exploitation of a minor), G.S. 14-190.17A (third degree sexual exploitation of a minor), G.S. 14-202.1 (taking indecent liberties with children), G.S. 14-202.3 (Solicitation of child by computer or certain other electronic devices to commit an unlawful sex act), G.S. 14-202.4(a) (taking indecent liberties with a student), G.S. 14-205.2(c) or (d) (patronizing a prostitute who is a minor or a mentally disabled person), G.S. 14-205.3(b) (promoting prostitution of a minor or a mentally disabled person), G.S. 14-318.4(a1) (parent or caretaker commit or permit act of prostitution with or by a juvenile), or G.S. 14-318.4(a2) (commission or allowing of sexual act upon a juvenile by parent or guardian). The term also includes the following: a solicitation or conspiracy to commit any of these offenses; aiding and abetting any of these offenses.

- b. The defendant had a previously consumed controlled substance in his the defendant's body.

It shall be a defense to an immediate service of sentence of jail time and ineligibility for weekend service of jail time if the court determines that alcohol or controlled substance was lawfully obtained and was taken in therapeutically appropriate amounts.

...."

SECTION 8. G.S. 24-10.1(a) reads as rewritten:

"(a) Subject to the limitations contained in subsection (b) of this section, any lender may charge a party to a loan or extension of credit governed by the provisions of ~~G.S. 24-1.1, 24-1.2, G.S. 24-1.1~~ or ~~24-1.1A~~ G.S. 24-1.1A a late payment charge as agreed upon by the parties in the loan contract."

SECTION 9. G.S. 28A-2-4 reads as rewritten:

"§ 28A-2-4. Subject matter jurisdiction of the clerk of superior court in estate proceedings.

(a) The clerks of superior court of this State, as ex officio judges of probate, shall have original jurisdiction of estate proceedings. Except as provided in subdivision (4) of this subsection, the jurisdiction of the clerk of superior court is exclusive. Estate proceedings include, but are not limited to, the following:

- (1) Probate of wills.
- (2) Granting and revoking of letters testamentary and letters of administration, or other proper letters of authority for the administration of estates.
- (3) Determination of the elective share for a surviving spouse as provided in G.S. 30-3.
- (4) Proceedings to ascertain heirs or devisees, to approve settlement agreements pursuant to G.S. 28A-2-10, to determine questions of construction of wills, to determine priority among creditors, to determine whether a person is in possession of property belonging to an estate, to order the recovery of property of the estate in possession of third parties, and to determine the existence or nonexistence of any immunity, power, privilege, duty, or right. Any party or the clerk of superior court may file a notice of transfer of a proceeding pursuant to this subdivision to the Superior Court Division of the General Court of Justice as provided in G.S. 28A-2-6(h). In the absence of a transfer to superior court, Article 26 of Chapter 1 of the General Statutes shall apply to ~~a trust~~ an estate proceeding pending before the clerk of superior court to the extent consistent with this Article.

(b) Nothing in this section shall affect the right of a person to file an action in the Superior Court Division of the General Court of Justice for declaratory relief under Article 26 of Chapter 1 of the General Statutes. In the event that either the petitioner or the respondent in an estate proceeding requests declaratory relief under Article 26 of Chapter 1 of the General Statutes, either party may move for a transfer of the proceeding to the Superior Court Division of the General Court of Justice as provided in Article 21 of Chapter 7A of the General Statutes. In the absence of a removal to superior court, Article 26 of Chapter 1 of the General Statutes shall apply to an estate proceeding to the extent consistent with this Article.

(c) Without otherwise limiting the jurisdiction of the Superior Court Division of the General Court of Justice, the clerk of superior court shall not have jurisdiction under subsection (a) or ~~(e)~~ (b) of this section or G.S. 28A-2-5 of the following:

- (1) Actions by or against creditors or debtors of an estate, except as provided in Article 19 of this Chapter.
- (2) Actions involving claims for monetary damages, including claims for breach of fiduciary duty, fraud, and negligence.

- (3) Caveats, except as provided under G.S. 31-36.
- (4) Proceeding to determine proper county of venue as provided in G.S. 28A-3-2.
- (5) Recovery of property transferred or conveyed by a decedent with intent to hinder, delay, or defraud creditors, pursuant to G.S. 28A-15-10(b)."

SECTION 10. G.S. 28A-19-5(b) reads as rewritten:

"(b) With respect to a contingent or unliquidated claim rejected by a personal representative pursuant to G.S. 28A-19-16, the claimant may, within the three-month period prescribed by G.S. 28A-19-16, file a petition for an order of the clerk of superior court in accordance with subsection (a) of this section, provided that nothing in this section shall require the clerk of superior court to hear and determine the validity of, priority of, or amount of a contingent or unliquidated claim that has not yet become absolute."

SECTION 11. G.S. 31B-1(a) reads as rewritten:

"(a) A person who succeeds to a property interest as:

- ...
- (8) ~~Appointee~~ Appointee, permissible appointee, or taker in default under a power of appointment exercised by a testamentary instrument or a nontestamentary instrument;
- ...

may renounce at anytime, in whole or in part, the right of succession to any property or interest therein, including a future interest, by filing a written instrument under the provisions of this Chapter. A renunciation may be of a fractional share or any limited interest or estate. The renunciation shall be deemed to include the entire interest of the person whose property or interest is being renounced unless otherwise specifically limited. A person may renounce any interest in or power over property, including a power of appointment, even if its creator imposed a spendthrift provision or similar restriction on transfer or a restriction or limitation on the right to renounce. Notwithstanding the foregoing, there shall be no right of partial renunciation if the instrument creating the interest expressly so provides."

SECTION 12.(a) G.S. 36C-8-816.1 reads as rewritten:

"§ 36C-8-816.1. Trustee's special power to appoint to a second trust.

- (a) For purposes of this section, the following definitions apply:
 - (1) Current beneficiary. – A person who is a permissible distributee of trust income or principal.
 - (2) Original trust. – A trust established under an irrevocable trust instrument pursuant to the terms of which a trustee has a discretionary power to distribute principal or income of the trust to or for the benefit of one or more current beneficiaries of the trust.
 - (3) Second trust. – A trust established under an irrevocable trust instrument, the current beneficiaries of which are one or more of the current beneficiaries of the original trust. The second trust may be a trust created under the same trust instrument as the original trust or under a different trust instrument.

(b) A trustee of an original trust may, without authorization by the court, exercise the discretionary power to distribute principal or income to or for the benefit of one or more current beneficiaries of the original trust by appointing all or part of the principal or income of the original trust subject to the power in favor of a trustee of a second trust. The trustee of the original trust may exercise this power whether or not there is a current need to distribute principal or income under any standard provided in the terms of the original trust. The trustee's special power to appoint trust principal or income in further trust under this section includes the power to create the second trust. The second trust may have a duration that is longer than the duration of the first trust.

- (c) The terms of the second trust shall be subject to all of the following:

- (1) The beneficiaries of the second trust may include only beneficiaries of the original trust.
- (2) A beneficiary who has only a future beneficial interest, vested or contingent, in the original trust cannot have the future beneficial interest accelerated to a present interest in the second trust.
- (3) The terms of the second trust may not reduce any fixed income, annuity, or unitrust interest of a beneficiary in the assets of the original trust if that interest has come into effect with respect to the beneficiary.
- (4) If any contribution to the original trust qualified for a marital or charitable deduction for federal income, gift, or estate tax purposes under the Internal Revenue Code, then the second trust shall not contain any provision that, if included in the original trust, would have prevented the original trust from qualifying for the deduction or that would have reduced the amount of the deduction.
- (5) If contributions to the original trust have been excluded from the gift tax by the application of section 2503(b) and section 2503(c) of the Internal Revenue Code, then the second trust shall provide that the beneficiary's remainder interest in the contributions shall vest and become distributable no later than the date upon which the interest would have vested and become distributable under the terms of the original trust.
- (6) If any beneficiary of the original trust has a power of withdrawal over trust property, then either:
 - a. The terms of the second trust must provide a power of withdrawal in the second trust identical to the power of withdrawal in the original trust; or
 - b. Sufficient trust property must remain in the original trust to satisfy the outstanding power of withdrawal.
- (7) If a trustee of an original trust exercises a power to distribute principal or income that is subject to an ascertainable standard by appointing property to a second trust, then the power to distribute income or principal in the second trust must be subject to the same ascertainable standard as in the original trust and must be exercisable in favor of the same current beneficiaries to whom such distribution could be made in the original trust.
- (8) The second trust may confer a power of appointment upon a beneficiary of the original trust to whom or for the benefit of whom the trustee has the power to distribute principal or income of the original trust. The permissible appointees of the power of appointment conferred upon a beneficiary may include persons who are not beneficiaries of the original or second trust. The power of appointment conferred upon a beneficiary shall be subject to the provisions of G.S. 41-23 specifying the permissible period allowed for the suspension of the power of alienation of the original trust and the time from which that permissible period is computed.
- (9) The terms of the second trust shall not contain any provisions that would jeopardize (i) the qualification of a transfer as a direct skip under section 2642(c) of the ~~Internal Revenue~~ Internal Revenue Code, (ii) if the first trust owns subchapter S Corporation stock, the election to treat a corporation as a subchapter S Corporation under section 1362 of the Internal Revenue Code, (iii) if the first trust owns an interest in property subject to the minimum distribution rules of section 401(a)(9) of the Internal Revenue Code, a favorable distribution period by shortening the minimum distribution period, or (iv) any other specific tax benefit for which a ~~contribution originally the~~

first trust was clearly designed to qualify and for which the first trust qualified or would have qualified for income, gift, estate, or generation-skipping transfer tax purposes. but for the enactment of this section. In this subdivision, "tax benefit" means a federal or State tax deduction, exemption, exclusion, or other benefit not otherwise listed in this section, except for the benefit from having the settlor considered the owner under sections 671 through 679 of the Internal Revenue Code. Subject to clause (ii) above, the second trust may be a trust as to which the settlor is not considered the owner under sections 671 through 679 of the Internal Revenue Code even if the settlor is considered the owner of the first trust, and the second trust may be a trust as to which the settlor of the first trust is considered the owner under sections 671 through 679 of the Internal Revenue Code, even if the settlor is not considered the owner of the first trust.

- (10) Notwithstanding any other provision of this section, but subject to the limitations of subdivisions (1), (2), (4), (5), and (9) of this subsection, a trustee may exercise the power to appoint principal and income under subsection (b) of this section with respect to a disabled beneficiary's interest in the original trust to a second trust that is a supplemental needs trust that does not have (i) an ascertainable standard (or has a different ascertainable standard); (ii) a fixed income, annuity, or unitrust interest in the assets of the original trust; or (iii) a right of withdrawal, if the trustee determines that it would be in the best interest of the disabled beneficiary. For purposes of this subsection, the following apply:
- a. A "supplemental needs trust" means a trust that is a discretionary trust under G.S. 36C-5-504 and relative to the original trust contains either lesser or greater restrictions on the trustee's power to distribute income or principal, and which the trustee believes would, if implemented, allow the disabled beneficiary to receive greater governmental benefits than the disabled beneficiary would receive if the power to appoint principal and income had not been exercised.
 - b. "Governmental benefits" means medical assistance, financial aid, or services from any local, State, or federal agency or department.
 - c. A "disabled beneficiary" means a current beneficiary of the original trust who the trustee determines has a condition that substantially impairs the beneficiary's ability to provide for his or her own support, care, or custody whether or not the beneficiary has been adjudicated a "disabled person" by any government agency or department.
 - d. The second supplemental needs trust shall not be liable to pay or reimburse the State or any government or public agency for medical assistance, financial aid, or services provided to the disabled beneficiary except as provided in the second supplemental needs trust.

(d) A trustee may not exercise the power to appoint principal or income under subsection (b) of this section if the trustee is a beneficiary of the original trust, but the remaining cotrustee or a majority of the remaining cotrustees may act for the trust. If all the trustees are beneficiaries of the original trust, then the court may appoint a special fiduciary with authority to exercise the power to appoint principal or income under subsection (b) of this section.

(e) The exercise of the power to appoint principal or income under subsection (b) of this section:

- (1) Shall be considered the exercise of a power of appointment, other than a power to appoint to the trustee, the trustee's creditors, the trustee's estate, or the creditors of the trustee's estate; and
- (2) Shall be subject to the provisions of G.S. 41-23 specifying the permissible period allowed for the suspension of the power of alienation of the original trust and the time from which that permissible period is computed; and
- (3) Is not prohibited by a spendthrift provision or by a provision in the original trust instrument that prohibits amendment or revocation of the trust.

(f) To effect the exercise of the power to appoint principal or income under subsection (b) of this section, all of the following shall apply:

- (1) The exercise of the power to appoint shall be made by an instrument in writing, signed and acknowledged by the trustee, setting forth the manner of the exercise of the power, including the terms of the second trust, and the effective date of the exercise of the power. The instrument shall be filed with the records of the original trust.
- (2) The trustee shall give written notice to all qualified beneficiaries of the original trust, at least 60 days prior to the effective date of the exercise of the power to appoint, of the trustee's intention to exercise the power. The notice shall include a copy of the instrument described in subdivision (1) of this subsection.
- (3) If all qualified beneficiaries waive the notice period by a signed written instrument delivered to the trustee, the trustee's power to appoint principal or income shall be exercisable after notice is waived by all qualified beneficiaries, notwithstanding the effective date of the exercise of the power.
- (4) The trustee's notice under this subsection shall not limit the right of any beneficiary to object to the exercise of the trustee's power to appoint and bring an action for breach of trust seeking appropriate relief as provided by G.S. 36C-10-1001.

(g) Nothing in this section shall be construed to create or imply a duty of the trustee to exercise the power to distribute principal or income, and no inference of impropriety shall be made as a result of a trustee not exercising the power to appoint principal or income conferred under subsection (b) of this section. Nothing in this section shall be construed to abridge the right of any trustee who has a power to appoint property in further trust that arises under the terms of the original trust or under any other section of this Chapter or under another provision of law or under common law.

(h) A trustee or beneficiary may commence a proceeding to approve or disapprove a proposed exercise of the trustee's special power to appoint to a second trust pursuant to subsection (b) of this section."

SECTION 12.(b) If Senate Bill 450, 2017 Regular Session, becomes law, this section is repealed.

SECTION 12.1.(a) G.S. 36F-2 reads as rewritten:

"§ 36F-2. Definitions.

The following definitions apply in this Chapter:

...
(5) ~~Reserved.~~

...
(21) ~~Reserved.~~

...."

SECTION 12.1.(b) G.S. 36F-13 reads as rewritten:

"§ 36F-13. Disclosure of other digital assets held in trust when trustee not original user.

Unless otherwise ordered by the court, directed by the user, or provided in a trust, a custodian shall disclose, to a trustee that is not an original user of an account, a catalogue of electronic communications sent or received by an original or successor user and stored, carried, or maintained by the custodian in an account of the trust and any digital assets, other than the content of electronic communications, in which the trust has a right or interest if the trustee gives the custodian all of the following:

- (1) A written request for disclosure in physical or electronic form.
- (2) A ~~certified~~-verified copy of the trust instrument or a certification of the trust under G.S. 36C-10-1013.
- (3) A certification by the trustee, under penalty of perjury, that the trust exists and the trustee is a currently acting trustee of the trust.
- (4) If requested by the custodian, any of the following:
 - a. A number, username, address, or other unique subscriber or account identifier assigned by the custodian to identify the trust's account.
 - b. Evidence linking the account to the trust."

SECTION 13.(a) G.S. 39-33 and G.S. 39-34 are repealed.

SECTION 13.(b) G.S. 39-35 is recodified as G.S. 31D-5-505.

SECTION 13.(c) G.S. 39-36 is recodified as G.S. 31D-4-403.1.

SECTION 13.1. G.S. 42A-4 reads as rewritten:

"§ 42A-4. Definitions.

The following definitions apply in this Chapter:

...
(1b) through (1f) ~~Reserved.~~

...
(4) Vacation rental agreement. – A written agreement between a landlord or ~~his or her~~the landlord's real estate broker and a tenant in which the tenant agrees to rent residential property belonging to the landlord for a vacation rental."

SECTION 14. Reserved.

SECTION 14.1.(a) G.S. 53-208.42(20) reads as rewritten:

"(20) Virtual currency. – A digital representation of value that can be digitally traded and functions as a medium of exchange, a unit of account, or a store of value but only to the extent defined as stored value under ~~G.S. 53-208.42(19), subdivision (19) of this section,~~ but does not have legal tender status as recognized by the United States Government."

SECTION 14.1.(b) G.S. 53-208.44(a) reads as rewritten:

"(a) This Article shall not apply to any of the following:

- ...
- (7) A person that is engaged exclusively in any of the following:
 - a. Delivering wages or salaries on behalf of employers to ~~employees;employees.~~
 - b. Facilitating the payment of payroll taxes to State and federal ~~ageneies;agencies.~~
 - c. Making payments relating to employee benefit ~~plans;plans.~~
 - d. Making distribution of other authorized deductions from employees' wages or ~~salaries; orsalaries.~~
 - e. Transmitting other funds on behalf of an employer in connection with transactions related to employees.
 - (8) A person appointed by a payee to collect and process payments as the bona fide agent of the payee, provided the person can demonstrate to the Commissioner ~~that~~all of the following:

SECTION 33.4.(a) The introductory language of Section 6.1(a) of S.L. 2016-123 reads as rewritten:

"**SECTION 6.1.(a)** If House Bill 1030, 2015 Regular Session, becomes law, then ~~G.S. 13-202.1(f)~~, G.S. 113-202.1(f), as enacted by Section 14.11(b) of that act, reads as rewritten:"

SECTION 33.4.(b) The introductory language of Section 6.1(b) of S.L. 2016-123 reads as rewritten:

"**SECTION 6.1.(b)** If House Bill 1030, 2015 Regular Session, becomes law, then ~~G.S. 13-202.2(f)~~, G.S. 113-202.2(f), as enacted by Section 14.11(c) of that act, reads as rewritten:"

SECTION 34.(a) The Revisor of Statutes shall cause to be printed an explanatory comment to G.S. 36C-1-112, prepared by the Estate Planning and Fiduciary Law Section of the North Carolina Bar Association, that Section having originally prepared Chapter 36C of the General Statutes for introduction in 2005, as the Revisor may deem appropriate.

SECTION 34.(b) The Revisor of Statutes shall cause to be printed all explanatory comments of the drafters of Sections 12 and 13(b) and 13(c) of this act, as the Revisor may deem appropriate.

PART II. OTHER TECHNICAL, CONFORMING, AND CLARIFYING AMENDMENTS

SECTION 35. G.S. 12-3 is amended by adding two new subdivisions to read:

"(16) "Husband and Wife" and similar terms. – The words "husband and wife," "wife and husband," "man and wife," "woman and husband," "husband or wife," "wife or husband," "man or wife," "woman or husband," or other terms suggesting two individuals who are then lawfully married to each other shall be construed to include any two individuals who are then lawfully married to each other.

(17) "Widow" and "Widower." – The words "widow" and "widower" mean the surviving spouse of a deceased individual."

SECTION 35.1. The catch line of G.S. 42-45.2 reads as rewritten:

"§ 42-45.2. Early termination of rental agreement by ~~military and~~ tenants residing in certain foreclosed property."

SECTION 36. G.S. 58-37-1(6) reads as rewritten:

"(6) "Motor vehicle" means every self-propelled vehicle that is designed for use upon a highway, including trailers and semitrailers designed for use with such vehicles (except traction engines, road rollers, farm tractors, tractor cranes, power shovels, and well drillers). "Motor vehicle" also means a motorcycle, as defined in G.S. 20-4.01(27)d., and a moped, as defined in ~~G.S. 20-4.01(27)d1.~~, or G.S. 20-4.01(27)d1. "Motor vehicle" does not mean an electric assisted bicycle, as defined in G.S. 20-4.01(7a)."

SECTION 37.(a) G.S. 90-12.7(c) reads as rewritten:

"(c) A pharmacist may dispense an opioid antagonist to a person described in subdivision ~~(b)(4)~~(1) of subsection (b) of this section pursuant to a prescription issued pursuant to subsection (b) of this section. For purposes of this section, the term "pharmacist" is as defined in G.S. 90-85.3."

SECTION 37.(b) If House Bill 243, 2017 Regular Session, becomes law, this section is repealed.

SECTION 38. G.S. 90-96 reads as rewritten:

"§ 90-96. Conditional discharge for first offense.

(a) Whenever any person who has not previously been convicted of (i) any felony offense under any state or federal laws; (ii) any offense under this Article; or (iii) an offense

under any statute of the United States or any state relating to those substances included in Article 5 or 5A of Chapter 90 or to that paraphernalia included in Article 5B of Chapter 90 of the General Statutes pleads guilty to or is found guilty of (i) a misdemeanor under this Article by possessing a controlled substance included within Schedules I through VI of this Article or by possessing drug paraphernalia as prohibited by ~~G.S. 90-113.22~~, G.S. 90-113.22 or G.S. 90-113.22A or (ii) a felony under G.S. 90-95(a)(3), the court shall, without entering a judgment of guilt and with the consent of ~~such~~ the person, defer further proceedings and place ~~him~~ the person on probation upon such reasonable terms and conditions as it may require, unless the court determines with a written finding, and with the agreement of the District Attorney, that the offender is inappropriate for a conditional discharge for factors related to the offense. Notwithstanding the provisions of G.S. 15A-1342(c) or any other statute or law, probation may be imposed under this section for an offense under this Article for which the prescribed punishment includes only a fine. To fulfill the terms and conditions of probation the court may allow the defendant to participate in a drug education program approved for this purpose by the Department of Health and Human Services or in the Treatment for Effective Community Supervision Program under Subpart B of Part 6 of Article 13 of Chapter 143B of the General Statutes. Upon violation of a term or condition, the court may enter an adjudication of guilt and proceed as otherwise provided. Upon fulfillment of the terms and conditions, the court shall discharge ~~such~~ the person and dismiss the ~~proceedings against him~~ proceedings. Discharge and dismissal under this section shall be without court adjudication of guilt and shall not be deemed a conviction for purposes of this section or for purposes of disqualifications or disabilities imposed by law upon conviction of a crime including the additional penalties imposed for second or subsequent convictions under this Article. Discharge and dismissal under this section or G.S. 90-113.14 may occur only once with respect to any person. Disposition of a case to determine discharge and dismissal under this section at the district court division of the General Court of Justice shall be final for the purpose of appeal. Prior to taking any action to discharge and dismiss under this section the court shall make a finding that the defendant has no record of previous convictions as provided in this subsection.

(a1) Upon the first conviction only of any offense which qualifies under the provisions of subsection (a) of this section, and the provisions of this subsection, the court may place defendant on probation under this section for an offense under this Article including an offense for which the prescribed punishment includes only a fine. The probation, if imposed, shall be for not less than one year and shall contain a minimum condition that the defendant who was found guilty or pleads guilty enroll in and successfully complete, within 150 days of the date of the imposition of said probation, the program of instruction at the drug education school approved by the Department of Health and Human Services pursuant to G.S. 90-96.01. The court may impose probation that does not contain a condition that defendant successfully complete the program of instruction at a drug education school if:

- (1) There is no drug education school within a reasonable distance of the defendant's residence; or
- (2) There are specific, extenuating circumstances which make it likely that defendant will not benefit from the program of instruction.

The court shall enter such specific findings in the record; provided that in the case of subdivision (2) above, such findings shall include the specific, extenuating circumstances which make it likely that the defendant will not benefit from the program of instruction.

Upon fulfillment of the terms and conditions of the probation, the court shall discharge such person and dismiss the proceedings against the person.

