

The Daily Bulletin: 2016-06-21

PUBLIC/HOUSE BILLS

H 100 (2015-2016) **LOCAL GOVERNMENT IMMIGRATION COMPLIANCE (NEW)**. Filed Feb 23 2015, *AN ACT TO PROVIDE THAT THE NAMES AND ADDRESSES OF PERSONS REQUESTING TO BE EXCUSED FROM JURY DUTY BASED ON DISQUALIFICATION SHALL BE RETAINED BY THE CLERK OF SUPERIOR COURT FOR NOT LESS THAN TWO YEARS; TO RECODIFY THE STATUTE THAT PROHIBITS THE USE OF CERTAIN FORMS OF IDENTIFICATION BY STATE AND LOCAL OFFICIALS; TO REPEAL A STATUTORY EXCEPTION TO THAT STATUTE; AND TO CREATE ADDITIONAL INCENTIVES FOR LOCAL GOVERNMENT TO COMPLY WITH STATE LAWS RELATED TO IMMIGRATION.*

Senate committee substitute makes the following changes to the 4th edition.

Changes the act's long and short titles.

Moves all of the previous edition's provisions to Part I of the act. Changes the effective date of the previous provisions to January 1, 2017 (was, January 1, 2016).

Adds the following.

Part II

Recodifies GS 15A-311 (Consulate documents not acceptable as identification) as GS 64-6.

Amends GS 64-6, as recodified above, deleting language in subsection (c) which previously allowed law enforcement officers to use identity documents issued or created by individuals, organizations, or local governments for the purpose of assisting in determining the identity of a person when no other such documents are available. Makes a technical change to the section's catchline.

Part III

Enacts new GS Chapter 64, Article 3, Local Government Noncompliance with State Laws Related to Immigration, setting out specific findings of the General Assembly, including that the policy objectives of the General Assembly are frustrated when cities, counties, and law enforcement agencies do not uniformly comply with State law and that supreme power and complete discretion over State funds appropriations can be used to create additional incentives for compliance. Sets out three definitions in use for the Article, including *affected local government*, *law enforcement agency*, and *state law related to immigration*--defined as GS 64-6(b) (prohibition on adopting policy or ordinance to accept excluded documents as valid id), GS 153A-145.5 (prohibition on adoption of sanctuary ordinances), or GS 160A-205.2 (prohibition on adoption of sanctuary ordinances).

Directs the Attorney General (AG) to create a form upon which individuals can allege that a city, county, or law enforcement agency is currently not in compliance with a State law related to immigration. The form is to be made available on the AG's website and once completed the form should be sent to the AG. No Social Security number or notarization is required on the form. Anonymous statements submitted on a nonprescribed form are not prohibited from consideration, but all complaints or allegations must be made having a good faith belief.

Requires the AG to begin an investigation into the allegations of noncompliance within 45 days of receipt of filed statement, with a final determination and conclusion of the investigation within 60 days of the investigation's commencement. The AG is authorized to ask for assistance from the State Bureau of Investigation in conducting the investigation. Further directs local governments to produce records or documents related to the investigation within 10 business days of request by the AG. Provides that statements, records, reports, and other investigative documents are confidential and not public records until the investigation is complete or 60 days have elapsed since the investigation was commenced. Authorizes local governments to request that confidential documents be made public.

Sets out consequences of a determination that a local government or law enforcement agency is not in compliance with State law

related to immigration. Consequences include ineligibility for specified state distributions for a fiscal year and that the AG will notify the affected local governments, the chairs of the Appropriations Committees of the Senate and House of Representatives, the chairs of the Joint Legislative Commission on Governmental Operations, and the Office of State Budget and Management (OSBM). Directs the OSBM to notify the Departments of Public Instruction and Transportation and the State Controller of affected local governments' ineligibility to receive funds described in subdivision (1), and directs the Departments and the State Controller to ensure that the funds are instead distributed to other local governments that are eligible for distributions pursuant to the relevant statute.

Also includes provisions detailing consequences of the AG receiving notification of noncompliance with E-verify, which include all of the above consequences. Sets out specific entities that receive the consequences of noncompliance with E-Verify regulations. Provides that no enactment by the General Assembly is to be construed as an exception to the statute unless it specifically mentions the statute.

Sets out procedures and administrative guidelines for the AG, including reporting requirements. Requires the AG to maintain a database of those entities ineligible for funds and to report to the Joint Legislative Commission on Governmental Operations on a quarterly basis concerning the numbers of statements, investigations, consequences rendered, and the names of those entities found not to be in compliance.

Provides for an appeal to the AG's determination under the Article to the extent and in the manner as required by the federal and State Constitutions. Provides that the imposition of consequences for noncompliance with State law related to immigration pursuant to GS 64-54 is stayed until the appeal under GS 64-56 is complete. Establishes that if an appeal under the statute is unsuccessful, the length of the period during which an affected local government is ineligible to receive funds described in GS 64-54(a)(1) is the same as it would have been had no appeal been made, regardless of which fiscal year(s) the resulting period of ineligibility occurs.

Further states that the AG can designate an official to carry out the duties of this regulation, and that the AG must promulgate rules needed to implement this Article. Provides for a private enforcement action against entities that are not in compliance with State law concerning immigration, in the Superior Court of Wake County; an individual can seek relief in the form of declaratory and injunctive relief. Allows prevailing parties to receive attorneys' fees and court costs.

Amends GS 64-33.1, concerning noncompliance with E-Verify requirements, adding a new subsection (b) that requires the Commissioner of Labor to immediately notify the AG if a political subdivision of the State has violated the E-Verify requirements. The Commissioner of Labor must also notify the AG within 60 days of the violation if the political subdivision has not yet demonstrated compliance with E-Verify.

Directs the AG's office, with the help of the Departments of Transportation and Public Instruction, to notify local governments of the provisions of this act so steps to be in compliance can be taken.

Amends GS 115C-546.2 (public school capital building fund for counties) and GS 136-41.1 (State distributed funds for roads of cities/towns), adding language that prohibits counties or cities/towns from receiving their respective funds if they are ineligible due to noncompliance with state laws related to immigration.

Part IV

Provides that the act is effective August 1, 2016, unless otherwise provided.

Intro. by Cleveland.

[GS 9, GS 15A, GS 64, GS 115C, GS 136](#)

[View summary](#)

[Courts/Judiciary, Court System, Government, State Agencies, Department of Justice, Immigration](#)

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.

House committee substitute makes the following changes to the 4th edition.

Deletes the proposed revision to GS 58-36-87, concerning affiliate transfer of policies, which removed the expiration note in the title. Instead repeals SL 2015-264, Section 44.5(b), which provided for the expiration of the statute on June 30, 2016.

Makes technical changes to the effective date provisions.

Provides that Section 1.3 which contains the changes to GS 58-36-30, GS 58-36-10, and GS 58-36-15, is effective October 1, 2017, and makes the section applicable to policies issued, renewed, or amended on or after that date, and applicable to filings submitted on or after that date.

Intro. by Setzer, Bumgardner.

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 407 (2015-2016) **HOUSING AUTHORITY TRANSFERS (NEW)**. Filed Mar 31 2015, *AN ACT TO ALLOW MUNICIPALITIES TO TRANSFER THE POWERS, DUTIES, AND RESPONSIBILITIES OF A PUBLIC HOUSING AUTHORITY TO A REGIONAL COUNCIL OF GOVERNMENT.*

Senate committee substitute makes the following changes to the 2nd edition.

Amends the act's short and long titles.

Deletes all of the provisions of the previous edition and replaces them with the following.

Amends GS 157-4.1 concerning the process and procedure for the establishment and abolishment of a housing authority (authority), deleting language that required a 90 day wait period for the abolishment of an authority after a city passes such a resolution and replacing it with language that now only requires a sufficient time to wind down operations of the authority before abolishing the authority. Amends subsection (c) to provide authority for a municipality to transfer the powers and duties of an authority to a regional council of government (previously, municipalities were only authorized to transfer such powers to a redevelopment commission). Enacts new subdivision (c)8 to specify that the terms of the commissioners of the authority expire on the date set in the abolishing resolution. Provides that after an authority has been abolished, the governing council can appoint an interim director to work with the authority to facilitate the transfer of the authority. Makes various technical and conforming changes.

Amends GS 157-4.2 concerning the inclusion of an authority's accounting system as part of a city or county budgeting and accounting systems, authorizing a regional council of government's budgeting and accounting system to be an integral part of the budgeting and accounting system of that city or county as specified (previously, such authorization was only provided to redevelopment commissions). Makes conforming changes.

Amends GS 160A-475 concerning the powers of a regional council of government, expanding the listed powers to include the ability to carry out all powers, duties and responsibilities granted under GS Chapter 157, Housing Authorities And Projects.

Provides that the power of eminent domain is not included under those powers and duties. Makes conforming changes.

Intro. by Stevens.

