

The Daily Bulletin: 2016-06-20

PUBLIC/HOUSE BILLS

H 287 (2015-2016) **AMEND INSURANCE LAWS.-AB** Filed Mar 18 2015, *AN ACT TO ENHANCE AND IMPROVE CONSUMER PROTECTIONS AND TRANSPARENCY RELATED TO MOTOR VEHICLE MAINTENANCE AND REPAIRS, LONG-TERM CARE INSURANCE, AND CONSENT TO RATE; TO STUDY VOLUNTEER FIREFIGHTER RECRUITMENT AND RETENTION EFFORTS; TO INCREASE THE CRIMINAL PENALTY FOR LARGE-SCALE FRAUD COMMITTED BY AN INSURANCE FIDUCIARY AND STRENGTHEN COMMERCIAL AUTO RATE EVASION REFORM; TO MAKE VARIOUS TECHNICAL AND POLICY CHANGES TO NORTH CAROLINA'S CAPTIVE INSURANCE LAW PROVISIONS; TO ENABLE THE ESTABLISHMENT OF A STATE-BASED PRIVATE FLOOD INSURANCE MARKET; TO ENABLE INSURERS TO RECEIVE RESTITUTION FROM CONVICTED DEFENDANTS; TO EXEMPT CERTAIN ACCOUNTABLE CARE ORGANIZATIONS FROM DEPARTMENT REGULATION; AND TO MAKE OTHER AMENDMENTS TO INSURANCE LAWS, AS RECOMMENDED BY THE DEPARTMENT.*

Senate committee substitute makes the following changes to the 3rd edition.

Changes the long title.

Deletes and replaces all of the provisions of the previous edition, except the following proposed statutory revision.

Moves the proposed revisions to GS 58-50-40(c) from previous Section 5 to Section 3.1 of the act, which makes an insurance fiduciary who violates his or her fiduciary duty and causes the cancellation or non-renewal of a group health or group life insurance plan guilty of a Class F felony if the total value of the losses suffered is \$100,000 or more, or a Class H felony if the losses suffered is less than \$100,000.

The remainder of the act now provides the following.

Part I.

Current GS 58-36-75(a) provides that the subclassification plan promulgated pursuant to GS 58-36-65(b), which requires the Bureau to create a Safe Driver Incentive Plan to distinguish among classes of drivers and their driving records, may provide for separate surcharges for major, intermediate, and minor at-fault accidents. Increases the property damage amounts that constitute each subclassification as defined by subsection (a). Effective October 1, 2017, and applies to accidents that occur on or after that date.

Amends GS 58-51-95, concerning approval by the Commissioner of Insurance (Commissioner) of forms, classification, and rates, by adding new subsection (f1) to establish that, for long-term care policy forms, the maximum rate increase that may be implemented in any calendar year for any policyholder is an increase of 15% of the current policy premium rate in effect prior to the increase.

Amends GS 58-36-30, concerning deviations from the rates, rate plans, classifications, schedules, rules, and standards made by the North Carolina Rate Bureau (Rate Bureau), by adding a new subsection (b1). Provides that, for insurance against loss to residential real property with no more than four housing units, a rate in excess of that promulgated by the Rate Bureau may be charged by an insurer on any specific risk if the higher rate is charged in accordance with rules adopted by the Commissioner and is charged with the knowledge and written consent of the insured. Requires the insurer to disclose and give reasonable notice of the rate information to the insured by including language, as specified, on the insured's written consent to rate form in at least 14-point type, bolded and underlined.

Requires the disclosure statement to be included on any renewal of or endorsement to the policy for any subsequent increase above the manual rate following the initial written consent of an insured. Establishes that once an initial written consent to rate is received, the insurer is not required to obtain the written consent of the insured on any renewal of or endorsement to the policy.

Requires the insurer to give at least 30 days' notice to the insured for all written consents to rate and notices required under subsection (b1) on all policy renewals and endorsements. Requires the insurer to retain the signed consent form and other policy

information of each insured, which is to be available to the Commissioner upon request. Provides that any data obtained by the Commissioner under subsection (b1) is proprietary, confidential, and not a public record under GS 132-1 or GS 58-2-100.

Amends GS 58-36-10, concerning the method of rate-making and factors considered, by amending subsection (3) to add that, if the Rate Bureau presents any modeled hurricane losses based upon a commercial hurricane simulation computer model with a property insurance rate filing, the Rate Bureau must present data from more than one simulation computer model. Requires the Commissioner to consider modeled hurricane losses presented by the Rate Bureau.

Amends GS 58-36-15, concerning the Rate Bureau filing loss costs, rates, and plans with the Commissioner, to add new subsections (d2) and (d3). Requires any property insurance rate filing where a catastrophe model is used to include supporting data, as specified. Requires that, in all residential property insurance rate filings, the Rate Bureau is to provide, for each territory in the State, (1) the portion of the rate based on all risk with the exception of wind and hail, and (2) that portion of the rate based on consideration of risks and the costs of reinsurance for wind and hail. Requires the Department to post both the filed rate and the final rate for each territory on its Web site, including that portion of the filed rate and the final rate for each territory based on all risks with the exception of wind and hail, and that portion based on wind and hail.

The changes above are effective October 1, 2017, and apply to policies issued, renewed, or amended on or after that date.

Part II.

Amends GS 58-87-1(b), which sets out three conditions that a fire department must meet to be eligible for a grant from the Volunteer Fire Department Fund. Deletes the first condition that requires a fire department to serve a response area of 12,000 or less in population.

Current GS 58-87-5(a) creates the Volunteer Rescue/EMS Fund and directs the Department to award grants by selecting applicants from all parts of the State based on need, subject to a specified priority order. Deletes the priority order and directs the Department to select applicants from all parts of the State based on need only.

