

The Daily Bulletin: 2018-06-11

PUBLIC/HOUSE BILLS

H 382 (2017-2018) **DOI OMNIBUS-AB (NEW)**. Filed Mar 15 2017, *AN ACT TO INCORPORATE NAIC MODEL LANGUAGE INTO NORTH CAROLINA'S LIFE AND HEALTH INSURANCE GUARANTY ASSOCIATION ACT; TO AMEND AND MAKE CLARIFYING CHANGES TO THE SURPLUS LINES ACT; TO AMEND CONSENT TO RATE AND CAPTIVE INSURANCE LAWS; AND TO AMEND AND MAKE TECHNICAL CHANGES TO OTHER INSURANCE LAWS, AS RECOMMENDED BY THE DEPARTMENT OF INSURANCE.*

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

Changes the act's long and short titles. Modifies and adds to the previous provisions.

Part I

Amends GS 58-62-6, providing that the purpose of the North Carolina Life Insurance Guaranty Association Act (Article 62) is to protect covered persons against failure in the performance of contractual obligations under specified life, health, and annuity policies, plans, or contracts due to delinquency of the member insurer that issued the policies, plans, or contracts. Specifies that the North Carolina Life and Health Insurance Guaranty Association (Association) created by the Article is an association of member insurers, as defined by GS 58-62-16, amended below.

Modifies and adds to the defined terms applicable to the Article set forth in GS 58-62-16. Modifies the term *member insurer* to now include health maintenance organizations governed by Article 67 (Health Maintenance Organization Act) that are licensed to transact any health maintenance organization business in the state for which coverage is provided under GS 58-62-21, including any health maintenance organization whose license has been suspended, revoked, not renewed, or voluntarily withdrawn. Modifies the term *covered policy* to covered contract or covered policy, and defines the term to mean any policy, contract, or portion of a policy or contract for which coverage is provided under GS 58-62-21, as amended below. Modifies the term *person* to include an individual, corporation, limited liability company, partnership, association, governmental body or entity, or voluntary organization. Modifies the term *premium* to exclude premiums in excess of \$5 million for certain retirement and life insurance policies, as specified. Additionally, modifies the following existing terms: *contractual obligation*, *health insurance*, and *resident*. Makes conforming changes throughout the Article to reflect and incorporate the modifications to existing terms. Adds the following terms: *authorized assessment*, *benefit plan*, *called assessment*, *extra-contractual claims*, *health benefit plan*, *owner*, *plan sponsor*, *principal place of business*, *receivership court*, *state*, *subaccount*, and *supplemental contract*. Eliminates the term *policy*.

Amends GS 58-62-21(a), specifying persons covered under the Article for the policies and contracts specified in subsection (b) of the statute. Modifies the existing provisions of subsection (a) to include: (1) nonresidents who are otherwise ineligible for coverage in any other state because the member insurer was not licensed in the state at the time specified in that state's guaranty association law; (2) the beneficiaries, assignees, or payees of the persons covered under subdivision (a)(2) of health care providers rendering services covered under health insurance policies or certificates; and (3) persons who are owners of unallocated annuity contracts that are issued to or in connection with a specific benefit plan as specified.

Adds new subsection (a1) to GS 58-62-21, prohibiting coverage under the Article for: (1) any payee or beneficiary afforded any coverage by the association in another state, (2) any owner of qualified unallocated annuity contracts under the Article provided coverage by the association of another state, and (3) any person who acquires rights to receive payments through a structured settlement factoring transaction. Adds new subsection (a2), explicitly excluding from coverage persons who are provided coverage under the laws of any other state. Directs the Article be construed in conjunction with other state laws to provide coverage to an eligible owner, payee, enrollee, beneficiary, or assignee by only one association.

