

# Daily Bulletin

ACTIONS BY THE NORTH CAROLINA GENERAL ASSEMBLY

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House Legislative Day 120

Vol. 2012, No. 10

Senate Legislative Day 120

*Monday, June 4, 2012*

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## SUMMARIES OF BILLS FILED

### *Public Bills*

#### **HOUSE BILLS**

**H 1219. HONOR MEMBERS FOR THEIR SERVICE.** Filed 6/4/12. EXPRESSING APPRECIATION TO THE MEMBERS WHO WILL BE LEAVING THE HOUSE OF REPRESENTATIVES AT THE END OF THEIR CURRENT TERMS.

Recognizes 37 members of the General Assembly for their service, as title indicates.

**Intro. by Committee on Rules, HOUSE RES General Assembly  
Calendar, and Operations of the  
House.**

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*Local Bills*

None

**ACTION ON BILLS****June 4, 2012**

- NOTES**
1. Digests appearing under "Summaries of Bills Filed" are for bills stamped with today's filing date.
  2. Amendments and committee substitutes adopted today are summarized following the chamber action.
  3. Subscribers can find the digest of every version of each bill online at [www.dailybulletin.unc.edu](http://www.dailybulletin.unc.edu).
  4. The dates on which previous amendments or committee substitutes were adopted are listed below bill numbers.
  5. The action "Cal Pursuant Rule 36b" indicates that the bill has been reported by committee and is awaiting calendaring.
  6. Enacted bills are indicated by #, failed bills by \*. Actions that change a bill are indicated by HA or SA.

**PUBLIC BILLS**

H0142 Economic Development and Finance Changes 05-30-12, 05-31-12	H Passed 3rd Reading H Ordered Engrossed
H0302 Charitable Licensing Exemption Clarification. 04-14-11, 05-30-12	H Rec From Senate H Rec To Concur S Com Sub H Cal Pursuant Rule 36(b) H Placed On Cal For 6/5/2012
H0391 Research Triangle Park District Amendments. 05-30-12, 05-31-12, 06-04-12	SA Amend Adopted 2 S Passed 2nd Reading
H0493 Landlord Tenant Law Changes. 05-09-11, 05-31-12	S Passed 2nd & 3rd Reading
H0503 Parent Choice/Carify Pre-Kindergarten. 05-18-11, 05-24-11, 06-01-11, 05-30-12	H Rec From Senate H Rec To Concur S Com Sub H Cal Pursuant Rule 36(b) H Placed On Cal For 6/5/2012
H0517 Magistrates/Calendaring. 05-25-11, 05-24-12	H Withdrawn From Com H Cal Pursuant Rule 36(b) H Placed On Cal For 6/5/2012
H0589 Divorce/DVPO/Child Support Changes. 05-04-11, 05-10-11, 05-31-12	S Passed 2nd & 3rd Reading
H0614 DMA Post Public Notices of Change on Website. 04-12-11	S Withdrawn From Com S Re-ref Com On Judiciary I
H0637 Adoption Law Changes. 04-20-11, 05-29-12	H Rec To Concur S Com Sub H Cal Pursuant Rule 36(b) H Placed On Cal For 6/5/2012
H0673 Street Gang Nuisance Abatement. 05-16-11, 05-31-12	S Passed 2nd & 3rd Reading
H0707 Deeds of Trust/Modernize Procedures.	S Reptd Fav Com Substitute SA Com Substitute Adopted