Amends GS 58-92-20(e) and (f), concerning certification and product change under the Fire-Safety Standard and Firefighter Protection Act (Act), by adding fire safety to the other actual costs to be defrayed that may necessitate the Commissioner adjusting the \$250 fee required of cigarette manufacturers per brand style to defray. Also, provides that, for purposes of the Act, *fire safety* includes community education and outreach and the provision and installation of fire safety devices in high-risk and high-need locations throughout the State.

Directs the Office of State Fire Marshal, in consultation with five specified entities, to study and make recommendations regarding the issue of declining recruitment and retention of volunteer firefighters to the General Assembly on or before the convening of the 2018 legislative session. Specifies six recommendations that must be included.

Part III.

Amends GS 58-2-164, concerning rate evasion fraud and prevention programs, as follows.

Specifies *applicant* to mean one or more persons applying for the issuance or renewal of an auto insurance policy on which the person or persons will be a named insured. Expands the definition of *auto insurance* to mean both nonfleet and other than nonfleet private passenger motor vehicle insurance. Replaces the definition of *eligible applicant risk* with *eligible risk*, and defines the term to mean a person who is an eligible risk as defined in either GS 58-37-1(4) or GS 58-37-1(4a). Defines *insurer* to mean an insurance company (previously, a member of the North Carolina Rate Bureau) that is licensed to write and is writing auto insurance in the State. Adds a new term, *principal place of business*, and defines the term to mean the single physical location from which the majority of the essential operations of the applicant's business are directed and controlled, provided that the location of a consultant, service agent, or attorney of the applicant is not sufficient to establish an applicant's principal place of business.

Amends subsection (b), which makes it a Class 3 misdemeanor for any person who, with the intent to deceive an insurer, does the following: (1) presents or causes to be presented a written or oral statement in support of an application for issuance of or amendment to a policy of auto insurance (previously, in support of an application for auto insurance) or for vehicle registration, knowing that the application contains false or misleading information that states the applicant is an eligible risk when the applicant is not an eligible risk or (2) assists, abets, solicits, or conspires with another person to prepare or make any written or oral statement intended to be presented to an insurer in connection with or in support of an application for insurance of or amendment to a policy of auto insurance (previously, in support of an application for auto insurance) or for vehicle registration, knowing that

the statement contains false or misleading information that states the applicant is an eligible risk when the applicant is not an eligible risk.

Adds new subsection to make it a Class H felony for any person who, with the intent to deceive the insurer, knowingly violates GS 58-2-164(b) for the purpose of obtaining auto insurance covering one or more vehicles, the operation of which requires a Commercial Driver's License pursuant to GS 20-4.01(3c). Establishes that a violation of subsection (b1) may be punishable by a fine of no more than \$10,000 for each violation.

Amends subsection (c), which requires the insurer and its agents to verify information provided by an applicant, to provide that an agent may satisfy the requirements of the statute by obtaining from the applicant reliable proof of North Carolina residency and the applicant's status as an eligible risk. Deletes the provision that sets out 12 items that can be reliable proof of residency or eligible risk, and instead adds new subsection (c1). Provides that, to the extent relevant to a particular criterion for eligible risk status and for the purposes of obtaining nonfleet private passenger motor vehicle insurance, reliable proof of North Carolina residency or eligible risk status include one or more of nine specified items, which take from, amend, and add to the provision deleted by the act from subsection (c).

Adds new subsection (c2) that establishes, to the extent relevant to a particular criteria for eligible risk status and for the purpose of obtaining other than nonfleet private passenger motor vehicle insurance, reliable proof of North Carolina residency or eligible risk status includes two or more of four specified items.

Amends subsection (f) to require every insurer to maintain safeguards within its auto insurance business at the point of sale, renewal, and claim to identify misrepresentations by applicants regarding their addresses, their principal places of business, and the places their motor vehicles are garaged (previously, did not include principle places of business).

Amends subsection (g) to make conforming changes. Establishes that, if an applicant provides false or misleading information material to the applicant's or any named insured's status as an eligible risk and that fraudulent information makes the applicant or any named insured appear to be an eligible risk when that person is in fact not an eligible risk, the insurer may do any of three things: (1) refuse to issue, amend, or endorse a policy (previously, only refuse to issue); (2) cancel or refuse to renew a policy that has been issued; or (3) deny coverage for any claim by the applicant for auto liability, comprehensive, or collision coverage (previously, any claim arising out of bodily injury or property damage suffered by the applicant), (this provision does not apply to bodily harm or property damage claims of innocent third parties to the extent of any minimum financial responsibility requirement of state or federal law (previously, does not apply to innocent third parties)).

Adds new subsection (g1) to establish that any motor vehicle liability policy may provide that the insured must reimburse the insurer for any payment, as defined by the subsection, made under a policy if the issuance of the policy was induced by a knowing and material misrepresentation of facts relating to the insured's status as an eligible risk. Makes conforming changes to subsection (h) relating to the award of compensatory damages.

Amends subsection (h) to provide that, in a civil cause of action for recovery under subsection (g1), a conviction of the defendant for a violation of GS 58-2-164(b) or (b1) (previously, recovery based upon a claim for which a defendant has been convicted under the statute, a conviction) may be entered into evidence against the defendant and establishes the liability of the defendant as a matter of law for damages, fees, or costs as may be proven.

Amends GS 58-37-1(4a), which defines *eligible risk* as it applies to Article 37 of GS Chapter 58 (North Carolina Motor Vehicle Reinsurance Facility), to establish that no person can be deemed an eligible risk if timely payment or premium is not tendered or if there is a valid unsatisfied judgment of record against the person that the person has not been discharged from paying, for recovery of amounts due for: (1) motor vehicle insurance premiums, or (2) payments recoverable under a policy provision authorized by GS 58-2-134(g1), as enacted by the act (previously, only for recovery amounts due for motor vehicle insurance premiums). Makes technical changes.

Effective December 1, 2016.

Part IV.