GS 157, GS 160A

[View summary](#)

Development, Land Use and Housing, Property and Housing, Government, Local Government

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

Deletes changes made to GS 143-755 concerning permit choice for development and its applicability to zoning permits.

Amends GS 160A-385 (applicable to counties) and GS 153A-344 (applicable to cities), modifying language concerning the applicability of certain ordinances or regulations to already issued building permits, providing that amendments in land development regulations, as specified, including zoning ordinances or unified development ordinances, are not applicable or enforceable without the written consent of the owner with regard to building, uses, or developments for which either a zoning approval that authorizes use of land or a building permit has been issued. Continues to modify language concerning amendments to zoning approval or building permits, adding new subsections (b1) and (b2), providing that such amendments are also not applicable or enforceable without the written consent of the owner if a vested right has been established, with vested rights remaining valid and unexpired or if a vested right is established pursuant to a development agreement. Provides that an established vested right prevents action by cities or counties that would change or delay development or use of the property as stated in the application, with an exception for where there is change in State or federal law mandating local government enforcement after an application is submitted. Further includes new provisions concerning the vesting of all stages of a multi-phase development at the time of application for the initial phase when the developer has given notice of the multiple phases of the project and has submitted a plan reasonably showing the type and intensity of use for specific parcels of property, including phase boundaries. Provides that once a right is vested it remains vested for ten years. Includes a disclaimer that nothing prevents a judicial determination of the existence of a vested right. Act provides that these vesting provisions above are effective in regards to phased development approvals that are valid and unexpired on the effective date of the act.

Amends proposed GS 160A-393.1 which provides that in lieu of an appeal to a board of adjustment, specified parties can maintain an original action in superior court or business court for declaratory relief, injunctive relief, damages, or any other remedies provided by law or equity when specified claims or defenses are asserted. The proposed committee substitute amends the list of parties and the specified claims and defenses, deleting the previous claims or defenses and replacing them with the following: (1) the ordinance violates the United States or North Carolina constitutions, (2) the ordinance or the final decision of the administrative official is invalid or unenforceable on grounds of ultra vires, pre-emption, including pre-emption under GS 160A-174(b), or is otherwise in excess of authority, (3) the ordinance or the final decision of the administrative official violates common law or statutory vested rights of the aggrieved person, (4) or the ordinance or the final decision of the administrative official constitutes a taking of property. Provides that claims arising from the same final decision can be joined together (previously only allowed the party to raise other such claims or defenses without mention of joining them together). Replaces subsections concerning time frames for filing of actions and means for obtaining relief with provisions establishing that actions brought pursuant to these provisions must be commenced within one year after the date that the written notice of the final decision was delivered to the aggrieved party by personal delivery, electronic mail, or first-class mail. Modifies provisions concerning available remedies providing that those entitled to an action under this statute can elect instead to present claims or defenses by way of appeal to the board of adjustment and can appeal a decision by the board of adjustment. Provided though that once an appeal has been filed and its hearing before the board of adjustment has commenced, that party cannot thereafter bring an action as authorized by this section (previous language allowed pursuing the administrative remedy of a variance). Adds new provisions requiring the notice of action commenced to abutting landowners by first class mail. Requires notice to be mailed no later than 30 days after the commencement of the action.

Deletes proposed conforming changes made to GS 160A-364.1(c) concerning the statute of limitations for certain causes of action of development regulations.

Modifies proposed changes to GS 160A-393, provisions concerning the appeals of quasi-judicial decisions of decision-making boards such as the planning board or board of adjustment, requiring the court to decide de novo on specified claims and defenses, including if the ordinance on is face or as applied by final decision of the administrative official, violates the US or NC Constitutions, that the ordinance or final decision of the administrative official is invalid or unenforceable on grounds of ultra vires, pre-emption, including pre-emption under GS 160A-174(b), or is otherwise in excess of authority, the ordinance or the final decision of the administrative official violates common law or statutory vested rights of the aggrieved person (previously required claims or defenses including the invalidity if an ordinance, a constitutional matter, preemption, 42 USC 1983, or

common law vested rights).

Amends proposed GS 160A-393.2, No estoppel effect when challenging unlawful conditions, adding new language which provides that local governments are not permitted to raise estoppel or other grounds as a defense to the challenge by landowner or permit applicant concerning unlawful conditions imposed on a development.

Amends provisions in GS 6-21.7 that previously allowed the court to award reasonable attorneys' fees upon a finding that the city or county violated a statute that set clear limits on its authority or otherwise abused its discretion, now providing that fees can be awarded on a finding that the city or country violated a statute or case law that set unambiguous limits on its authority. For the purposes of this section, defines *unambiguous* as meaning the limits of authority are not reasonably susceptible to multiple constructions.

Amends GS 160A-372 (applicable to cities) and GS 153A-331(e) (applicable to counties) providing that subdivision control ordinances can provide for performance guarantees at either the time the plat is recorded or at a time after the recording but must be before a permit is issued. Specifies that if an ordinance is not adopted that sets out performance guarantees that comply with the statute, then cities or counties are not authorized to require the successful completion of required improvements prior to a plat being recorded. Sets out other conditions for performance guarantees, providing that the type and term of the performance guarantee, including any extension, is at the election of the developer provided that any performance guarantee or extension is available to assure the successful completion of improvements for which it is required. Further provides that reductions in the amount of the performance guarantee is allowed by developers reflecting only remaining incomplete items. Sets out additional provisions concerning performance guarantees for cities only, specifically the process for determining the 125% reasonable cost of completion figure, as well as providing the option of posting different forms of performance guarantees. Further sets out who has any claim to any performance guarantee proceeds, including the local government, developer, or entity issuing the guarantee.

Amends GS 160A-381(c) (applicable to cities) and GS 153A-340(c1) (applicable to counties) concerning regulation of special use or conditional use permits, specifying that cities and counties have no authority to establish certain conditions and safeguards, such as taxes, impact fees, building design elements which are not voluntarily offered by the petitioner, excess street improvements not permitted by statute, driveway related improvements in excess of statute, or other such limitations on development or use of land.

Amends GS 153A-352(b) (applicable to counties) and GS GS 160A-412(b) (applicable to cities), making clarifying changes that local governments cannot adopt or enforce local ordinances or resolutions requiring regular, routine inspections of buildings or structures that require such inspections beyond requirements of the NC Building Code (previously, language only stated that could not adopt such ordinances).

Amends GS 160A-307 concerning the regulation of driveway connections into any street or alley and deleting a provision that established that in instances of conflict between the Department of Transportation driveway regulations and the driveway improvements required by the city, the more stringent requirement is enforced. Adds language providing that a city cannot require applicants to acquire right of way from property not owned by the applicant in regards to driveway improvements.

Changes made to GS 160A-372(g)(6), by Section 7 of this act, are declarative of existing law as to all performance guarantees issued pursuant to GS Chapter 160A or GS Chapter 153A and is not intended to be a change in existing law as to performance guarantees whenever issued. The remainder of this act is effective when it becomes law, and applies to permit applications filed, permits previously issued which remain valid and unexpired on the date this act becomes law, actions filed in court, and claims and defenses asserted on or after that date.

Intro. by Jordan.

GS 153A, GS 160A

[View summary](#)

Development, Land Use and Housing, Building and Construction, Land Use, Planning and Zoning, Government, Local Government

PUBLIC SERVICE.

Senate committee substitute makes the following changes to the 2nd edition.

Deletes the contents of the previous edition and replaces it with the following.

Amends the act's short and long titles.

Enacts new GS 20-187.4, concerning the disposition of retired service animals.

Establishes that, upon the determination that any service animal (defined as any horse, dog, or other animal owned by the State or a unit of local government that performs law enforcement, public safety, or emergency service functions) is no longer fit or needed for public service, the state or local government may transfer ownership of the animal at a price determined by the governing body and upon any other terms and conditions as it deems appropriate. Provides that the animal may be transferred to any of the following individuals, if that individual agrees to accept ownership, care, and custody of the animal: (1) the officer or employee who had normal custody and control of the animal during the animal's public service; (2) a surviving spouse, or in the event such officer or employee dies unsurvived by a spouse, surviving children of the officer or employee killed in the line of duty who had normal custody and control of the animal during the animal's public service; or (3) an organization or program dedicated to the assistance or support of animals retired from public service. Defines *unit of local government* as it is defined in GS 159-7(b)(15).

Effective October 1, 2016.

Intro. by Tine.

GS 20

[View summary](#)

[Animals, Government, State Government, Local Government](#)

H 567 (2015-2016) [NC CEMETERY ACT CHANGES. \(NEW\)](#) Filed Apr 2 2015, *AN ACT TO MODIFY THE MINIMUM ACREAGE REQUIREMENTS IN CERTAIN TRACTS OF LAND USED AS CEMETERIES.*

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

Deletes the content of the previous edition and replaces it with the following.