Modifies and adds to the exclusions from coverage set out in subsection (c). Specifies that the exclusion set out in subdivision (c)(2) for any policy or contract of reinsurance applies unless assumption of certificates have been issued pursuant to the

resinsurance policy or contract. Modifies the exclusion set out in subdivision (c)(3) for any part of a policy or contract whose interest rate is determined by an index or external reference that when calculating returns or changes in value, exceeds the rate of interest determined as specified, to base the interest determination on dates on which the member insurer becomes impaired or insolvent under the Article (was, dates on which the Association becomes obligated with respect to the policy). Adds that this exclusion does not apply to any portion of a policy or contract that provides long-term care or any other health insurance benefits, including a rider. Corrects a federal statutory reference and makes clarifying and technical changes to the exclusion set out in subdivision (c)(4) relating to self-funded or uninsured portions of specified policies and contracts. Modifies the exclusion in (c)(5) to include parts of policies or contracts providing for voting rights in connection with service to or administration of the policy or contract. Clarifies that the exclusion in subdivision (c)(7) for unallocated annuity contracts issued to or in connection with a benefit plan protected under the federal Pension Benefit Guaranty Corporation applies regardless of whether the federal Corporation has become liable to make any payments to the plan. Adds a new exclusion, subdivision (c)(8a), for any part of a policy or contract to the extent that the member insurer assessments required by GS 58-62-41 with respect to the policy or contract are preempted by federal or state law. Adds a new exclusion, subdivision (c)(8b), for obligations that do not arise under the express written terms of the policy or contract issued by the member insurer to the enrollee, certificate holder, contract owner, or policy owner, including without limitation the five claims specified by the new exclusion provision. Adds a new exclusion, subdivision (c)(8c), for contractual agreements that establish the member insurer's obligations to provide a book value account guaranty for defined contribution benefit plan participants. Adds to the exclusion set out in subdivision (c)(9) to exclude policies or contracts providing any hospital, medical, prescription drug, or other health care benefits pursuant to Subchapter XIX, 42 USC 7 (Medicaid). Adds a new exclusion, (c)(11), for structured settlement annuity benefits for which the individual has transferred the benefit rights to others.

Amends GS 58-62-21(d), which provides limits for the Association's liability. Adds new provisions to the subsection to clarify that these existing limitations are on the benefits for which the Association is obligated before taking into account either its subrogation and assignment rights or the extent to which those benefits could be provided out of the assets of the impaired or insolvent insurer attributable to covered policies. Authorizes the costs of the Association's obligations under the Article to be met by the use of assets attributable to covered policies or reimbursed to the Association pursuant to its subrogation and assignment rights. Explicitly states that benefits provided by a long-term care rider to a life insurance policy or annuity contract are considered the same type of benefits as the base life insurance policy or annuity contract to which they relate.

Further amends GS 58-62-21 to make conforming, technical, and clarifying changes.

Amends GS 58-62-26, which creates the North Carolina Life and Health Insurance Guaranty Association and requires the Association to maintain two accounts for administration and assessment. Requires the life insurance and annuity account to include a subaccount for an unallocated annuity account which excludes contracts owned by a government retirement benefit plan or its trustee established under the specified Internal Revenue Code sections. Requires those specified annuity contracts owned by a governmental retirement plan or its trustee to instead be included in the existing annuity subaccount. Modifies the second required account to be the health account instead of the health insurance account. Subjects the Association to the applicable provisions of the Article rather than the entire Chapter.

Amends GS 58-62-31, increasing the members on the Association's board of directors (board) from no less than five members and no more than nine members, to no less than seven members and no more than 11 members. Adds that two members must be public representatives appointed by the Commissioner of Insurance. Prohibits a public representative from being an officer, director, or employee of an insurance company or health maintenance organization, or any person engaged in insurance or health maintenance organization business. Requires the Commissioner to ensure that in approving selections or appointing members, that all member insurers are fairly represented between member insurers that write primarily life insurance and annuity contracts and member insurers that write primarily health benefit plans.

Amends GS 58-62-36 concerning the powers and duties of the Association.

Makes organizational and clarifying changes to subsections (a) and (d) concerning the Association's discretionary powers when a member insurer is impaired or insolvent. Adds that the Association may reissue or cause to be reissued any and all of the policies or contracts of an impaired insurer, and may reissue the policies or contracts of the insolvent insurer. Further provides that the Association can provide loans and notes reasonably necessary to discharge the Association's duties of a member insurer that is insolvent. Recodifies subsections (e) through (j) of the statute, concerning the Association's provision of benefits and coverages with respect to only life and health insurance policies when a member is insolvent, as subdivisions (d)(5)a. through h., modifying the language to instead apply more generally to benefits and coverages.