Amends GS 58-10-340, which sets out definitions of terms as they apply to the North Carolina Captive Insurance Act (Act). Deletes the definition of *affiliate or affiliated company* and replaces with defining an "affiliate" of or a person "affiliated" with a specific person to be as defined in GS 58-19-5. Deletes the definitions of *control, controlling, controlled by, or under common control with*, and replaces them with *control* to be as defined in GS 58-91-5, but keeps the existing provision that,

notwithstanding the definition, the fact that an SPFC exclusively provides reinsurance to a ceding insurer under an SPFC contract is not by itself sufficient grounds for finding that the SPFC and ceding insurer are under common control.

Deletes the term *controlled unaffiliated business* and its definition, and makes conforming changes to the definitions of *industrial insured captive insurance company*, *participant*, and *pure captive insurance company*. Makes conforming change to GS 58-10-380(m) and GS 58-10-515(d).

Defines *parent* as a person that directly or indirectly controls a captive insurance company (previously, an individual, corporation, limited liability company, partnership, association, or other entity, or individual, that directly or indirectly controls a captive insurance company).

Amends GS 58-10-345, concerning licensing, authority, and confidentiality under the Act, as follows. Makes conforming changes to subsection (a). Amends subsection (b), which prohibits a captive insurance company from transacting any insurance business in the State unless four conditions are met, by adding to the second condition that requires the captive insurance company's board of directors or committee of managers, or its subscribers' advisory committee, to hold at least one meeting a year. Allows a captive insurance company to be exempt from the board meeting requirement if the captive insurance company utilizes the services of at least two of the following North Carolina-based service providers: legal, accounting, actuarial, investment advisor, captive manager, or other service providers acceptable to the Commissioner of Insurance.

Makes clarifying changes to subsection (c), which requires an applicant business entity to meet seven requirements, as specified, in order to receive a license to issue policies of insurance as a captive insurance company in the State. Amends the fifth requirement, which requires the applicant business entity to file evidence, as specified, with the Commissioner, by changing the first required specification to show that the liquidity of the captive insurance company is sufficient relative to the risks to be insured (previously, the amount and liquidity of its assets relative to the risks to be assumed).

Makes clarifying changes to subsection (g). Authorizes the Commissioner to retain legal, financial, and audit (previously, examination) services from outside the Department, the costs of which must be reimbursed by the applicant business entity (previously, the applicant). Makes conforming change to subsection (g), GS 58-10-350, GS 58-10-355, GS 58-10-420(c), GS 58-10-430, GS 58-10-435(a), GS 58-10-505, GS 58-10-550, GS 58-10-565(d) and (h), GS 58-10-585(c), and GS 58-10-625(e) and (f).

Adds new subsection (i) to provide that a business entity incorporated, formed, or organized under the laws of another jurisdiction and licensed as a captive insurance company has the privileges and is subject to the provisions of the laws of the State or the laws of another jurisdiction, as applicable, under which the business entity is incorporated, formed, or organized. Establishes that the provisions of Part 9 of the Article 10 of GS Chapter 58 (Captive Insurance Companies) control in the event of a conflict of laws.

Enacts GS 10-347, Provisional approval for a license, to allow provisional approval for a license to conduct insurance business in the State to be granted to an applicant business entity for a period not to exceed 90 days, at the Commissioner's discretion. Establishes that, before provisionally approving a license, the applicant business entity must have filed an application and the Commissioner have made a preliminary finding that the expertise, experience, and character of the person(s) who will control and manage the applicant business entity are acceptable. Allows an applicant to petition to extend the provisional period if the petition is received in writing no less than 10 days before the expiration of the provisional time, and sufficient detail is provided for the Commissioner to make an informed decision on good cause. Allows extensions to be granted by the Commissioner for 30-day periods. Authorizes the Commissioner to (1) limit the authority of any provisional license in any way deemed necessary and (2) rescind the provisional approval at any time if the Commissioner determines that the interests of the insureds or the public are at risk. Provides that the provisional approval terminates automatically if the applicant business fails to complete the license application process.

Amends GS 58-10-370(a), which sets out six paid-in capital and surplus requirements of an applicant business entity, by adding to the fifth requirement (which requires, in the case of a protected cell captive insurance company, not less than \$250,000) that the Commissioner may determine another amount in the alternative.

Amends GS 58-10-390(a) to require each captive insurance company licensed in the State (previously, chartered in the State), to adopt a conflict of interest statement for officers, directors, and key employees.

Amends GS 58-10-395 to change the title of the statute to Plan of operation change (previously, Change of business). Makes conforming change to subsection (a).

Amends GS 58-10-400, concerning insurance manager and intermediaries, to clarify the prohibition from any person acting in or from the State as a managing general agent, producer, or reinsurance intermediary for captive insurance company business (previously, for captive business) without the authorization of the Commissioner.

Amends GS 58-10-405, concerning annual reports, to make a technical change to subsection (a). Removes statutory accounting principles from the accounting principles that the Commissioner may require, approve, or accept the use of in the place of the generally accepted accounting principles that each captive insurance company is required to use in their annual report. Adds a new subsection to allow extensions of the due date for filings required under the statute to be granted by the Commissioner for 30-day periods upon a showing by the captive insurance company of the reasons for requesting an extension and determination by the Commissioner of good cause for the extension. Requires the request for extension to be received in writing no less than 10 days before the due date and in sufficient detail to permit the Commissioner to make an informed decision with respect to the requested extension. Makes conforming change to GS 58-10-415(d).

Amends GS 58-10-415(c1), concerning an extension of the due dates for filing of statements of actuarial opinion, by providing that the extension may be granted upon a showing by the captive insurance company (previously, the captive insurance company and its independent certified public accountant) of the reasons for requesting an extension and determination by the Commissioner of good cause. Makes conforming and technical change to GS 58-10-415(c).

Current GS 58-10-420(d) allows the Commissioner to grant relief to a captive insurance company from the rotation requirement of a lead audit partner, as specified in the subsection, based on three factors the Commissioner is to consider in determining whether to grant relief. Deletes the number of jurisdictions in which the insurer transacts business from the factors to be considered by the Commissioner in determining whether to grant relief.