For the purposes of determining whether the conviction is a first conviction or whether a person has already had discharge and dismissal, no prior offense occurring more than seven years before the date of the current offense shall be considered. In addition, convictions for violations of a provision of G.S. 90-95(a)(1) or 90-95(a)(2) or 90-95(a)(3), or 90-113.10, or

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2017

SESSION LAW 2017-158
HOUSE BILL 236

AN ACT TO PROVIDE FOR THE CLERK TO APPOINT AN INTERIM GUARDIAN AD LITEM ON THE CLERK'S OWN MOTION; TO PROVIDE FOR THE CLERK TO EXTEND THE TIME FOR FILING INVENTORY IN THE PROPERTY OF THE DECEASED; TO PROVIDE FOR ISSUANCE OF AN ORDER FOR AN ARREST WHEN A PERSON FAILS TO APPEAR AFTER BEING SERVED WITH A SHOW CAUSE IN A CIVIL PROCEEDING; TO AMEND HOW COSTS IN ADMINISTRATION OF ESTATES ARE ASSESSED; TO ALLOW FOR TEMPORARY ASSISTANCE FOR DISTRICT ATTORNEYS WHEN THERE IS A CONFLICT OF INTEREST; TO AMEND OTHER STATUTES GOVERNING THE GENERAL COURT OF JUSTICE, AS RECOMMENDED BY THE NORTH CAROLINA ADMINISTRATIVE OFFICE OF THE COURTS; TO PROVIDE FOR THE ESTABLISHMENT OF AN ARBITRATION AND MEDIATION PROGRAM FOR THE NORTH CAROLINA BUSINESS COURT; TO AMEND STATUTES GOVERNING MEDIATION IN THE GENERAL COURT OF JUSTICE; AND TO AMEND THE LAW GOVERNING THE REGULATION OF MEDIATORS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 1A-1, Rule 5(e), reads as rewritten:

"Rule 5. Service and filing of pleadings and other papers.

- ...
- (e) (1) Filing with the court defined. – The filing of pleadings and other papers with the court as required by these rules shall be made by filing them with the clerk of the court, pursuant to the rules promulgated under G.S. 7A-109 or subdivision (2) of this section, except that the judge may permit the papers to be filed with him, in which event he shall note thereon the filing date and forthwith transmit them to the office of the clerk.
- (2) Filing by electronic means. – If, pursuant to ~~G.S. 7A-34~~G.S. 7A-34, G.S. 7A-49.5, and G.S. 7A-343, the Supreme Court and the Administrative Officer of the Courts establish uniform rules, regulations, costs, procedures and specifications for the filing of pleadings or other court papers by electronic means, filing may be made by the electronic means when, in the manner, and to the extent provided therein.
- (3) The failure to affix a date stamp or file stamp on any order or judgment filed in a civil action, estate proceeding, or special proceeding shall not affect the sufficiency, validity, or enforceability of the order or judgment if the clerk or the court, after giving the parties adequate notice and opportunity to be heard, enters the order or judgment nunc pro tunc to the date of filing."

SECTION 2. G.S. 1A-1, Rule 58, reads as rewritten:

"Rule 58. Entry of judgment.

Subject to the provisions of Rule 54(b), a judgment is entered when it is reduced to writing, signed by the judge, and filed with the clerk of ~~court~~court pursuant to Rule 5. The party



designated by the judge or, if the judge does not otherwise designate, the party who prepares the judgment, shall serve a copy of the judgment upon all other parties within three days after the judgment is entered. Service and proof of service shall be in accordance with Rule 5. If service is by mail, three days shall be added to the time periods prescribed by Rule 50(b), Rule 52(b), and Rule 59. All time periods within which a party may further act pursuant to Rule 50(b), Rule 52(b), or Rule 59 shall be tolled for the duration of any period of noncompliance with this service requirement, provided however that no time period under Rule 50(b), Rule 52(b), or Rule 59 shall be tolled longer than 90 days from the date the judgment is entered. Subject to the provisions of Rule 7(b)(4), consent for the signing and entry of a judgment out of term, session, county, and district shall be deemed to have been given unless an express objection to such action was made on the record prior to the end of the term or session at which the matter was heard.

Notwithstanding any other law to the contrary, any judgment entered by a magistrate in a small claims action pursuant to Article 19 of Chapter 7A shall be entered in accordance with this Rule except judgments announced and signed in open court at the conclusion of a trial are considered to be served on the parties, and copies of any judgment not announced and signed in open court at the conclusion of a trial shall be served by the magistrate on all parties in accordance with this Rule, within three days after the judgment is entered. If service is by mail, three days shall be added to the time periods prescribed by G.S. 7A-228. All time periods within which a party may further act pursuant to G.S. 7A-228 shall be tolled for the duration of any period of noncompliance of this service requirement, provided that no time period shall be tolled longer than 90 days from the date judgment is entered."

SECTION 3. G.S. 28A-9-2(a) reads as rewritten:

"§ 28A-9-2. Summary revocation.

(a) Grounds. – Letters testamentary, letters of administration, or letters of collection, shall be revoked by the clerk of superior court without hearing when:

- (1) After letters of administration or collection have been issued, a will is subsequently admitted to probate.
- (2) After letters testamentary have been issued:
 - a. The will is set aside, or
 - b. A subsequent testamentary paper revoking the appointment of the executor is admitted to probate.
- (3) Any personal representative or collector required to give a new bond or furnish additional security pursuant to G.S. 28A-8-3 fails to do so within the time ordered.
- (4) A nonresident personal representative refuses or fails to obey any citation, notice, or process served on that nonresident personal representative or the process agent of the nonresident personal representative.
- (5) A trustee in bankruptcy, liquidating agent, or receiver has been appointed for any personal representative or collector, or any personal representative or collector has executed an assignment for the benefit of creditors.
- (6) A personal representative has failed to file an inventory or an annual account with the clerk of superior court, as required by Article 20 and Article 21 of this Chapter, and proceedings to compel such filing pursuant to G.S. 28A-20-2 or 28A-21-4 cannot be had because service cannot be completed because the personal representative cannot be found.
- (7) A personal representative or collector is a licensed attorney, and the clerk is in receipt of an order entered pursuant to G.S. 84-28 enjoining, suspending, or disbarring the attorney."

SECTION 4. G.S. 35A-1290 reads as rewritten:

"§ 35A-1290. Removal by Clerk.

...

(b) It is the clerk's duty to remove a guardian or to take other action sufficient to protect the ward's interests in the following cases:

- (1) The guardian wastes the ward's money or estate or converts it to his own use.
- (2) The guardian in any manner mismanages the ward's estate.
- (3) The guardian neglects to care for or maintain the ward or his dependents in a suitable manner.
- (4) The guardian or his sureties are likely to become insolvent or to become nonresidents of the State.
- (5) The original appointment was made on the basis of a false representation or a mistake.
- (6) The guardian has violated a fiduciary duty through default or misconduct.
- (7) The guardian has a private interest, whether direct or indirect, that might tend to hinder or be adverse to carrying out his duties as guardian.

(c) ~~It is the clerk's duty to remove a guardian or to take other action sufficient to protect the ward's interests in the following cases:~~

- ~~(4)~~(8) The guardian has been adjudged incompetent by a court of competent jurisdiction and has not been restored to competence.
- ~~(2)~~(9) The guardian has been convicted of a felony under the laws of the United States or of any state or territory of the United States or of the District of Columbia and his citizenship has not been restored.
- ~~(3)~~(10) The guardian was originally unqualified for appointment and continues to be unqualified, or the guardian would no longer qualify for appointment as guardian due to a change in residence, a change in the charter of a corporate guardian, or any other reason.
- ~~(4)~~(11) The guardian is the ward's spouse and has lost his rights as provided by Chapter 31A of the General Statutes.
- ~~(5)~~(12) The guardian fails to post, renew, or increase a bond as required by law or by order of the court.
- ~~(6)~~(13) The guardian refuses or fails without justification to obey any citation, notice, or process served on him in regard to the guardianship.
- ~~(7)~~(14) The guardian fails to file required accountings with the clerk.
- ~~(8)~~(15) The clerk finds the guardian unsuitable to continue serving as guardian for any reason.
- ~~(9)~~(16) The guardian is a nonresident of the State and refuses or fails to obey any citation, notice, or process served on the guardian or the guardian's process agent.
- (17) The guardian is a licensed attorney, and the clerk is in receipt of an order entered pursuant to G.S. 84-28 enjoining, suspending, or disbarring the attorney."

SECTION 5. G.S. 30-17 reads as rewritten:

"§ 30-17. When children entitled to an allowance.

Whenever any parent dies survived by any child under the age of 18 years, including an adopted child or a child with whom the widow may be pregnant at the death of her husband, or a child who is less than 22 years of age and is a full-time student in any educational institution, or a child under 21 years of age who has been declared mentally incompetent, or a child under 21 years of age who is totally disabled, or any other person under the age of 18 years residing with the deceased parent at the time of death to whom the deceased parent or the surviving parent stood in loco parentis, every such child shall be entitled to receive an allowance of five thousand dollars (\$5,000) for the child's support for the year next ensuing the death of the parent. The allowance shall be in addition to the child's share of the deceased parent's estate and

shall be exempt from any lien by judgment or execution against the property of the deceased parent. The personal representative of the deceased parent shall, within one year after the parent's death, assign to every such child the allowance herein provided for; but if there is no personal representative or if the personal representative fails or refuses to act within 10 days after written application by a guardian or next friend on behalf of the child, the allowance may be assigned by a magistrate or clerk of court upon application.

If the child resides with the surviving spouse of the deceased parent at the time the allowance is paid, the allowance shall be paid to the surviving spouse for the benefit of the child. If the child resides with its surviving parent who is other than the surviving spouse of the deceased parent, the allowance shall be paid to the surviving parent for the use and benefit of the child. The payment shall be made regardless of whether the deceased died testate or intestate or whether the surviving spouse petitioned for an elective share under Article 1A of Chapter 30 of the General Statutes. Provided, however, the allowance shall not be available to a deceased father's child born out of wedlock, unless the deceased father has recognized the paternity of the child by deed, will, or other paper-writing, or unless the deceased father died prior to or within one year after the birth of the child and is established to have been the father of the child by DNA testing. If the child does not reside with a surviving spouse or a surviving parent when the allowance is paid, the allowance shall be paid to the child's general ~~guardian, guardian or guardian of the estate,~~ if any, and if none, to the clerk of the superior court who shall receive and disburse the allowance for the benefit of the child."

SECTION 6. G.S. 35A-1114 reads as rewritten:

"§ 35A-1114. Appointment of interim guardian.

(a) At the time of or subsequent to the filing of a petition under this Article, the petitioner or guardian ad litem may also file a verified motion with the clerk seeking the appointment of an interim guardian.

(b) The motion filed by the petitioner or guardian ad litem shall set forth facts tending to show:

- (1) That there is reasonable cause to believe that the respondent is incompetent, and
- (2) One or both of the following:
 - a. That the respondent is in a condition that constitutes or reasonably appears to constitute an imminent or foreseeable risk of harm to his physical well-being and that requires immediate intervention;
 - b. That there is or reasonably appears to be an imminent or foreseeable risk of harm to the respondent's estate that requires immediate intervention in order to protect the respondent's interest, and
- (3) That the respondent needs an interim guardian to be appointed immediately to intervene on his behalf prior to the adjudication hearing.

(c) Upon filing of the motion for appointment of an interim ~~guardian, guardian by the petitioner or the guardian ad litem,~~ the clerk shall immediately set a date, time, and place for a hearing on the motion. The motion and a notice setting the date, time, and place for the hearing shall be served promptly on the respondent and on his counsel or guardian ad litem and other persons the clerk may designate. The hearing shall be held as soon as possible but no later than 15 days after the motion has been served on the respondent.

(c1) The motion and notice setting the date, time, and place for the hearing shall be served promptly on the petitioner, the respondent and on his counsel or guardian ad litem, and other persons the clerk may designate. The hearing shall be held as soon as possible but not later than 15 days after the motion has been served on the respondent.

...."

SECTION 7. G.S. 35A-1112 reads as rewritten:

"§ 35A-1112. Hearing on petition; adjudication order.

...
(b1) At the hearing on the petition, on the clerk's own motion, the clerk may appoint an interim guardian pursuant to G.S. 35A-1114(d) and (e) if the clerk determines such an appointment to be in the best interests of the respondent.
...."

SECTION 8. G.S. 28A-20-1 reads as rewritten:

"§ 28A-20-1. Inventory within three months.

EveryUnless the time for filing the inventory has been extended by the clerk of superior court, every personal representative and collector, within three months after the qualification of that personal representative or collector, shall return to the clerk, on oath, a just, true and perfect inventory of all the real and personal property of the deceased, which have come to the hands of the personal representative or collector, or to the hands of any person for the personal representative or collector, which inventory shall be signed by the personal representative or collector and be recorded by the clerk."

SECTION 9. G.S. 28A-21-1 reads as rewritten:

"§ 28A-21-1. Annual accounts.

Until the final account has been filed pursuant to G.S. 28A-21-2, the personal representative or collector shall, for so long as any of the property of the estate remains in the control, custody or possession of the personal representative or collector, file annually in the office of the clerk of superior court an inventory and account, under oath, of the amount of property received by the personal representative or collector, or invested by the personal representative or collector, and the manner and nature of such investment, and the receipts and disbursements of the personal representative or collector for the past year. Such accounts shall be due 30 days after the expiration of one year from the date of qualification of the personal representative or collector, or if a fiscal year is selected by the fifteenth day of the fourth month after the close of the fiscal year selected by the personal representative or collector, and annually on the same date thereafter. The election of a fiscal year shall be made by the personal representative or collector upon filing of the first annual account. In no event may a personal representative or collector select a fiscal year-end which is more than twelve months from the date of death of the decedent or, in the case of trust administration, the date of the opening of the trust. Any fiscal year selected may not be changed without the permission of the clerk of superior court.

The personal representative or collector shall produce vouchers for all payments or verified proof for payments in lieu of vouchers. The clerk of superior court may examine, under oath, such accounting party, or any other person, concerning the receipts, disbursements or any other matter relating to the estate. The clerk of superior court must carefully review and audit such account and, if the clerk approves the account, the clerk must endorse the approval of the clerk thereon, which shall be prima facie evidence of correctness, and cause the same to be recorded."

SECTION 10. G.S. 28A-21-2 reads as rewritten:

"§ 28A-21-2. Final accounts.

(a) Unless the time for filing the final account has been extended by the clerk of superior court, the personal representative or collector must file the final account for settlement within one year after qualifying or within six months after receiving a State estate or inheritance tax release, or in the time period for filing an annual account pursuant to G.S. 28A-21-1, whichever is later. If no estate or inheritance tax return was required to be filed for the estate, the personal representative or collector shall so certify in the final account filed with the clerk of superior court. Such certification shall list the amount and value of all of the decedent's property, and with respect to real estate, its particular location within or outside the State, including any property transferred by the decedent over which the decedent had retained any interest, or any property transferred within three years prior to the date of the decedent's death, and after being filed and accepted by the clerk of superior court shall be prima facie

evidence that such property is free of any State inheritance or State estate tax liability. The personal representative or collector shall produce vouchers for all payments or verified proof for all payments in lieu of vouchers. With the approval of the clerk of superior court, such account may be filed voluntarily at any time. In all cases, the accounting shall be reviewed, audited and recorded by the clerk of superior court in the manner prescribed in G.S. 28A-21-1.

(a1) If no estate or inheritance tax return was required to be filed for the estate, the personal representative or collector shall so certify in the final account filed with the clerk of superior court. Such certification shall list the amount and value of all of the decedent's property and, with respect to real estate, its particular location within or outside the State, including any property transferred by the decedent over which the decedent had retained any interest, or any property transferred within three years prior to the date of the decedent's death, and, after being filed and accepted by the clerk of superior court, shall be prima facie evidence that such property is free from any State inheritance or State estate tax liability. This subsection only applies to estates of decedents who died before January 1, 2013.

(a2) The personal representative or collector shall produce vouchers for all payments or verified proof for all payments in lieu of vouchers. With the approval of the clerk of superior court, such account may be filed voluntarily at any time. In all cases, the accounting shall be reviewed, audited, and recorded by the clerk of superior court in the manner prescribed by G.S. 28A-21-1.

(b) Except as provided in subsection (a), after the date specified in the general notice to creditors as provided for in G.S. 28A-14-1, if all of the debts and other claims against the estate of the decedent duly presented and legally owing have been paid in the case of a solvent estate or satisfied pro rata according to applicable statutes in the case of an insolvent estate, the personal representative or collector may file the personal representative's or collector's final account to be reviewed, audited and recorded by the clerk of superior court. Nothing in this subsection shall be construed as limiting the right of the surviving spouse or minor children to file for allowances under G.S. 30-15 through 30-18 and the right of a surviving spouse to file for property rights under G.S. 29-30."

SECTION 11. G.S. 5A-23(b) reads as rewritten:

"(b) Except when the clerk of superior court has original subject matter jurisdiction and issued the order or when the General Statutes specifically provide for the exercise of contempt power by the clerk of superior court, proceedings under this section are before a district court judge, unless a court superior to the district court issued the order in which case the proceedings are before that court. When the proceedings are before a superior court, venue is in the superior court district or set of districts as defined in G.S. 7A-41.1 of the court which issued the order. Otherwise, venue is in the county where the order was issued."

SECTION 13. G.S. 7A-307 reads as rewritten:

"§ 7A-307. Costs in administration of estates.

(a) In the administration of the estates of decedents, minors, incompetents, of missing persons, and of trusts under wills and under powers of attorney, in trust proceedings under G.S. 36C-2-203, in estate proceedings under G.S. 28A-2-4, and in collections of personal property by affidavit, the following costs shall be assessed:

- (1) For the use of the courtroom and related judicial facilities, the sum of ten dollars (\$10.00), to be remitted to the county. Funds derived from the facilities fees shall be used in the same manner, for the same purposes, and subject to the same restrictions, as facilities fees assessed in criminal actions.
- (1a) For the upgrade, maintenance, and operation of the judicial and county courthouse telecommunications and data connectivity, the sum of four dollars (\$4.00), to be credited to the Court Information Technology Fund.
- (2) For support of the General Court of Justice, the sum of one hundred six dollars (\$106.00), plus an additional forty cents (40¢) per one hundred

dollars (\$100.00), or major fraction thereof, of the gross estate, not to exceed six thousand dollars (\$6,000). Gross estate shall include the fair market value of all personalty when received, and all proceeds from the sale of realty coming into the hands of the fiduciary, but shall not include the value of realty. In collections of personal property by affidavit, the fee based on the gross estate shall be computed from the information in the final affidavit of collection made pursuant to G.S. 28A-25-3 and shall be paid when that affidavit is filed. In all other cases, this fee shall be computed from the information reported in the ~~inventory and shall be paid when the inventory is filed with the clerk.~~ inventory. If additional gross estate, including income, comes into the hands of the fiduciary after the filing of the inventory, the fee for such additional value shall be ~~assessed and paid upon~~ computed from the information reported in the filing of any account or report disclosing such additional value. For each filing the minimum fee shall be fifteen dollars (\$15.00). Sums collected under this subdivision shall be remitted to the State Treasurer. The State Treasurer shall remit the sum of one dollar and fifty cents (\$1.50) of each one hundred six-dollar (\$106.00) General Court of Justice fee collected under this subdivision to the North Carolina State Bar for the provision of services described in G.S. 7A-474.4.

- (2a) Notwithstanding subdivision (2) of this subsection, the fee of forty cents (40¢) per one hundred dollars (\$100.00), or major fraction, of the gross estate, not to exceed six thousand dollars (\$6,000), shall not be assessed on personalty received by a trust under a will when the estate of the decedent was administered under Chapters 28 or 28A of the General Statutes. Instead, a fee of twenty dollars (\$20.00) shall be assessed on the filing of each annual and final account. However, the fee shall be assessed only on newly contributed or acquired assets, all interest or other income that accrues or is earned on or with respect to any existing or newly contributed or acquired assets, and realized gains on the sale of any and all trust assets. Newly contributed or acquired assets do not include assets acquired by the sale, transfer, exchange, or otherwise of the amount of trust property on which fees were previously assessed.
- (2b) Notwithstanding subdivisions (1) and (2) of this subsection, no costs shall be assessed when the estate is administered or settled pursuant to G.S. 28A-25-6.
- (2c) Notwithstanding subdivision (2) of this subsection, the fee of forty cents (40¢) per one hundred dollars (\$100.00), or major fraction, of the gross estate shall not be assessed on the gross estate of a trust that is the subject of a proceeding under G.S. 36C-2-203 if there is no requirement in the trust that accountings be filed with the clerk.
- (2d) Notwithstanding subdivisions (1) and (2) of this subsection, the only cost assessed in connection with the qualification of a limited personal representative under G.S. 28A-29-1 shall be a fee of twenty dollars (\$20.00) to be assessed upon the filing of the petition.
- (3) For probate of a will without qualification of a personal representative, the clerk shall assess a facilities fee as provided in subdivision (1) of this subsection and shall assess for support of the General Court of Justice, the sum of twenty dollars (\$20.00).
- (4) For the support of the General Court of Justice, the sum of twenty dollars (\$20.00) shall accompany any filing of a notice of hearing on a motion not listed in G.S. 7A-308 that is filed with the clerk. No costs shall be assessed

to a notice of hearing on a motion containing as a sole claim for relief the taxing of costs, including attorneys' fees, or to a motion filed pursuant to G.S. 1C-1602 or G.S. 1C-1603. No more than one fee shall be assessed for any motion for which a notice of hearing is filed, regardless of whether the hearing is continued, rescheduled, or otherwise delayed.

- (5) For the filing of a caveat to a will, the clerk shall assess for support of the General Court of Justice, the sum of two hundred dollars (\$200.00).
- (6) Notwithstanding subdivisions (1) and (2) of this subsection, the only cost assessed in connection with the reopening of an estate administration under G.S. 28A-23-5 shall be forty cents (40¢) per one hundred dollars (\$100.00), or major fraction, of any additional gross estate, including income, coming into the hands of the fiduciary after the estate is reopened; provided that the total cost assessed when added to the total cost assessed in all prior administrations of the estate shall not exceed six thousand dollars (\$6,000).

(b) In collections of personal property by affidavit, the facilities fee and thirty dollars (\$30.00) of the General Court of Justice fee shall be paid at the time of filing the qualifying affidavit pursuant to G.S. 28A-25-1. ~~In all other cases, these fees shall be paid at the time of filing of the first inventory.~~ If the sole asset of the estate is a cause of action, these fees shall be paid at the time of the qualification of the fiduciary.

(b1) The clerk shall assess the following miscellaneous fees:

- (1) Filing and indexing a will with no probate
 - first page..... \$ 1.00
 - each additional page or fraction thereof..... .25
- (2) Issuing letters to fiduciaries, per letter over five letters issued..... 1.00
- (3) Inventory of safe deposits of a decedent, per box, per day..... 15.00
- (4) Taking a deposition..... 10.00
- (5) Docketing and indexing a will probated in another county in the State
 - first page..... 6.00
 - each additional page or fraction thereof..... .25
- (6) Hearing petition for year's allowance to surviving spouse or child,
 - in cases not assigned to a magistrate, and allotting the same..... 8.00

(c) The following additional expenses, when incurred, are also assessable or recoverable, as the case may be:

- (1) Witness fees, as provided by law.
- (2) Counsel fees, as provided by law.
- (3) Costs on appeal, of the original transcript of testimony, if any, insofar as essential to the appeal.
- (4) Fees for personal service of civil process, and other sheriff's fees, as provided by law.
- (5) Fees of guardians ad litem, referees, receivers, commissioners, surveyors, arbitrators, appraisers, and other similar court appointees, as provided by law.

(d) Costs assessed before the clerk shall be added to costs assessable on appeal to the judge or upon transfer to the civil issue docket.

(e) Nothing in this section shall affect the liability of the respective parties for costs, as provided by law."

SECTION 14. G.S. 7A-64 reads as rewritten:

"§ 7A-64. Temporary assistance for district attorneys.