Modifies subsection (d1), permitting the Association to issue similar substitute coverage in carrying out its duties in connection with guaranteeing, assuming, reissuing, or reinsuring policies or contracts pursuant to the statute without the approval of the receivership court (previously, approval required before issuing substitute coverage as provided). Amends subsection (l), requiring the Association to provide a report to the liquidator regarding premiums collected by the Association following an order of liquidation of an insolvent insurer. In carrying out the duties relating to insolvent member insurers, authorizes the Association, subject to state court approval, to defer the payments of cash values, policy loans, or other rights by the Association regarding assets of the delinquent insurer for the period of a moratorium imposed by the court, but not including claims covered by the Association to be paid in accordance with a hardship procedure established by the liquidator or rehabilitator and approved by the receivership court. Modifies subsection (q), authorizing the Association to appear or intervene before any court or agency in the state with jurisdiction over a delinquent insurer for which the Association is or may become obligated, or with jurisdiction over any person or property against which the Association may have rights through subrogation or otherwise. Modifies subsection (r) to specify that any person receiving benefits under the Article is considered to have assigned the rights and any causes of action against any person for losses arising under, resulting from, or otherwise relating to the covered policy or contract to the Association to the extent of the benefits received because of the Article. Adds that, in the case of a structured settlement annuity, the Association has any rights of the owner, beneficiary, or payee of the annuity to the extent of benefits received pursuant to the Article, against a person originally or by succession responsible for the losses arising from the personal injury resulting to the annuity or payment therefore, however excepting any person responsible solely by reason of serving as an assignee in respect of a qualified assignment. Establishes a new requirement for circumstances where subsection (r)'s provisions are invalid or ineffective to require the amount payable to the Association for related covered obligations be reduced by the amount realized by any other person with respect to the person or claim that is attributable to the policies or contracts or portion thereof covered by the Association, and requiring the person recovering such amount to pay the Association the portion attributable to the policies or contracts covered by the Association.

Modifies and adds to the additional powers of the Association set out in subsection (s), authorizing the Association to: (1) take legal action necessary to recover payment of improper claims, (2) organize itself as a corporation or other legal form permitted by state law, (3) request information and receive prompt compliance from a person seeking coverage from the Association, (4) file for actuarially justified rate or premium increases for any policy or contract for which it provides coverage under the Article unless prohibited by law, and (5) take other necessary and appropriate action to discharge its duties and obligations or exercise its powers under the Article.

Adds new subsection (u), providing for the Association's option to elect to assume reinsurance contracts held by insolvent member insurers. Allows the Association to make the election as specified at any time within 180 days of the date of the order of liquidation and details the Association's responsibilities upon election, including payment of all unpaid premiums and calculation of the net balance due to or from the Association under the reinsurance contracts. Establishes that if the Association or receiver on the Association's behalf pays the unpaid premiums due within 60 days of election, the reinsurer cannot terminate the reinsurance contracts for failure to pay. Authorizes the Association to transfer reinsurance policies, contracts, or annuities when the Association transfers policies, contracts, or annuities, or related covered obligations, to an assuming insurer. Establishes that: (1) the provisions of new subsection (u) supersede other provisions of state law or any affected reinsurance contracts; (2) the receiver remains entitled to any amounts payable by the reinsurer under the reinsurance contracts with respect to losses or events that occur in periods prior to the date of the order of liquidation, subject to applicable setoff provisions; (3) subsection (u) does not alter or modify terms and conditions of reinsurance contracts except as provided, does not abrogate or limit any rights of any reinsurer to rescind a reinsurance contract, does not establish an independent cause of action against a reinsurer not set forth in the contract, does not limit the Association's right as a creditor of the estate against the assets of the estate, and does not apply to reinsurance contracts covering property or casualty risks.