Amends GS 58-10-440(c), concerning investment requirements, to establish that no captive insurance company or protected cell can make a loan or investment in an affiliate (previously, in its parent company, an affiliated company, a controlled unaffiliated business), or a participant without prior written approval by the Commissioner, and any loan or investment must be evidenced by documentation approved by the Commissioner.

Repeals GS 58-10-470, authorizing the Commissioner to adopt rules establishing standards regarding risk management.

Enacts GS 58-10-496, Waiver or Modification, to authorize the Commissioner to waive or modify any provision of Part 9 of Article 10 of GS Chapter 58 (Captive Insurance Companies) if the waiver or modification, in the Commissioner's opinion is justified, based on sound actuarial or accounting or business principles, and does not diminish the solvency prospects of the captive insurance company. Prohibits a waiver or modification granted by the Commissioner under the statute to result in a greater regulatory burden than imposed by Part 9 prior to the exercise of the waiver or modification.

Amends GS 58-10-505, concerning additional filing requirements for applicant protected cell captive insurance companies, to clarify that each applicant protected cell captive insurance company must file all contracts or sample contracts between the applicant business entity (previously, between the applicant) and any participants to the Commissioner.

Amends GS 58-10-510(a), which sets out five conditions protected cells are subject to in their establishment, by adding to the condition that all attributions of assets and liabilities between a protected cell and the general account are to be in accordance with the plans of operation and participant contracts approved by the Commissioner. Provides that any attribution of assets between the general account and a protected cell must be in cash or readily marketable securities with established market values unless otherwise approved by the Commissioner (previously, did not provide alternative approval by the Commissioner).

Adds new subsection (11) to establish that, in lieu of filing a separate Statement of Actuarial Opinion for a protected cell captive insurance company and each protected cell, a protected cell captive insurance company can file a combined Statement of Actuarial Opinion that must include: (1) a statement of actuarial opinion for each protected cell, and the core, if the core is retaining risk and (2) a supplemental schedule showing the loss and loss expense reserves for each protected cell and the core, if the core is retaining risk. Requires the loss and loss expense reserve reported in the supplemental schedule to equal the loss and loss expense reserve amount reported in the audited financial statement and the annual report submitted pursuant to Part 9.

Amends subsection (m) to require each protected cell captive insurance company to notify the Commissioner in writing within 10 business days if the protected cell captive insurance company or any of its protected cells are (previously, within 10 business days of any protected cell that is) impaired, insolvent, or otherwise unable to meet its claim or expense obligations.

Amends subsection (q) to clarify that all actions and other legal proceedings which were pending by or against the protected cell

immediately prior to the transfer or conversion, as authorized by the subsection, may be continued by or against the protected cell or the captive insurance company (previously, the captive) into which the protected cell converts.

Amends GS 58-10-525, which sets out application of supervision, rehabilitation, and liquidation provisions to protected cell captive insurance companies, to provide that, notwithstanding Article 30 of GS Chapter 58 (Insurers Supervision, Rehabilitation, and Liquidation), a protected cell captive insurance company's capital and surplus must at all times be available to pay any expenses of, or claims against, the protected cell captive insurance company, subject to GS 58-10-512(f) (previously, the provision was not subject to GS 58-10-512(f), providing that a counterparty has no right or recourse against the protected cell captive insurance company and its assets where contracts or obligations to which the protected cell captive insurance company is not a party, other than against assets properly attributable to the incorporated cell that is a party to the contract or obligation).

Part V.

Enacts GS 58-3-7 to provide that GS Chapter 58 does not apply to any accountable care organization approved by the Centers for Medicare and Medicaid Services (CMS) to participate in Medicare programs established under federal laws 42 USC 1315a or 42 USC 1395jjj. Limits the exemption to activities performed by the accountable care organization pursuant to its agreement with CMS for participation in Medicare programs under the specified federal laws.

Part VI.

Provides future authorization to the Department of Insurance to take appropriate action to plan for and establish a private flood insurance market in the State in the event that the federal government empowers the states to establish and operate such markets.

Removes the expiration note in the title to GS 58-36-87, concerning provisions for affiliate transfer of policies.

Amends GS 58-56A-10, concerning civil penalties for violations of Article 56A of GS Chapter 58 (Pharmacy Benefits Management) and administrative procedure that is effective July 1, 2016, to allow, upon petition of the Commissioner, a court to order the pharmacy benefits manager who committed a violation specified in subsection (b) of the statute to make restitution for administrative expenses (previously, for extraordinary administrative expenses), as specified.

Repeals GS 15A-1340.37(d), concerning the effect of a restitution order on a third party beneficiary.

Amends GS 58-70-10, concerning an application to the Commissioner for permit renewal, to establish that, in calculating its positive net worth under the statute, an applicant is not required to include in its balance sheet liabilities from the purchase of stock by or in connection with the applicant's employee stock ownership plan qualified under federal laws 25 USC 401(a) and 5975(e)(7), or to include in its balance sheet unallocated or unearned shares held in a qualified employee stock ownership plan.

Intro. by Setzer, Bumgardner.

[STUDY, GS 15A, GS 58](#)

[View summary](#)

[Business and Commerce, Insurance, Courts/Judiciary, Criminal Justice, Criminal Law and Procedure, Government, Public Safety, State Agencies, Department of Insurance, Health and Human Services, Health, Health Insurance](#)

H 763 (2015-2016) [MILITARY OPERATIONS PROTECTION ACT OF 2016 \(New\)](#). Filed Apr 14 2015, *AN ACT TO PROTECT NORTH CAROLINA'S MILITARY FOOTPRINT BY (1) MODIFYING THE PERMITTING PROCESS FOR WIND ENERGY FACILITIES, THE ENDORSEMENT PROCESS FOR CONSTRUCTION OF TALL BUILDINGS AND STRUCTURES, AND THE PROCEDURE FOR ADOPTING, AMENDING, OR REPEALING ORDINANCES IN ORDER TO PROVIDE THE DEPARTMENT OF MILITARY AND VETERANS AFFAIRS WITH THE RESPONSIBILITY FOR CONSIDERATION AND REVIEW OF MILITARY-RELATED CRITERIA AND (2) ESTABLISHING THE NORTH CAROLINA SENTINEL LANDS COMMITTEE TO COORDINATE THE OVERLAPPING PRIORITY AREAS IN THE VICINITY OF THE STATE'S MAJOR MILITARY INSTALLATIONS.*

Senate amendments make the following changes to the 3rd edition.