Amends the act's short and long titles.

Amends GS 65-69 by adding that cemeteries licensed, or initially incorporated with the Secretary of State, between July 2, 1967, and September 1, 1975, may sell, mortgage, lease, or encumber the minimum acres of land required by the statute without prior approval from the North Carolina Cemetery Commission if: (1) at the time of licensure or incorporation, the population of the county in which the cemetery is located did not exceed 45,000 people according to the appropriate federal decennial census; (2) another private or public cemetery is located within a five-mile radius of the cemetery subject to the transaction; (3) at least 15 acres of cemetery land remain for use by the licensee as a cemetery, without mortgage, lease, or encumbrance; and (4) the purchaser of the land transfers 10% of the consideration or value of the interest conveyed, on up to 15 acres sold, to the perpetual care fund within 60 days of the sale. Makes additional clarifying changes.

Intro. by Saine, Hager.

GS 65

[View summary](#)

[Development, Land Use and Housing, Land Use, Planning and Zoning, Health and Human Services, Health, Public Health](#)

H 884 (2015-2016) [AMEND TOWNSHIP ABC ELECTIONS. \(NEW\)](#) Filed Apr 14 2015, *N ACT TO AMEND THE LAW REGARDING ABC ELECTIONS IN CERTAIN TOWNSHIPS.*

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

Deletes the content of the previous edition and replaces it with the following.

Amends the act's short and long titles.

Amends GS 18B-600, concerning Places eligible to hold alcoholic beverage elections, by adding new subsection f2. New f2 allows an alcoholic beverage election to be called on any of the propositions in GS 18B-602(a), (d), and (h) in any township in a county with only one incorporated municipality, where ABC stores have been established according to law in the municipality but not otherwise established in the county, the municipality had a population less than 2,500 as of the 2010 census, the county is surrounded by other counties of this state, and part of the township is located within 1,000 feet of the boundary of a municipality in another county with a population between 35,000 and 45,000 as of the 2010 census. Requires that the election be held by the county board of elections when requested by the county board of commissioners, or upon petition of 25% of the township's registered voters. Specifies that in a township election held under new f2, the area within any incorporated municipality is excluded, and no permits may be issued under f2 in any excluded area. Also provides that in order for an establishment to qualify for a permit under f2, the establishment's gross receipts from food and nonalcoholic beverages must be greater than its gross receipts from alcoholic beverages.

Intro. by B. Brown.

GS 18B

[View summary](#)

[Alcoholic Beverage Control](#)

H 984 (2015-2016) [TRANSFER OF DAVIE COUNTY CORRECTIONAL CENTER](#). Filed Apr 27 2016, *AN ACT TO TRANSFER THE FORMER DAVIE COUNTY CORRECTIONAL CENTER PROPERTY TO THE DAVIE COUNTY BOARD OF COMMISSIONERS*.

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

Repeals SL 2016-12, Sections 3, 4, and 5, which contain provisions identical to this act. Section 3 required the State to convey to the Davie County Board of Commissioners, for \$1, all its rights, titles, and interests in the specified portion of the former Davie County Correctional Center property; Section 4 required the State to convey that property "as is" and "where is" without warranty, and required Davie County to pay all costs associated with the conveyance, and Section 5 made the conveyance of the State's rights, titles, and interests in the property exempt from the provisions of Article 7 of GS Chapter 146, but required that it comply with the provisions of Article 16 of GS Chapter 146 of the General Statutes, provided that the provisions of GS 146-74 did not apply.

Intro. by Howard.

UNCODIFIED, [Davie](#)

[View summary](#)

[Courts/Judiciary, Criminal Justice, Corrections \(Sentencing/Probation\)](#)

H 1021 (2015-2016) [AMEND SEX OFFENDER CERTAIN PREMISES \(NEW\)](#). Filed May 3 2016, *AN ACT TO AMEND THE LAW REGARDING SEX OFFENDERS ON CERTAIN PREMISES TO ADDRESS THE RULING IN DOE V. COOPER*.

Senate committee substitute makes the following changes to the 4th edition.

Amends the short and long titles.

Deletes all of the provisions of the previous edition and replaces them with the following.

Amends GS 14-208.18, concerning the unlawful presence of sex offenders on specified premises, adding new language that provides that the limitations on presence apply to any place where minors frequently congregate, including, but not limited to, libraries, arcades, amusement parks, recreation parks, and swimming pools, when minors are present (previously, provision included a broad limitation on any place where minors gathered for regularly scheduled educational, recreational, or social programs). Adds a new provision prohibiting sex offenders from being on State Fairgrounds during the time of year when the State Fair is conducted.

Amends subsection (c) providing which limitation in GS 14-208.18(a) is applied to specific sex offenders, providing that limitations concerning premises of any place for the care or supervising children, any place where minors frequently congregate, or the State Fair apply to offenders whose victim was younger than 18 years old (was, 16 years old) or the offense violated Article 7B or federal law or an offense in another state that is substantially similar. Further adds new subdivision (c)(2) specifying which sex offenders are subject to the 300-foot rule for specified premises where minors are located, providing that it applies to the sex offender if the victim of the offense was under 18 years old at the time as well as those offenders that had been convicted of similar offenses in other states or a federal offense where it has been determined they may present a danger to minors under 18. With the new language and changes, makes sex offenders whose victims were under 18 years old subject to all the premise limitations under GS 14-208.18.

Includes language concerning the enactment of these provisions and applicability in case any provisions are held to be unconstitutional depending on how contemporary cases are resolved. If either or both specified decisions are stayed or overturned by a higher court of appeals, then the relevant portion of the prior version of the statute would again become effective.

Effective September 1, 2016, applying to offenses committed on or after that date.

Intro. by Daughtry.

GS 14

[View summary](#)

**Courts/Judiciary, Criminal Justice, Corrections
(Sentencing/Probation), Criminal Law and Procedure**

PUBLIC/SENATE BILLS

S 124 (2015-2016) **ASSUMED BUS.NAME/IC CONTEMPT/PARKS (NEW)**. Filed Feb 25 2015, *AN ACT TO MODERNIZE THE LAW GOVERNING THE USE OF ASSUMED BUSINESS NAMES, TO APPROPRIATE FUNDS FOR THE PURPOSE, AND TO MAKE RELATED CONFORMING AND TECHNICAL AMENDMENTS, AS RECOMMENDED BY THE GENERAL STATUTES COMMISSION, TO CLARIFY HOW THE INDUSTRIAL COMMISSION REFERS MATTERS OF INDIRECT CRIMINAL CONTEMPT TO THE DISTRICT COURT, TO REMOVE CERTAIN PROPERTY FROM THE STATE NATURE AND HISTORIC PRESERVE, AND TO AUTHORIZE THE DELETION OF VARIOUS PROPERTIES FROM THE STATE PARKS SYSTEM.*

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

Amends the act's long and short titles.

Amends proposed GS 66-71.3, definitions, to define *assumed business name*, in the case of an individual, to mean any name other than a real name of the individual (previously, other than the real name of the individual). Clarifies that the *assumed business name*, in the case of a partnership other than a limited liability partnership or limited partnership, means any name other than a real name of each of the general partners of the partnership (previously, any name other than the real names of all the general partners of the partnership). Defines *assumed business name*, in the case of any other person, to mean any name other than a real name of the person (previously, other than the real name of a person). Makes conforming changes to proposed GS 66-71.5(2) (concerning the required contents of an assumed business name certificate), proposed GS 66-71.7(1) (concerning the amendment of a certificate), and proposed GS 66-71.8 (concerning the withdrawal of an assumed business name).

Amends proposed GS 66-71.4, concerning the filing of a certificate, by deleting the language of subsection (b). Instead, provides that a person who engages in business in the State under more than one assumed business name must file an assumed business name certificate for each assumed business name. Prohibits a person from including more than five assumed business names for one assumed business name certificate if the same person is or will be engaging in business under each of the assumed business names listed on the certificate. Adds new subsection (c) to establish that proposed Article 14A (Assumed Business Name Act) of GS Chapter 66 does not apply to a political committee or a referendum committee that has filed a statement of organization with the State Board of Elections or a county board of elections as required by GS 163-278.7 (appointment of political treasurers) or GS 163-278.9A (statements filed by referendum committees), as applicable.

Amends proposed GS 66-71.5 to require an assumed business name certificate to include the nature of the business (previously,

the type of business).

Amends proposed GS 66-71.6, concerning the execution of the certificate, to require that, in the case of a corporation or limited liability company, the certificate must be signed in the name of the corporation or limited liability company (1) by an officer of the corporation or a manager of the limited liability company, or (2) by another individual authorized by law to act for the corporation or limited liability company (previously, only provided that the certificate must be signed in the name of the person by an individual authorized to act for the person).