(a) A district attorney may apply to the Director of the Administrative Office of the Courts to:

- (1) Temporarily assign an assistant district attorney from another district, after consultation with the district attorney thereof, to assist in the prosecution of cases in the requesting district;
 - (2) Authorize the temporary appointment, by the requesting district attorney, of a qualified attorney to assist the requesting district attorney; or
 - (3) Enter into contracts with local governments for the provision of services by the State pursuant to G.S. 153A-212.1 or G.S. 160A-289.1.
- (a) Repealed by Session Laws 2012-7, s. 9, effective June 7, 2012.
- (b) The Director of the Administrative Office of the Courts may provide this assistance only upon a showing by the requesting district attorney ~~or the Chair of the North Carolina Innocence Inquiry Commission, as appropriate, supported~~supported by facts, that:
- (1) Criminal cases have accumulated on the dockets of the superior or district courts of the district beyond the capacity of the district attorney and the district attorney's full-time assistants to keep the dockets reasonably current;
 - (2) The overwhelming public interest warrants the use of additional resources for the speedy disposition of cases involving drug offenses, domestic violence, or other offenses involving a threat to public safety; or
 - (3) ~~There is an allegation of or evidence of prosecutorial misconduct in the case that is the subject of the hearing under G.S. 15A-1469.~~There is a conflict of interest.

(c) The length of service and compensation of any temporary appointee or the terms of any contract entered into with local governments shall be fixed by Director of the Administrative Office of the Courts in each case. Nothing in this section shall be construed to obligate the General Assembly to make any appropriation to implement the provisions of this section or to obligate the Administrative Office of the Courts to provide the administrative costs of establishing or maintaining the positions or services provided for under this section. Further, nothing in this section shall be construed to obligate the Administrative Office of the Courts to maintain positions or services initially provided for under this section."

SECTION 16. G.S. 122C-268(g) reads as rewritten:

"(g) Hearings may be held in an appropriate room not used for treatment of clients at the facility in which the respondent is being treated if it is located within the judge's district court district as defined in G.S. 7A-133, by ~~interactive videoconferencing~~audio and video transmission between a treatment facility and a ~~courtroom, courtroom in which the judge and the respondent can see and hear each other,~~ or in the judge's chambers. A hearing may not be held in a regular courtroom, over objection of the respondent, if in the discretion of a judge a more suitable place is available. If the respondent has counsel, the respondent shall be allowed to communicate fully and confidentially with his attorney during the proceeding. Prior to the use of the audio and video transmission, the procedures and type of equipment for audio and video transmission shall be submitted to the Administrative Office of the Courts by the chief district court judge and approved by the Administrative Office of the Courts."

SECTION 17. G.S. 58-76-15 reads as rewritten:

"§ 58-76-15. Summary remedy on official bond.

When a sheriff, coroner, ~~clerk,~~ county or town treasurer, or other officer, collects or receives any money by virtue or under color of his office, and on demand fails to pay the same to the person entitled to require the payment thereof, the person thereby aggrieved may move for judgment in the superior court against such officer and his sureties for any sum demanded; and the court shall try the same and render judgment at the session when the motion shall be made, but 10 days' notice in writing of the motion must have been previously given."

SECTION 18. G.S. 58-76-25 reads as rewritten:

"§ 58-76-25. Evidence against principal admissible against sureties.

In actions brought upon the official bonds of ~~clerks of courts, sheriffs, coroners, or other public officers, and also upon the bonds of executors, administrators, collectors or guardians,~~ when it may be necessary for the plaintiff to prove any default of the principal obligors, any receipt or acknowledgment of such obligors, or any other matter or thing which by law would be admissible and competent for or toward proving the same as against him, shall in like manner be admissible and competent as presumptive evidence only against all or any of his sureties who may be defendants with or without him in said actions."

SECTION 19. G.S. 1-110(b) reads as rewritten:

"(b) Whenever a motion to proceed as an indigent is filed pro se by an inmate in the custody of the Division of Adult Correction of the Department of Public Safety, the motion to proceed as an indigent and the proposed complaint shall be presented to any superior court judge of the judicial district. This judge shall determine whether the complaint is frivolous. In the discretion of the court, a frivolous case may be dismissed by order. The clerk of superior court shall serve a copy of the order of dismissal upon the prison inmate. If the judge determines that the inmate may proceed as an indigent, the clerk of superior court shall issue service of process nunc pro tunc to the date of filing upon the defendant shall issue without further order of the court.~~defendant.~~"

SECTION 20. G.S. 1A-1, Rule 3, reads as rewritten:

"Rule 3. Commencement of action.

(a) A civil action is commenced by filing a complaint with the court. The clerk shall enter the date of filing on the original complaint, and such entry shall be prima facie evidence of the date of filing.

A civil action may also be commenced by the issuance of a summons when

- (1) A person makes application to the court stating the nature and purpose of his action and requesting permission to file his complaint within 20 days and
- (2) The court makes an order stating the nature and purpose of the action and granting the requested permission.

The summons and the court's order shall be served in accordance with the provisions of Rule 4. When the complaint is filed it shall be served in accordance with the provisions of Rule 4 or by registered mail if the plaintiff so elects. If the complaint is not filed within the period specified in the clerk's order, the action shall abate.

(b) ~~The clerk shall maintain as prescribed by the Administrative Office of the Courts a separate index of all medical malpractice actions, as defined in G.S. 90-21.11. Upon the commencement of a medical malpractice action, the clerk shall provide a current copy of the index to the senior regular resident judge of the district in which the action is pending.~~"

SECTION 21. G.S. 122C-264 reads as rewritten:

"§ 122C-264. Duties of clerk of superior court and the district attorney.

...
(e) ~~The clerk of superior court of the county where outpatient commitment is to be supervised shall keep a separate list regarding outpatient commitment and shall prepare quarterly reports listing all active cases, the assigned supervisor, and the disposition of all hearings, supplemental hearings, and rehearings.~~

(f) The clerk of superior court of the county where inpatient commitment hearings and rehearings are held shall provide all notices, send all records and maintain a record of all proceedings as required by this Part; provided that if the respondent has been committed to a 24-hour facility in a county other than his county of residence and the district court hearing is held in the county of the facility, the clerk of superior court in the county of the facility shall forward the record of the proceedings to the clerk of superior court in the county of respondent's residence, where they shall be maintained by receiving clerk."

SECTION 22. G.S. 14-208.12A(a) reads as rewritten:

"(a) Ten years from the date of initial county registration, a person required to register under this Part may petition the superior court to terminate the 30-year registration requirement if the person has not been convicted of a subsequent offense requiring registration under this Article.

If the reportable conviction is for an offense that occurred in North Carolina, the petition shall be filed in the district where the person was convicted of the offense.

If the reportable conviction is for an offense that occurred in another state, the petition shall be filed in the district where the person resides. A person who petitions to terminate the registration requirement for a reportable conviction that is an out-of-state offense shall also do the following: (i) provide written notice to the sheriff of the county where the person was convicted that the person is petitioning the court to terminate the registration requirement and (ii) include with the petition at the time of its filing, an affidavit, signed by the petitioner, that verifies that the petitioner has notified the sheriff of the county where the person was convicted of the petition and that provides the mailing address and contact information for that sheriff.

Regardless of where the offense occurred, if the defendant was convicted of a reportable offense in any federal court, the conviction will be treated as an out-of-state offense for the purposes of this section."

SECTION 23. G.S. 7B-2901(a) reads as rewritten:

"(a) The clerk shall maintain a complete record of all juvenile cases filed in the clerk's office alleging abuse, neglect, or dependency. The records shall be withheld from public inspection and, except as provided in this subsection, may be examined only by order of the court. The record shall include the summons, petition, custody order, court order, written motions, the electronic or mechanical recording of the hearing, and other papers filed in the proceeding. The recording of the hearing shall be reduced to a written transcript only when notice of appeal has been timely given. After the time for appeal has expired with no appeal having been filed, the recording of the hearing may be erased or destroyed upon the written order of the court or in accordance with a retention schedule approved by the Director of the Administrative Office of the Courts and the Department of Natural and Cultural Resources under G.S. 121-5(c).

The following persons may examine the juvenile's record maintained pursuant to this subsection and obtain copies of written parts of the record without an order of the court:

- (1) The person named in the petition as the juvenile;
- (2) The guardian ad litem;
- (3) The county department of social services; and
- (4) The juvenile's parent, guardian, or custodian, or the attorney for the juvenile or the juvenile's parent, guardian, or custodian."

SECTION 24. G.S. 7B-3000(d) reads as rewritten:

"(d) Any portion of a juvenile's record consisting of an electronic or mechanical recording of a hearing shall be transcribed only when notice of appeal has been timely given and shall be copied electronically or mechanically, only by order of the court. After the time for appeal has expired with no appeal having been filed, the court may enter a written order directing the clerk to destroy the recording of the ~~hearing~~ hearing, or the recording may be destroyed in accordance with a retention schedule approved by the Director of the Administrative Office of the Courts and the Department of Natural and Cultural Resources under G.S. 121-5(c)."

SECTION 25. G.S. 7B-603(b1) reads as rewritten:

"(b1) The court may require payment of the fee for an attorney appointed pursuant to G.S. 7B-602 or ~~G.S. 7B-1101~~ G.S. 7B-1101.1 from the respondent. In no event shall the respondent be required to pay the fees for a court-appointed attorney in an abuse, neglect, or dependency proceeding unless the juvenile has been adjudicated to be abused, neglected, or dependent or, in a proceeding to terminate parental rights, unless the respondent's rights have

been terminated. At the dispositional hearing or other appropriate hearing, the court shall make a determination whether the respondent should be held responsible for reimbursing the State for the respondent's attorneys' fees. This determination shall include the respondent's financial ability to pay.

If the court determines that the respondent is responsible for reimbursing the State for the respondent's attorneys' fees, the court shall so order. If the respondent does not comply with the order at the time of disposition, the court shall file a judgment against the respondent for the amount due the State."

SECTION 26. G.S. 84-2 reads as rewritten:

"§ 84-2. Persons disqualified.

No justice, judge, magistrate, full-time district attorney, full-time assistant district attorney, full-time public defender, full-time assistant public defender, clerk, deputy or assistant clerk of the General Court of Justice, register of deeds, deputy or assistant register of deeds, sheriff or deputy sheriff shall engage in the private practice of law. As used in this section, the private practice of law shall not include the performance of pro bono legal services by a lawyer, other than a justice or judge of the general court of justice, who is otherwise disqualified by this section if the pro bono services are sponsored or organized by a professional association of lawyers or a nonprofit corporation rendering legal services pursuant to G.S. 84-5.1. Persons violating this provision shall be guilty of a Class 3 misdemeanor and only fined not less than two hundred dollars (\$200.00)."

SECTION 26.3. G.S. 132-1.10 reads as rewritten:

"§ 132-1.10. Social security numbers and other personal identifying information.

...
(f1) Without a request made pursuant to subsection (f) of this section, a register of ~~deeds~~ deeds, clerk of court, or the Administrative Office of the Courts may remove from an ~~image-images or copy copies of an~~ publicly accessible official record placed on a register of deeds' or clerk of court's Internet Web site available to the general public, or placed on an Internet Web site available to the general public used by a register of deeds or clerk of court to display public records, a person's social security or drivers license number records any of the identifying and financial information listed in subsection (f) of this section that is contained in that official record. Registers of ~~deeds and deeds, clerks of court court, and the Administrative Office of the Courts~~ may apply optical character recognition technology or other reasonably available technology to publicly accessible official records placed on Internet Web sites available to the general public in order to, in good faith, identify and redact social security and drivers license numbers any of the identifying and financial information listed in subsection (f) of this section. Notwithstanding the foregoing, law enforcement personnel, judicial officials, and parties to a case and their counsel shall be entitled to access, inspect, and copy unredacted records.

...."

SECTION 26.6. In order to make North Carolina a leading jurisdiction for the resolution of business, commercial, financial, and other legal disputes, the Director of the Administrative Office of the Courts, in consultation with the Chief Justice of the Supreme Court, shall submit to the Speaker of the House of Representatives and the President Pro Tempore of the Senate a report recommending whether and how to establish an arbitration program within the North Carolina Business Court, including how parties may make themselves subject to the jurisdiction of said program, required qualifications and trainings for arbitrators, and requirements for persons who may represent parties in arbitration proceedings before the Business Court. Such recommendations may include suggestions on the form of appeal for both binding and nonbinding arbitrations in cases arbitrated under such a proposal. The Director of the Administrative Office of the Courts or through the North Carolina Dispute Resolution Commission may also include recommendations for establishing a mediation

program operated by the Business Court, including suggestions as to how parties may make themselves subject to the jurisdiction of said program, required qualifications for mediators, and for persons who may represent parties in mediation proceedings.

SECTION 26.7.(a) G.S. 7A-38.1 reads as rewritten:

"§ 7A-38.1. Mediated settlement conferences in superior court civil actions.

...
(l) Inadmissibility of negotiations. – Evidence of statements made and conduct occurring in a mediated settlement conference or other settlement proceeding conducted under this section, whether attributable to a party, the mediator, other neutral, or a neutral observer present at the settlement proceeding, shall not be subject to discovery and shall be inadmissible in any proceeding in the action or other civil actions on the same claim, except:

- (1) In proceedings for sanctions under this section;
- (2) In proceedings to enforce or rescind a settlement of the action;
- (3) In disciplinary ~~proceedings~~ hearings before the State Bar or ~~any agency established to enforce standards of conduct for mediators or other neutrals;~~ the Dispute Resolution Commission; or
- (4) In proceedings to enforce laws concerning juvenile or elder abuse.

As used in this section, the term "neutral observer" includes persons seeking mediator certification, persons studying dispute resolution processes, and persons acting as interpreters.

No settlement agreement to resolve any or all issues reached at the proceeding conducted under this subsection or during its recesses shall be enforceable unless it has been reduced to writing and signed by the parties against whom enforcement is sought. No evidence otherwise discoverable shall be inadmissible merely because it is presented or discussed in a mediated settlement conference or other settlement proceeding.

No mediator, other neutral, or neutral observer present at a settlement proceeding shall be compelled to testify or produce evidence concerning statements made and conduct occurring in anticipation of, during, or as a follow-up to a mediated settlement conference or other settlement proceeding pursuant to this section in any civil proceeding for any purpose, including proceedings to enforce or rescind a settlement of the action, except to attest to the signing of any agreements, and except proceedings for sanctions under this section, disciplinary ~~hearings before the State Bar or any agency established to enforce standards of conduct for mediators or other neutrals;~~ the Dispute Resolution Commission, and proceedings to enforce laws concerning juvenile or elder abuse.

...."

SECTION 26.7.(b) G.S. 7A-38.4A reads as rewritten:

"§ 7A-38.4A. Settlement procedures in district court actions.

...
(j) Evidence of statements made and conduct occurring in a mediated settlement conference or other settlement proceeding conducted under this section, whether attributable to a party, the mediator, other neutral, or a neutral observer present at the settlement proceeding, shall not be subject to discovery and shall be inadmissible in any proceeding in the action or other civil actions on the same claim, except:

- (1) In proceedings for sanctions under this section;
- (2) In proceedings to enforce or rescind a settlement of the action;
- (3) In disciplinary proceedings before the State Bar or ~~any agency established to enforce standards of conduct for mediators or other neutrals;~~ the Dispute Resolution Commission; or
- (4) In proceedings to enforce laws concerning juvenile or elder abuse.

As used in this subsection, the term "neutral observer" includes persons seeking mediator certification, persons studying dispute resolution processes, and persons acting as interpreters.

No settlement agreement to resolve any or all issues reached at the proceeding conducted under this section or during its recesses shall be enforceable unless it has been reduced to writing and signed by the parties against whom enforcement is sought and in all other respects complies with the requirements of Chapter 50 of the General Statutes. No evidence otherwise discoverable shall be inadmissible merely because it is presented or discussed in a settlement proceeding.

No mediator, other neutral, or neutral observer present at a settlement proceeding under this section, shall be compelled to testify or produce evidence concerning statements made and conduct occurring in anticipation of, during, or as a follow-up to a mediated settlement conference or other settlement proceeding pursuant to this section in any civil proceeding for any purpose, including proceedings to enforce or rescind a settlement of the action, except to attest to the signing of any agreements, and except proceedings for sanctions under this section, disciplinary hearings before the State Bar or ~~any agency established to enforce standards of conduct for mediators or other neutrals,~~ the Dispute Resolution Commission, and proceedings to enforce laws concerning juvenile or elder abuse.

...."

SECTION 26.7.(c) G.S. 7A-38.3B reads as rewritten:

"§ 7A-38.3B. Mediation in matters within the jurisdiction of the clerk of superior court.

...

(g) Inadmissibility of Negotiations. – Evidence of statements made or conduct occurring during a mediation conducted pursuant to this section, whether attributable to any participant, mediator, expert, or neutral observer, shall not be subject to discovery and shall be inadmissible in any proceeding in the matter or other civil actions on the same claim, except in:

- (1) Proceedings for sanctions pursuant to this section;
- (2) Proceedings to enforce or rescind a written and signed settlement agreement;
- (3) Incompetency, guardianship, or estate proceedings in which a mediated agreement is presented to the clerk;
- (4) ~~Disciplinary proceedings-hearings before the North Carolina State Bar or any agency established to enforce standards of conduct for mediators or other neutrals;~~ the Dispute Resolution Commission; or
- (5) Proceedings for abuse, neglect, or dependency of a juvenile, or for abuse, neglect, or exploitation of an adult, for which there is a duty to report under G.S. 7B-301 and Article 6 of Chapter 108A of the General Statutes, respectively.

No evidence otherwise discoverable shall be inadmissible merely because it is presented or discussed in mediation.

As used in this section, the term "neutral observer" includes persons seeking mediator certification, persons studying dispute resolution processes, and persons acting as interpreters.

(h) Testimony. – No mediator or neutral observer shall be compelled to testify or produce evidence concerning statements made and conduct occurring in anticipation of, during, or as a follow-up to the mediation in any civil proceeding for any purpose, including proceedings to enforce or rescind a settlement of the matter except to attest to the signing of any agreements reached in mediation, and except in:

- (1) Proceedings for sanctions pursuant to this section;
- (2) ~~Disciplinary proceedings-hearings before the North Carolina State Bar or any agency established to enforce standards of conduct for mediators or other neutrals;~~ the Dispute Resolution Commission; or
- (3) Proceedings for abuse, neglect, or dependency of a juvenile, or for abuse, neglect, or exploitation of an adult, for which there is a duty to report under G.S. 7B-301 and Article 6 of Chapter 108A of the General Statutes, respectively.

...."

SECTION 26.7.(d) G.S. 7A-38.3D reads as rewritten:

"§ 7A-38.3D. Mediation in matters within the jurisdiction of the district criminal courts.

...

(k) Testimony. – No mediator or neutral observer present at the mediation shall be compelled to testify or produce evidence concerning statements made and conduct occurring in or related to a mediation conducted under this section in any proceeding in the same action for any purpose, except in:

- (1) Proceedings for abuse, neglect, or dependency of a juvenile, or for abuse, neglect, or exploitation of an adult, for which there is a duty to report under G.S. 7B-301 and Article 6 of Chapter 108A of the General Statutes, respectively.
- (2) ~~Disciplinary proceedings~~ hearings before the ~~North Carolina State Bar or any agency established to enforce standards of conduct for mediators~~ the Dispute Resolution Commission.
- (3) Proceedings in which the mediator acts as a witness pursuant to subsection (j) of this section.
- (4) Trials of a felony, during which a presiding judge may compel the disclosure of any evidence arising out of the mediation, excluding a statement made by the defendant in the action under mediation, if it is to be introduced in the trial or disposition of the felony and the judge determines that the introduction of the evidence is necessary to the proper administration of justice and the evidence cannot be obtained from any other source.

...."

SECTION 26.8. G.S. 7A-38.2 reads as rewritten:

"§ 7A-38.2. Regulation of mediators and other neutrals.

(a) The Supreme Court may adopt standards of conduct for mediators and other neutrals who are certified or otherwise qualified pursuant to G.S. 7A-38.1, 7A-38.3, 7A-38.3B, 7A-38.3D, 7A-38.3E, and 7A-38.4A, or who participate in proceedings conducted pursuant to those sections. The standards may also regulate mediator and other neutral training programs. The Supreme Court may adopt procedures for the enforcement of those standards.

(b) The administration of the certification and qualification of mediators and other neutrals, and mediator and other neutral training programs shall be conducted through the Dispute Resolution Commission, established under the Judicial Department. The Supreme Court shall adopt rules and regulations governing the operation of the Commission. The Commission shall exercise all of its duties independently of the Director of the Administrative Office of the Courts, except that the Commission shall consult with the Director regarding personnel and budgeting matters.

(c) The Dispute Resolution Commission shall consist of ~~16~~ 17 members: five judges appointed by the Chief Justice of the Supreme Court, at least two of whom shall be active superior court judges, and at least two of whom shall be active district court judges; one clerk of superior court appointed by the Chief Justice of the Supreme Court; two mediators certified to conduct superior court mediated settlement conferences and two mediators certified to conduct equitable distribution mediated settlement conferences appointed by the Chief Justice of the Supreme Court; one certified district criminal court mediator who is a representative of a community mediation center appointed by the Chief Justice of the Supreme Court; a district attorney appointed by the Chief Justice of the Supreme Court; two practicing attorneys who are not certified as mediators appointed by the President of the North Carolina State Bar, one of whom shall be a family law specialist; and three citizens knowledgeable about mediation, one of whom shall be appointed by the Governor, one by the General Assembly upon the recommendation of the Speaker of the House of Representatives in accordance with

G.S. 120-121, and one by the General Assembly upon the recommendation of the President Pro Tempore of the Senate in accordance with G.S. 120-121. ~~Members shall initially serve four year terms, except that one judge, one mediator, one attorney, and the citizen member appointed by the Governor, shall be appointed for an initial term of two years. Incumbent members as of September 30, 1998 shall serve the remainder of the terms to which they were appointed. Members appointed to newly created membership positions effective October 1, 1998 shall serve initial terms of two years. Thereafter, Commission members shall serve three-year terms and shall be ineligible to serve more than two consecutive terms. Members appointed to fill unexpired terms shall be eligible to serve two consecutive terms upon the expiration of the unexpired term.~~ The Chief Justice shall designate one of the members to serve as chair for a two-year term. Members of the Commission shall be compensated pursuant to G.S. 138-5.

Vacancies shall be filled for unexpired terms and full terms in the same manner as incumbents were appointed. Appointing authorities may receive and consider suggestions and recommendations of persons for appointment from the Dispute Resolution Commission, the Family Law, Litigation, and Dispute Resolution Sections of the North Carolina Bar Association, the North Carolina Association of Professional Family Mediators, the North Carolina Conference of Clerks of Superior Court, the North Carolina Conference of Court Administrators, the Mediation Network of North Carolina, the Dispute Resolution Committee of the Supreme Court, the Conference of Chief District Court Judges, the Conference of Superior Court Judges, the Director of the Administrative Office of the Courts, and the Child Custody Mediation Advisory Committee of the Administrative Office of the Courts.

(d) ~~An administrative fee, not to exceed two hundred dollars (\$200.00),~~ (\$200.00) per certification, may be charged by the ~~Administrative Office of the Courts~~ Dispute Resolution Commission to applicants for certification and annual renewal of certification for mediators and mediation training programs operating under this Article. The fees collected ~~may be used by the Director of the Administrative Office of the Courts to establish and maintain the operations of the Commission and its staff. Notwithstanding the provisions of G.S. 143C-1-2(b), certification and renewal fees collected by the Dispute Resolution Commission are nonreverting and are only to be used at the direction of the Commission,~~ shall be deposited in a Dispute Resolution Fund. The Fund shall be established within the Judicial Department as a nonreverting, interest-bearing special revenue account. Accordingly, interest and other investment income earned by the Fund shall be credited to it. All moneys collected through the fees authorized and assessed under this statute shall be remitted to the Fund. Moneys in the Fund shall be used to support the operations of the Commission and used at the direction of the Commission.