06-03-11, 06-04-12		
H0821 Allow DOT to Use Recycled Asphalt.	H	Ratified
H0843 Modernize NC Emergency Management Act.	S	Withdrawn From Cal
05-24-11, 05-31-12	S	Placed On Cal For 6/5/2012
H0942 Pseudoephedrine Record-Keeping Clarification.	S	Rec From House
	S	Passed 1st Reading
	S	Re-ref Com On Judiciary II
05-30-12		
H0947 Eugenics Compensation Program.	H	Placed On Cal For 6/5/2012
05-25-12, 05-29-12		
H0954 ENR Reports Consolidation.	H	Placed On Cal For 6/5/2012
05-31-12		
H0960 Protect Homeowners With Underwater Mortgages.	H	Postponed To 6/5/2012
H0966 TEACHER PREPAYMENT AND SALARY/PRE-K ELIGIBILITY	H	Rec From Senate
	H	Rec To Concur S Com Sub
	H	Cal Pursuant Rule 36(b)
	H	Placed On Cal For 6/5/2012
05-31-12		
H0981 Dix Property Sale to Require GA Approval.	H	Postponed To 6/5/2012
05-31-12		
H1025 Extend Tax Provisions.	S	Rec From House
	S	Passed 1st Reading
	S	Re-ref Com On Finance
05-30-12		
H1034 Confirm Tamara Nance to Industrial Comm.	S	Withdrawn From Com
	S	Re-ref Com On Commerce
H1066 Passing Title by Will.	S	Rec From House
	S	Passed 1st Reading
	S	Re-ref Com On Judiciary I
05-31-12		
H1067 Co-owners/Unequal Shares/Simultaneous Death.	S	Rec From House
	S	Passed 1st Reading
	S	Re-ref Com On Judiciary I
05-31-12		
H1068 Amend UCC Article 9/Secured Transactions.	S	Rec From House
	S	Passed 1st Reading
	S	Re-ref Com On Judiciary I
H1069 Intestate Property/Child's Year's Allowance.	S	Rec From House
	S	Passed 1st Reading
	S	Re-ref Com On Judiciary I
H1218 Support Nat'l Women's History Museum.	H	Passed 1st Reading
	H	Ref To Com On Rules, Calendar, and Operations of the House
H1219 Honor Members for Their Service.	H	Reptd Fav. For Introduction
	H	Filed
	H	Placed On Cal For 6/4/2012
	H	Withdrawn From Cal
	H	Re-ref Com On Rules, Calendar, and Operations of the House
S0077 Rental Property/Lithium	H	Postponed To 6/5/2012

Battery Smoke Alarms.  
03-01-11, 05-30-12  
#S0745 Beer Franchise Law S Signed By Gov. 6/4/2012  
Clarifications. SR Ch. SL 2012-4  
06-02-11, 06-07-11, 05-23-12  
S0795 Excellent Public Schools Act. S Amend Failed 3  
S Passed 3rd Reading  
S Engrossed  
05-29-12, 05-30-12, 05-31-12  
S0808 Changes to Commerce Reporting SA Amend Adopted 1  
Requirements. S Passed 2nd & 3rd Reading  
S Engrossed  
06-04-12  
S0810 Regulatory Reform Act of 2012. S Reconsidered 3rd Reading  
SA Amend Adopted 6  
S Passed 3rd Reading  
S Engrossed  
05-24-12, 05-30-12, 05-31-12, 06-04-12  
S0816 Banking Law Modernization Act. HA Reptd Fav Com Substitute  
H Cal Pursuant Rule 36(b)  
H Placed On Cal For 6/5/2012  
05-23-12, 06-04-12  
S0826 Revenue Laws Tech., SA Amend Adopted 1  
Clarifying, & Admin Chngs. S Amends Ruled Material  
05-31-12, 06-04-12  
S0895 DOT Division of Motor S Passed 3rd Reading  
Vehicles Leg. Requests.-AB  
05-30-12  
S0915 Public Infrastructure S Withdrawn From Com  
Oversight Commission. S Re-ref Com On Rules and  
Operations of the Senate  
S0955 Adjournment Sine Die. S Passed 1st Reading  
S Ref To Com On Rules and  
Operations of the Senate

### LOCAL BILLS

H1029 Mayodan Manager Residency. H Passed 2nd & 3rd Reading  
S0954 Municipalities Enforce Public S Passed 1st Reading  
Trust Rights. S Ref To Com On State and  
Local Government  
S0956 Roanoke Rapids Deannex/ S Passed 1st Reading  
Halifax N'hmp Airport. S Ref To Com On State and  
Local Government

## SUMMARIES OF AMENDMENTS AND COMMITTEE SUBSTITUTES

### HOUSE BILLS

**H 391. RTP DISTRICT AMENDMENTS.** Filed 3/16/11. Senate amendment makes the following changes to 2nd edition, as amended. Amends proposed GS 153A-316.1, urban research service district (URSD), to add the following standard to those required for a county board of commissioners to establish one or more URSDs

presentation to a county board of commissioners of a petition requesting petition of the URSD, signed by a minimum of 50% of the owners of real property in the URSD who own at least 50% of the total area of real property included in the URSD.