Amends proposed GS 66-71.14, concerning the consequences of signing a false certificate or violating new Article 14A, to delete the provision of proposed subsection (b) that allows expenses to be awarded in a civil action, and instead adds the following. Provides that, notwithstanding subsection (b), a person is not liable for expenses caused by an error or ambiguity in describing the nature of the business in an assumed business name certificate under proposed GS 66-71.5 or a certificate of amendment under proposed GS 66-71.7.

Amends proposed GS 66-71.15(a) to provide that all certificates of assumed name filed under former Article 14 of GS Chapter 66 expire July 1, 2022 (previously, July 1, 2021). Amends proposed subsection (c) to provide that no person can file a new certificate of assumed name under former Article 14 of GS Chapter 66 on or after July 1, 2017 (previously, July 1, 2016). Amends proposed subsection (f) to prohibit the register of deeds from transmitting a scanned image to the Secretary of State, or enter any of the information required by proposed GS 66-71.10 into the central database maintained by the Secretary of State, of any withdrawal or transfer of an assumed name or any amendment to a certificate of assumed name when the certificate of assumed name to which the withdrawal, transfer, or amendment relates was filed before July 1, 2017 (previously, July 1, 2016).

Changes the effective date for Sections 1-9 of the act to July 1, 2017 (previously, July 1, 2016), and provides that Sections 1-9 do not affect a civil action or proceeding commenced or a right accrued before July 1, 2017 (previously July 1, 2016). Additionally, provides that Sections 1-9 become effective only if funds are appropriated by the 2015 General Assembly, 2016 Regular Session, to implement the provisions of GS 66-71.9, as enacted by Section 2. Section 10 is effective October 1, 2016, and applies to proceedings for indirect criminal contempt filed on or after that date.

Amends GS 97-80(h) by adding that to initiate plenary proceedings in district court for indirect criminal contempt, the Industrial Commission must issue and file an order to appear and show cause and, if appropriate, an order for arrest. Effective October 1, 2016.

Enacts GS 143-260.10H to remove the parcel specified in Gorges State Park from the State Nature and Historic Preserve, and delete the specified parcel from the State Parks System pursuant to GS 143B-135.54. Establishes that the State may only exchange the specified parcel for other property for the expansion of Gorges State Park or sell the land and use the proceeds for that purpose. Prohibits the State from otherwise selling or exchanging the specified parcel.

Enacts GS 143-260.10I to remove the parcel specified in Jockey's Ridge State Park from the State Nature and Historic Preserve.

Enacts GS 143-260-10J to remove the parcel specified in Mitchells Millpond State Natural Area from the State Nature and Historic Preserve and delete the specified parcel from the State Parks System pursuant to GS 143B-135.54. Establishes that the State may only exchange the specified parcel for other property for the expansion of Mitchells Millpond State Natural Area or sell the land and use the proceeds for that purpose. Prohibits the State from otherwise selling or exchanging the specified parcel.

Authorizes the deletion of three parcels, as specified in Section 11(a) of the act, from the State Parks System, pursuant to GS 143B-135.54. Establishes that the State may only exchange the specified parcel for other property for the expansion of Hanging Rock State Park or sell the land and use the proceeds for that purpose. Prohibits the State from otherwise selling or exchanging the specified parcel.

Intro. by Hartsell.

GS 1, GS 53, GS 55D, GS 58, GS 59, GS 66, GS 97, GS 143

[View summary](#)

[Business and Commerce, Corporation and Partnerships, Courts/Judiciary, Civil, Civil Law, Court System, Criminal Justice, Criminal Law and Procedure, Environment, Government, State Agencies, Department of Commerce, State Government, State Property](#)

S 600 (2015-2016) [APPRAISER COMPENSATION/JUDGE PERFORM MARRIAGE \(NEW\)](#). Filed Mar 26 2015, *AN ACT TO REQUIRE APPRAISAL MANAGEMENT COMPANIES TO COMPENSATE APPRAISERS IN COMPLIANCE WITH FEDERAL LAW AND TO ALLOW FEDERAL APPELLATE JUDGES TO PERFORM MARRIAGE CEREMONIES.*

House amendment makes the following changes to the 4th edition.

Amends proposed GS 93E-2-4(i) to provide that for appraisal assignments of property secured by the principal dwelling of the consumer (was, for appraisal assignments of one- to four-family dwellings), an appraisal company must compensate appraisers in compliance with section 129E(i) of the federal Truth in Lending Act and associated regulations. Adds the requirement that rules establishing customary and reasonable rates be based on objective third-party information.

Intro. by Meredith, Rabon.

GS 93E

[View summary](#)

Courts/Judiciary, Civil, Civil Law, Development, Land Use and Housing, Property and Housing

S 803 (2015-2016) [REV. LAWS TECHNICAL, CLARIFYING, & ADMIN. CHG. \(NEW\)](#) Filed May 3 2016, *AN ACT TO MAKE TECHNICAL, CLARIFYING, AND ADMINISTRATIVE CHANGES TO THE REVENUE LAWS AND RELATED STATUTES.*

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

Deletes the content of the previous edition and replaces it with the following.

Amends the act's short and long titles.

Part I.

Amends GS 105-130.4 by deleting the provision that includes corporations subject to control of the Interstate Commerce Commission in the definition of a *public utility*.

Amends GS 105-153.5, as amended, by amending the provision that requires a taxpayer to add to adjusted gross income for taxable years 2014 through 2016 the amount excluded from the taxpayers gross income for the discharge of qualified principal residence indebtedness. The provision is amended by adding that if the taxpayer is insolvent, then the addition is limited to the amount of discharge of qualified principal residence indebtedness excluded from adjusted gross income under section 108(a)(1)(E) of the Code that exceeds the amount of discharge of indebtedness that would have been excluded under section 108(a)(1)(B) of the Code.

Part II.

Amends GS 105-164.13(11b), as amended, by clarifying that the sales tax exemption for the sale of aviation gasoline and jet fuel to an interstate air business for use in commercial aircraft also applies to aviation gasoline and jet fuel purchased for use in a commercial aircraft in interstate or foreign commerce by a person whose primary business is scheduled passenger air transportation. Effective January 1, 2016.

Amends GS 105-164.3(33c), as amended, to make a technical change to the definition of a *qualifying datacenter*.

Amends GS 105-164.4 to provide that subsection b, which requires that the tax imposed on retailers be collected from the retailer and paid by the retailer at the time and in the manner specified in b, applies to facilitators liable for tax under Article 5, Sales and Use Tax. Requires a facilitator liable for tax under Article 5 (was, under GS 105-164.4F) to get a certificate of registration. Makes conforming changes.

Amends GS 105-164.7, requiring a retailer to collect sales tax from the purchaser, by adding that the requirements of the statute apply to facilitators liable for tax under Article 5. Makes conforming changes.

Amends GS 105-164.13 concerning the exemption from sales and use tax for food and prepared food to be given to a person entitled to the food under a prepaid meal plan subject to tax, by adding that the exemption applies to packaging items that are (1) used for packaging, shipment, or delivery of the food and prepared food; (2) constitute a part of the sale of the food and prepared

food; and (3) delivered with the food and prepared food.

Amends GS 105-164.15A(b) by amending the effective date of the rate change for an item taxable under Article 5 at the combined general rate so that it is: (1) for a taxable item that is not billed monthly or periodically, a tax change applies to amounts received for items provided on or after the effective date of a change in the State general rate of tax; (2) for a taxable item that is provided and billed monthly or periodically, a tax increase applies to the first billing period that is at least 30 days after enactment and that starts on or after the effective date, a tax rate decrease applies to bills rendered on or after the effective date.

Amends GS 105-187.5 by correcting a statutory reference.

Part III.

Amends GS 153A-148.1 (affecting counties) and GS 160A-208.1 (affecting municipalities) to add that a current or former officer, employee, or agent of a county or city who in the course of service to or employment by the county or city has access to information about the amount of a taxpayer's income or receipts may disclose the information if it is done to disclose to the authorized finance officer of the city located within the county (for county employees), or to the authorized finance officer of the county in which the city is located (for city employees), tax information in the possession of the county or city as necessary to administer a tax.

Part IV.

Amends GS 66-294 by amending the requirements for nonparticipating manufacturers (which means a tobacco product manufacturer that is not a participating manufacturer, as defined in subsection II(jj) of the Master Settlement Agreement), by amending the amount of the bond that is required before a newly qualified nonparticipating manufacturer to be listed in the North Carolina Tobacco Directory or that the Attorney General determines poses an elevated risk of noncompliance must post before the nonparticipating manufacturer and any of its brand families can be included in the directory. The bond is to be an amount equal to the greater of \$50,000 or the greatest amount of escrow the manufacturer was required to deposit as a result of its highest calendar year's sale in the state for any of the preceding three calendar years or greatest quarterly escrow deposit for any of the preceding 12 calendar quarters (was, required to deposit as a result of its highest calendar year's sales in the state or greatest quarterly escrow deposit), depending on the manufacturer's required escrow deposit frequency. Effective October 1, 2016.