(e) The chair of the Commission may employ an executive ~~secretary~~ director and other staff as necessary to assist the Commission in carrying out its duties. The chair may also employ special counsel or call upon the Attorney General to furnish counsel to assist the Commission in conducting hearings pursuant to its certification or qualification and regulatory responsibilities. Special counsel or counsel furnished by the Attorney General may present the evidence in support of a denial or revocation of certification or qualification or a complaint against a mediator, other neutral, training program, or trainers or staff affiliated with a program. Special counsel or counsel furnished by the Attorney General may also represent the Commission when its final determinations are the subject of an appeal.

(f) In connection with any investigation or hearing conducted pursuant to an application for certification or qualification of any mediator, other neutral, or training program, or conducted pursuant to any disciplinary matter, the chair of the Dispute Resolution Commission or his/her designee, may:

- (1) Administer oaths and affirmations;

- (2) Sign and issue subpoenas in the name of the Dispute Resolution Commission or direct its executive secretary to issue such subpoenas on its behalf requiring attendance and the giving of testimony by witnesses and the production of books, papers, and other documentary evidence;
- (3) Apply to the General Court of Justice, Superior Court Division, for any order necessary to enforce the ~~power~~ powers conferred in this ~~section~~ section, including an order for injunctive relief pursuant to G.S. 1A-1, Rule 65, when a certified mediator's conduct necessitates prompt action.

(g) The General Court of Justice, Superior Court Division, may enforce subpoenas issued in the name of the Dispute Resolution Commission and requiring attendance and the giving of testimony by witnesses and the production of books, papers, and other documentary evidence.

(h) The Commission shall keep confidential all information in its files pertaining to the initial and renewal applications for certification of mediators, the qualification of other neutrals, and the initial and renewal applications for certification or qualification of training programs for mediators or other neutrals, and the renewal of such certifications and qualifications. However, ~~disciplinary matters reported by an applicant for certification or qualification, a mediator, other neutral, trainer, or manager shall be treated as a complaint as set forth below, except that in the case of an initial or renewal application for certification in the District Criminal Court Mediation Program, Commission staff shall notify the Executive Director of the Mediation Network of North Carolina, Inc., and the Executive Director of the community mediation center that is sponsoring the application of any matter regarding the qualifications, character, conduct, or fitness to practice of the applicant.~~ The Commission shall also keep confidential the identity of those persons requesting informal guidance or the issuance of formal advisory opinions from the Commission or its staff.

~~Unless an applicant, mediator, other neutral, or training program trainer or manager requests otherwise, all~~ All information in the Commission's disciplinary files pertaining to a complaint regarding the ~~conduct~~ moral character, conduct, or fitness to practice of an ~~applicant, a mediator, other neutral, trainer, or manager~~ other training program personnel shall remain ~~confidential~~ confidential, unless the subject of the complaint requests otherwise, until such time as a all of the following conditions are met:

- (1) ~~A preliminary investigation is completed and a~~ completed.
- (2) ~~A determination is made that probable cause exists to believe that the applicant, words or actions of the mediator, neutral, trainer, or manager's words or actions; other training program personnel:~~
 - (1)a. Violate standards for the conduct of mediators or other neutrals;
 - (2)b. Violate other standards of professional conduct to which the ~~applicant, mediator, neutral, trainer, or manager~~ other training program personnel is subject;
 - (3)c. Violate program ~~rules;~~ rules or applicable governing law; or
 - (4)d. Consist of conduct or actions that are inconsistent with good moral character or reflect a lack of fitness to serve as a mediator, other neutral, trainer, or ~~manager~~ other training program personnel.
- (3) One of the following events has occurred:
 - a. The respondent does not appeal the determination before the time permitted for an appeal has expired.
 - b. Upon a timely filed appeal, the Commission holds a hearing and issues a decision affirming the determination.

Upon a finding of probable cause under this subsection against a mediator arising out of a mediated settlement conference, Commission staff shall provide notice of the finding of probable cause to any mediation program or agency under whose auspices the mediated

settlement conference was conducted. Commission shall also make reasonable efforts to notify any such agency or program of any public sanction imposed by the Commission pursuant to Supreme Court rules governing the operation of the Commission against a certified mediator who serves as a mediator for any such agency or program. Commission staff and members of the Grievance and Disciplinary Committee of the Commission may share information with other committee chairs or committees of the Commission when relevant to a review of any matter before such other committee.

The Commission may publish names, contact information, and biographical information for mediators, neutrals, and training programs that have been certified or qualified.

~~(i) The Commission shall conduct its initial review of all applications for certification and certification renewal or qualification and qualification renewal in private. The Commission shall also conduct its initial review of complaints regarding the qualifications of any certified mediator, other neutral, or training program, but not involving issues of ethics or conduct, in private. Appeals of denials of applications for certification, qualification, or renewal and appeals of revocations of certification or qualification for reasons that do not relate to ethics or conduct, shall be heard by the Commission in private unless the applicant, certified mediator, qualified neutral, or certified or qualified training program requests a public hearing. All appeals from denials of initial applications for mediator certification and initial applications for mediator training program certification shall be held in private, unless the applicant requests a public hearing. Appeals from a denial of a mediator or mediator training program application for certification renewal or reinstatement that relate to moral character, conduct, or fitness to practice shall be open to the public, except that for good cause shown, the presiding officer may exclude from the hearing room all persons except the parties, counsel, and those engaged in the hearing. All other appeals from denials of a mediator training program's application for certification renewal shall be held in private, unless the applicant requests a public hearing.~~

~~(j) The Commission shall conduct in private its initial review of all matters relating to the ethics or conduct of an applicant for certification, qualification, or renewal of certification or qualification or the ethics or conduct of a mediator, other neutral, trainer, or training program manager. If an applicant appeals the Commission's initial determination that sanctions be imposed, the hearing of such appeal by the Commission. Appeals from the Commission's initial determination after review and investigation of a complaint that probable cause exists to believe that the conduct of a mediator, neutral, trainer, or other training program personnel violated a provision set out in subdivision (2) of subsection (h) of this section shall be open to the public, except that for good cause shown, the presiding officer may exclude from the hearing room all persons except the parties, counsel, and those engaged in the hearing. No hearing shall be closed to the public over the objection of an applicant, the mediator, other neutral, trainer, or training program manager-personnel that is the subject of the complaint.~~

(k) Appeals of final determinations by the Commission to deny certification or renewal of certification, to revoke certification, or to discipline a mediator, trainer, or other training program manager-personnel shall be filed in the General Court of Justice, Wake County Superior Court Division. Notice of appeal shall be filed within 30 days of the date of the Commission's decision.

~~(l) The Commission may issue a cease and desist letter to any individual who falsely represents himself or herself to the public as certified or as eligible to be certified pursuant to this section, or who uses any words, letters, titles, signs, cards, Web site postings, or advertisements that expressly or implicitly convey such misrepresentation to the public. If the individual continues to make such false representations after receipt of the cease and desist letter, the Commission, through its Chair, may petition the Superior Court of Wake County for an injunction restraining the individual's conduct and for any other relief that the court deems appropriate."~~

SECTION 27. Section 22 of this act is effective when it becomes law and applies to petitions filed on or after that date. The remainder of this act is effective when it becomes law.

In the General Assembly read three times and ratified this the 29th day of June, 2017.

s/ Daniel J. Forest
President of the Senate

s/ Tim Moore
Speaker of the House of Representatives

s/ Roy Cooper
Governor

Approved 11:38 a.m. this 21st day of July, 2017

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2017

SESSION LAW 2017-109
HOUSE BILL 530

AN ACT GRANTING COUNTIES THE SAME AUTHORITY AS CITIES TO DECLARE CERTAIN BUILDINGS OR STRUCTURES UNSAFE AND TO REMOVE OR DEMOLISH UNSAFE BUILDINGS OR STRUCTURES AND TO PLACE A LIEN ON THE OWNER'S REAL PROPERTY FOR THE COSTS INCURRED.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 153A-366 reads as rewritten:

"§ 153A-366. Unsafe buildings condemned.

(a) Residential Building and Nonresidential Building or Structure. – The inspector shall condemn as unsafe each building that appears to him to be especially dangerous to life because of its liability to fire, bad conditions of walls, overloaded floors, defective construction, decay, unsafe wiring or heating system, inadequate means of egress, or other causes; and he shall affix a notice of the dangerous character of the building to a conspicuous place on its exterior wall.

(b) Nonresidential Building or Structure. – In addition to the authority granted in subsection (a) of this section, an inspector may declare a nonresidential building or structure within a community development target area to be unsafe if it meets both of the following conditions:

- (1) It appears to the inspector to be vacant or abandoned.
- (2) It appears to the inspector to be in such dilapidated condition as to cause or contribute to blight, disease, vagrancy, fire, or safety hazard, to be a danger to children, or to tend to attract persons intent on criminal activities or other activities that would constitute a public nuisance.

(c) If an inspector declares a nonresidential building or structure to be unsafe under subsection (b) of this section, the inspector must affix a notice of the unsafe character of the structure to a conspicuous place on the exterior wall of the building. For the purposes of this section, the term "community development target area" means an area that has characteristics of an urban progress zone under G.S. 143B-437.09, a "nonresidential redevelopment area" under G.S. 160A-503(10), or an area with similar characteristics designated by the board of commissioners as being in special need of revitalization for the benefit and welfare of its citizens.

(d) A county may expand subsections (b) and (c) of this section to apply to residential buildings by adopting an ordinance. Before adopting the ordinance, the county shall hold a public hearing and shall provide notice of the hearing at least 10 days in advance of the hearing."

SECTION 2. G.S. 153A-368 reads as rewritten:

"§ 153A-368. Action in event of failure to take corrective action.

If the owner of a building that has been condemned as unsafe pursuant to G.S. 153A-366 fails to take prompt corrective action, the local inspector shall by certified or registered mail to his last known address or by personal service give him written notice:

- (1) That the building or structure is in a condition that appears to constitute meet one or more of the following conditions:



- a. Constitutes a fire or safety hazard or to be hazard.
 - b. Is dangerous to life, health, or other ~~property~~;property.
 - c. Is likely to cause or contribute to blight, disease, vagrancy, or danger to children.
 - d. Has a tendency to attract persons intent on criminal activities or other activities that would constitute a public nuisance.
- (2) That a hearing will be held before the inspector at a designated place and time, not later than 10 days after the date of the notice, at which time the owner is entitled to be heard in person or by counsel and to present arguments and evidence pertaining to the matter; and
- (3) That following the hearing, the inspector may issue any order to repair, close, vacate, or demolish the building that appears appropriate.

If the name or whereabouts of the owner cannot after due diligence be discovered, the notice shall be considered properly and adequately served if a copy thereof is posted on the outside of the building in question at least 10 days before the day of the hearing and a notice of the hearing is published at least once not later than one week before the hearing."

SECTION 3. G.S. 153A-372 reads as rewritten:

"§ 153A-372. Equitable enforcement.

(a) Action Authorized. – Whenever a violation is denominated a misdemeanor under the provisions of this Part, the county, either in addition to or in lieu of other remedies, may initiate any appropriate action or proceeding to prevent, restrain, correct, or abate the violation or to prevent the occupancy of the building involved.

(b) Removal of Building. – In the case of a building or structure declared unsafe under G.S. 153A-366 or an ordinance adopted pursuant to G.S. 153A-366, a county may, in lieu of taking action under subsection (a) of this section, cause the building or structure to be removed or demolished. The amounts incurred by the county in connection with the removal or demolition shall be a lien against the real property upon which the cost was incurred. The lien shall be filed, have the same priority, and be collected in the same manner as liens for special assessments provided in Article 9 of this Chapter. If the building or structure is removed or demolished by the county, the county shall sell the usable materials of the building and any personal property, fixtures, or appurtenances found in or attached to the building. The county shall credit the proceeds of the sale against the cost of the removal or demolition. Any balance remaining from the sale shall be deposited with the clerk of superior court of the county where the property is located and shall be disbursed by the court to the person found to be entitled thereto by final order or decree of the court.

(b1) Additional Lien. – The amounts incurred by the county in connection with the removal or demolition shall also be a lien against any other real property owned by the owner of the building or structure and located within the county's jurisdictional limits, except for the owner's primary residence. The provisions of subsection (b) of this section apply to this additional lien, except that this additional lien is inferior to all prior liens and shall be collected as a money judgment.

(c) Nonexclusive Remedy. – Nothing in this section shall be construed to impair or limit the power of the county to define and declare nuisances and to cause their removal or abatement by summary proceedings or otherwise."

SECTION 4. This act is effective when it becomes law.
In the General Assembly read three times and ratified this the 29th day of June,
2017.

s/ Daniel J. Forest
President of the Senate

s/ Tim Moore
Speaker of the House of Representatives

s/ Roy Cooper
Governor

Approved 6:56 p.m. this 12th day of July, 2017

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2017

SESSION LAW 2017-10
SENATE BILL 131

AN ACT TO PROVIDE FURTHER REGULATORY RELIEF TO THE CITIZENS OF
NORTH CAROLINA.

The General Assembly of North Carolina enacts:

PART I. BUSINESS REGULATION

EMPLOYMENT STATUS OF FRANCHISES

SECTION 1.1. Article 2A of Chapter 95 of the General Statutes is amended by adding a new section to read:

"§ 95-25.24A. Franchisee status.

Neither a franchisee nor a franchisee's employee shall be deemed to be an employee of the franchisor for any purposes, including, but not limited to, this Article and Chapters 96, 97, and 105 of the General Statutes. For purposes of this section, "franchisee" and "franchisor" have the same definitions as set out in 16 C.F.R. § 436.1."

STREAMLINE MORTGAGE NOTICE REQUIREMENTS

SECTION 1.2. G.S. 45-91 reads as rewritten:

"§ 45-91. Assessment of fees; processing of payments; publication of statements.

A servicer must comply as to every home loan, regardless of whether the loan is considered in default or the borrower is in bankruptcy or the borrower has been in bankruptcy, with the following requirements:

- (1) Any fee that is incurred by a servicer shall be both:
 - a. Assessed within 45 days of the date on which the fee was incurred. Provided, however, that attorney or trustee fees and costs incurred as a result of a foreclosure action shall be assessed within 45 days of the date they are charged by either the attorney or trustee to the servicer.
 - b. Explained clearly and conspicuously in a statement mailed to the borrower at the borrower's last known address within 30 days after assessing the fee, provided the servicer shall not be required to take any action in violation of the provisions of the federal bankruptcy code. The servicer shall not be required to send such a statement for a fee that: ~~(i) results that either:~~
 1. Is otherwise included in a periodic statement sent to the borrower that meets the requirements of paragraphs (b), (c), and (d) of 12 C.F.R. § 1026.41.
 2. Results from a service that is affirmatively requested by the borrower, (ii) is paid for by the borrower at the time the service is provided, and (iii) is not charged to the borrower's loan account.
- (2) All amounts received by a servicer on a home loan at the address where the borrower has been instructed to make payments shall be accepted and



the examination may be taken by one or more of the responsible managing officers or members of the personnel of the applicant, and if the person so examined applicant.

(c1) If the qualifier or qualifying party shall cease to be connected with the applicant, licensee, then in such event the license shall remain in full force and effect for a period of 90 days thereafter, and then be canceled, but the applicant days. After 90 days, the license shall be invalidated, however the licensee shall then be entitled to a reexamination, all return to active status pursuant to the all relevant statutes and rules to be promulgated by the Board: Provided, that the holder of such license Board. However, during the 90-day period described in this subsection, the licensee shall not bid on or undertake any additional contracts from the time such examined employee shall cease qualifier or qualifying party ceased to be connected with the applicant licensee until said applicant's the license is reinstated as provided in this Article.

(d) Anyone failing to pass this examination may be reexamined at any regular meeting of the Board upon payment of an examination fee. Anyone requesting to take the examination a third or subsequent time shall submit a new application with the appropriate examination and license fees.

(d1) The Board may require a new application if a qualifier or qualifying party requests to take an examination a third or subsequent time.

(e) A certificate of license shall expire on the thirty-first first day of December January following its issuance or renewal and shall become invalid 60 days from that date unless renewed, subject to the approval of the Board. Renewals may be effected any time during the month of January without reexamination, by the payment of a fee to the secretary of the Board. The fee shall Renewal applications shall be submitted with a fee not to exceed one hundred twenty-five dollars (\$125.00) for an unlimited license, one hundred dollars (\$100.00) for an intermediate license, and seventy-five dollars (\$75.00) for a limited license. No later than November 30 of each year, the Board shall mail written notice of the amount of the renewal fees for the upcoming year to the last address of record for each general contractor licensed pursuant to this Article. Renewal applications shall be accompanied by evidence of continued financial responsibility satisfactory to the Board. Renewal applications received by the Board on or after the first day of January shall be accompanied by a late payment of ten dollars (\$10.00) for each month or part after January.

(f) After a lapse of four years no renewal shall be effected and the applicant license has been inactive for four years, a licensee shall not be permitted to renew the license, and the license shall be deemed archived. If a licensee wishes to be relicensed subsequent to the archival of the license, the licensee shall fulfill all requirements of a new applicant as set forth in this section. Archived licensed numbers shall not be renewed."

SECTION 2.13.(b) This section becomes effective October 1, 2017, and applies to applications for licensure submitted on or after that date.

REPEAL CERTAIN EDUCATIONAL TESTING LAWS

SECTION 2.14. G.S. 115C-174.12(c) reads as rewritten:

"(c) Local boards of education shall cooperate with the State Board of Education in implementing the provisions of this Article, including the regulations and policies established by the State Board of Education. Local school administrative units shall use the annual tests to fulfill the purposes set out in this Article. ~~Local school administrative units are encouraged to continue to develop local testing programs designed to diagnose student needs."~~

STATUTE OF LIMITATIONS/LAND-USE VIOLATIONS

SECTION 2.15.(a) G.S. 1-51 is amended by adding a new subdivision to read:

"§ 1-51. Five years.

Within five years -

...

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2017

SESSION LAW 2017-170
HOUSE BILL 740

AN ACT TO MODIFY THE NAME OF SEARCH AND RESCUE SERVICES, TO ALLOW THE NORTH CAROLINA GEODETIC SURVEY TO RATIFY RESULTS OF COUNTY BOUNDARY RESURVEYS, AND TO CLARIFY THAT PROTECTIVE RIDGELINE MAPS ARE HOUSED WITH THE NORTH CAROLINA GEODETIC SURVEY RATHER THAN THE DEPARTMENT OF ENVIRONMENTAL QUALITY.

The General Assembly of North Carolina enacts:

SECTION 1. Article 6 of Chapter 166A of the General Statutes reads as rewritten:
"Article 6.

~~"Urban-North Carolina Search and Rescue.~~

"§ 166A-65. Definitions.

The following definitions apply in this Article:

- (1) Contract response team. – ~~An urban~~ A search and rescue team, specialty rescue team, or incident support team.
- (2) Incident support team. – A team of trained emergency response personnel, organized to provide coordination between governmental agencies and nongovernmental organizations as well as technical and logistical support to ~~urban~~ search and rescue teams and specialty rescue teams.
- (2a) Search and rescue team. – A specialized team or group of teams, organized with capabilities equivalent to search and rescue teams established under the Federal Emergency Management Agency in order to assist in the removal of trapped victims during emergencies, including, but not limited to, collapsed structures, trench excavations, elevated locations, and other technical rescue situations.
- (3) Secretary. – The Secretary of the Department of Public Safety.
- (4) Specialty rescue team. – A specialized response team, organized to provide technical rescue assistance to first responders. The term includes, but is not limited to, a canine search and rescue or disaster response team, a cave search and rescue team, a collapse search and rescue team, a mine and tunnel search and rescue team, and a swift water or flood search and rescue team. A specialty rescue team shall be aligned with one or more of the search and rescue categories within the Federal Emergency Management Agency's national resource typing system.
- (5) ~~Urban search and rescue team. – A specialized team or group of teams, organized with capabilities equivalent to urban search and rescue teams established under the Federal Emergency Management Agency in order to assist in the removal of trapped victims during emergencies, including, but not limited to, collapsed structures, trench excavations, elevated locations, and in other technical rescue situations.~~

"§ 166A-66. Urban-North Carolina Search and Rescue Program.



(a) The Secretary shall adopt rules establishing a program for ~~urban~~ search and rescue that relies on ~~contracts~~ contracts, memorandums of understanding, and memorandums of agreement with contract response teams. The program shall be administered by the Division of Emergency Management. To the extent possible, the program shall be coordinated with other emergency planning activities of the State. The program shall include contract response teams located strategically across the State that are available to provide 24-hour dispatch from the Division of Emergency Management Operations Center. The rules for the program shall include:

- (1) Standards, including training, equipment, and personnel standards required to operate a contract response team.
- (2) Guidelines for the dispatch of a contract response team to an ~~urban~~ a search and rescue team or specialty rescue team mission.
- (3) Guidelines for the on-site operations of a contract response team.
- (4) Standards for administration of a contract response team, including procedures for reimbursement of response costs.
- (5) Refresher and specialist training for members of contract response teams.
- (6) Procedures for recovering the costs of an ~~urban~~ a search and rescue team or specialty rescue team mission.
- (7) Procedures for bidding and contracting for ~~urban~~ search and rescue team and specialty rescue team missions.
- (8) Criteria for evaluating bids for ~~urban~~ search and rescue team and specialty rescue team missions.
- (9) Delineation of the roles of the contract response team, local public safety personnel, the Division of Emergency Management's area coordinator, and other State agency personnel participating in an ~~urban~~ a search and rescue team or specialty rescue team mission.
- (10) Procedures for the Division of Emergency Management to audit the contract response teams to ensure compliance with State and federal guidelines.

(b) Within available appropriations, the Division of Emergency Management shall spend the necessary funds for training, equipment, and other items necessary to support the operations of contract response teams. The Division of Emergency Management may also administer any grants of other funds made available for contract response teams, in accordance with applicable rules and regulations approved by the Director of the State Budget.

(c) In developing the Urban-North Carolina Search and Rescue Program and adopting the rules required by this section, the Secretary shall consult with the Urban-North Carolina Search and Rescue Team Advisory Committee established pursuant to G.S. 166A-69.

"§ 166A-67. Contracts; equipment loans.

(a) The Secretary may contract with any unit or units of local government for the provision of a contract response team to implement the Urban-North Carolina Search and Rescue Program. Contracts are to be let consistent with the bidding and contract standards and procedures adopted pursuant to G.S. 166A-66(a)(7) and G.S. 166A-66(a)(8). In entering into contracts with units of local government, the Secretary may agree to provide any of the following:

- (1) A loan of equipment.
- (2) Reimbursement of personnel costs, including the cost of callback personnel, when a contract response team is authorized by the Department to respond to ~~urban~~ search and rescue team and specialty rescue team missions.
- (3) Reimbursement for use of equipment and vehicles owned by the contract response team.
- (4) Replacement of disposable materials and damaged equipment.
- (5) Training expenses.

- (6) Anything else agreed to by the Secretary and the contract response team.
- (b) The Secretary shall not agree to provide reimbursement for standby time.
- (c) Any contract entered into between the Secretary and a unit of local government for the provision of a contract response team shall specify that the members of the contract response team, when performing under the contract, shall not be employees of the State and shall not be entitled to benefits under the Teachers' and State Employees' Retirement System or for the payment by the State of federal Social Security, employment insurance, or workers' compensation.

(d) Contract response teams that have the use of a State vehicle may use the vehicle for local purposes. Where a State vehicle is used for purposes other than authorized contract response to ~~an urban~~ a search and rescue team and specialty rescue team mission, the contract response team shall be liable for repairs or replacements directly attributable to that use.

"§ 166A-68. Immunity of contract response team personnel.

Members of a contract response team shall be protected from liability under the provisions of G.S. 166A-19.60(a) while on ~~an urban~~ a search and rescue team or specialty rescue team mission pursuant to authorization from the Division of Emergency Management.

"§ 166A-69. Urban-North Carolina Search and Rescue Team Advisory Committee.