Amendments #1 and #9 amend GS 143-215.119, concerning permit application requirements for a proposed wind energy facility or proposed wind energy facility expansion, to add the following provisions to proposed subsection (a1) that requires applicants

to provide copies of the noise and shadow flicker studies required by subsection (a) of the statute to the Department of Health and Human Services (DHHS).

Allows DHHS to consult faculty from the University of North Carolina's School of Medicine or Gillings School of Global Public Health who are experts in the health impacts of noise, shadow flicker, or both, in its evaluation of the studies submitted with permit applications.

Additionally, requires DHHS to issue its recommendation for further action on the permit application, if any, to the Department of Environmental Quality within 60 days following receipt of a completed application.

Amendment #2 deletes the proposed revision to GS 143-151.73(a), concerning the prohibition of certain buildings and structures in areas surrounding major military installations in the State without endorsement, and reinstates the original language that allows proof of the State Construction Office's failure to act within the time allowed under GS 143-151.75 to constitute endorsement for a county or city to authorize the construction of a building or structure in an area surrounding a major military installation in the State.

Amends proposed subsection (a1) of GS 143-151.75, concerning required endorsement for proposed tall buildings or structures, to now provide that no person can undertake construction of a tall building or structure in any area located within 1/4 mile of a National Guard facility without either first obtaining an endorsement from the State Construction Office (Office) or proof of the State Construction Office's failure to act within the time allowed (previously, did not provide for proof of the Office's failure to act within the time allowed to be sufficient). Amends subsection (d) to provide that, if the Office does not receive a written statement requested pursuant to subsection (c) of the statute within 45 days of issuance of the request to the base commander concerning the proposed tall building or structure possibly adversely affecting any activities at the major military installation, then the Office must deem the tall building or structure as eligible by the base commander (previously, must deem the tall building or structure as denied by the base commander).

Amends proposed subsection (d2) to provide that if the Office does not receive the written statement pursuant to subsection (d1) within 45 days of the date of the consultation between the person and the Adjutant General concerning the proposed tall building or structure located within 1/4 mile of the National Guard facility and its possible detrimental encroachment upon or otherwise interference with the mission, training, or operations of the facility, the Office is to construe the Adjutant General's failure to submit the written statement as the Adjutant General having no objection to the tall building or structure.

Amends the proposed revisions to subsection (e) to provide that the Office must make a final decision on the request for endorsement of a tall building or structure within 90 days from the date on which either (1) the Office requested the written statement from the base commander of the major military installation identified in subdivision (1) of subsection (b) of the statute, or (2) the date of the consultation between the person and the Adjutant General conducted in accordance with subsection (d1) of the statute (previously, or the Office received the written summary of the consultation between the person and the Adjutant General submitted in accordance with subsection (d1) of the statute). Provides that if the Office fails to act within any time period set forth in the statute, the person may treat the failure to act as the Office having no objection to the tall building or structure (previously, as a decision to deny endorsement of the tall building or structure).

Amends the proposed revisions to GS 143B-1315D(a), effective October 1, 2018, making technical and conforming changes.

Amends the proposed changes to GS 143B-1315F(a) and (a1), concerning required endorsement for proposed tall buildings or structures, to make conforming and technical changes.

Makes technical changes to subsection (d), effective October 1, 2018.

Amends the proposed revision to GS 143B-1315F(d) effective October 1, 2018, concerning required endorsement for proposed tall buildings and structures surrounding a major military installation, to provide that if the Department does not receive the written statement pursuant to subsection (d1) of the statute within 45 days of the date of consultation between the person and the Adjutant General, the Department must construe the Adjutant General's failure to submit the written statement as the Adjutant General having no objection to the tall building or structure (previously, as a recommendation to deny endorsement of the tall building or structure).

Amends proposed revisions to subsection (e) to make technical changes, effective October 1, 2018.

Amendment #3 makes technical changes to GS 143-151.77, GS 143-215.118 and GS 143B-1315H. Makes technical changes to Section 4 of the act.

Amendment #5 amends new GS 143-215.116A, to provide that the Department of Military and Veterans Affairs and the Military Affairs Commission can propose updates to the figure based on their review. After an update has been proposed the agencies must submit the proposed updated map with supporting data and public comments as required by GS 143-215.123 to the Environmental Review Commission for a determination of whether to recommend it to the General Assembly for statutory revision to incorporate the updated map (previously, allowed the Department of Military and Veterans Affairs and the Commission to update the figure from time-to-time and then submit it to the General Assembly for their consideration of a statutory revision).

Amendment #6 amends GS 143-215.123 enacting new subsection (b) which provides for public notice and public hearings when the Department of Military and Veterans Affairs and the Military Affairs Commission proposes updates to the Figure 3-1 map. Specifically requires the electronic publishing of the proposed updated map as specified, at least one public hearing with 30 days of completing an updated map, providing notice at least 30 days in advance of the hearing concerning the date, time and location of the hearing in the manner specified, as well as requiring evaluation of the public comments received on the proposed updated map, including preparing a compilation of the comments and responses to those comments to be included when the updated map is submitted to the Environmental Review Commission. Makes conforming changes to the statute's catchline.