Part V.

Amends GS 96-9.2 by adding that the calculations set out in the table in the statute for calculating the required contribution rate to the Unemployment Insurance Fund according to the Fund balance as a percentage of total insured wages is to be applied as of September 1 following the computation date. This section is effective when it becomes law and applies to contributions payable for calendar quarters beginning on or after January 1, 2017.

Intro. by Wade, McKissick, Hartsell.

GS 66, GS 96, GS 105, GS 153A, GS 160A

[View summary](#)

**Business and Commerce, Employment and Retirement,
Government, Tax, Local Government, Health and Human
Services, Social Services, Public Assistance**

S 821 (2015-2016) **GSC TECHNICAL CORRECTIONS 1**. Filed May 9 2016, *AN ACT TO MAKE TECHNICAL CORRECTIONS TO THE GENERAL STATUTES, AS RECOMMENDED BY THE GENERAL STATUTES COMMISSION.*

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

Section 1

Makes a clarifying change to GS 14-118.6(b1), concerning the filing of a false lien or encumbrance.

Section 2

Amends GS 20-45, concerning seizure of documents and plates by the Division of Motor Vehicles, to make a technical change to subsection (a) and to make the language of subsection (b) gender neutral. Makes technical change to the statutory reference in

subsection (c).

Section 7

Makes technical changes to GS 36C-8-816.1(c)(9), concerning a trustee's special power to appoint to a second trust and the required terms of the second trust. Makes clarifying change to subdivision (9) of subsection (c) to provide that the terms of the second trust cannot contain any provisions that would jeopardize any other specific tax benefit for which the first trust was clearly designed to qualify and for which the first trust qualified or would have qualified but for the enactment of the statute (previously, cannot jeopardize any other tax benefit for which a contribution qualified for income, gift, estate, or generation skipping transfer tax purposes).

Repeals GS 39-33, which provides for the method of release or limitation of the power of appointment. Repeals GS 39-34 which referred to the method in GS 39-33.

Recodifies GS 39-35, concerning requisites of release or limitation of a power of appointment as against creditors and purchasers for value, as GS 31D-5-505.

Recodifies GS 39-36, concerning necessity for actual notice of release or limitation of the power of appointment to bind fiduciary, as GS 31D-4-403.1.

Amends GS 42A-17(a), concerning accounting and reimbursement under the Vacation Rental Act, to require a vacation rental agreement to identify the name and address of the federally insured depository institution (previously, the bank or savings and loan association) in which the tenant's security deposit and other advance payments are held in a trust account.

Makes technical changes to GS 97-25, concerning motions and responses regarding a request for medical compensation or a dispute involving medical issues in claims subject to GS 97-18(b) (concerning payment installments) and (d) (concerning payment installments made without prejudice).

Section 9

Repeals GS 120-57, which empowered and directed the Legislative Intern Program Council to promulgate a plan for the selection and use of legislative interns for each session of the General Assembly.

Makes a technical change to the statutory reference in subsection (c) of GS 136-41.2, concerning the eligibility of municipalities to receive funds under GS 136-41.1, by referencing GS 159-8 and GS 159-13 (annual balanced budget ordinance) instead of GS 160-410.3 (repealed and transferred).

Makes technical changes to GS 143-215.31(a1), which directs the owner of a dam classified by the Department of Environmental Quality as a high hazard dam or an immediate-hazard dam to develop an Emergency Action Plan for the dam, as specified.

Amends subdivision (6) to provide that, for purposes of the statute, *sensitive public security information* includes Critical Energy Infrastructure Information protected from disclosure under rules adopted by the Federal Energy Regulatory Commission in 18 CFR 388.112 (previously, 18 CFR 333.112).

Amends GS 143B-168.5 to specify that the establishment of a special unit to deal primarily with violations involving child abuse and neglect in child care arrangement be within the Department of Health and Human Service, Division of Child Development and Early Education (previously, did not specify a division of DHHS). Further, make technical change to directive that the Child Care Commission make rules for the investigation of reports of child abuse or neglect and for administrative action when child abuse or neglect is substantiated, pursuant to GS 110-88(6a), GS 110-105, GS 110-105.3, GS 110-105.4, GS 110-105.5, and GS 110-105.6 (replaces GS 110-105.2 with GS 110-105.3 through GS 110-105.6 concerning child mistreatment).

Makes technical change to GS 143B-931(b), concerning criminal records checks of school personnel, to replace the statutory reference to GS 115C-238.56N with GS 115C-238.73 (criminal history record checks of regional school employees).

Amends GS 143C-6-4(b), concerning budget adjustments in the administration of the budget, to replace the statutory reference to GS 166A-19.40(a) in subdivision (2), allowing a State agency to spend more than was appropriated in the certified budget, with approval of the Director of the Budget, to adjust for responses to extraordinary events authorized by that statute, to instead specify authorization under GS 166A-19.40(a)(1) (allowing for the use of contingency and emergency funds by the Governor as necessary and appropriate to provide relief and assistance from the effects of an emergency) and (c) (providing four conditions that must be satisfied for the Governor to reallocate other funds reasonably available within the appropriations of the various

departments).

Section 10

Makes technical correction to statutory reference in GS 147-12(a), concerning the powers and duties of the Governor.

Section 14

Makes technical change to the introductory language of Section 54.5(b) of SL 2015-264.

Section 15

Amends GS 1A-1, Rule 22 (Interpleader) to provide that where funds are subject to competing claims by parties to the action, the court can order a party in possession of the funds to either deposit the funds in an interest bearing account in a federally insured depository institution or a trust institution authorized to do business in the State (previously, in a bank, savings and loan, or trust company licensed to do business in the State) or to deposit the funds with the clerk. Makes conforming changes.

Amends GS 20-63.01(c), concerning bonds required for commission contractors, to provide that, with the approval of the Division of Motor Vehicles, an applicant may file with the clerk of superior court and/or the register of deeds of the county in which the commission contractor will be located, in lieu of a bond, (1) an assignment of a savings account, as specified, which is executed by a federally insured depository institution lawfully doing business in the State (previously, executed by a state or federal savings and loan association, state bank, or national bank that is doing business in North Carolina and whose accounts are insured by a federal depositors corporation) or (2) a certificate of deposit, as specified, which is executed by federally insured depository institution lawfully doing business in the State (previously, executed by state or federal savings and loan association, state bank, or national bank that is doing business in North Carolina and whose accounts are insured by a federal depositors corporation).

Amends GS 85B-7.1(a), concerning the handling of clients' funds by auctioneers, to require the licensee to deposit funds that are not disbursed on auction day with a federally insured depository institution (previously, with an insured bank or savings and loan association) located in North Carolina. Makes conforming changes to GS 85B-8(a)(7), concerning prohibited acts that are grounds for the assessment of a civil penalty or the denial suspension, or revocation of an auctioneer, auctioneer apprentice, or auction firm license.

Amends GS 86A-22(7)c, concerning bonds required for barber schools and colleges, to provide that an applicant, with approval of the Board of Barber Examiners, may also file with the clerk of superior court in the county in which the school will be located, in lieu of the bond, (1) an assignment of a savings account, as specified, which is executed by a federally insured depository institution lawfully doing business in the State (previously, executed by a state or federal savings and loan association, state bank, or national bank that is doing business in North Carolina and whose accounts are insured by a federal depositors corporation) or (2) a certificate of deposit, as specified, which is executed by federally insured depository institution lawfully doing business in the State (previously, executed by state or federal savings and loan association, state bank, or national bank that is doing business in North Carolina and whose accounts are insured by a federal depositors corporation).

Amends GS 88B-17(c), concerning bond required for private cosmetic art schools, to provide that an applicant, with the approval of the Board of Cosmetic Art Examiners, may file with the clerk of superior court in the county in which the school will be located, in lieu of the bond, (1) an assignment of a savings account, as specified, which is executed by a federally insured depository institution lawfully doing business in the State (previously, executed by a state or federal savings and loan association, state bank, or national bank that is doing business in North Carolina and whose accounts are insured by a federal depositors corporation) or (2) a certificate of deposit, as specified, which is executed by federally insured depository institution lawfully doing business in the State (previously, executed by state or federal savings and loan association, state bank, or national bank that is doing business in North Carolina and whose accounts are insured by a federal depositors corporation).

Amends GS 90-171.55, concerning the bond required for each nurses aid training program, to provide that an applicant, with the approval of the Board of Nursing, may also file with the clerk of superior court in the county in which the school will be located, in lieu of the bond, (1) an assignment of a savings account, as specified, which is executed by a federally insured depository institution lawfully doing business in the State (previously, executed by a state or federal savings and loan association, state bank, or national bank that is doing business in North Carolina and whose accounts are insured by a federal depositors corporation) or (2) a certificate of deposit, as specified, which is executed by federally insured depository institution lawfully doing business in the State (previously, executed by state or federal savings and loan association, state bank, or national bank that is doing business

in North Carolina and whose accounts are insured by a federal depositors corporation).