Local Government

**H 707. REGISTER OF DEEDS/DIRECTED TRUSTEES/ESTATES (NEW).** Filed 4/6/11. Senate committee substitute makes the following changes to 2nd edition.

Deletes all provisions of previous edition and replaces them with *AN ACT TO ELIMINATE OBSOLETE REGISTER OF DEEDS PROVISIONS FROM THE GENERAL STATUTES, TO AMEND LOCAL AGENCY CHARGES FOR VITAL RECORDS SEARCHES, TO CLARIFY THE LAW GOVERNING PERSONS HOLDING THE POWER TO DIRECT TRUSTEES, TRUST PROTECTORS, AND DIRECTED TRUSTEES AND OTHER FIDUCIARIES, TO MAKE TECHNICAL CHANGES IN THE LAW GOVERNING TRUSTS AND DECEDENTS' ESTATES, AND TO AUTHORIZE THE REVISOR OF STATUTES TO PRINT OFFICIAL COMMENTS TO THE UNIFORM TRUST CODE.*

*Part I. Amend or Remove Obsolete Register of Deeds Provisions.* Amends GS 9-4 (concerning the jury list) to require the name and address of each qualified person on the list to be recorded and arranged alphabetically (rather than written on a separate card). Requires the list to be filed with the clerk of court (rather than with the register of deeds). Repeals GS 45-16 (register of deeds to make marginal entry of substituted trustee). Amends the following statutes to remove certain indexing or recording requirements: GS 45-21.17A(b), 47-14(e), 47C-2-101(a), 47C-2-109(a), 47F-2-101, 47F-2-117(c), 58-72-50, 68-18.1, 80-16, 87-110(d), 104-7(c), 130A-301, 130A-310.8, 130A-310.35, 143-215.85A, 143-215.104M, 143B-279.10, 143B-279.11, and 160A-400.6. Repeals GS 80-33 through 80-37 (concerning farm names) and makes conforming changes to GS 80-38 and 80-39. Effective July 1, 2012.

*Part II. Vital Records Searches by Local Agencies.* Current law directs a local agency, when conducting searches for issuance of vital records using State Registrar databases, to charge the specified fees and to retain \$10 of the collected fees to cover administrative costs and forward the remaining fees to the State Registrar. Amends GS 130A-93.1(a)(1) to direct the local agency to charge and forward to the State Registrar \$14 and to charge and retain \$10 if a copy is made, provided the agency may waive the \$10 charge if the copy is issued to a person over 62 years old. Makes a conforming change to repeal GS 161-10(8a). Effective July 1, 2012.

*Part III. Trusts and Decedents' Estates.* Amends GS 36C-8-808 to modify and clarify the powers of a settlor of a revocable trust, who has the power to direct or consent to the trustee's actions. Adds that a trustee is not liable for any loss resulting from complying with the settlor's direction. Deletes provisions concerning other persons with power over a trust. Enacts new subsection (e1) to GS 36C-7-703 to specify applicable duties and liabilities when a trust confers power upon a cotrustee, to the exclusion of another cotrustee. Deletes the current provision in GS 32-72(d), which concerns investments made by specified persons, and replaces it with provisions applicable to an instrument that creates a fiduciary relationship other than a trust and to a fiduciary other than a trustee.

Adds new Article 8A, *Powers, Duties, and Liability of a Power Holder Other than a Trustee; Duty and Liability of a Trustee with Respect to Power Holder's Actions*, in GS Chapter 36C. Defines *power holder* as a person, under the terms of a trust, with the power to take certain actions with respect to the trust, and who is not a trustee or a settlor with a power to direct or consent. Sets out the powers, duty, and liability of a power holder, and the duty and liability of a trustee in relation to a power holder. Provides for the power holder's compensation and removal, obtaining jurisdiction over a power holder, accepting or declining appointment as a power holder, and other details related to power holders.