(a) The ~~Urban-North Carolina~~ Search and Rescue Team Advisory Committee is created. The Secretary shall appoint the members of the Committee and shall designate the Director or Deputy Director of the North Carolina Division of Emergency Management as the chair. In making appointments, the Secretary shall take into consideration the expertise of the appointees in the management of ~~urban~~ search and rescue or specialty response team missions. The Secretary shall appoint one representative from each of the following:

- (1) The Division of North Carolina Emergency Management, who shall be the Director or Deputy Director of the North Carolina Division of Emergency Management and who shall serve as the chair.
- (2) Each state ~~USAR~~-regional contract response team's Chief or Deputy Chief.
- (3) The North Carolina Office of State Fire Marshal.
- (4) The North Carolina Highway Patrol.
- (5) The North Carolina National Guard.
- (6) The North Carolina Association of Rescue and E.M.S., Inc.
- (7) The North Carolina Association of Fire Chiefs.
- (8) The North Carolina State Firefighters' Association.
- (9) The North Carolina Emergency Management Association.

(b) The Advisory Committee shall meet on the call of the chair, or at the request of the Secretary, provided that the Committee shall meet no less than once every year. The Department of Public Safety shall provide space for the Advisory Committee to meet. The Department shall also provide the Advisory Committee with necessary support staff and supplies to enable the Committee to carry out its duties in an effective manner.

(c) Members of the Advisory Committee shall serve without pay, but shall receive travel allowance, lodging, subsistence, and per diem as provided by G.S. 138-5.

(d) The Contract Response Team Advisory Committee shall advise the Secretary on the establishment of the Urban-North Carolina Search and Rescue Program. The Committee shall also evaluate and advise the Secretary of the need for additional contract response teams to serve the State."

SECTION 2. G.S. 153A-18 reads as rewritten:

"§ 153A-18. Uncertain or disputed boundary.

(a) If two or more counties are uncertain as to the exact location of the boundary between them, they-the North Carolina Geodetic Survey (NCGS), on a cooperative basis, shall assist counties in defining and monumenting the location of the uncertain or disputed boundary as established in accordance with law. Upon receiving written request from all counties

adjacent to the uncertain or disputed boundary, the NCGS may cause the boundary to be surveyed, marked, and mapped. The counties may appoint special commissioners to supervise the surveying, marking, and mapping. A commissioner so appointed or a person surveying or marking the boundary may enter upon private property to view and survey the boundary or to erect boundary markers. Upon ratification of the survey by the board of commissioners of each county, a map showing the surveyed boundary shall be recorded in the office of the register of deeds of each county in the manner provided by law for the recordation of maps or plats and in the Secretary of State's office. The map shall contain a reference to the date of each resolution of ratification and to the page in the minutes of each board of commissioners where the resolution may be found. Upon recordation, the map is conclusive as to the location of the boundary. Upon reestablishing all, or some portion, of a county boundary, and if after the NCGS submits the results of the survey to the requesting counties, and the requesting counties have not ratified the reestablished boundary within one year of receiving the (map) survey plat denoting the location of the reestablished boundary, the survey plat will become conclusive as to the location of the boundary and will be recorded in the Register of Deeds in each affected county and in the Secretary of State's office. The Chief of the NCGS (State Surveyor) will notify each affected party in writing of the action taken. As used in this subsection, an "affected party" means both (i) the governing body of a county that the reestablished boundary denotes the extent of its jurisdiction and (ii) a property owner whose real property has been placed in whole or in part in another county due to the reestablished boundary.

...

(c) Two or more counties may establish the boundary between them pursuant to subsection (a), above, by the subsection (a) of this section. Those boundaries are defined by natural monuments such as rivers, streams, and ridgelines. The use of base maps prepared from orthophotography, orthophotography may be used if said natural monuments are visible, which base maps show the monuments of the United States Geological Survey National Geodetic Survey and North Carolina State Plane Coordinate System established pursuant to Chapter 102 of the General Statutes. The orthophotography shall be prepared in compliance with the State's adopted orthophotography standard. Upon ratification of the location of the boundary determined from orthophotography by the board of commissioners of each county, the map showing the boundary and the monuments of the United States Geological Survey National Geodetic Survey and North Carolina State Plane Coordinate System shall be recorded in the Office of the Register of Deeds of each county and in the Secretary of State's office. The map shall contain a reference to the date of each resolution of ratification and to the page in the minutes of each board of commissioners where the resolution may be found. Upon recordation, the map is conclusive as to the location of the boundary."

SECTION 3. G.S. 113A-212 reads as rewritten:

"§ 113A-212. Assistance to counties and cities under ridge law.

...

(b) The Secretary of Environmental Quality shall identify the protected mountain ridge crests in each county by showing them on a map or drawing, describing them in a document, or any combination thereof. Such maps, drawings, or documents shall identify the protected mountain ridges as defined in G.S. 113A-206 and such other mountain ridges as any county may request, and shall specify those protected mountain ridges that serve as all or part of the boundary line between two counties. By November 1, 1983, the map, drawing, or document tentatively identifying the protected mountain ridge crests of each county shall be filed with the board of county commissioners and with the city governing body of each city that requests it. By January 1, 1984, the map, drawing, or document identifying the protected mountain ridge crests shall be permanently filed by the Secretary with the register of deeds in the county where the land lies, and made available for inspection at the ~~Secretary's office~~ office of the North Carolina Geodetic Survey (NC Emergency Management/Risk Management) in Raleigh. Copies

of the maps, drawings, or documents certified by the register of deeds, shall be admitted in evidence in all courts and shall have the same force and effect as would the original.

...."

SECTION 4. Section 1 of this act becomes effective July 1, 2017. The remainder of this act is effective when it becomes law.

In the General Assembly read three times and ratified this the 29th day of June, 2017.

s/ Daniel J. Forest
President of the Senate

s/ Tim Moore
Speaker of the House of Representatives

s/ Roy Cooper
Governor

Approved 11:45 a.m. this 21st day of July, 2017

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2017

H

1

HOUSE BILL 852

Short Title: Real Property Technical Corrections. (Public)

Sponsors: Representatives Jordan and Zachary (Primary Sponsors).
For a complete list of sponsors, refer to the North Carolina General Assembly web site.

Referred to: Judiciary III, if favorable, Finance

April 13, 2017

1 A BILL TO BE ENTITLED
2 AN ACT TO MAKE CORRECTIONS AND OTHER AMENDMENTS TO VARIOUS
3 STATUTES IMPACTING REAL PROPERTY OWNERSHIP AND TO MAKE OTHER
4 CONFORMING CHANGES, AS RECOMMENDED BY THE REAL PROPERTY
5 SECTION OF THE NORTH CAROLINA STATE BAR ASSOCIATION.
6 The General Assembly of North Carolina enacts:

7
8 **PART I. MORTGAGE AND DEED OF TRUST CHANGES**

9 **SECTION 1.1.** G.S. 39-13 reads as rewritten:

10 **"§ 39-13. Spouse need not join in purchase-money mortgage.**

11 ~~The purchaser of real estate who does not pay the whole of the purchase money at the time~~
12 ~~when he or she takes a deed for title may make a mortgage or deed of trust for securing the~~
13 ~~payment of such purchase money, or such part thereof as may remain unpaid, which A~~
14 ~~mortgage or deed of trust given by the purchaser of real property to secure a loan, the proceeds~~
15 ~~of which were used to pay all or a portion of the purchase price of the encumbered real~~
16 ~~property, regardless of whether the secured party is the seller of the real property or a~~
17 ~~third-party lender, shall be good and effectual against his or her the purchaser's spouse as well~~
18 ~~as the purchaser, without requiring the spouse to join in the execution of such the mortgage or~~
19 ~~deed of trust."~~

20 **SECTION 1.2.** G.S. 161-10(a) reads as rewritten:

21 **"§ 161-10. Uniform fees of registers of deeds.**

22 (a) Except as otherwise provided in this Article, all fees collected under this section
23 shall be deposited into the county general fund. While performing the duties of the office, the
24 register of deeds shall collect the following fees which shall be uniform throughout the State:

25 ...
26 (1a) Deeds of Trust, Mortgages, and Cancellation of Deeds of Trust and
27 Mortgages. – For registering or filing any deed of trust or mortgage the fee
28 shall be sixty-four dollars (\$64.00) for the first 35 pages plus four dollars
29 (\$4.00) for each additional page or fraction thereof.

30 When a deed of trust or mortgage is presented for registration that
31 contains one or more additional instruments, the fee shall be ten dollars
32 (\$10.00) for each additional instrument. A deed of trust or mortgage contains
33 one or more additional instruments if such additional instrument or
34 instruments has or have different legal consequences or intent, each of which
35 is separately executed and acknowledged and could be recorded alone.



1 For recording records of satisfaction, or the cancellation of record by any
 2 other means, of deeds of trust or mortgages, there shall be no fee. In all other
 3 cases, the fees provided in subdivision (1) of this subsection shall apply to
 4 the registration or filing of any subsequent instrument that relates to a
 5 previously recorded deed of trust or mortgage. For the purposes of this
 6 section, the term "subsequent instrument" has the same meaning as set forth
 7 in G.S. 161-14.1(a)(3).

8"

9 **SECTION 1.3.** G.S. 161-14.1(a) reads as rewritten:

10 **"§ 161-14.1. Recording subsequent entries as separate instruments.**

11 (a) As used in this section, the following terms mean:

12 (1) Original instrument. – The previously recorded instrument that is modified,
 13 amended, restated, supplemented, assigned, satisfied, terminated, revoked, or
 14 cancelled by a subsequent instrument.

15 ...

16 (3) Subsequent instrument. – Any instrument presented for registration that
 17 indicates in its title or within the first two pages of its text that it is intended
 18 or purports to modify, amend, restate, supplement, assign, satisfy, terminate,
 19 revoke, or cancel a previously registered instrument. Examples of
 20 subsequent instruments include the following:

21 ...

22 i. An instrument that amends, modifies, or restates an original
 23 instrument, such as an amendment or modification
 24 agreement, agreement or an amended and restated instrument.

25"

26
 27 **PART II. PROBATE AND REGISTRATION CHANGES**

28 **SECTION 2.1.** G.S. 47-17.1 reads as rewritten:

29 **"§ 47-17.1. Documents registered or ordered to be registered in certain counties to**
 30 **designate draftsman; exceptions.**

31 The register of deeds of any county in North Carolina shall not accept for registration, nor
 32 shall any judge order registration pursuant to G.S. 47-14, of any deeds or deeds of trust,
 33 executed after January 1, 1980, unless the first page of the deeds or deeds of trust bears an entry
 34 showing the name of either the person or law firm who drafted the instrument. This section
 35 shall not apply to other instruments presented for registration. For the purposes of this section,
 36 the register of deeds shall accept the verbal or written representation of the individual
 37 presenting the deed or deed of trust for registration, or any individual reasonably related to the
 38 transaction, including, but not limited to, any employee of a title insurance company or agency
 39 purporting to be involved with the transaction, that the individual or law firm listed on the first
 40 page is a validly licensed attorney or validly existing law firm in this State or another
 41 jurisdiction within the United States."

42 **SECTION 2.2.** G.S. 47-18.3 reads as rewritten:

43 **"§ 47-18.3. Execution of corporate instruments; authority and proof.**

44 (a) Notwithstanding anything to the contrary in the bylaws or articles of ~~incorporation,~~
 45 incorporation or the operating agreement or articles of organization, when it appears on the face
 46 of an instrument registered in the office of the register of deeds that the instrument was signed
 47 in the ordinary course of business on behalf of a domestic or foreign corporation or a domestic
 48 or foreign limited liability company by its chairman, president, chief executive officer, a
 49 vice-president or an assistant vice-president, treasurer, ~~or~~ chief financial officer, chief
 50 operations officer, general counsel, deputy or assistant general counsel, manager, member,
 51 director, or any similar business titles, such an instrument shall be as valid with respect to the

1 rights of innocent third parties as if executed pursuant to authorization from the board of
2 directors, unless the instrument reveals on its face a potential breach of fiduciary obligation.
3 The subsection shall not apply to parties who had actual knowledge of lack of authority or of a
4 breach of fiduciary obligation.

5 (b) Any instrument registered in the office of the register of deeds, appearing on its face
6 to be executed by a ~~corporation~~, corporation or limited liability company, foreign or domestic,
7 and bearing a seal which purports to be the corporate seal, setting forth the name of the
8 corporation engraved, lithographed, printed, stamped, impressed upon, or otherwise affixed to
9 the instrument, is prima facie evidence that the seal is the duly adopted corporate seal of the
10 corporation, that it has been affixed as such by a ~~person~~ an individual duly authorized so to do,
11 that the instrument was duly executed and signed by ~~persons~~ individuals who were officers or
12 agents of the corporation acting by authority duly given by the board of directors, and that any
13 such instrument is the act of the corporation, and shall be admissible in evidence without
14 further proof of execution.

15 (c) Nothing in this section shall be deemed to exclude the power of any corporate or
16 limited liability company representatives to bind the corporation or limited liability company
17 pursuant to express, implied, inherent or apparent authority, ratification, estoppel, or otherwise.

18 (d) Nothing in this section shall relieve corporate or limited liability company officers
19 from liability to the corporation or limited liability company or from any other liability that
20 they may have incurred from any violation of their actual authority.

21 (e) Any corporation or limited liability company may convey an interest in real
22 property which is transferable by instrument which is duly executed by either an officer,
23 manager, member, or agent of said corporation or limited liability company and has attached
24 thereto a signed and attested resolution of the board of directors of said corporation or the
25 managers or members of the limited liability company authorizing the said officer, manager,
26 member, or agent to execute, sign, seal, and attest deeds, conveyances, or other instruments.
27 This section shall be deemed to have been complied with if an attested resolution is recorded
28 separately in the office of the register of deeds in the county where the land lies, which said
29 resolution shall be applicable to all deeds executed subsequently thereto and pursuant to its
30 authority. Notwithstanding the foregoing, this section shall not require a signed and attested
31 resolution of the board of directors of the corporation or the managers or members of the
32 limited liability company to be attached to an instrument or separately recorded in the case of
33 an instrument duly executed by the corporation's chairman, president, chief executive officer, a
34 vice-president, assistant vice-president, treasurer, ~~or~~ chief financial officer, officer, chief
35 operations officer, general counsel, deputy or assistant general counsel, manager, member,
36 director, or any similar business title. All deeds, conveyances, or other instruments which have
37 been heretofore or shall be hereafter so executed shall, if otherwise sufficient, be valid and shall
38 have the effect to pass the title to the real or personal property described therein."
39

40 PART III. EFFECTIVE DATES

41 SECTION 3.1. Part I of this act is effective when this act becomes law and applies
42 to mortgages and deeds of trust entered into before, on, or after that date. Part II of this act is
43 effective when this act becomes law and applies to instruments presented for registration on or
44 after that date. The remainder of this act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2017

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7

SENATE BILL 114
Judiciary Committee Substitute Adopted 4/11/17
Finance Committee Substitute Adopted 5/24/17
Fourth Edition Engrossed 6/26/17
House Committee Substitute Favorable 6/27/17
House Committee Substitute #2 Favorable 6/28/17
Seventh Edition Engrossed 6/28/17

Short Title: Annual Reports/Prop. Tax/Recodification Comm. (Public)

Sponsors:

Referred to:

February 22, 2017

A BILL TO BE ENTITLED

1 AN ACT REVISING THE LAWS GOVERNING THE SUBMISSION OF ANNUAL
2 REPORTS BY VARIOUS BUSINESS ENTITIES TO THE SECRETARY OF STATE;
3 CONFORMING THE TREATMENT OF LEASEHOLD INTERESTS IN EXEMPT
4 PROPERTY TO THAT OF OTHER TYPES OF INTANGIBLE PERSONAL PROPERTY
5 FOR PURPOSES OF THE PROPERTY TAX; AND CREATING THE CRIMINAL CODE
6 RECODIFICATION COMMISSION.

7 The General Assembly of North Carolina enacts:

8
9
10 **PART I. BUSINESS CORPORATIONS**

11 **SECTION 1.(a)** G.S. 55-16-22 reads as rewritten:

12 "**§ 55-16-22. Annual report.**

13 (a) Requirement. – Except as provided in ~~subsections (a1) and subsection (a2)~~ of this
14 section, each domestic corporation and each foreign corporation authorized to transact business
15 in this State shall ~~deliver submit~~ an annual report to the Secretary of Revenue in paper form or,
16 in the alternative, directly to the Secretary of State in electronic form as prescribed by the
17 Secretary of State under this section.

18 (a1) ~~Each insurance company subject to the provisions of Chapter 58 of the General~~
19 ~~Statutes shall deliver an annual report to the Secretary of State.~~

20 (a2) Professional Corporations Exempt. – A domestic corporation governed by Chapter
21 55B of the General Statutes is exempt from this section.

22 (a3) Form; Required Information. – The annual report required by this section shall be in
23 a an electronic form jointly-prescribed by the Secretary of Revenue and the Secretary of State.
24 The Secretary of Revenue shall provide the form needed to file an annual report. The State, and
25 the Secretary of State shall prescribe the form needed to file an annual report electronically and
26 shall provide this form by electronic means. The annual report shall set forth all of the
27 following:

- 28 (1) The name of the corporation and the state or country under whose law it is
29 incorporated.
30 (2) The street address, and the mailing address if different from the street
31 address, of the registered office, the county in which its registered office is



- 1 located, ~~and the name and e-mail address of its registered agent at that office~~
- 2 in this State, and a statement of any change of ~~such the~~ registered office or
- 3 registered agent, ~~or both agent.~~
- 4 (3) The address and telephone number of its principal office.
- 5 (4) The names, titles, and business street addresses of its principal
- 6 ~~officers, officers and the name, mailing address, e-mail address, and~~
- 7 telephone number of an individual who is authorized to provide information
- 8 regarding persons with authority to bind the corporation.
- 9 ...
- 10 (5) A brief description of the nature of its business.
- 11 (6) A valid e-mail address for the corporation, if different from the e-mail
- 12 address provided under subdivision (2) of this subsection.

13 ~~If the information contained in the most recently filed annual report has not changed, a~~
 14 ~~certification to that effect may be made instead of setting forth the information required by~~
 15 ~~subdivisions (2) through (5) of this subsection.~~

16 (b) Currency of Information. – Information in the annual report must be current as of
 17 the date the annual report is executed on behalf of the corporation.

18 (c) Due Date. – An annual report ~~eligible to be delivered to the Secretary of Revenue is~~
 19 ~~due by the due date for filing the corporation's income and franchise tax returns. An extension~~
 20 ~~of time to file a return is an extension of time to file an annual report. At the option of the filer,~~
 21 ~~an annual report may be filed directly with the Secretary of State in electronic form. An annual~~
 22 ~~report required to be delivered to the Secretary of State is due by the fifteenth day of the fourth~~
 23 ~~month following the close of the domestic or foreign corporation's fiscal year.~~

24 (d) Incomplete Information. – If an annual report does not contain the information
 25 required by this section, the Secretary of State shall promptly notify the reporting domestic or
 26 foreign corporation in writing and return the report to it for correction. If the report is corrected
 27 to contain the information required by this section and ~~delivered~~ submitted to the Secretary of
 28 State within 30 days after the effective date of notice, it is deemed to be timely filed.

29 (e) Amendments. – Amendments to any previously filed annual report may be filed
 30 submitted for filing with the Secretary of State at any time for the purpose of correcting,
 31 updating, or augmenting the information contained in the annual report.

32 ...

33 (g) ~~When a statement of change of registered office or registered agent is filed in the~~
 34 ~~annual report, the change shall become effective when the statement is received by the~~
 35 ~~Secretary of State.~~

36 (h) Delinquency. – If the Secretary of State does not receive an annual report within
 37 ~~120-60~~ days of the date the ~~return~~ report is due, the Secretary of State may presume that the
 38 annual report is delinquent. This presumption may be rebutted ~~by receipt of the annual report~~
 39 ~~from the Secretary of Revenue or by evidence~~ satisfactory to the Secretary of State of delivery
 40 submission presented by the filing corporation.

41 (i) E-Mail; Confidentiality. – The Secretary of State may provide by e-mail any notice
 42 or form required under this section if the submitting domestic or foreign corporation to be
 43 notified has consented to receiving notices and forms via e-mail and has provided the Secretary
 44 of State an e-mail address for receiving the notices or forms. Any e-mail address provided by a
 45 submitting domestic or foreign corporation in accordance with this section shall be considered
 46 confidential information and shall not be subject to disclosure under Chapter 132 of the General
 47 Statutes."

48 **SECTION 1.(b)** G.S. 55-14-22 reads as rewritten:
 49 **"§ 55-14-22. Reinstatement following administrative dissolution.**

50 ...

(b) If the Secretary of State determines that the application contains the information required by subsection (a) of this section, that the information is correct, ~~and~~ that the name of the corporation complies with G.S. 55D-21 and any other applicable section, and that any penalties, fees, or other payments due under this Chapter have been paid, the Secretary of State shall cancel the certificate of dissolution and prepare a certificate of reinstatement that recites the Secretary of State's determination and the effective date of reinstatement, file the original of the certificate, and mail a copy to the corporation.

...."

SECTION 1.(c) G.S. 55-1-22 reads as rewritten:

"§ 55-1-22. Filing, service, and copying fees.

(a) The Secretary of State shall collect the following fees when the documents described in this subsection are delivered to the Secretary for filing:

Document	Fee
...	
(23) Annual report (paper)	25.00
(23a) Annual report (electronic)	18.00 125.00
...	

(d) The fee for the annual report in subdivision ~~(23)~~(23a) of subsection (a) of this section is nonrefundable."

SECTION 1.(d) G.S. 105-256.1 and G.S. 105-228.90(a)(2) are repealed.

PART II. LIMITED LIABILITY COMPANIES

SECTION 2.(a) G.S. 57D-2-24 reads as rewritten:

"§ 57D-2-24. Annual report for Secretary of State.

(a) Requirement. – Excluding professional limited liability companies governed by G.S. 57D-2-02, each LLC and each foreign LLC authorized to transact business in this State ~~must deliver shall submit an annual report to the Secretary of State for filing annual reports on a-in electronic form as prescribed by, and in the manner required by, by the Secretary of State and as otherwise provided in subsection (b)subsections (b) and (b1) of this section.~~ Each annual report must specify the year for which the report applies and provide the information required by this subsection. The information must be current as of the date the limited liability company completes the report. ~~If the information in the limited liability company's most recent annual report has not changed, the limited liability company may certify in its annual report that the information has not changed in lieu of restating the information.~~

(a1) Required Information. – The following information must be included in each annual report:

- (1) The name of the limited liability company and, in the case of a foreign LLC, any different name that the foreign LLC is authorized under Article 3 of Chapter 55D of the General Statutes to use to transact business in this State, as provided in the foreign LLC's certificate of authority.
- (2) In the case of a foreign LLC, the name of the jurisdiction under whose law the foreign LLC is organized.
- (3) The street address, and the mailing address if different from the street address, of the limited liability company's registered office in the State, the county in which the registered office is located, the name and e-mail address of its registered agent at that office, and a statement of any change of the registered office or registered agent.
- (4) The address and telephone number of its principal office.
- (5) The names, titles, and business street addresses of the limited liability company's ~~principal company officials~~managers, principal company officials, and the name, mailing address, e-mail address, and telephone

1 number of an individual who is authorized to provide information regarding
 2 persons with the authority to bind the LLC.

3 (6) A brief description of the nature of its business.

4 (7) A valid e-mail address for the limited liability company, if different from the
 5 e-mail address provided under subdivision (3) of this subsection.

6 (b) Due Date for Initial Annual Report. – The Secretary of State must notify limited
 7 liability companies of the annual report filing requirement. The first annual report of a limited
 8 liability company is due to be ~~delivered~~submitted to the Secretary of State by April 15 of the
 9 year following (i) in the case of an LLC, the calendar year in which the LLC's articles of
 10 organization or articles of organization and conversion filed by the Secretary of State become
 11 effective or (ii) in the case of a foreign LLC, the calendar year in which the Secretary of State
 12 issues to the foreign LLC a certificate of authority to transact business in this State.