Amendments #7 and #8 amend GS 143-215.120 concerning the conditions under which DEQ may disapprove a permit application for a proposed wind energy facility or proposed wind energy facility expansion to include instances when the Department of Military and Veterans affairs determine that pursuant to their authority under GS 143-215.120A(b), construction of the proposed facility or expansion would pose a significant adverse impact on the mission, training, or operations of a major military installation (previously, stated when Department has issued a recommendation to deny the permit).

Makes conforming changes.

Amends proposed GS 143-215.120A(b) concerning the issuing of a determination of whether proposed wind energy facilities or expansions encroach on military mission, training or operations, including requiring finding of facts documenting the basis for the determination (was, failure to do so was treated as a recommendation to deny an application). If it is determined that there is encroachment, notification must be made in writing to DEQ and must be issued within 60 days following the receipt of a completed application. If the Department fails to act within this time period, then DEQ must treat the failure to act as a determination that there is encroachment and act as a detriment to continued military presence in NC (previously these provisions provided only for make a recommendation as the approval or denial of a proposed wind energy facility or expansion).

Acts as a perfecting amendment to bring language and provisions into compliance with Amendment #7.

Intro. by Millis, J. Bell, Riddell.

[STUDY, GS 143, GS 143B, GS 153A, GS 160A](#)

[View summary](#)

[Environment, Energy, Government, State Agencies, Department of Environmental Quality \(formerly DENR\), Department of Health and Human Services, Department of Military & Veterans Affairs, Local Government, Military and Veteran's Affairs](#)

H 960 (2015-2016) [RETIREMENT CREDITABLE SERVICE CHARTER SCHOOLS](#). Filed Apr 25 2016, *AN ACT TO MODIFY THE ABILITY OF A MEMBER OF THE TEACHERS' AND STATE EMPLOYEES' RETIREMENT SYSTEM TO PURCHASE CREDIT FOR EMPLOYMENT IN A CHARTER SCHOOL OPERATED BY A PRIVATE NONPROFIT CORPORATION AND TO REQUIRE COST ESTIMATES FOR STATUTORY CHANGES TO SERVICE PURCHASE PROVISIONS.*

Senate committee substitute makes the following changes to the 1st edition.

Adds a section amending GS 120-114 (concerning actuarial notes and Retirement System cost estimates) by adding that if a bill or resolution adds or changes service purchase provisions, the Fiscal Research Division must also get an estimate of the cost impact of those provisions using the 30-year US Treasury constant maturity and cost-of-living adjustment and salary increase assumptions consistent with that rate as of December of the year of the most recent actuarial valuation in addition to the cost of the provision using the valuation assumptions.

Changes the act's long title.

Intro. by R. Turner.

GS 120, GS 135

[View summary](#)

**Education, Elementary and Secondary Education,
Employment and Retirement, Government, General Assembly**

H 1033 (2015-2016) [ID CARD FEE WAIVER/DISABILITY](#). Filed May 3 2016, *AN ACT TO WAIVE THE FEE FOR A SPECIAL IDENTIFICATION CARD ISSUED TO A PERSON WITH A DEVELOPMENTAL DISABILITY*.

House amendment makes the following changes to the 2nd edition.

Amends GS 20-37.7 concerning proposed provisions for waiving the special identification card fee for a card issued to a state resident who has a developmental disability. The amendment would require the applicant to present a letter from the applicant's primary care provider (previously language required a letter from applicant's physician) certifying that the applicant has a developmental disability in order to qualify.

Intro. by Hardister, Lewis, Avila, Bryan.

GS 20

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**Courts/Judiciary, Motor Vehicle, Government, State Agencies,
Department of Transportation**

PUBLIC/SENATE BILLS

S 481 (2015-2016) [FUND SMALL BUSINESSES/PUBLISH DOR RULINGS \(New\)](#). Filed Mar 25 2015, *AN ACT TO ENACT THE NORTH CAROLINA PROVIDING ACCESS TO CAPITAL FOR ENTREPRENEURS AND SMALL BUSINESS ACT AND TO PROVIDE PUBLIC DISCLOSURE OF WRITTEN DETERMINATIONS MADE BY THE DEPARTMENT OF REVENUE*.

Senate amendment makes the following changes to the 2nd edition.

Deletes the appropriations of \$10,000 from the General Fund to the Department of Revenue for the 2016-17 fiscal year to provide for the publishing of past written determinations on the Department of Revenue's website as specified.

Makes conforming changes.

Intro. by Barringer, Hise, Gunn.

GS 78A, GS 105

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**Business and Commerce, Government, State Agencies,
Department of Revenue, Tax**

S 734 (2015-2016) [STATEWIDE STANDING ORDER/OPIOID ANTAGONIST](#). Filed Apr 25 2016, *AN ACT AUTHORIZING THE STATE HEALTH DIRECTOR TO PRESCRIBE OPIOID ANTAGONIST BY MEANS OF A STATEWIDE STANDING ORDER, WITH IMMUNITY FROM CIVIL AND CRIMINAL LIABILITY FOR SUCH ACTION, AS RECOMMENDED BY THE JOINT LEGISLATIVE OVERSIGHT COMMITTEE ON HEALTH AND HUMAN SERVICES*.

AN ACT AUTHORIZING THE STATE HEALTH DIRECTOR TO PRESCRIBE OPIOID ANTAGONIST BY MEANS OF A STATEWIDE STANDING ORDER, WITH IMMUNITY FROM CIVIL AND CRIMINAL LIABILITY FOR SUCH ACTION, AS RECOMMENDED BY THE JOINT LEGISLATIVE OVERSIGHT COMMITTEE ON HEALTH AND HUMAN SERVICES. Enacted June 20, 2016. Effective June 20, 2016.

Intro. by Pate, Tucker, Robinson.