Makes technical and clarifying changes to various provisions related to trusts and decedents' estates. Amends Section 14 of SL 2011-344 (Revise Probate Code) to make specified changes to effective dates in that session law.

Property, Land Use, and Housing

## SENATE BILLS

**S 808. CHANGES TO COMMERCE REPORTING REQUIREMENTS.** Filed 5/17/12. Senate amendment makes the following changes to 2nd edition. Amends GS 143B-435.1 to require the Department of Commerce (Department) to report to the specified entities on clawbacks triggered under the One North Carolina Fund, the Job Development Investment Grant Program, the Job Maintenance and Capital Development Fund, the Industrial Development Fund and Utility Account, and the Site Infrastructure Fund (was, clawbacks triggered under programs the Department administers).

Adds a repeal of GS 143B-437.01(c1), which required the Department to report to specified legislative entities on payments made from the Utility Account, the impact of the payments on job creation, and the use of Account funds.

Amends GS 143B-437.07 to require the Department's report on businesses that receive economic development incentives to include the date of the award, as well as the date of the award agreement.

Business and Commerce; State Government

**S 810. REGULATORY REFORM ACT OF 2012.** Filed 5/17/12. Senate amendment makes the following changes to 2nd edition, as amended. Amends previous amendments #5 and #3 so that the amendment placement no longer overlaps, thereby ensuring the inclusion of the amendment clarifying that a port enhancement zone must be comprised of part or all of one or more contiguous census tracts, census block groups, or both, among other requirements.

APA/Rule Making; Agriculture, Environment, and Natural Resources; Business and Commerce; Health, Social Services, and Aging; Property, Land Use, and Housing

**S 816. BANKING LAW MODERNIZATION ACT** . Filed 5/17/12. House committee substitute makes the following changes to 2nd edition. Makes technical changes to proposed (1) GS 53C-1-4 (Definitions and application of terms) and (2) GS 53C-4-12 (regarding definitions applicable to compliance review committee) to place definitions in alphabetical order.

Makes the repeal of GS 53-92 effective April 1, 2013 (was, October 1, 2012), which keeps the current State Banking Commission in place until April 1, 2013.

Makes proposed GS 53C-2-1 effective April 1, 2013 (was, October 1, 2012). Provides for the reduction of the members of the State Banking Commission, as required by proposed GS 53C-2-1, from 22 to 15 via the termination of seven specified members appointed by the Governor. Provides that the terms of the remaining members are to expire under the current schedule. Directs the Governor to appoint members to fill vacancies as the vacancies occur. Requires that the Governor fill one of the practical banker vacancies with a consumer finance licensee. Requires the General Assembly, effective April 1, 2013, to review the Speaker's appointment to the Commission.

Clarifies that except as otherwise indicated, the act becomes effective October 1, 2012.

Banking and Finance

**S 826. REVENUE LAWS TECH., CLARIFYING, & ADMIN. CHANGE.** Filed 5/17/12. Senate amendment makes the following changes to 2nd edition. Current law repealed GS 105-130.6 regarding subsidiary and affiliated corporations effective January 1, 2012. Amends GS 105-130.2 to add definitions for the following terms that were previously defined in repealed GS 105-130.6: (1) *affiliate*, (2) *parent*, and (3) *subsidiary*. Makes conforming changes to the numbering of the provisions in GS 105-130.2. Makes conforming changes to GS 105-122(b1), 153A-279(a)(1), 160A-236(a)(1), and 160A-626(a)(1) to reflect the repeal of GS 105-130.6. Amends GS 105-130.14 to provide that corporations filing consolidated tax returns for federal income tax purposes cannot file a consolidated or combined return with the NC Secretary of Revenue except (1) as specifically directed in writing by the Secretary under GS 105-130.5A (was, GS 105-130.6) or (2) with written advice from the Secretary allowing (was, requiring) a consolidated return in response to a written request from the corporation under GS 105-130.5A. Repeals GS 105-262(b) regarding notice and hearing exceptions for rules proposed under repealed GS 105-130.6.