Adds new subsection (v), explicitly stating the board's discretion in the Association's provision of benefits under the Article in exercising reasonable business judgement. Adds new subsection (w), providing that a person is not entitled to deviate from the benefits the Association has provided under a plan or arrangement that meets its obligations under the Article. Adds new subsection (x), setting the Superior Court of Wake County as the venue for a suit against the Association arising under the Article, and excusing the Association from being required to give an appeal bond.

Makes further conforming, clarifying, and technical changes to GS 58-62-36.

Modifies GS 58-62-41 relating to the board's assessment of member insurers for the purpose of providing the funding necessary for the Association to discharge its duties under the Article. Provides for the board to authorize and call two classes of assessments: administrative and legal costs (Class A), and delinquent insurer costs (Class B). Removes from Class A costs

for examinations conducted under GS 58-62-56(e). Removes the \$500 per member cap on non-prorated Class A assessments. Adds a new provision to require the amount of the Class B assessments for long-term care insurance written by the impaired or insolvent insurer to be allocated according to a methodology included in the Association's Plan of Operation and approved by the Commissioner, which must provide for 50% of the assessment to be allocated to accident and health member insurers and 50% to be allocated to life and annuity member insurers. Adds a new provision requiring the Association to notify each member insurer of its anticipated pro rata share of an authorized assessment not yet called within 180 days after the assessment is authorized. In cases where the board finds payment of an assessment would endanger the member insurer's ability to fulfill its contractual obligations and the Association either abates or defers the assessment in whole or in part, mandates the member pay all assessments deferred pursuant to a repayment plan approved by the Association once the causal condition has been removed or rectified. With respect to members that become impaired or insolvent in different calendar years and two or more assessments are authorized in one calendar year, sets the average annual premiums for purposes of aggregate assessment percentage limitations to be equal and limited to the higher of the three-year average annual premiums for the applicable subaccount or account calculated pursuant to the existing provisions of subsection (g). Allows the board to assess the other subaccounts of the life and annuity account if the maximum assessment (was, 1% assessment) for a subaccount of the life and annuity account in any one year does not provide sufficient funding to carry out the Association's responsibilities. Allows a certificate of contribution issued by the Association be shown by the member insurer in its financial statement as an asset as described.

Add a new provision allowing for member insurers to protest assessments. Requires a member insurer wishing to protest the assessment to pay the full amount set out in the assessment notice and include with the payment a brief statement of the grounds for protest. Details the requirements of the Association concerning assessments protests, and requires the Association to notify the member insurer of its final determination within 30 days after a final decision is made. Provides for the member insurer to appeal the final decision within 60 days of receipt of notice. Allows the Association to defer protest determinations to the Commissioner. Provides for refund for protests or appeals upheld. Adds new explicit authorization for the Association to request information from, and require prompt compliance from, member insurers in order to aid in the exercise of its assessment power. Makes clarifying, conforming, and technical changes.

Amends GS 58-62-46(d), requiring the Association's Plan of Operation to establish (1) procedures whereby a director can be removed for cause, including where a member insurer director becomes a delinquent insurer and (2) policies and procedures for the Board to address conflicts of interest. Makes clarifying and technical changes.

Makes conforming, clarifying, and technical changes to GS 58-62-51, regarding the duties and powers of the Commissioner. Specifies that any action of the board or the Association can be appealed to the Commissioner by any member insurer within 60 days of its receipt of notice of the final action being appealed (currently, within 60 days of the final action being appealed). Authorizes the liquidator, rehabilitator, or conservator of any insolvent insurer to notify all interested parties of the effect of the Article (currently, only specifies those of any impaired insurer).

Amends GS 58-62-56, concerning the prevention of member insurer delinquencies. Requires the Commissioner to notify insurance regulators of all other states, US territories, and D.C. within 30 days when revoking or suspending a member insurer's license or making any formal disciplinary order(s) of the member insurer. Removes the requirement that this notice be sent electronically and mailed. Removes the board's ability to request the Commissioner conduct an examination of a member insurer believed to be delinquent. Eliminates the requirement that the board prepare a report to the Commissioner after an insurer insolvency. Makes conforming and technical changes.