Amends GS 90-210.86, concerning the deposit or investment of funds of mutual burial associations, to require investment in deposits in any federally insured depository institution or any trust institution authorized to do business in the State (previously, any bank or trust company in the State).

Amends GS 93A-3(b), concerning the compensation of the North Carolina Real Estate Commission, to provide that the Commission may deposit moneys in accounts, certificates of deposit, or time deposits as the Commission may approve, in any federally insured depository institution or any trust institution authorized to do business in the State (previously, in any bank, savings and loan association, or trust company).

Amends GS 93A-42(d) to require the independent escrow agent provided in subsection (c)(2) of the statute to deposit and maintain the purchaser's payments of a time share real property interest in an insured trust or escrow account in a federally insured depository institution lawfully doing business in the State (previously, in a bank or savings and loan association located in the State). Makes conforming changes to GS 93A-45, concerning purchaser's right to cancel, escrow, and violations of Article 4 of GS Chapter 93A (Time Shares).

Section 16

Amends GS 20-63.01(c) (bonds required for commission contractors), as amended by Section 15, to provide that an applicant, with the approval of the Division of Motor Vehicles, may file with the clerk of superior court in the county in which the school will be located, in lieu of the bond, (1) an assignment of a savings account, as specified, which is executed by a federally insured depository institution or a trust institution (previously, did not include a trust institution) authorized to do (previously, lawfully doing) business in the State or (2) a certificate of deposit, as specified, which is executed by federally insured depository institution or a trust institution (previously, did not include a trust institution) authorized to do (previously, lawfully doing) business in the State.

Amends GS 42-50, concerning deposits from the tenant under the Tenant Security Deposit Act, to require that the security deposits from the tenant in residential dwelling units are deposited in a trust account with a licensed and federally insured depository institution or a trust institution (previously, did not include a trust institution) authorized to do (previously, lawfully doing) business in the State or as specified. Makes language gender neutral.

Amends GS 42A-15, concerning trust account uses under the Vacation Rental Act, to provide that, if the tenant is required to make any advance payments, other than a security deposit, whether the payment is denominated as rent or otherwise, the landlord or real estate broker must deposit the payments in a trust account in a federally insured depository institution or a trust institution (previously, did not provide for a trust institution) authorized to do (previously, lawfully doing) business in the State.

Amends GS 42A-17(a) (accounting and reimbursement under the Vacation Rental Act), as amended by Section 7, to require a vacation rental agreement to identify the name and address of the federally insured depository institution or trust institution (previously, did not provide for trust institution) in which the tenant's security deposit and other advance payments are held in a trust account.

Amends GS 47C-4-110(a), concerning escrow of deposits under the North Carolina Condominium Act, to require that any deposit made in connection with the purchase or reservation of a unit from a person required to deliver a public offering statement pursuant to GS 47C-4-102(c) must be immediately deposited in a trust or escrow account in a federally insured depository institution or a trust institution (previously, did not provide for a trust institution) authorized to do (previously, lawfully doing) business in the State and remain as specified.

Amends GS 85B-7.1(a) (handling of clients' funds by auctioneers), as amended by Section 15, to require the licensee to deposit funds that are not disbursed on auction day with a federally insured depository institution or a trust institution authorized to do business in the State (previously, with a federally insured depository institution located in North Carolina). Makes conforming changes to GS 85B-8(a)(7), as amended by Section 15, concerning prohibited acts that are grounds for the assessment of a civil penalty or the denial suspension, or revocation of an auctioneer, auctioneer apprentice, or auction firm license.

Amends GS 86A-22 (bonds required for barber schools and colleges), as amended by Section 15, to provide that an applicant, with approval of the Board of Barber Examiners, may file with the clerk of superior court in the county in which the school will be located, in lieu of the bond, (1) an assignment of a savings account, as specified, which is executed by a federally insured depository institution or a trust institution (previously, did not provide for a trust institution) authorized to do (previously,

lawfully doing) business in the State or (2) a certificate of deposit, as specified, which is executed by federally insured depository institution or a trust institution (previously, did not provide for a trust institution) authorized to do (previously, lawfully doing) business in the State.

Amends GS 88B-17 (bond required for private cosmetic art schools), as amended by Section 15, to provide that an applicant, with the approval of the Board of Cosmetic Art Examiners, may file with the clerk of superior court in the county in which the school will be located, in lieu of the bond, (1) an assignment of a savings account, as specified, which is executed by a federally insured depository institution or a trust institution (previously, did not provide for a trust institution) authorized to do (previously, lawfully doing) business in the State or (2) a certificate of deposit, as specified, which is executed by federally insured depository institution or a trust institution (previously, did not provide for a trust institution) authorized to do (previously, lawfully doing) business in the State.

Amends GS 90-171.55 (bond required for each nurses aid training program), as amended by Section 15, to provide that an applicant, with the approval of the Board of Nursing, may file with the clerk of superior court in the county in which the school will be located, in lieu of the bond, (1) an assignment of a savings account, as specified, which is executed by a federally insured depository institution or a trust institution (previously, did not provide for a trust institution) authorized to do (previously, lawfully doing) business in the State or (2) a certificate of deposit, as specified, which is executed by federally insured depository institution or a trust institution (previously, did not provide for a trust institution) authorized to do (previously, lawfully doing) business in the State.

Amends GS 93A-42 (), as amended by Section 15, to require the independent escrow agent provided in subsection (c)(2) of the statute to deposit and maintain the purchaser's payments of a time share real property interest in an insured trust or escrow account in a federally insured depository institution or a trust institution (previously, did not provide for a trust institution) authorized to do (previously, lawfully doing) business in the State. Makes conforming changes to GS 93A-45, as amended by Section 15, concerning purchaser's right to cancel, escrow, and violations of Article 4 of GS Chapter 93A (Time Shares).

Repeals GS 14-27.23(c) (statutory rape of a child by an adult) and GS 27.28(c) (statutory sexual offense with a child by an adult), allowing a court to sentence a defendant to active punishment for a term of months great than that authorized by GS 15A-1340.17, up to and including life imprisonment without parole, if the court finds that the nature of the offense and the harm inflicted are such brutality, duration, severity, degree or scope beyond that normally committed in such crimes, or considered in basic aggravation of the crimes, so as to require a sentence in excess of that authorized under GS 15A-1340.17. These provisions were found unconstitutional by the North Carolina Court of Appeals (in *State v. Singletary*).

Amends GS 31D-5-505 (requisites of release or limitation as against creditors and purchasers for value), as recodified by Section 7, to remove references to limitation of a power of appointment from both the title and the provisions, leaving the statute to provide for only the requisites for release of a power of appointment as against creditors and purchasers for value.

Amends GS 36C-5-505(c), concerning a creditor's claim against a settlor under the North Carolina Uniform Trust Code, to provide that, if the settlor is a beneficiary after the death of the settlor's spouse, an irrevocable inter vivos trust, of which the settlor's spouse is a beneficiary during the spouse's lifetime but which does not qualify for the federal gift tax marital deduction, and during the lifetime of the settlor's spouse (1) the settlor's spouse is the only beneficiary, or (2) the settlor's spouse and any issue of the settlor or the settlor's spouse, or both, are the only beneficiaries (previously, only provided for the settlor's spouse and the settlor's issue are the only beneficiares), then the property is not considered to have been contributed by the settlor and a person who would otherwise be treated as a settlor or a deemed settlor of the trust cannot be treated as a settlor, and is therefore not subject to claims by creditors of the settlor spouse.

Amends GS 39-13.7, concerning tenancy by the entireties trusts in real property, by adding two new subsections. Provides that notice that the real property held in trust will receive immunity from the claims of separate creditors can be given in a statement in the conveyance of the tenancy by the entireties real property to the trust that the real property is held under the statute, and that as of the date of the conveyance, the requirements of subsection (b) are met (which provides three conditions that must be met for the immunity from the claims of separate creditors to apply to the property in trust). Allows a person entering a transaction involving real property held in trust under the statute to request confirmation from the trustee whether the requirements of the statute providing immunity from the claims of separate creditors are met at the time of the transaction.

Amends GS 62-133.10, concerning the retention of fuel and fuel-related cost savings associated with the purchase or construction of a carbon offset facility, to amend the first requirement that a facility in the State must meet to constitute a *carbon offset facility*, for purposes of the statute. Now requires the facility to be purchased or constructed by an electric public utility

(previously, required the facility to be purchased or constructed by an electric public utility between July 1, 2009 and July 1, 2014).

Directs that, if S 734 of the 2016 Regular Session of the 2015 General Assembly (Statewide Standing Order/Opioid Antagonist) becomes law, then subsection (b1) of GS 90-12.7 (Treatment of overdose with opioid antagonist), as enacted by S 734, is to make a technical change to reference subdivision (1) of subsection (b) of the statute (currently, subdivision (b)(1)).