Amends GS 105-164.3 (definitions) to specify that a (26b) prepaid calling service and a (27a) prepaid wireless calling service must meet the requirement of being sold in *predetermined* units or dollars.

Amends GS 105-164.4B(a) to delete the terms, but retaining the provisions concerning *over the counter sales* and *delivery to a specified address*.

Amends GS 105-236 to make adjustments providing that the penalty for failing to file a return accrues during the time that the failure continues to an amount not to exceed 25% in the aggregate (was, whichever was greater, 25% in the aggregate or \$5.00); and to provide that the penalty for failing to pay tax when it is due is 10% of the tax (was, 10% of the tax, subject to a \$5.00 minimum). Effective January 1, 2014.

Rewrites GS 121-5(e) as Archives and Records Management Fund (was, Program Funding). Establishes the Fund as a special revenue fund consisting of fees credited to the Fund under GS Chapter 161. Specifies how the Fund revenue may be used. Effective July 1, 2012.

Amends GS 105-330.3 to specify the applicable rates at which interest accrues on unpaid taxes for unregistered classified motor vehicles. Makes conforming change to subsection (b) of GS 105-330.4.

Makes technical changes.

State Government; Taxation

## Legislation Enacted

**SL 2012-4 (S 745). BEER FRANCHISE LAW CLARIFICATIONS.** AN ACT TO PRESERVE THE THREE-TIER DISTRIBUTION SYSTEM FOR MALT BEVERAGES IN NORTH CAROLINA BY CLARIFYING PROVISIONS OF THE BEER FRANCHISE LAW TO PROVIDE: A FRANCHISE AGREEMENT APPLIES TO ALL SUPPLIER PRODUCTS UNDER THE SAME BRAND NAME; A WHOLESALER MUST SELL MALT BEVERAGES TO ALL RETAILERS IN ITS TERRITORY AT THE SAME PRICE AT THE TIME OF DELIVERY; PROHIBITED ACTS OF SUPPLIERS WITH RESPECT TO THEIR DEALINGS WITH WHOLESALERS; GOOD CAUSE FOR TERMINATION MAY NOT BE MODIFIED BY AN AGREEMENT THAT DEFINES GOOD CAUSE IN A MANNER DIFFERENT THAN PROVIDED BY STATE LAW; REVERSION OF SMALL BREWERIES' SELF-DISTRIBUTION RIGHTS UNDER CERTAIN CIRCUMSTANCES; CERTAIN ACTS THAT DO NOT AMOUNT TO GOOD CAUSE FOR TERMINATION OF A FRANCHISE; REMEDIES FOR A SUPPLIER'S WRONGFUL TERMINATION OF A FRANCHISE; INCLUSION OF A WHOLESALER MERGER, THE FACTORS THAT MAY BE CONSIDERED BY THE SUPPLIER IN APPROVING A MERGER OR TRANSFER, AND REMEDIES FOR UNLAWFUL REFUSAL TO APPROVE A MERGER OR TRANSFER; THE BEER FRANCHISE LAW MAY NOT BE WAIVED BY AN AGREEMENT CONTRARY TO STATE LAW; AND MEDIATION OF DISPUTES ARISING UNDER THE BEER FRANCHISE LAW; AND TO ALLOW THE ABC COMMISSION TO GRANT A WAIVER ALLOWING THE GENERAL MANAGER OF A LOCAL BOARD TO ALSO BE THE FINANCE OFFICER.

Summarized in *Daily Bulletin* 4/20/11, 6/3/11, 6/7/11, and 5/23/12. Enacted June 4, 2012. The provisions of GS 18B-1304, as amended by this act, are effective October 1, 2012. The remainder is effective June 4, 2012.

Alcoholic Beverage Control

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## Notes

None

## **NEXT SESSIONS**

**June 5, 2012**

**HOUSE convenes at 9:00 a.m.**

**SENATE convenes at 9:00 a.m.**