13 (b1) Due Date for Subsequent Annual Reports. – The limited liability company shall
 14 ~~deliver~~submit an annual report by April 15 of each subsequent year until (i) in the case of an
 15 LLC, the effective date of its articles of dissolution filed by the Secretary of State or the
 16 effective date of either a certificate of dissolution for an LLC that is not reinstated under
 17 G.S. 57D-6-06(c) or a decree of dissolution that is filed by the Secretary of State as provided in
 18 G.S. 57D-6-05; (ii) in the case of a foreign LLC, the foreign LLC receives a certificate of
 19 withdrawal from the Secretary of State or the Secretary of State revokes the foreign LLC's
 20 certificate of authority under Part 3 of Article 7 of this Chapter; or (iii) in the case of either an
 21 LLC or foreign LLC, the effective date of a merger or conversion under Article 9 of this
 22 Chapter in which the limited liability company is a merging entity or a converting entity but not
 23 the surviving entity.

24 (c) Incomplete Information. – If an annual report does not contain the information
 25 required by this section, the Secretary of State shall promptly notify the reporting limited
 26 liability company in writing and return the report to it for correction. If the report is corrected to
 27 contain the information required by this section and ~~delivered~~submitted to the Secretary of
 28 State within 30 days after the effective date of notice, it is deemed to be timely
 29 ~~delivered~~submitted.

30 (d) Amendments. – Amendments to any previously filed annual report may be ~~delivered~~
 31 submitted for filing by to the Secretary of State at any time for the purpose of correcting,
 32 updating, or augmenting the information contained in the annual report.

33 (e) E-Mail; Confidentiality. – The Secretary of State may provide by e-mail any notice
 34 or form required under this section if the submitting LLC to be notified has consented to
 35 receiving notices and forms via e-mail and has provided the Secretary of State an e-mail
 36 address for receiving the notices or forms. Any e-mail address provided by a submitting LLC in
 37 accordance with this section shall be considered confidential information and shall not be
 38 subject to disclosure under Chapter 132 of the General Statutes."

39 **SECTION 2.(b)** G.S. 57D-1-22(a)(28) reads as rewritten:

40 "(a) The Secretary of State shall collect the following fees when the documents
 41 described in this subsection are delivered to the Secretary of State for filing:

Document	Fee
42 ...	
43 (28) Annual report	200.00 <u>125.00</u>
44"	

46 **SECTION 2.(c)** G.S. 57D-6-06(c) reads as rewritten:

47 "(c) An LLC administratively dissolved under this section may apply to the Secretary of
 48 State for reinstatement. The procedures for reinstatement and for the appeal of any denial of the
 49 LLC's application for reinstatement are the same as those applicable to a domestic corporation
 50 under G.S. 55-14-22, 55-14-23, and ~~55-14-24~~55-14-24, except that any penalties, fees, or other
 51 payments due under this Chapter must have been paid prior to reinstatement. If, at the time the

1 LLC applies for reinstatement, the name of the LLC is not distinguishable from the name of
2 another entity authorized to be used under G.S. 55D-21, then the LLC must change its name to
3 a name that is distinguishable on the records of the Secretary of State from the name of the
4 other entity before the Secretary of State may prepare a certificate of reinstatement. The effect
5 of reinstatement of an LLC is the same as for a domestic corporation under G.S. 55-14-22."
6

7 PART III. NONPROFIT CORPORATIONS

8 SECTION 3.(a) Article 16 of Chapter 55A of the General Statutes is amended by
9 adding a new section to read:

10 "§ 55A-16-22.1. Annual report for the Secretary of State.

11 (a) Requirement. – Each domestic corporation and each foreign corporation authorized
12 to conduct affairs in this State shall submit an annual report to the Secretary of State in
13 electronic form as prescribed by the Secretary of State that sets forth all of the following:

- 14 (1) The name of the corporation and the state or country under whose law it is
15 incorporated.
- 16 (2) The street address and the mailing address, if different from the street
17 address of the registered office, the county in which its registered office is
18 located, the name and e-mail address of its registered agent at that office in
19 this State, and a statement of any change of the registered office or registered
20 agent.
- 21 (3) The address and telephone number of its principal office.
- 22 (4) The names, titles, and business street addresses of its principal officers and
23 the name, mailing address, e-mail address, and telephone number of an
24 individual who is authorized to provide information regarding persons with
25 authority to bind the corporation.
- 26 (5) A brief description of the nature of its activities.
- 27 (6) A valid e-mail address for the corporation, if different from the e-mail
28 address provided under subdivision (2) of this subsection.

29 (b) Currency of Information. – The information in the annual report shall be current as
30 of the date the annual report is executed on behalf of the corporation.

31 (c) Due Date. – The corporation shall submit an annual report to the Secretary of State
32 by November 15 of each year, beginning with the year following the formation of the
33 corporation. An annual report is due each year until the effective date of a voluntary or judicial
34 dissolution.

35 (d) Incomplete Information. – If an annual report does not contain the information
36 required by this section, the Secretary of State shall promptly notify the reporting corporation
37 in writing and return the report to it for correction. If the report is corrected to contain the
38 information required by this section and submitted to the Secretary of State within 30 days after
39 the effective date of notice, it is deemed to be timely submitted.

40 (e) Amendments. – Amendments to any previously filed annual report may be
41 submitted for filing to the Secretary of State at any time for the purpose of correcting, updating,
42 or augmenting the information contained in the annual report.

43 (f) Delinquency. – If the Secretary of State does not receive an annual report within 60
44 days of the date the report is due, the Secretary of State may presume that the annual report is
45 delinquent. This presumption may be rebutted by evidence of delivery presented by the filing
46 corporation.

47 (g) E-Mail; Confidentiality. – The Secretary of State may provide by e-mail any notice
48 or form required under this section if the submitting domestic or foreign corporation to be
49 notified has consented to receiving notices and forms via e-mail and has provided the Secretary
50 of State an e-mail address for receiving the notices or forms. Any e-mail address provided by a

1 submitting corporation in accordance with this section shall be considered confidential
 2 information and shall not be subject to disclosure under Chapter 132 of the General Statutes."

3 SECTION 3.(b) G.S. 55A-14-20 reads as rewritten:

4 "§ 55A-14-20. **Grounds for administrative dissolution.**

5 The Secretary of State may commence a proceeding under G.S. 55A-14-21 to dissolve
 6 administratively a corporation ~~if~~if any of the following occurs:

- 7 (1) The corporation does not pay within 60 days after they are due any penalties,
 8 fees, or other payments due under this ~~Chapter;~~Chapter.
- 9 (2a) The corporation is delinquent in submitting its annual report.
- 10 (3) The corporation is without a registered agent or registered office in this State
 11 for 60 days or ~~more;~~more.
- 12 (4) The corporation does not notify the Secretary of State within 60 days that its
 13 registered agent or registered office has been changed, that its registered
 14 agent has resigned, or that its registered office has been
 15 ~~discontinued;~~discontinued.
- 16 (5) The corporation's period of duration stated in its articles of incorporation
 17 ~~expires;~~expires.
- 18 (6) The corporation knowingly fails or refuses to answer truthfully and fully
 19 within the time prescribed in this Chapter interrogatories propounded by the
 20 Secretary of State in accordance with the provisions of this ~~Chapter;~~
 21 ~~or~~Chapter.
- 22 (7) The corporation does not designate the address of its principal office with
 23 the Secretary of State or does not notify the Secretary of State within 60 days
 24 that the principal office has changed."

25 SECTION 3.(c) G.S. 55A-14-22 reads as rewritten:

26 "§ 55A-14-22. **Reinstatement following administrative dissolution.**

27 ...
 28 (b) If the Secretary of State determines that the application contains the information
 29 required by subsection (a) of this section, that the information is correct, ~~and~~ that the name of
 30 the corporation complies with G.S. 55D-21 and any other applicable section, and that any
 31 penalties, fees, or other payments due under this Chapter have been paid, the Secretary of State
 32 shall cancel the certificate of dissolution and prepare a certificate of reinstatement that recites
 33 the Secretary of State's determination and the effective date of reinstatement, file the original of
 34 the certificate, and mail a copy to the corporation.

35"

36 SECTION 3.(d) G.S. 55A-1-22(a) reads as rewritten:

37 "(a) The Secretary of State shall collect the following fees when the documents
 38 described in this subsection are delivered to the Secretary for filing:

Document	Fee
39 ...	
40 (29) <u>Annual Report</u>	<u>No fee"</u>

41
 42 SECTION 3.(e) Until January 1, 2021, the Secretary of State may waive the fee
 43 payable under G.S. 55A-1-22(17) by a corporation seeking reinstatement following
 44 administrative dissolution for delinquent filing pursuant to G.S. 55A-14-20(2a).
 45

46
 47 **PART IV. LIMITED LIABILITY PARTNERSHIPS**

48 SECTION 4.(a) G.S. 59-84.4 reads as rewritten:

49 "§ 59-84.4. **Annual report for Secretary of State.**

50 (a) Requirement. – Each registered limited liability partnership and each foreign limited
 51 liability partnership authorized to transact business in this State shall ~~deliver~~submit to the

1 Secretary of State for filing an annual report, in ~~a~~an electronic form prescribed by the
2 Secretary of State, that sets forth all of the following:

- 3 (1) The name of the registered limited liability partnership or foreign limited
4 liability partnership and the state or country under whose law it is formed.
5 (2) The street address, and the mailing address if different from the street
6 address, of the registered office, the county in which the registered office is
7 located, and the name and e-mail address of its registered agent at that office
8 in this State, and a statement of any change of the registered office or
9 registered agent, or both.
10 (3) The street address and telephone number of its principal office.
11 (3a) The names, titles, and business street addresses of its partners and the name,
12 mailing address, e-mail address, and telephone number of an individual who
13 is authorized to provide information regarding persons with authority to bind
14 the partnership.
15 (4) A brief description of the nature of its business.
16 (5) The fiscal year end of the partnership.
17 (6) A valid e-mail address for the registered limited liability partnership or
18 foreign limited liability partnership, if different from the e-mail address
19 provided under subdivision (2) of this subsection.

20 ~~If the information contained in the most recently filed annual report has not changed, a~~
21 ~~certification to that effect may be made instead of setting forth the information required by~~
22 ~~subdivisions (2) through (4) of this subsection. The Secretary of State shall make available the~~
23 ~~form required to file an annual report.~~

24 (b) Currency of Information. – Information in the annual report must be current as of
25 the date the annual report is executed on behalf of the registered limited liability partnership or
26 the foreign limited liability partnership.

27 (c) Due Date. – The annual report shall be delivered to the Secretary of State by the
28 fifteenth day of the fourth month following the close of the registered or foreign limited
29 liability partnership's fiscal year.

30 (d) Incomplete Information. – If an annual report does not contain the information
31 required by this section, the Secretary of State shall promptly notify the reporting registered or
32 foreign limited liability partnership in writing and return the report to it for correction. If the
33 report is corrected to contain the information required by this section and ~~delivered-submitted~~
34 to the Secretary of State within 30 days after the effective date of notice, it is deemed to be
35 timely ~~filed-submitted.~~

36 (e) Amendments. – Amendments to any previously filed annual report may be ~~filed~~
37 ~~with-submitted for filing to~~ the Secretary of State at any time for the purpose of correcting,
38 updating, or augmenting the information contained in the annual report.

39 (f) Revocation of Registration. – The Secretary of State may revoke the registration of
40 a registered limited liability partnership or foreign limited liability partnership if the Secretary
41 of State determines ~~that~~that any of the following has occurred:

- 42 (1) The registered limited liability partnership or foreign limited liability
43 partnership has not paid, within 60 days after they are due, any penalties,
44 fees, or other payments due under this ~~Chapter;~~Chapter.
45 (2) The registered limited liability partnership or foreign limited liability
46 partnership does not ~~deliver-submit~~ its annual report to the Secretary of State
47 on or before the ~~date-sixtieth day after it is due;~~due.
48 (3) The registered limited liability partnership or foreign limited liability
49 partnership has been without a registered agent or registered office in this
50 State for 60 days or ~~more;~~or more.

1 (4) The registered limited liability partnership or foreign limited liability
2 partnership does not notify the Secretary of State within 60 days of the
3 change, resignation, or discontinuance that its registered agent or registered
4 office has been changed, that its registered agent has resigned, or that its
5 registered office has been discontinued.

6 (g) Revocation Process. - If the Secretary of State determines that one or more grounds
7 exist under subsection (f) of this section for revoking the registration of the registered limited
8 liability partnership or foreign limited liability partnership, the Secretary of State shall mail the
9 registered limited liability partnership or foreign limited liability partnership written notice of
10 that determination. If, within 60 days after the notice is mailed, the registered limited liability
11 partnership or foreign limited liability partnership does not correct each ground for revocation
12 or demonstrate to the reasonable satisfaction of the Secretary of State that each ground does not
13 exist, the Secretary of State shall revoke the registration of a registered limited liability
14 partnership or foreign limited liability partnership by signing a certificate of revocation that
15 recites the ground or grounds for revocation and its effective date. The Secretary of State shall
16 file the original certificate of revocation and mail a copy to the registered limited liability
17 partnership or foreign limited liability partnership.

18 (h) Application for Reinstatement. - A registered limited liability partnership or foreign
19 limited liability partnership whose registration is revoked under this section may apply to the
20 Secretary of State for reinstatement. If, at the time the registered limited liability partnership
21 applies for reinstatement, the name of the registered limited liability partnership is not
22 distinguishable from the name of another entity authorized to be used under G.S. 55D-21, then
23 the registered limited liability partnership must change its name to a name that is
24 distinguishable upon the records of the Secretary of State from the name of the other entity
25 before the Secretary of State may prepare a certificate of reinstatement. The procedures for
26 reinstatement and for the appeal of any denial of the registered limited liability partnership or
27 foreign limited liability partnership's application for reinstatement shall be the same procedures
28 applicable to business corporations under G.S. 55-14-22, 55-14-23, and 55-14-24, 55-14-24,
29 except that any penalties, fees, or other payments due under this Chapter must have been paid
30 prior to reinstatement. The effect of reinstatement of a limited liability partnership shall be the
31 same as for a corporation under G.S. 55-14-22.

32 (i) E-Mail; Confidentiality. - The Secretary of State may provide by e-mail any notice
33 or form required under this section if the submitting registered limited liability partnership or
34 foreign limited liability partnership to be notified has consented to receiving notices and forms
35 via e-mail and has provided the Secretary of State an e-mail address for receiving the notices or
36 forms. Any e-mail address provided by a submitting registered limited liability partnership or
37 foreign limited liability partnership in accordance with this section shall be considered
38 confidential information and shall not be subject to disclosure under Chapter 132 of the General
39 Statutes."

40 SECTION 4.(b) G.S. 59-35.2(a)(18) reads as rewritten:

41 "(a) The Secretary of State shall collect the following fees when the documents
42 described in this subsection are submitted by a partnership to the Secretary of State for filing:

43	Document	Fee
44	...	
45	(18) Annual report	200.00 125.00
46"	

47 SECTION 4.(c) G.S. 59-1106(a)(22) reads as rewritten:

48 "(22) Annual report for a limited liability limited partnership200.00 125.00"

50 PART V. REPORTING REQUIREMENTS FOR LIMITED PARTNERSHIPS

1 SECTION 5. Article 5 of Chapter 59 of the General Statutes is amended by adding
2 the following sections to read:

3 **"§ 59-109. Annual report to Secretary of State.**

4 (a) Each limited partnership and each foreign limited partnership authorized to transact
5 business in this State shall submit an annual report to the Secretary of State in electronic form
6 as prescribed by the Secretary of State and as otherwise provided in this subsection. The
7 following information must be included in each annual report:

- 8 (1) The name of the limited partnership, and in the case of a foreign limited
9 partnership, any different name that the foreign limited partnership is
10 authorized under Article 3 of Chapter 55D of the General Statutes to use to
11 transact business in this State, as provided in the foreign limited partnership's
12 certificate of authority.
- 13 (2) In the case of a foreign limited partnership, the name of the jurisdiction
14 under whose law the foreign limited partnership is organized.
- 15 (3) The street address, and the mailing address if different from the street
16 address, of the registered office, the county in which the registered office is
17 located, and the name and e-mail address of its registered agent at that office
18 in this State, and a statement of any change of the registered office or
19 registered agent, or both.
- 20 (4) The address and telephone number of its principal office.
- 21 (5) The names, titles, and business street addresses of all general partners and
22 the name, mailing address, e-mail address, and telephone number of an
23 individual who is authorized to provide information regarding persons with
24 authority to bind the partnership.
- 25 (6) A brief description of the nature of its business.
- 26 (7) The fiscal year end of the limited partnership.
- 27 (8) The year for which the annual report applies.
- 28 (9) A valid e-mail address for the limited partnership or foreign limited
29 partnership, if different from the e-mail address provided under subdivision
30 (3) of this subsection.

31 (b) Information in the annual report must be current as of the date the annual report is
32 executed on behalf of the limited partnership or the foreign limited partnership.

33 (c) Due Date. – The annual report shall be delivered to the Secretary of State by the
34 fifteenth day of the fourth month following the close of the limited partnership's fiscal year.

35 (d) If an annual report does not contain the information required by this section, the
36 Secretary of State shall promptly notify the limited partnership in writing and return the report
37 to it for correction. If the report is corrected to contain the information required by this section
38 and submitted to the Secretary of State within 30 days after the effective date of notice, it is
39 deemed to be timely submitted.

40 (e) Amendments to any previously filed annual report may be submitted for filing to the
41 Secretary of State at any time for the purpose of correcting, updating, or augmenting the
42 information contained in the annual report.

43 (f) E-Mail; Confidentiality. – The Secretary of State may provide by e-mail any notice
44 or form required under this section if the submitting limited partnership or foreign limited
45 partnership to be notified has consented to receiving notices and forms via e-mail and has
46 provided the Secretary of State an e-mail address for receiving the notices or forms. Any e-mail
47 address provided by a limited partnership or foreign limited partnership in accordance with this
48 section shall be considered confidential information and shall not be subject to disclosure under
49 Chapter 132 of the General Statutes.

50 **"§ 59-110. Grounds for revocation.**

1 (a) The Secretary of State may revoke the registration of a limited partnership or the
2 certificate of authority of a foreign limited partnership if the Secretary of State determines that
3 any of the following has occurred:

4 (1) The limited partnership or foreign limited partnership has not paid, within 60
5 days after they are due, any penalties, fees, or other payments due under this
6 Chapter.

7 (2) The limited partnership or foreign limited partnership does not submit its
8 annual report to the Secretary of State on or before the date sixtieth day after
9 it is due.

10 (3) The limited partnership or foreign limited partnership has been without a
11 registered agent or registered office in this State for 60 days or more.

12 (4) The limited partnership or foreign limited partnership does not notify the
13 Secretary of State within 60 days of the change, resignation, or
14 discontinuance that its registered agent or registered office has been
15 changed, that its registered agent has resigned, or that its registered office
16 has been discontinued.

17 (b) If the Secretary of State determines that one or more grounds exist under subsection
18 (a) of this section for revoking the registration of the limited partnership or the certificate of
19 authority of a foreign limited partnership, the Secretary of State shall mail the registered limited
20 partnership or foreign limited partnership written notice of that determination. If, within 60
21 days after the notice is mailed, the limited partnership or foreign limited partnership does not
22 correct each ground for revocation or demonstrate to the reasonable satisfaction of the
23 Secretary of State that each ground does not exist, the Secretary of State shall revoke the
24 registration of a limited partnership or foreign limited partnership by signing a certificate of
25 revocation that recites the ground or grounds for revocation and its effective date. The
26 Secretary of State shall file the original certificate of revocation and mail a copy to the limited
27 partnership or foreign limited partnership.

28 (c) A limited partnership or foreign limited partnership whose registration is revoked
29 under this section may apply to the Secretary of State for reinstatement. The procedures for
30 reinstatement and for the appeal of any denial of the limited partnership's application for
31 reinstatement are the same as those applicable to a domestic corporation under G.S. 55-14-22
32 and G.S. 55-14-23.

33 (d) If, at the time the limited partnership applies for reinstatement, the name of the
34 limited partnership or foreign limited partnership is not distinguishable from the name of
35 another entity authorized to be used under G.S. 55D-21, then the limited partnership or foreign
36 limited partnership must change its name to a name that is distinguishable upon the records of
37 the Secretary of State from the name of the other entity before the Secretary of State may
38 prepare a certificate of reinstatement. The effect of reinstatement of a limited partnership or
39 foreign limited partnership shall be the same as for a corporation under G.S. 55-14-22."

40 41 **PART VI. DISALLOWANCE OF REFUNDS OF PAID SALES AND USE TAXES**

42 **SECTION 6.(a)** G.S. 105-164.14(b) reads as rewritten:

43 "(b) Nonprofit Entities and Hospital Drugs. – A nonprofit entity is allowed a semiannual
44 refund of sales and use taxes paid by it under this Article on direct purchases of tangible
45 personal property and services for use in carrying on the work of the nonprofit entity. Sales and
46 use tax liability indirectly incurred by a nonprofit entity through reimbursement to an
47 authorized person of the entity for the purchase of tangible personal property and services for
48 use in carrying on the work of the nonprofit entity is considered a direct purchase by the entity.
49 Sales and use tax liability indirectly incurred by a nonprofit entity on building materials,
50 supplies, fixtures, and equipment that become a part of or annexed to any building or structure
51 that is owned or leased by the nonprofit entity and is being erected, altered, or repaired for use

1 by the nonprofit entity for carrying on its nonprofit activities is considered a sales or use tax
2 liability incurred on direct purchases by the nonprofit entity. The refund allowed under this
3 subsection does not apply to purchases of electricity, telecommunications service, ancillary
4 service, piped natural gas, video programming, or a prepaid meal plan. A request for a refund
5 must be in writing and must include any information and documentation required by the
6 Secretary. A request for a refund for the first six months of a calendar year is due the following
7 October 15; a request for a refund for the second six months of a calendar year is due the
8 following April 15. The aggregate annual refund amount allowed an entity under this
9 subsection for a fiscal year may not exceed thirty-one million seven hundred thousand dollars
10 (\$31,700,000).

11 Before issuance of a timely filed request for refund, the Secretary must verify that a
12 nonprofit entity is not delinquent for failure to file annual reports with the Secretary of State
13 based on information received at least 30 days prior to issuance of any refund. If a nonprofit
14 entity is delinquent for failure to file an annual report, then the Secretary must deny the request
15 for a refund and notify the entity that the request has been denied for failure of the entity to
16 submit any required annual reports to the Secretary of State. The denial of a request for a
17 refund may be cancelled, and the refund granted, upon the Secretary's receipt of information
18 from the Secretary of State that the nonprofit entity has submitted all required annual reports. A
19 refund may not be issued after one year from the date a request for a refund was denied due to
20 failure to file annual reports with the Secretary of State.

21 The refunds allowed under this subsection do not apply to an entity that is owned and
22 controlled by the United States or to an entity that is owned or controlled by the State and is not
23 listed in this subsection. A hospital that is not listed in this subsection is allowed a semiannual
24 refund of sales and use taxes paid by it on over-the-counter drugs purchased for use in carrying
25 out its work. The following nonprofit entities are allowed a refund under this subsection:

26"

27 **SECTION 6.(b)** The Secretary of State and the Department of Revenue shall
28 jointly develop a process for verifying whether an applicant for a refund under G.S. 105-164.14
29 has submitted all required annual reports. The Secretary of State and the Department of
30 Revenue shall share with one another, upon request and to the extent permitted by federal law,
31 information that is in their possession that is relevant to verifying whether an applicant for a
32 refund under G.S. 105-164.14 has submitted all required annual reports. The Secretary of State
33 and the Department of Revenue shall have the process required under this section operational
34 prior to the effective date of subsection (a) of this section.