GS 90

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Courts/Judiciary, Civil, Civil Law, Criminal Justice, Criminal Law and Procedure, Health and Human Services, Health, Health Care Facilities and Providers

S 747 (2015-2016) [STATE-OWNED REAL PROPERTY MANAGEMENT/PED](#). Filed Apr 25 2016, *AN ACT TO REQUIRE THE DEPARTMENT OF ADMINISTRATION TO ACTIVELY MANAGE THE STATE'S PORTFOLIO OF REAL PROPERTY; TO REQUIRE MEASUREMENT OF THE CURRENT UTILIZATION OF STATE-OWNED FACILITIES; TO ENSURE THE ACCURACY OF THE REAL PROPERTY INVENTORIES MAINTAINED BY THE DEPARTMENT OF ADMINISTRATION; AND TO ENSURE THAT THE USE OF STATE-OWNED SPACE IS MAXIMIZED BEFORE LEASES ARE ENTERED INTO OR RENEWED, AS RECOMMENDED BY THE PROGRAM EVALUATION DIVISION OF THE GENERAL ASSEMBLY.*

Senate amendment makes the following changes to the 1st edition.

Amends proposed GS 143-341.2(a), which sets out the powers and duties of the Department of Administration, to allow the Department to identify another sufficient industry standard upon which to base the space planning standards developed pursuant to the Department's statutory duty under proposed subdivision (4) as an alternative to basing the standards on the Federal GSA's Office of Real Property Management Performance Measurement Division Workspace Utilization and Allocation Benchmark report.

Intro. by Gunn, Hartsell, Krawiec.

GS 143, GS 143C, GS 146

[View summary](#)

Government, State Agencies, Department of Administration, State Government, State Property

LOCAL/SENATE BILLS

S 881 (2015-2016) [UNION COUNTY SCHOOL FUNDING](#). Filed May 18 2016, *AN ACT TO ESTABLISH A MORATORIUM ON FILING OF ACTIONS BY THE UNION COUNTY BOARD OF EDUCATION CHALLENGING THE SUFFICIENCY OF LOCAL FUNDS APPROPRIATED TO THE PUBLIC SCHOOLS BY THE UNION COUNTY BOARD OF COMMISSIONERS.*

AN ACT TO ESTABLISH A MORATORIUM ON FILING OF ACTIONS BY THE UNION COUNTY BOARD OF EDUCATION CHALLENGING THE SUFFICIENCY OF LOCAL FUNDS APPROPRIATED TO THE PUBLIC SCHOOLS BY THE UNION COUNTY BOARD OF COMMISSIONERS. Enacted June 20, 2016. Effective June 20, 2016, for the 2016-17 fiscal year.

Intro. by Tucker.

Union

[View summary](#)

Education

ACTIONS ON BILLS

PUBLIC BILLS

H 19: MODIFY DEFINITION OF FIREFIGHTER. (NEW)

Senate: Regular Message Sent To House

House: Regular Message Received For Concurrence in S Com Sub

H 100: RECORD OF EXCUSALS FROM JURY DUTY.

Senate: Withdrawn From Com

Senate: Re-ref Com On Judiciary II

H 151: VACATION RENTALS/ORANGE CO. JAIL CONSTRUCTION. (NEW)

Senate: Regular Message Sent To House

House: Regular Message Received For Concurrence in S Com Sub

H 253: JUSTICE REINVESTMENT ACT CHANGES.-AB

Senate: Withdrawn From Com

Senate: Re-ref Com On Judiciary II

H 256: HANDICAPPED PARKING/VETERANS PLATE.

Ratified

H 283: PREVENT SQUATTING IN FORECLOSED REAL PROPERTY (NEW).

Ratified

H 287: AMEND INSURANCE LAWS.-AB

Senate: Reptd Fav Com Substitute

Senate: Com Substitute Adopted

Senate: Re-ref Com On Judiciary II

H 292: BEACH BINGO LICENSES.-AB

House: Added to Calendar

House: Concurred In S/Com Sub

House: Ordered Enrolled

House: Ordered Enrolled

H 436: UNAUTHORIZED PRACTICE OF LAW CHANGES.

Ratified

H 464: REGIONAL TRANSPORTATION AUTHORITY REVISIONS.

Senate: Regular Message Sent To House

House: Regular Message Received For Concurrence in S Com Sub

H 550: CLARIFY DEALER PLATE REQUIREMENTS.

Senate: Sequential Referral To Finance Stricken

Senate: Withdrawn From Com

Senate: Re-ref Com On State and Local Government

H 657: MATH STANDARD COURSE OF STUDY REVISIONS (New)

Senate: Regular Message Sent To House

House: Regular Message Received For Concurrence in S Com Sub

H 667: FACILITY PENALTY & REMEDY/ELECTRON. SUPERVISE(NEW).

House: Cal Pursuant 36(b)

H 763: MILITARY OPERATIONS PROTECTION ACT OF 2016 (New).

Senate: Amend Adopted A1

Senate: Amend Adopted A2

Senate: Amend Adopted A3

Senate: Amend Failed A4

Senate: Amend Adopted A5
Senate: Amend Adopted A6
Senate: Amend Adopted A7
Senate: Amend Adopted A8
Senate: Amend Adopted A9
Senate: Amend Failed A10
Senate: Passed 3rd Reading
Engrossed

H 870: CERT. OF TITLE/MANUF. HOME CHANGES.

House: Concurred In S/Com Sub
House: Ordered Enrolled

H 884: REINSTATE SETOFF DEBT COLLECTION/UNC HEALTH.

Senate: Sequential Referral To Appropriations/Base Budget Added

H 959: DOT PROPOSED LEGISLATIVE CHANGES.

Senate: Regular Message Sent To House
House: Regular Message Received For Concurrence in S Com Sub

H 960: RETIREMENT CREDITABLE SERVICE CHARTER SCHOOLS.

Senate: Reptd Fav Com Substitute
Senate: Com Substitute Adopted
Senate: Placed on Today's Calendar
Senate: Passed 2nd Reading

H 971: MOTOR FLEET CLARIFICATION.

Ratified

H 976: ENHANCE OVERSIGHT OF SERVICE CONTRACTS/PED.