Section 17

Amends GS 90-91(k), establishing anabolic steroids as a schedule III controlled substances, to make formatting changes. Also adds a new exception to the term *anabolic steroid* to establish that the term does not include chorionic gonadotropin when administered by injection for veterinary use by or upon the order of a licensed veterinarian.

Section 18

Amends GS 90-96, conditional discharge for first offense, to make a technical change to the statutory reference regarding possessing drug paraphernalia prohibited by GS 90-113.22 (possession of drug paraphernalia), to also add possessing drug paraphernalia prohibited by GS 90-113.22A (possession marijuana of drug paraphernalia), of the offenses that may be conditionally discharged, as specified, under the statute for first offense. Makes technical changes and makes the language gender neutral. Makes conforming change to subsections (a1) and (e).

Amends GS 115C-401.2 (student online privacy protection), as enacted by SL 2016-11, to exempt from the definition of *targeted advertising* the use of covered information to identify nonprofit institutions of higher education or scholarship providers to students. Amends the following permissible operator actions under subsection (e), as enacted by SL 2016-11. Allows an operator to use recommendation engines to recommend to a student additional content relating to an educational, other learning, or employment opportunity purpose within the operator's site, service, or application if the recommendation is not determined in whole or in part by payment or other consideration from a third party, excluding nonprofit institutions of higher education or scholarship providers that are seeking to enroll students who meet specific criteria (previously, did not provide for an exception for nonprofits institutions of higher education or scholarship providers as specified). Allows an operator to respond to a student's request for information or for feedback to help improve learning without the information or response being determined in whole or in part by payment or other consideration from a third party, excluding nonprofit institutions of higher education or scholarship providers that are seeking to enroll students who meet specific criteria (previously, did not provide for an exception for nonprofits institutions of higher education or scholarship providers as specified).

Section 19

Makes technical change to GS 147-12(b), which requires various departments to annually deliver detailed information on the agency's litter enforcement, litter prevention, and litter removal efforts.

Makes technical changes to GS 147-86.59, concerning the certification required under the Iran Divestment Act. Defines *attempts to contract* to include contract renewal or assumption. Establishes that, if a State agency and the same person enter into multiple contracts or multiple contract renewals or assumptions within 180 days after a certification is made, a new certification need not be made.

Amends GS 153A-99, concerning county employee political activity, to provide that, for purposes of the statute, a deputy sheriff and an employee of a sheriff are *county employees* or *employees*.

Effective October 1, 2016.

Section 20

Repeals SL 2015-52, Section 1, which revised SL 2011-104, Section 2, to require the Department of Health and Human Services to provide information to the Program Evaluation Division (PED), required PED to report to the Joint Legislative Program Evaluation Oversight Committee and the Joint Legislative Oversight Committee on Health and Human Services on criteria used to determine whether provision of overnight respite services in an adult day care setting is a worthwhile service.

Section 21

Directs the Revisor of Statutes to have an explanatory comment to be printed to GS 36C-112 prepared by the Estate Planning and Fiduciary law Section of the North Carolina Bar Association, as the Revisor deems appropriate.

Directs the Revisor of Statutes to have all explanatory comments of the drafters of Section 7.1 (trustee's special power to appoint to a second trust), 7.2(b) (recodification of GS 39-35) and (c) (recodification GS 39-36) , 16.4 (amendments of recodified GS 31D-5-505), and 16.5 (creditor's claim against settlor), to be printed as the Revisor deems appropriate.

Intro. by Hartsell.

[GS 1A, GS 14, GS 20, GS 24, GS 28A, GS 31B, GS 31D, GS 36C, GS 39, GS 42, GS 42A, GS 47C, GS 62, GS 85B, GS 86A, GS 88B, GS 90, GS 93A, GS 97, GS 108A, GS 115C, GS 120, GS 136, GS 143, GS 143B, GS 143C, GS 146, GS 147, GS 153A, GS 160A](#)

[View summary](#)

Banking and Finance, Business and Commerce, Occupational Licensing, Courts/Judiciary, Civil, Civil Law, Motor Vehicle, Criminal Justice, Criminal Law and Procedure, Development, Land Use and Housing, Property and Housing, Education, Elementary and Secondary Education, Higher Education, Employment and Retirement, Government, Local Government, Health and Human Services, Health, Health Care Facilities and Providers, Social Services, Child Welfare

S 872 (2015-2016) [UNC SELF-LIQUIDATING PROJECTS](#). Filed May 10 2016, *AN ACT TO AUTHORIZE THE ACQUISITION OR CONSTRUCTION AND THE FINANCING, WITHOUT APPROPRIATIONS FROM THE GENERAL FUND, OF CERTAIN CAPITAL IMPROVEMENTS PROJECTS OF THE CONSTITUENT INSTITUTIONS OF THE UNIVERSITY OF NORTH CAROLINA.*

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

Adds a list of 10 capital improvement projects (and their associated costs) that are authorized by the act to be acquired or constructed and financed as provided for in the act, including by revenue or special obligation bonds or both. Those 10 projects are: Convocation Center Parking Deck at Appalachian State University; New Student Center at NC Central University; Plant Sciences Building, Carmichael Addition and Renovation, and Case Commons Residence Hall at NC State University; Highsmith Union Renovation and Student Apartment Housing at UNC Asheville; Scott Hall Renovations and Health and Wellness Center at UNC Charlotte; and Surgical Pavilion and Renovations at UNC Hospitals at Chapel Hill.

Intro. by Apodaca.

[UNCODIFIED](#)

[View summary](#)

Government, State Agencies, UNC System

LOCAL/HOUSE BILLS

H 952 (2015-2016) [HONOR OUR SERVICE ANIMALS/SHERIFF CONTRACTS](#). Filed Apr 25 2016, *AN ACT PROVIDING THAT THE CATAWBA, CLEVELAND, AND GASTON COUNTY SHERIFF'S OFFICES MAY CONTRACT FOR THE PURCHASE OF FOOD AND FOOD SERVICES SUPPLIES FOR THE COUNTY'S DETENTION FACILITY WITHOUT BEING SUBJECT TO THE REQUIREMENTS OF CERTAIN STATE PURCHASE AND CONTRACT LAWS AND AUTHORIZING CLEVELAND, GASTON AND YANCEY COUNTIES AND THE MUNICIPALITIES IN THOSE COUNTIES TO TRANSFER RETIRED SERVICE ANIMALS OWNED BY THE LOCAL GOVERNMENT.*

AN ACT PROVIDING THAT THE CATAWBA, CLEVELAND, AND GASTON COUNTY SHERIFF'S OFFICES MAY CONTRACT FOR THE PURCHASE OF FOOD AND FOOD SERVICES SUPPLIES FOR THE COUNTY'S DETENTION FACILITY WITHOUT BEING SUBJECT TO THE REQUIREMENTS OF CERTAIN STATE PURCHASE AND CONTRACT LAWS AND AUTHORIZING CLEVELAND, GASTON AND YANCEY COUNTIES AND THE MUNICIPALITIES IN THOSE COUNTIES TO TRANSFER RETIRED SERVICE ANIMALS OWNED BY THE LOCAL GOVERNMENT. Enacted June 21, 2016. Effective June 21, 2016.

Intro. by Hastings.

Catawba, Cleveland, Gaston, Yancey

[View summary](#)

Animals, Government, Public Safety

H 964 (2015-2016) [COMMISSION MEMBERSHIP WINSTON-SALEM RET. FUND](#). Filed Apr 26 2016, *AN ACT TO ENHANCE THE PARTICIPATION OF RETIREE MEMBERS ON THE RETIREMENT COMMISSION OF THE WINSTON-SALEM EMPLOYEES RETIREMENT FUND.*

AN ACT TO ENHANCE THE PARTICIPATION OF RETIREE MEMBERS ON THE RETIREMENT COMMISSION OF THE WINSTON-SALEM EMPLOYEES RETIREMENT FUND. Enacted June 21, 2016. Effective June 21, 2016.

Intro. by Conrad, Hanes, Lambeth, Terry.

Forsyth

[View summary](#)

Employment and Retirement

LOCAL/SENATE BILLS

S 879 (2015-2016) [CORNELIUS LIMITS/MECKLENBURG COUNTY POLICE](#). Filed May 17 2016, *AN ACT ADDING CERTAIN DESCRIBED PROPERTY TO THE CORPORATE LIMITS OF THE TOWN OF CORNELIUS AND GRANTING COUNTYWIDE JURISDICTION TO THE POLICE DEPARTMENTS OF THE TOWNS OF CORNELIUS, DAVIDSON, HUNTERSVILLE, MATTHEWS, MINT HILL, AND PINEVILLE.*

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

Amends the proposed language in Section 1 of SL 1969-1170 to prohibit the Mecklenburg County Board of Commissioners from approving the exercise of powers or authority by a municipality's police officers in an unincorporated area of the county if the area is in another municipality's extraterritorial planning jurisdiction (was, if the area is in another municipality's sphere of influence or extraterritorial planning jurisdiction), unless the governing body of the other municipality consents in writing.