35 **PART VII. REINSTATEMENT FEE REVISION**

36 **SECTION 7.** G.S. 105-232 reads as rewritten:

37 **"§ 105-232. Rights restored; receivership and liquidation.**

38 (a) Any corporation or limited liability company whose articles of incorporation,
39 articles of organization, or certificate of authority to do business in this State has been
40 suspended by the Secretary of State under G.S. 105-230, that complies with all the
41 requirements of this Subchapter and pays all State taxes, fees, or penalties due from it (which
42 total amount due may be computed, for years prior and subsequent to the suspension, in the
43 same manner as if the suspension had not taken place), and pays to the Secretary of Revenue a
44 fee of ~~twenty-five~~ fifty dollars ~~(\$25.00)~~ (\$50.00) to cover the cost of reinstatement, is entitled
45 to exercise again its rights, privileges, and franchises in this State. The Secretary of Revenue
46 shall notify the Secretary of State of this compliance and the Secretary of State shall reinstate
47 the corporation or limited liability company by appropriate entry upon the records of the office
48 of the Secretary of State. Upon entry of reinstatement, it relates back to and takes effect as of
49 the date of the suspension by the Secretary of State and the corporation or limited liability
50 company resumes carrying on its business as if the suspension had never occurred, subject to
51

1 the rights of any person who reasonably relied, to that person's prejudice, upon the suspension.
2 The Secretary of State shall immediately notify by mail the corporation or limited liability
3 company of the reinstatement.

4 (a1) The Secretary of Revenue shall remit twenty-five dollars (\$25.00) from each fee
5 collected under subsection (a) of this section to the Secretary of State to be used solely to cover
6 its share of the cost of reinstatement under subsection (a) of this section, and any funds
7 received under this subsection are hereby appropriated for the maximum amount necessary to
8 achieve this purpose. Any funds received by the Secretary of State under this subsection that
9 are in excess of the amount needed to cover the Secretary of State's share of the cost of
10 reinstatement under subsection (a) of this section shall revert to the General Fund.

11"

12

13 PART VIII. PROGRAM EVALUATION DIVISION STUDY

14 **SECTION 8.** The Joint Legislative Program Evaluation Oversight Committee shall
15 amend the 2018-2019 Program Evaluation Division work plan to direct the Program Evaluation
16 Division to study the effect implementation of this act will have on the staffing levels and
17 customer service demands at the Office of the Secretary of State and the Department of
18 Revenue. The Program Evaluation Division shall report the results of the study to the chairs of
19 the Joint Legislative Program Evaluation Oversight Committee and the Joint Legislative
20 Oversight Committee on General Government on or before August 1, 2019.

21

22 PART IX. CONFORM TREATMENT OF LEASEHOLD INTERESTS IN EXEMPT 23 PROPERTY TO THAT OF OTHER TYPES OF INTANGIBLE PERSONAL 24 PROPERTY FOR PURPOSES OF THE PROPERTY TAX

25 **SECTION 9.(a)** G.S. 105-275 reads as rewritten:

26 "**§ 105-275. Property classified and excluded from the tax base.**

27 The following classes of property are designated special classes under Article V, Sec. 2(2),
28 of the North Carolina Constitution and are excluded from tax:

29 ...

30 (31) ~~Intangible personal property other than a leasehold interest that is in~~
31 ~~exempted real property and is not excluded under subdivision (31e) of this~~
32 ~~section. This subdivision does not affect the taxation of software not~~
33 ~~otherwise excluded by subdivision (40) of this section.~~

34 (31e) ~~A leasehold interest in real property that is exempt under G.S. 105-278.1 and~~
35 ~~is used to provide affordable housing for employees of the unit of~~
36 ~~government that owns the property.~~

37"

38 **SECTION 9.(b)** This section is effective for taxes imposed for taxable years
39 beginning on or after July 1, 2017.

40

41 PART X. CREATE THE CRIMINAL CODE RECODIFICATION COMMISSION

42 **SECTION 10.(a)** There is established the Criminal Code Recodification
43 Commission (Commission) within the North Carolina Administrative Office of the Courts.

44 **SECTION 10.(b)** The Commission shall be composed of the following members:

- 45 (1) Four members of the Senate appointed by the President Pro Tempore of the
46 Senate, one of which shall be a member of the minority party.
- 47 (2) Four members of the House of Representatives appointed by the Speaker of
48 the House of Representatives, one of which shall be a member of the
49 minority party.
- 50 (3) Two members appointed by the Governor.

- 1 (4) The Lieutenant Governor, or the Lieutenant Governor's designee, and one
2 additional member appointed by the Lieutenant Governor.
3 (5) A sitting sheriff appointed by the Speaker of the House.
4 (6) A sitting police chief appointed by the President Pro Tempore of the Senate.
5 (7) A member appointed by the North Carolina Chamber Legal Institute.
6 (8) Eleven members appointed by the Chief Justice of the Supreme Court as
7 follows:
8 a. A sitting district court judge.
9 b. A sitting superior court judge.
10 c. A sitting judge in the appellate division.
11 d. A sitting district attorney.
12 e. A public defender or representative from Indigent Defense Services.
13 f. A sitting magistrate.
14 g. A member of the private criminal defense bar.
15 h. A victims' rights advocate.
16 i. Two additional members the Chief Justice deems appropriate.
17 j. A sitting clerk of superior court.

18 **SECTION 10.(c)** The Chief Justice shall appoint a chair of the Commission. The
19 Commission may meet at any time upon the call of the chair and at a location specified by the
20 chair.

21 **SECTION 10.(d)** The Commission shall produce the following:

- 22 (1) A fully drafted, new, streamlined, comprehensive, orderly, and principled
23 criminal code.
24 (2) Official commentary to the new code explaining how each new section
25 operates. Where the proposed code suggests a change in current law, special
26 commentary shall note this and identify the suggested change and the
27 reasoning for it. Special commentary shall include impact analysis provided
28 by the Sentencing Commission.
29 (3) Conversion tables to facilitate the comparison between current law and the
30 draft code.
31 (4) An offense grading table, grouping all offenses covered by the new code by
32 offense grade. Offenses shall be graded within existing sentencing classes
33 and with the recommendations of the Sentencing Commission.

34 **SECTION 10.(e)** In conducting its work and producing the items required by
35 subsection (d) of this section, the Commission shall do all of the following:

- 36 (1) Include necessary provisions not contained in the current code, such as
37 mental states, defenses, and definitions of offenses and key terminology.
38 (2) Eliminate unnecessary, inconsistent, or unlawful provisions in the current
39 code.
40 (3) Revise existing language and structure to make the law easier to understand
41 and apply.
42 (4) Ensure that criminal offenses and legal rules are cohesive and relate to one
43 another in a consistent and rational manner.
44 (5) Incorporate within the proposed new code all major criminal offenses
45 contained in existing law.
46 (6) Make recommendations regarding whether any existing offenses should be
47 reclassified as infractions punishable only by a fine.
48 (7) Make recommendations regarding whether any limitations should be placed
49 on the ability of administrative boards, agencies, local governments, or other
50 entities to create crimes.

1 (8) Seek to preserve the North Carolina General Assembly's substantive policy
2 judgments as reflected in the existing code and legal principles established in
3 the case law.

4 (9) Address any other matter deemed necessary to carry out the work of the
5 Commission.

6 **SECTION 10.(f)** To the extent that funds are available, the Commission members
7 shall receive per diem, subsistence, and travel allowances in accordance with G.S. 120-3.1,
8 138-5, or 138-6, as appropriate.

9 **SECTION 10.(g)** The North Carolina Administrative Office of the Courts is
10 authorized to seek funding to support the Commission's work and may contract for
11 professional, administrative, and consultant services.

12 **SECTION 10.(h)** The Commission shall make an interim report no later than
13 December 1, 2018, to the Joint Legislative Oversight Committee on Justice and Public Safety.
14 The Commission shall make a final report of its findings and recommendations, including the
15 items required by subsection (d) of this section, no later than December 1, 2019, to the Joint
16 Legislative Oversight Committee on Justice and Public Safety and the General Statutes
17 Commission. The Commission shall expire upon submitting its final report.

18 **SECTION 10.(i)** All agencies, boards, and commissions that have the power to
19 establish criminal penalties in the North Carolina Administrative Code shall provide to the
20 Commission a list of all criminal penalties that are currently in effect or are pending
21 implementation no later than December 1, 2017.

22 **PART XI. EFFECTIVE DATE**

23 **SECTION 11.** For entities having gross revenues of at least one hundred
24 seventy-five thousand dollars (\$175,000) in their fiscal year ending in 2018, Parts I, II, and IV
25 of this act become effective January 1, 2019, and apply to annual reports due on or after that
26 date. For entities having gross revenues less than one hundred seventy-five thousand dollars
27 (\$175,000) in their fiscal year ending in 2018, Parts I, II, and IV of this act become effective
28 January 1, 2020, and apply to annual reports due on or after that date. Parts III and V of this act
29 become effective January 1, 2020, and apply to annual reports due on or after that date. Section
30 6(a) of Part VI of this act becomes effective January 1, 2020, and applies to requests for
31 refunds submitted on or after that date. Section 7 of this act is effective when it becomes law
32 and applies to fees collected on or after that date. Except as otherwise provided, the remainder
33 of this act is effective when it becomes law.
34

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2017

S

1

SENATE BILL 493*

Short Title: C-PACE Program.

(Public)

Sponsors: Senators Tucker and Gunn (Primary Sponsors).

Referred to: Rules and Operations of the Senate

March 30, 2017

A BILL TO BE ENTITLED

AN ACT AUTHORIZING CITIES AND COUNTIES TO PARTICIPATE IN COMMERCIAL
PROPERTY ASSESSED CAPITAL EXPENDITURES (C-PACE) TO ALLOW
PROPERTY OWNERS TO VOLUNTARILY AGREE TO ASSESSMENTS TO
FINANCE UPGRADES OR IMPROVEMENTS TO THEIR REAL PROPERTY.

The General Assembly of North Carolina enacts:

SECTION 1. Chapter 160A of the General Statutes is amended by adding a new
Article to read as follows:

"Article 10B.

"Commercial Property Assessed Capital Expenditures (C-PACE).

"§ 160A-239.11. Definitions.

(a) The following definitions apply in this Article:

- (1) Assessment. – A charge against real property belonging to an owner within a district created pursuant to this Article. The assessment must be made only upon qualifying real property located within the district. An assessment imposed under this Article shall remain valid and enforceable even if there is a later sale or transfer of the property or a part of the property. The rates of assessment within a district do not have to be uniform.
- (2) Commercial Property Assessed Capital Expenditures (C-PACE). – The financing of building and property upgrades and improvements through property tax assessments.
- (3) C-PACE financier. – A financing institution that provides capital for building and property upgrades or improvements through a C-PACE program.
- (4) C-PACE program. – The program established by the governing body of a local government unit to administer building and property upgrades or improvements financed through property tax assessments. The program may be administered by the governing body or a third party.
- (5) District. – A C-PACE district formed pursuant to this Article by the governing body of a local government unit. A district may be comprised of noncontiguous parcels of land. A governing body may create more than one C-PACE district, and districts may be separate, overlapping, or coterminous.
- (6) Local government unit. – A city or county.
- (7) Property owner. – A person whose name appears on county tax records as the owner of qualifying real estate and who voluntarily consents to an



1 assessment against the qualifying real property to finance building upgrades
2 or improvements.

3 (8) Qualifying real property. – A new or existing building or property,
4 including, but not limited to, commercial, industrial, agricultural, and
5 nonprofit-owned buildings and multifamily dwellings consisting of five or
6 more units. Qualifying real property does not include single-family
7 residential properties of one to four units.

8 (9) Qualifying upgrades or improvements. – Eligible upgrades or improvements
9 that improve the health, safety, energy usage, performance, environmental
10 impact, or other qualifying characteristics of a building or property.

11 **"§ 160A-239.12. Administration.**

12 A local government unit may, by ordinance, establish a C-PACE program for the purpose
13 of promoting, encouraging, and facilitating building and property upgrades or improvements
14 within the unit's territorial jurisdiction. Two or more governing bodies may jointly establish a
15 C-PACE program by entering into a joint agreement to create a C-PACE district and adopting
16 an ordinance that provides each governing body shall participate in the C-PACE program. A
17 governing body or C-PACE district may contract with a nonprofit, not-for-profit, public
18 university, or private third party to administer the C-PACE program in one or more C-PACE
19 districts. A governing body is not required to obtain the approval of the Local Government
20 Commission for C-PACE assessments.

21 **"§ 160A-239.13. Qualifying buildings and property.**

22 (a) All of the following types of building and property are eligible for C-PACE
23 financing:

24 (1) Commercial buildings, including office buildings, retail buildings,
25 restaurants, hospitality buildings, and hospitals.

26 (2) Institutional buildings, including public and private universities, community
27 colleges, and schools.

28 (3) Industrial buildings, including manufacturing facilities, warehouses, and data
29 centers.

30 (4) Nonprofit buildings, including charitable offices and congregations and
31 places of worship.

32 (5) Multifamily residential buildings with five or more units.

33 (6) Agricultural buildings and properties.

34 (b) Property in a C-PACE district does not have to be contiguous. The governing body
35 of a local government unit that created a C-PACE district may, by resolution, do any of the
36 following:

37 (1) Add the property of any owner who voluntarily executed a written
38 agreement with members of the C-PACE district consenting to the inclusion
39 of their property in the district and participation in the C-PACE program.

40 (2) Remove the property of any owner who has satisfied their property tax
41 assessment obligations under the C-PACE program.

42 (3) Delegate to the C-PACE program administration the authority to add new
43 properties to the C-PACE district as long as the property qualifies under the
44 qualifications adopted by the governing body.

45 (c) The governing body shall, in establishing guidelines for the C-PACE district,
46 include a provision that requires that the owner of qualifying real property shall be informed
47 that it is recommended that he or she have a benchmarking survey, energy audit, feasibility
48 study, or other review performed by a trained, certified, or licensed third party of the qualifying
49 real property considered for building and property upgrades or improvements before C-PACE
50 financing is provided. The survey should do the following:

- 1 (1) Determine whether the requested building and property upgrades or
2 improvements will improve the overall functionality and lifespan of the
3 building or property.
- 4 (2) Provide an estimate of the financial savings or earnings from the proposed
5 building or property upgrades or improvements, including an evaluation of
6 whether the individual measures are appropriately sized for the specific use
7 contemplated.
- 8 (d) The agreement between the C-PACE district and owner of qualifying real property
9 shall specify the building and property upgrades or improvements to be completed and the
10 contractor who shall be responsible for completion of the building and property upgrades or
11 improvements. If a survey was conducted under subsection (c) of this section, the agreement
12 shall include the specific items from the survey that shall be completed. Documentation
13 verifying the completion of building and property upgrades or improvements shall be publicly
14 available to ensure that realtors, appraisers, and lenders have clear, accurate, and timely access
15 to information on C-PACE liens.
- 16 (e) Qualifying real property must be current on property tax and assessment payments
17 and shall not be encumbered by any involuntary liens, default judgments, or judgments.
- 18 (f) The governing body shall, in establishing guidelines for the C-PACE district,
19 require that minimum building and property owner protection guidelines are implemented and
20 verified in C-PACE programs.
- 21 **§ 160A-239.14. Qualifying upgrades and improvements.**
- 22 (a) Qualifying upgrades and improvements must improve the health and safety, energy
23 efficiency, renewable energy on-site generation or storage, water conservation, durability, or
24 resiliency to weather and disaster damages of new or existing buildings and properties.
25 Upgrades providing only aesthetic or design improvements shall not qualify as qualifying
26 upgrades and improvements. Eligible upgrades and improvements include the following:
- 27 (1) Renewable energy measures:
- 28 a. Solar photovoltaic generation systems.
- 29 b. Geothermal heating and air systems.
- 30 c. Wind energy generation systems.
- 31 d. Hydroelectric energy generation systems.
- 32 e. Electric vehicle charging stations.
- 33 f. Biomass or waste-to-energy generation systems.
- 34 g. Energy storage systems.
- 35 (2) Performance, energy efficiency, and deferred maintenance improvements,
36 including new installations and existing repairs or upgrades:
- 37 a. Heating, air, and ventilation systems.
- 38 b. Windows.
- 39 c. Roofing.
- 40 d. Lighting.
- 41 e. Building envelope sealing, tightness, and barrier measures.
- 42 f. Water efficiency, recycling, and conservation.
- 43 g. Refrigeration systems.
- 44 h. Building automation and control systems.
- 45 (3) Measures critical to North Carolina's weather-related property and building
46 infrastructure:
- 47 a. Weather resiliency improvements, including roofing, windows, and
48 building envelope.
- 49 b. Flood damage prevention, including water runoff.
- 50 c. Drought tolerance improvement, including irrigation.
- 51 d. Radon mitigation.

1 (b) Property upgrades and improvements shall be permanently affixed to the property or
2 building and shall not be removed from the property or building if the ownership of the
3 property or building changes.

4 **"§ 160A-239.15. Requirements for property owners.**

5 (a) In order to participate in the C-PACE program, a property owner shall provide
6 documentation that any historical or architectural review boards with jurisdiction over the
7 qualifying real property have approved the requested building or property upgrades or
8 improvements.

9 (b) If the qualifying real property is subject to a mortgage, the property owner must
10 obtain written consent from the secured mortgage holder before participating in the C-PACE
11 program. A property owner is not eligible to participate in the C-PACE program if the property
12 is currently in foreclosure or has current involuntary liens, defaults, or judgments.

13 (c) A C-PACE financier may impose minimum requirements on property owners to
14 demonstrate their ability to pay the voluntarily imposed assessments for the life of the lien
15 amount.

16 **"§ 160A-239.16. Program administration.**

17 (a) The C-PACE program administrator shall establish and manage contractor
18 registration and shall develop quality assurance guidelines. In selecting a contractor to perform
19 qualifying upgrades or improvements, the property owner shall select from a list of contractors
20 registered with the C-PACE program administrator. The contractor shall be responsible for
21 remediating any upgrades or improvements that are determined to have been done improperly or
22 to be inappropriately sized for the intended use. Each C-PACE program administrator shall be
23 responsible for handling complaints and resolution procedures involving registered contractors
24 and property owners and shall make available for public inspection complaints involving
25 contractors registered with the program and the manner in which the complaints were resolved.

26 (b) Upon completion of the qualifying upgrades or improvements, the C-PACE
27 program administrator shall recommend that the property owner receive a benchmarking
28 survey, energy audit, feasibility study, or other review by a trained, certified, or licensed third
29 party to evaluate how the qualifying upgrades or improvements met expectations.

30 **"§ 160A-239.17. Assessment financing.**

31 (a) A C-PACE financier shall have authority to impose property tax assessments on
32 qualifying real property when a property owner has voluntarily executed a written agreement
33 with the governing body of the local government unit that created the C-PACE district
34 consenting to (i) undertake building or property upgrades or improvements and (ii) have a
35 C-PACE assessment imposed on the property owner's property. The financing agreement
36 between the C-PACE financier and property owner shall be in writing.

37 (b) A written lender consent form for each existing secured mortgage that is signed by
38 an authorized mortgage holder representative authorizing the C-PACE lien must be provided to
39 the C-PACE financier. The form must be filed with, and as an attachment to, the C-PACE lien
40 in the office of the register of deeds of the county in which the qualifying real property is
41 located. The lender consent form shall include all of the following information:

- 42 (1) The name and address of each qualifying real property owner.
- 43 (2) The name and principal address of each mortgagee.
- 44 (3) The address of the qualifying real property and a description of the property.
- 45 (4) The name of the local government unit responsible for imposing the
46 assessment under the C-PACE program.
- 47 (5) The proposed lien amount and payment terms.
- 48 (6) The estimated financial benefits of the proposed upgrades or improvements.
- 49 (7) General information about the C-PACE financier and their C-PACE program.
- 50 (8) A form or language that the mortgage holder shall send back to the C-PACE
51 financier authorizing the C-PACE lien.

1 (c) A C-PACE program may access project capital from any funds legally available to
2 the local government unit whose governing body created the C-PACE district, including
3 taxable or tax-exempt, if eligible, municipal bonds, in conjunction with any source of credit
4 enhancement. Revenue bonds secured solely by C-PACE assessment payments must be issued
5 by a local government unit or an authorized authority or local development corporation. The
6 provisions of this section shall have no effect on (i) existing laws related to the issuance of
7 revenue bonds by cities participating in a C-PACE program or by any other qualified issuer of
8 revenue bonds, provided that the revenue bonds shall be secured solely by assessments
9 collected from qualifying real property, the owner of which has voluntarily entered into
10 assessment contracts and has undertaken property upgrades or improvements projects, or (ii)
11 any other funds lawfully pledged as security.

12 (d) A local government unit may offer C-PACE capital by establishing a special
13 C-PACE benefit district that allows it to impose, collect, and enforce assessments or charges.

14 (e) The assessment under the C-PACE program shall include, but not be limited to, an
15 amount of up to one hundred percent (100%) of the unpaid costs of the qualifying upgrades or
16 improvements. These costs include the following: (i) the costs of the equipment and
17 technologies for property upgrades or improvements, (ii) interest expenses, (iii) the fees of the
18 property owner or C-PACE financier, (iv) third-party costs, including architectural,
19 engineering, and legal costs, and (v) any other costs associated with the administration of the
20 C-PACE district or the completion of C-PACE financing. The sum of the mortgage and the
21 C-PACE lien should not exceed ninety-five percent (95%) of the total assessed property value,
22 unless otherwise provided by the governing body by ordinance.

23 (f) The term of the assessment shall not exceed the weighted average of the useful life
24 of the property upgrades or improvements and in no case shall be for more than 25 years from
25 the date of the initial assessment. If the qualifying real property is sold, liability for assessments
26 related to the financing of property upgrades or improvements shall remain with the qualifying
27 real property.

28 (g) A local government unit may contract with a variety of C-PACE financiers through
29 open and competitive bidding in order to provide financing to qualifying real property in the
30 C-PACE district.

31 (h) To qualify for financing under this Article, property upgrades or improvements shall
32 meet all applicable safety, performance, interconnection, and reliability standards established
33 by the governing body that created the C-PACE district, the Public Service Commission of
34 North Carolina, the National Electrical Code, the National Electrical Safety Code, the Institute
35 of Electrical and Electronics Engineers, Underwriters Laboratories, and the Federal Energy
36 Regulatory Commission.

37 **"§ 160A-239.18. Liens.**

38 (a) The property tax assessment levied, including any interest, fees, and penalties, shall
39 constitute a C-PACE lien against the qualifying real property if the lender consent form is filed
40 as provided in G.S. 160A-239.17(b). The C-PACE lien related only to the portion of the
41 currently due and payable and delinquent assessments currently in arrears shall have priority
42 over any mortgage, provided the C-PACE lien is perfected by filing a written financing
43 agreement in the office of the register of deeds of the county where the qualifying real property
44 is located.

45 (b) If a mortgagee forecloses on the qualifying real property, the mortgagee shall serve
46 all procedural documents of the foreclosure on the governing body of the local government unit
47 that created the C-PACE district or its C-PACE administrator as though it were a party to the
48 action. The C-PACE lien shall survive any judgment of foreclosure awarded to a mortgagee
49 and shall be disclosed to any subsequent purchaser prior to closing.

50 (c) If provided for in a written agreement, the governing body of a local government
51 unit participating in a C-PACE program may assign to the C-PACE financier any and all liens

1 filed by the unit's tax collector. The assignee of the liens shall have and possess the same
2 powers and rights in law or equity as the C-PACE district and the participating unit and its tax
3 collector would have had if the lien had not been assigned with regard to the priority of the lien,
4 accrual of interest, and fees and expenses of collection. The costs and reasonable attorneys' fees
5 incurred by the assignee either as a result of any foreclosure action or other legal proceeding
6 brought pursuant to this Article and directly related to the proceeding shall be levied against
7 each person having title to any real property subject to the proceedings. The costs and fees may
8 be collected by the assignee at any time after demand for payment has been made. A local
9 government unit may charge the C-PACE financier a service fee to cover the unit's
10 administrative costs related to imposing the assessment requested by the property owner for
11 qualifying upgrades or improvements.