Senate: Regular Message Received From House
Senate: Passed 1st Reading
Senate: RefTo Com On Rules and Operations of the Senate

H 978: BILL DAUGHTRIDGE/INDUSTRIAL COMMISSION.

Ratified
Ch. Res 2016-16

H 980: LINDA CHEATHAM/INDUSTRIAL COMMISSION.

Ratified
Ch. Res 2016-17

H 1007: AMEND OCCUPATIONAL LICENSING BOARDS STATUTES.

Senate: Regular Message Received From House
Senate: Passed 1st Reading
Senate: RefTo Com On Rules and Operations of the Senate

H 1011: RETIREMENT TECHNICAL CORRECTIONS ACT OF 2016.-AB

Senate: Passed 2nd Reading
Senate: Passed 3rd Reading
Senate: Ordered Enrolled

H 1033: ID CARD FEE WAIVER/DISABILITY.

House: Amend Adopted A1
House: Passed 2nd Reading

House: Passed 3rd Reading

House: Ordered Engrossed

H 1044: LAW ENFORCEMENT OMNIBUS BILL.

Senate: Regular Message Received From House

Senate: Passed 1st Reading

Senate: Ref to Judiciary II. If fav, re-ref to Finance

H 1047: WELFARE REFORM/FOOD AND NUTRITION BENEFITS.

Senate: Regular Message Received From House

Senate: Passed 1st Reading

Senate: Ref To Com On Rules and Operations of the Senate

H 1130: PLEDGE TO UPHOLD THE BILL OF RIGHTS.

House: Passed 2nd Reading

House: Passed 3rd Reading

House: Special Message Sent To Senate

H 1137: TREASURER'S 2016 INVESTMENT ADMIN. CHANGES.-AB

Senate: Passed 2nd Reading

Senate: Passed 3rd Reading

Senate: Ordered Enrolled

S 19: UNIFORM RECORDING FEES - REGISTER OF DEEDS (NEW).

House: Passed 2nd Reading

House: Passed 3rd Reading

House: Special Message Sent To Senate

S 89: FILING BY CLERK/MAG. AND CLARK PILOT (NEW).

House: Withdrawn From Cal

House: Re-ref Com On Rules, Calendar, and Operations of the House

S 303: REGULATORY REFORM ACT OF 2016. (NEW)

Senate: Regular Message Received For Concurrence in H Com Sub

Senate: Placed On Cal For 06/21/2016

S 330: CHANGE ORDERS ON SCHOOL CONSTRUCTION PROJECTS.

Senate: Concurred In H/Com Sub

Senate: Ordered Enrolled

S 363: Wage & Hour/Local Gov't Assessments (NEW).

Senate: Regular Message Received For Concurrence in H Com Sub

Senate: Placed On Cal For 06/21/2016

S 481: FUND SMALL BUSINESSES/PUBLISH DOR RULINGS (New).

Senate: Amend Adopted A1

Senate: Passed 2nd Reading

Senate: Passed 3rd Reading

Engrossed

Senate: Special Message Sent To House

S 536: STUDENTS KNOW BEFORE YOU GO AND CENTRAL RESID. (NEW)

Senate: Concurred In H/Com Sub

Senate: Ordered Enrolled

S 575: NC/SC ORIGINAL BORDER CONFIRMATION.

Ratified

S 600: APPRAISER COMPENSATION/JUDGE PERFORM MARRIAGE (NEW).

House: Passed 2nd Reading

S 718: HONOR HARRIS BLAKE, FORMER SENATOR.

House: Passed 2nd Reading

House: Passed 3rd Reading

House: Ordered Enrolled

S 734: STATEWIDE STANDING ORDER/OPIOID ANTAGONIST.

Signed by Gov. 6/20/2016

Ch. SL 2016-17

S 747: STATE-OWNED REAL PROPERTY MANAGEMENT/PED.

Senate: Amend Adopted A1

Senate: Passed 3rd Reading

Engrossed

S 770: NC FARM ACT OF 2016 (NEW)

Senate: Passed 3rd Reading

Engrossed

S 778: Performance Guarantees/Subdivision Streets (New)

Senate: Regular Message Received For Concurrence in H Com Sub

Senate: Placed On Cal For 06/21/2016

S 791: LPA COMM. CONTRACTOR RATE REVISION & STUDY.

Senate: Regular Message Sent To House

House: Regular Message Received From Senate

S 821: GSC TECHNICAL CORRECTIONS 1.

Senate: Sequential Referral To Finance Added

Senate: Sequential Referral To Rules and Operations of the Senate Added

S 822: GSC TECHNICAL CORRECTIONS 2.

Senate: Sequential Referral To Finance Added

Senate: Sequential Referral To Rules and Operations of the Senate Added

LOCAL BILLS

H 952: HONOR OUR SERVICE ANIMALS/SHERIFF CONTRACTS.

House: Added to Calendar

House: Cal Pursuant 36(b)

House: Concurred In S Amend SA1

House: Ordered Enrolled

H 956: HENDERSON COUNTY/COMMUNITY COLLEGE PROJECTS.

House: Cal Pursuant 36(b)

H 964: COMMISSION MEMBERSHIP WINSTON-SALEM RET. FUND.

Senate: Passed 2nd Reading

Senate: Passed 3rd Reading

Senate: Ordered Enrolled

H 1039: INCREASE SAMPSON COUNTY OCCUPANCY TAX.

Senate: Withdrawn From Cal

Senate: Re-ref Com On Finance

H 1056: YADKIN OCCUPANCY TAX MODIFICATION.

Senate: Withdrawn From Cal

Senate: Re-ref Com On Finance

S 881: UNION COUNTY SCHOOL FUNDING.

Ratified

Ch. SL 2016-18

S 888: BUNCOMBE SCHOOL CAPITAL FUND COMMISSION.

House: Passed 2nd Reading

House: Passed 3rd Reading

House: Ordered Enrolled

House: Passed 3rd Reading

House: Ordered Enrolled

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