Also adds that nothing in the section restricts or prohibits the Sheriff of Mecklenburg County from exercising the powers and authority of the Sheriff's Office.

Intro. by Tarte.

UNCODIFIED

[View summary](#)

Government, Public Safety

S 888 (2015-2016) [BUNCOMBE SCHOOL CAPITAL FUND COMMISSION](#). Filed May 19 2016, *AN ACT TO AMEND THE BUNCOMBE SCHOOL CAPITAL FUND COMMISSION.*

AN ACT TO AMEND THE BUNCOMBE SCHOOL CAPITAL FUND COMMISSION. Enacted June 21, 2016. Effective June 21, 2016.

Intro. by Apodaca.

Buncombe

[View summary](#)

Education

ACTIONS ON BILLS

PUBLIC BILLS

H 19: MODIFY DEFINITION OF FIREFIGHTER. (NEW)

House: Cal Pursuant 36(b)

House: Placed On Cal For 06/22/2016

H 100: LOCAL GOVERNMENT IMMIGRATION COMPLIANCE (NEW).

Senate: Reptd Fav Com Substitute

Senate: Com Substitute Adopted

Senate: Re-ref Com On Appropriations/Base Budget

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

House: Cal Pursuant 36(b)

H 242: VARIOUS CHARTER SCHOOL LAW CHANGES (New)

House: Withdrawn From Cal

House: Placed On Cal For 06/27/2016

H 256: HANDICAPPED PARKING/VETERANS PLATE.

Pres. To Gov. 6/21/2016

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

Pres. To Gov. 6/21/2016

H 287: AMEND INSURANCE LAWS.-AB

Senate: Reptd Fav Com Substitute

Senate: Com Substitute Adopted

H 292: BEACH BINGO LICENSES.-AB

Ratified

Pres. To Gov. 6/21/2016

H 299: OCC.LIC./PRIVATE PROTECTIVE SVCS. ACT CHANGES-AB

Senate: Sequential Referral To Finance Added

H 407: HOUSING AUTHORITY TRANSFERS (NEW).

Senate: Reptd Fav Com Substitute

Senate: Com Substitute Adopted

Senate: Re-ref Com On Finance

H 436: UNAUTHORIZED PRACTICE OF LAW CHANGES.

Pres. To Gov. 6/21/2016

H 464: REGIONAL TRANSPORTATION AUTHORITY REVISIONS.

House: Cal Pursuant 36(b)

House: Added to Calendar

House: Concurred In S/Com Sub

House: Ordered Enrolled

H 483: LAND USE REGULATORY CHANGES.

Senate: Reptd Fav Com Substitute

Senate: Com Substitute Adopted

Senate: Re-ref Com On Commerce

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

H 550: RALEIGH APODACA SERVICE DOG RETIREMENT ACT (NEW).

Senate: Reptd Fav Com Substitute

Senate: Com Substitute Adopted

H 567: NC CEMETERY ACT CHANGES. (NEW)

Senate: Reptd Fav Com Substitute

Senate: Com Substitute Adopted

H 593: AMEND ENVIRONMENTAL & OTHER LAWS (NEW).

Senate: Reptd Fav

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

House: Cal Pursuant 36(b)

House: Placed On Cal For 06/22/2016

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

House: Placed On Cal For 06/22/2016

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

Senate: Regular Message Sent To House

House: Regular Message Received For Concurrence in S Com Sub

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

Ratified

Pres. To Gov. 6/21/2016

H 884: AMEND TOWNSHIP ABC ELECTIONS. (NEW)

Senate: Reptd Fav Com Substitute

Senate: Com Substitute Adopted

Senate: Re-ref Com On Health Care

H 959: DOT PROPOSED LEGISLATIVE CHANGES.

House: Cal Pursuant 36(b)

House: Placed On Cal For 06/22/2016

H 960: RETIREMENT CREDITABLE SERVICE CHARTER SCHOOLS.

Senate: Passed 3rd Reading

H 971: MOTOR FLEET CLARIFICATION.

Pres. To Gov. 6/21/2016

H 984: TRANSFER OF DAVIE COUNTY CORRECTIONAL CENTER.

Senate: Reptd Fav Com Substitute

Senate: Com Substitute Adopted

H 1007: AMEND OCCUPATIONAL LICENSING BOARDS STATUTES.

Senate: Withdrawn From Com

Senate: Re-ref Com On Finance

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

Ratified

H 1021: AMEND SEX OFFENDER CERTAIN PREMISES (NEW).

Senate: Reptd Fav Com Substitute

Senate: Com Substitute Adopted

H 1033: ID CARD FEE WAIVER/DISABILITY.

House: Special Message Sent To Senate
Senate: Special Message Received From House
Senate: Passed 1st Reading
Senate: RefTo Com On Health Care

H 1035: LGC/TRAINING FOR LOCAL GOV'T FINANCE OFFICERS.

Senate: Sequential Referral To Finance Added

H 1088: ALLOW ELECTION DAY SERVICE - RETIRED LEOS.

House: Reptd Fav
House: Cal Pursuant Rule 36(b)
House: Added to Calendar
House: Passed 2nd Reading
House: Passed 3rd Reading
House: Special Message Sent To Senate

H 1130: PLEDGE TO UPHOLD THE BILL OF RIGHTS.

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

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

Ratified

H 1149: CONFIRM FRED STEEN/BOARD OF REVIEW.

Senate: Reptd Fav

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

Senate: Special Message Received For Concurrence in H Com Sub
Senate: Placed On Cal For 06/22/2016

S 124: ASSUMED BUS.NAME/IC CONTEMPT/PARKS (NEW).

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

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

Senate: Failed Concur In H Com Sub

S 330: CHANGE ORDERS ON SCHOOL CONSTRUCTION PROJECTS.

Ratified

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

Senate: Withdrawn From Cal
Senate: Re-ref Com On Rules and Operations of the Senate

S 482: LLC ACT CLARIFICATION.

House: Withdrawn From Com
House: Re-ref Com On Judiciary I

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

Ratified

S 575: NC/SC ORIGINAL BORDER CONFIRMATION.

Pres. To Gov. 06/21/2016

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

House: Amend Adopted A1

House: Passed 3rd Reading

House: Ordered Engrossed

House: Special Message Sent To Senate

S 718: HONOR HARRIS BLAKE, FORMER SENATOR.

Ratified

Ch. Res 2016-18

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

Senate: Regular Message Sent To House

House: Regular Message Received From Senate

S 770: NC FARM ACT OF 2016 (NEW)

Senate: Regular Message Sent To House

House: Regular Message Received From Senate

S 778: Performance Guarantees/Subdivision Streets (New)

Senate: Withdrawn From Cal

Senate: Re-ref Com On Transportation

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

House: Passed 1st Reading

House: Ref To Com On Finance

S 803: REV. LAWS TECHNICAL, CLARIFYING, & ADMIN. CHG. (NEW)

Senate: Reptd Fav Com Substitute

Senate: Com Substitute Adopted

S 821: GSC TECHNICAL CORRECTIONS 1.

Senate: Reptd Fav Com Substitute

Senate: Com Substitute Adopted

Senate: Re-ref Com On Finance

S 872: UNC SELF-LIQUIDATING PROJECTS.

Senate: Reptd Fav Com Substitute

Senate: Com Substitute Adopted

LOCAL BILLS

H 952: HONOR OUR SERVICE ANIMALS/SHERIFF CONTRACTS.

Ratified

Ch. SL 2016-20

H 956: HENDERSON COUNTY/COMMUNITY COLLEGE PROJECTS.

House: Concurred In S/Com Sub

House: Ordered Enrolled

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

Ratified

Ch. SL 2016-21

H 989: RED CROSS CHARTER AMENDMENTS.

Senate: Reptd Fav

H 1017: NORWOOD DEANNEXATIONS/ANNEXATION.

Senate: Reptd Fav

Senate: Re-ref Com On Finance

H 1045: NEW BERN CHARTER/REVISED & CONSOLIDATED.

Senate: Reptd Fav

S 739: TOWN OF ROLESVILLE/ANNEXATION.

House: Withdrawn From Com

House: Re-ref Com On Finance

S 879: CORNELIUS LIMITS/MECKLENBURG COUNTY POLICE.

Senate: Reptd Fav Com Substitute

Senate: Com Substitute Adopted

Senate: Re-ref Com On Finance

S 888: BUNCOMBE SCHOOL CAPITAL FUND COMMISSION.

Ratified

Ch. SL 2016-19

[Print Version](#)