12 (d) A C-PACE lien shall not be due on the date of sale of the property, but may be paid
13 early and, in such a case, the governing body may permit principal reductions. A C-PACE
14 financier may, in its discretion, charge prepayment penalties to lien holders. Upon payment in
15 full of the assessments owed, the lien shall be released in the same manner as property tax
16 liens.

17 (e) The equipment included in a C-PACE lien may be removed if it becomes obsolete
18 or damaged. However, if the equipment is removed for obsolescence or damage, the assessment
19 for the equipment and any interest, fees, and penalties shall remain a lien against the qualifying
20 real property until paid in full.

21 (f) If a C-PACE assessment is not paid when due, the lien may be enforced by the local
22 government unit or its C-PACE administrator in the same manner as property taxes on the
23 qualifying real property. If a C-PACE assessment becomes delinquent due to default,
24 foreclosure, or bankruptcy of the property owner of the qualifying real property, assessment
25 payments due in future years that are still outstanding shall not be accelerated, but shall not be
26 extinguished. If a payment on qualifying real property subject to a C-PACE lien is in default
27 for 30 days or more, the governing body or its C-PACE administrator shall send written notice
28 of the default to each mortgagee of record."

29 **SECTION 2.** This act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2017

H

2

HOUSE BILL 31
Committee Substitute Favorable 3/1/17

Short Title: Material Fact Disclosure Clarifications.

(Public)

Sponsors:

Referred to:

February 2, 2017

1 A BILL TO BE ENTITLED
2 AN ACT TO CLARIFY THAT THE MERE FACT THAT REAL PROPERTY IS INCLUDED
3 IN A COMPREHENSIVE TRANSPORTATION PLAN, STANDING ALONE, IS NOT A
4 REQUIRED DISCLOSURE OR A MATERIAL FACT FOR THE PURPOSES OF
5 DISCLOSURE FOR REAL ESTATE TRANSACTIONS.
6 The General Assembly of North Carolina enacts:
7 SECTION 1. Article 9 of Chapter 39 of the General Statutes is amended by adding a
8 new section to read:
9 "§ 39-51. Inclusion of real property in a comprehensive transportation plan not a material
10 fact.
11 In offering real property for conveyance, rent, or lease, the fact that the real property, or any
12 portion thereof, is included in a financially constrained transportation plan shall be deemed
13 material; however, the mere fact that the real property, or any portion thereof, is included in a
14 comprehensive transportation plan that is not financially constrained adopted pursuant to
15 G.S. 136-66.2 or G.S. 136-212, or in accordance with 23 U.S.C. §§ 134 or 135, shall not, standing
16 alone, be deemed material. A party to the conveyance, rental, or lease of real property, or an agent
17 of any said party, may not knowingly make a false statement regarding the property's inclusion on
18 any transportation plan."
19 SECTION 2. G.S. 47E-4 reads as rewritten:
20 "§ 47E-4. Required disclosures.
21 ...
22 (b3) The inclusion of real property in a comprehensive transportation plan that is not
23 financially constrained adopted pursuant to G.S. 136-66.2 or G.S. 136-212, or in accordance with
24 23 U.S.C. §§ 134 or 135, shall not be considered a required disclosure as provided in this section,
25 provided, however, that no person subject to this Chapter, or an agent of a person subject to this
26 Chapter, may knowingly make a false statement regarding any such fact.
27"
28 SECTION 3. This act is effective when it becomes law and applies to real estate
29 contracts entered into on or after that date.



GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2017

S

3

SENATE BILL 582*
House Committee Substitute Favorable 6/28/17
Third Edition Engrossed 6/28/17

Short Title: Agency Technical Corrections.

(Public)

Sponsors:

Referred to:

April 4, 2017

- 1 A BILL TO BE ENTITLED
2 AN ACT TO MAKE AGENCY TECHNICAL CORRECTIONS.
3 The General Assembly of North Carolina enacts:
4 **SECTION 1.** G.S. 14-27.23(c) and G.S. 14-27.28(c) are repealed.
5 **SECTION 1.5.** G.S. 14-208.18(c) reads as rewritten:
6 "(c) The subdivisions of subsection (a) of this section are applicable as follows:
7 ...
8 (2) Subdivision (2) of subsection (a) of this section applies to persons required
9 to register under this Article if either of the following applies:
10 a. The person has committed any offense in Article 7B of this Chapter
11 or any federal offense or offense committed in another state, which if
12 committed in this State is substantially similar to an offense in
13 Article 7B of this Chapter, and a finding has been made in any
14 criminal or civil proceeding that the person presents, or may present,
15 a danger to minors under the age of 18.
16 b. The person has committed any offense where the victim of the
17 offense was under the age of 18 years at the time of the
18 ~~offense~~ offense or has committed an offense in violation of
19 G.S. 14-202.3."
20 **SECTION 2.** G.S. 14-313(d) reads as rewritten:
21 "(d) Sending or assisting a person less than 18 years to purchase or receive tobacco
22 products or cigarette wrapping papers. – If any person shall send a person less than 18 years of
23 age to purchase, acquire, receive, or attempt to purchase, acquire, or receive tobacco products
24 or cigarette wrapping papers, or if any person shall aid or abet a person who is less than 18
25 years of age in purchasing, acquiring, or receiving or attempting to purchase, acquire, or
26 receive tobacco products or cigarette wrapping papers, the person shall be guilty of a Class 2
27 ~~misdemeanor; provided, however, persons~~ misdemeanor. The following exceptions to this
28 subsection apply:
29 (1) Persons under the age of 18 may be enlisted by police or local sheriffs'
30 departments to test compliance if the testing is under the direct supervision
31 of that law enforcement department and written parental consent is ~~provided;~~
32 provided.
33 (2) The Department of Health and Human Services may enlist persons under the
34 age of 18 to test compliance under Subchapter IX of Chapter 9 of Title 21 of
35 the United States Code if testing is under the direct supervision of



1 commissioned officers of the federal Food and Drug Administration and
 2 written parental consent is provided.

- 3 (3) ~~provided further, that the~~ The Department of Health and Human Services
 4 shall have the authority, pursuant to a written plan prepared by the Secretary
 5 of Health and Human Services, to use persons under 18 years of age in
 6 annual, random, unannounced inspections, provided that prior written
 7 parental consent is given for the involvement of these persons and that the
 8 inspections are conducted for the sole purpose of preparing a scientifically
 9 and methodologically valid statistical study of the extent of success the State
 10 has achieved in reducing the availability of tobacco products to persons
 11 under the age of 18, and preparing any report to the extent required by
 12 section 1926 of the federal Public Health Service Act (42 USC § 300x-26)."

13 **SECTION 2.5.(a)** G.S. 18B-1000 reads as rewritten:

14 **"§ 18B-1000. Definitions concerning establishments.**

15 The following requirements and definitions shall apply to this Chapter:

- 16 ...
 17 (11) Sports and entertainment venue. – Stadiums, ballparks, and other similar
 18 facilities with a permanently constructed seating capacity of 3,000 or more
 19 which are not located on the campus of a school, college, or university."

20 **SECTION 2.5.(b)** G.S. 18B-1001 reads as rewritten:

21 **"§ 18B-1001. Kinds of ABC permits; places eligible.**

22 When the issuance of the permit is lawful in the jurisdiction in which the premises are
 23 located, the Commission may issue the following kinds of permits:

- 24 (1) On-Premises Malt Beverage Permit. – An on-premises malt beverage permit
 25 authorizes (i) the retail sale of malt beverages for consumption on the
 26 premises, (ii) the retail sale of malt beverages in the manufacturer's original
 27 container for consumption off the premises, and (iii) the retail sale of malt
 28 beverages in a cleaned, sanitized, resealable container that is filled or refilled
 29 and sealed for consumption off the premises and that identifies the permittee
 30 and the date the container was filled or refilled. It also authorizes the holder
 31 of the permit to ship malt beverages in closed containers to individual
 32 purchasers inside and outside the State. The permit may be issued for any of
 33 the following:
 34 a. Restaurants;
 35 b. Hotels;
 36 c. Eating establishments;
 37 d. Food businesses;
 38 e. Retail businesses;
 39 f. Private clubs;
 40 g. Convention centers;
 41 h. Community theatres;
 42 i. Breweries as authorized by G.S. 18B-1104(7) and ~~(8)~~-(8);
 43 j. Sports and entertainment venues.

- 44 ...
 45 (3) On-Premises Unfortified Wine Permit. – An on-premises unfortified wine
 46 permit authorizes (i) the retail sale of unfortified wine for consumption on
 47 the premises, either alone or mixed with other beverages, (ii) the retail sale
 48 of unfortified wine in the manufacturer's original container for consumption
 49 off the premises, and (iii) the retail sale of unfortified wine dispensed from a
 50 tap connected to a pressurized container utilizing carbon dioxide or similar
 51 gas into a cleaned, sanitized, resealable container that is filled or refilled and

1 For purposes of this subsection, the "settlor's spouse" refers to the person to whom the
2 settlor was married at the time the irrevocable inter vivos trust was created, notwithstanding a
3 subsequent dissolution of the marriage."

4 **SECTION 6.(b)** The Revisor of Statutes shall cause to be printed all explanatory
5 comments of the drafters of this section, as the Revisor may deem appropriate.

6 **SECTION 7.** G.S. 42A-37(a) reads as rewritten:

7 "(a) Any member of the Armed Forces of the United States who executes a vacation
8 rental agreement and subsequently receives (i) an order for deployment with a military unit for
9 a period overlapping with the rental period or (ii) permanent change of station orders requiring
10 the member to relocate on a date prior to the beginning of the lease term may terminate the
11 member's vacation rental agreement by providing the landlord or landlord's agent with a written
12 notice of termination within 10 calendar days of receipt of the order. The notice must be
13 accompanied by either a copy of the official military orders or a written verification signed by
14 the member's commanding officer. Termination of a lease pursuant to this subsection is
15 effective immediately upon receipt of the notice by the landlord or landlord's agent. All monies
16 paid by the terminating member, with the exception of nonrefundable fees paid to third parties
17 as described in ~~G.S. 42-16(a)~~, G.S. 42A-16, in connection with the vacation rental agreement
18 shall be refunded to the member within 30 days of termination of the agreement."

19 **SECTION 8.** G.S. 45-10 reads as rewritten:

20 **"§ 45-10. Substitution of trustees in mortgages and deeds of trust.**

21 (a) In addition to the rights and remedies now provided by law, the ~~holders or owners of~~
22 ~~a majority in amount of the indebtedness, notes, bonds, or other instruments evidencing a~~
23 ~~promise or promises to pay money and secured by mortgages, deeds of trust, or other~~
24 ~~instruments conveying real property, or creating a lien thereon,~~ noteholders may, in their
25 discretion, substitute a trustee whether the trustee then named in the instrument is the original
26 or a substituted trustee or a holder or owner of any or all of the obligations secured thereby, by
27 the execution of a written document properly recorded pursuant to Chapter 47 of the North
28 Carolina General Statutes. An attorney who serves as the trustee or substitute trustee shall not
29 represent either the noteholders or the interests of the borrower while initiating a foreclosure
30 proceeding.

31 ...

32 (d) In this section, the term "noteholders" means the holders or owners of a majority in
33 the amount of the indebtedness, notes, bonds, or other instruments evidencing a promise to pay
34 money and secured by mortgages, deeds of trust, or other instruments conveying real property,
35 or creating a lien thereon."

36 **SECTION 10.(a)** G.S. 58-10-345(g) reads as rewritten:

37 "(g) The Commissioner is authorized to retain legal, financial, and audit services from
38 outside the Department, the costs of which shall be reimbursed by the business entity.
39 G.S. 58-2-160 shall apply to ~~audits, investigations, audits~~ and processing conducted under the
40 authority of this section."

41 **SECTION 10.(b)** G.S. 58-10-355 reads as rewritten:

42 **"§ 58-10-355. Organizational audit.**

43 In addition to the processing of the application, an organizational ~~investigation or audit~~ may
44 be performed before an applicant business entity is licensed. Such investigation or audit shall
45 consist of a general ~~survey review~~ of the applicant business entity's corporate records, including
46 charters, bylaws, and minute books; verification of capital and surplus; verification of principal
47 place of business; determination of assets and liabilities; and a review of such other factors as
48 the Commissioner deems necessary."

49 **SECTION 10.(c)** G.S. 58-10-385(a) reads as rewritten:

50 "(a) Every captive insurance company shall report to the Commissioner within 30 days
51 after any change in its executive officers or directors, including in its report a biographical

1 affidavit for each new officer or director. The change shall be deemed approved unless it is
 2 disapproved within 30 days from the completion of the Commissioner's review of the
 3 biographical affidavit."

4 **SECTION 11.(a)** G.S. 58-57-90 reads as rewritten:

5 **"§ 58-57-90. Credit property insurance; personal household-property coverage.**

6 (a) As used in this Article, the term "single interest credit property" insurance means
 7 insurance of the personal household-property of the debtor against loss, with the creditor as sole
 8 beneficiary; and the term "dual credit property" insurance means insurance of personal
 9 household-property of the debtor, with the creditor as primary beneficiary and the debtor as
 10 beneficiary of proceeds not paid to the creditor. For the purpose of this Article, "personal
 11 household-property" means household furniture, ~~furnishings and furnishings~~, appliances
 12 designed for household use ~~and use~~, and other personal property of the debtor, exclusive of an
 13 automobile, not used by the debtor in a business trade or profession.

14"

15 **SECTION 11.(b)** G.S. 58-57-110(a) reads as rewritten:

16 "(a) ~~Each~~ Beginning September 1, 2018, and every third year thereafter, the
 17 Commissioner shall prescribe a minimum incurred loss ratio standard requirement to develop a
 18 premium rate reasonable in relation to the benefits provided by credit unemployment insurance
 19 coverage. This minimum incurred loss ratio standard shall be effective January 1 in the year
 20 after it is prescribed and shall remain in effect until a new minimum incurred loss ratio standard
 21 requirement is prescribed. The following requirements must be met:

22"

23 **SECTION 12.(a)** G.S. 66-58 reads as rewritten:

24 **"§ 66-58. Sale of merchandise or services by governmental units.**

25 ...

26 (c) The provisions of subsection (a) shall not prohibit:

27 ...

28 (4) ~~The operation of lunch counters by the Department of Health and Human~~
 29 ~~Services as blind enterprises of the type operated on January 1, 1951, in~~
 30 ~~State buildings in the City of Raleigh.~~ The operation of food and vending
 31 services under Article 3 of Chapter 111 of the General Statutes.

32"

33 **SECTION 12.(b)** Article 3 of Chapter 111 of the General Statutes is amended by
 34 adding a new section to read:

35 **"§ 111-47.4. Food service at certain State properties or facilities.**

36 Notwithstanding any other provision of this Article, the Department of Health and Human
 37 Services may operate or contract for the operation of food or vending services at State property
 38 or State facilities allocated to the Department of Administration or the Department of
 39 Insurance. The net proceeds of revenue generated by food and vending services at such State
 40 property or State facilities by the Department of Health and Human Services, or a vendor with
 41 whom the Department of Health and Human Services has contracted, shall be credited to the
 42 Division of Services for the Blind of the Department of Health and Human Services for the
 43 purposes specified in G.S. 111-43. Nothing in this section shall be construed to remove an
 44 exemption granted in G.S. 111-42(c)."

45 **SECTION 12.(c)** G.S. 146-29.1 is amended by adding a new subsection to read:

46 "(i) This section shall not apply to leases entered into by the Department of Health and
 47 Human Services for the operation of food and vending services under Article 3 of Chapter 111
 48 of the General Statutes."

49 **SECTION 13.(a)** G.S. 90-92(a) reads as rewritten:

50 "(a) This schedule includes the controlled substances listed or to be listed by whatever
 51 official name, common or usual name, chemical name, or trade name designated. In

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2017**

**SESSION LAW 2017-206
HOUSE BILL 770**

AN ACT TO MAKE CLARIFYING CHANGES TO ENSURE ESSA COMPLIANCE; CLARIFY PROPERTY TAX COMMISSION SALARIES; CLARIFY ADMINISTRATIVE COSTS FOR THE HEALTHY FOOD SMALL RETAILER PROGRAM; CLARIFY SINGLE-STREAM FUNDING FOR LME/MCOS; CHANGE THE MEMBERSHIP OF THE NORTH CAROLINA MEDICAL BOARD; PROHIBIT ATTORNEYS SERVING AS TRUSTEES FROM REPRESENTING NOTEHOLDERS OR BORROWERS WHILE INITIATING A FORECLOSURE PROCEEDING; MAKE CHANGES TO REPORTING REQUIREMENTS TO THE GENERAL ASSEMBLY; AND MAKE CHANGES TO THE NORTH CAROLINA STATE LOTTERY COMMISSION.

The General Assembly of North Carolina enacts:

PART I. CLARIFYING CHANGES TO ENSURE ESSA COMPLIANCE

SECTION 1.(a) G.S. 115C-83.15 reads as rewritten:

"§ 115C-83.15. School achievement, growth, performance scores, and grades.

...

(b) Calculation of the School Achievement Score. – In calculating the overall school achievement score earned by schools, the State Board of Education shall total the sum of points earned by a school as follows:

- (1) For schools serving any students in kindergarten through eighth grade, the State Board shall assign points on the following measures available for that school:
 - a. One point for each percent of students who score at or above proficient on annual assessments for mathematics in grades three through eight. For the purposes of this Part, an annual assessment for mathematics shall include any mathematics course with an end-of-course test.
 - b. One point for each percent of students who score at or above proficient on annual assessments for reading in grades three through eight.
 - c. One point for each percent of students who score at or above proficient on annual assessments for science in grades five and eight.
 - d. One point for each percent of students who progress in achieving English language proficiency on annual assessments in grades three through eight.
- (2) For schools serving any students in ninth through twelfth grade, the State Board shall assign points on the following measures available for that school:
 - a. One point for each percent of students who score at or above proficient on either the Algebra I or Integrated Math I end-of-course test or, for students who completed Algebra I or Integrated Math I



* H 7 7 0 - V - 7 *

(3) Two public members appointed by the General Assembly in accordance with G.S. 120-121, one upon recommendation of the Speaker of the House of Representatives and one upon the recommendation of the President Pro Tempore of the Senate.

(a1) Each appointing and nominating authority shall endeavor to see, insofar as possible, that its appointees and nominees to the Board reflect the composition of the State with regard to gender, ethnic, racial, and age composition.

(b) No member shall serve more than two complete three-year terms in a lifetime, except that each member shall serve until a successor is chosen and qualifies.

(b1) A public member appointed pursuant to sub-subdivision (a)(2)b. and subdivision (a)(3) of this section shall not be a health care provider nor the spouse of a health care provider. For the purpose of Board membership, "health care provider" means any licensed health care professional, agent, or employee of a health care institution, health care insurer, health care professional school, or a member of any allied health profession. For purposes of this section, a person enrolled in a program as preparation to be a licensed health care professional or an allied health professional shall be deemed a health care provider. For purposes of this section, any person with significant financial interest in a health service or profession is not a public member.

(c) Repealed by Session Laws 2003-366, s. 1, effective October 1, 2003.

(d) Any member of the Board may be removed from office by the Governor for good cause shown. Any vacancy in the physician, physician assistant, or nurse practitioner membership of the Board shall be filled for the period of the unexpired term by the Governor from a list submitted by the Review Panel pursuant to G.S. 90-3 except as provided in G.S. 90-2(a)(2)a. Any vacancy in the public membership of the Board shall be filled by the Governor-appropriate appointing authority for the unexpired term.

(e) The North Carolina Medical Board shall have the power to acquire, hold, rent, encumber, alienate, and otherwise deal with real property in the same manner as any private person or corporation, subject only to approval of the Governor and the Council of State as to the acquisition, rental, encumbering, leasing, and sale of real property. Collateral pledged by the Board for an encumbrance is limited to the assets, income, and revenues of the Board."

SECTION 5.(b) For the term of the public member appointed by the Governor expiring in 2017, that member shall be appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives, in accordance with G.S. 120-121. For the term of the public member appointed by the Governor expiring in 2018, that member shall be appointed by the General Assembly upon the recommendation of the President Pro Tempore of the Senate, in accordance with G.S. 120-121. As terms expire thereafter or as vacancies occur prior to the expiration of a term, the members on the Medical Board shall be appointed in accordance with G.S. 90-2, as amended by this act.

SECTION 5.(c) This section is effective when it becomes law and applies to vacancies occurring after June 30, 2017.

PART VI. PROHIBIT ATTORNEYS SERVING AS TRUSTEES FROM REPRESENTING NOTEHOLDERS OR BORROWERS WHILE INITIATING A FORECLOSURE PROCEEDING

SECTION 6. G.S. 45-10 reads as rewritten:

"§ 45-10. Substitution of trustees in mortgages and deeds of trust.

(a) In addition to the rights and remedies now provided by law, the ~~holders or owners of a majority in amount of the indebtedness, notes, bonds, or other instruments evidencing a promise or promises to pay money and secured by mortgages, deeds of trust, or other instruments conveying real property, or creating a lien thereon,~~ notcholders may, in their discretion, substitute a trustee whether the trustee then named in the instrument is the original

or a substituted trustee or a holder or owner of any or all of the obligations secured thereby, by the execution of a written document properly recorded pursuant to Chapter 47 of the North Carolina General Statutes. An attorney who serves as the trustee or substitute trustee shall not represent either the noteholders or the interests of the borrower while initiating a foreclosure proceeding. Notwithstanding this restriction, an attorney may serve as the trustee in a foreclosure proceeding while simultaneously representing the noteholders on unrelated matters and others within the attorney's firm may also continue to represent the noteholders on unrelated matters. Additionally, an attorney who has as trustee initiated a foreclosure proceeding may resign as trustee after the foreclosure is contested and act as counsel to the noteholders.

...
(d) In this section, the term "noteholders" means the holders or owners of a majority in the amount of the indebtedness, notes, bonds, or other instruments evidencing a promise to pay money and secured by mortgages, deeds of trust, or other instruments conveying real property, or creating a lien thereon."

PART VII. CHANGES TO REPORTING REQUIREMENTS TO THE GENERAL ASSEMBLY

SECTION 7.(a) Section 7.18(b) of S.L. 2008-107 is repealed.

SECTION 7.(b) Section 31.7(b) of S.L. 2015-241 reads as rewritten:

"SECTION 31.7.(b) Reporting. – The following reports are required:

- (1) By ~~October 1, 2015, October 15, 2017,~~ and every six months thereafter, each State agency shall report on the status of agency capital projects to the Joint Legislative Commission on Governmental Operations.
- (2) By ~~October 1, 2015, October 15, 2017,~~ and quarterly thereafter, each State agency shall report on the status of agency capital projects to the Fiscal Research Division of the General Assembly and to the Office of State Budget and Management."

PART VIII. NORTH CAROLINA STATE LOTTERY COMMISSION CHANGES

SECTION 8. G.S. 18C-112(a) reads as rewritten:

"(a) Of the members of the Commission appointed by the Governor, at least one member shall have a minimum of five years' experience in law enforcement. Notwithstanding subsection (e) of this section, a member serving in this slot may be an elected law enforcement official."

PART IX. EFFECTIVE DATE

SECTION 9. Except as otherwise provided, this act is effective when it becomes law.
In the General Assembly read three times and ratified this the 3rd day of August, 2017.

s/ Bill Rabon
Presiding Officer of the Senate

s/ Tim Moore
Speaker of the House of Representatives

VETO Roy Cooper
Governor

Became law notwithstanding the objections of the Governor at 7:28 p.m. this 30th day of August, 2017.

s/ Sarah Lang
Senate Principal Clerk