Makes conforming changes to GS 58-62-61 (miscellaneous provisions).

Amends GS 58-62-66, requiring the Association to provide a member insurer with a copy of the Association's annual financial report that the Association is required to submit to the Commissioner pursuant to the statute upon request of the member insurer.

Amends GS 58-62-81, increasing the length of stay on proceedings in which the insolvent insurer is a party in any state court from 60 to 180 days from the order of liquidation, rehabilitation, or conservation is final in order to permit proper legal action by the Association on any matters germane to its powers and duties.

Amends GS 58-62-86, which prohibits the advertisement of the existence of the Association or the Article for the purpose of sale or solicitation or inducement to purchase any kind of insurance or other coverage covered under the Article. Adds to the content of the disclaimer prescribed by the Commissioner that must be included in the Association's summary document

giving notice to policyholders of the purpose of and provisions of the Article: (1) the types of policies or contracts for which guaranty funds will provide coverage; (2) explanation rights available and procedures for filing a complaint to allege a violation of the Article's provisions; and (3) as directed by the Commissioner, sources of information about the financial condition of member insurers, provided that the information is not proprietary and is subject to disclosure under public records law. Makes conforming, clarifying, and technical changes.

Amends GS 58-62-95 to make the existing language concerning the use of deposits made by impaired member insurers also applicable to insolvent member insurers. Makes conforming changes.

Amends GS 58-67-145 and GS 58-67-171, making conforming changes to reflect the governance of health maintenance organizations by the provisions of Article 62, as amended by the act.

Establishes that the above provisions do not apply to any member insurer that is insolvent or unable to fulfill its obligations on the date the act becomes law.

Part II

Enacts new GS 58-21-21 to allow a domestic insurer possessing minimum capital and surplus of at least \$15 million, pursuant to a resolution by its board of directors, on the Commissioner of Insurance's (Commissioner) approval, to be designated as a *nonadmitted domestic surplus lines insurer* (now defined in GS 58-21-10 as an insurer that is domiciled in and authorized to transact surplus lines insurance in the state). Provides that a nonadmitted domestic surplus lines insurer must only write surplus lines insurance in this state procured pursuant to the requirements of Article 21 (Surplus Lines Act) and allows a nonadmitted domestic surplus lines insurer to write such insurance in any other jurisdiction where eligible to do so if the insurer complies with that jurisdiction's requirements. Makes insurance written by a nonadmitted domestic surplus lines insurer subject to the premium receipts tax. Exempts such policies from the protection or provisions of GS 58-48 (appears to intend GS Chapter 58, Article 48, Postassessment Insurance Guaranty Association) and GS 58-62 (appears to intend GS Chapter 58, Article 62, North Carolina Life and Health Insurance Guaranty Association), and from statutory requirements relating to insurance rating and rating plans, policy forms, policy cancellation, and nonrenewal in the same manner and extent as surplus lines insurers domiciled in another state. Provides that all financial and solvency requirements imposed on domestic admitted insurers, including 46 specified statutes, articles, and parts, apply to nonadmitted domestic surplus lines insurers unless specifically exempted.

Amends GS 58-21-2 to exempt nonadmitted domestic surplus lines insurers from GS Chapter 58, with the exception of Article 21, unless specifically referenced in the Chapter.

Makes conforming changes to GS 58-21-5 (concerning the purpose of Article 21 and the need for regulation), and GS 58-21-10 (defining terms as they are used in Article 21).

Amends GS 58-21-16 by adding nonadmitted domestic surplus lines insurers to the insurers that an exempt commercial purchaser can request when applying to use the streamlined application process.

Amends GS 58-21-20 to require a surplus lines licensee to verify that the insurer is a nonadmitted domestic surplus lines insurer before a surplus lines licensee can place coverage with a nonadmitted domestic surplus lines insurer.

Makes additional technical changes to GS 58-21-40.

Amends GS 58-21-45 and GS 58-21-50 to add language that nonadmitted domestic surplus lines insurers must include in policies.

Further amends GS 58-21-65 to provide that for insureds whose home state is North Carolina, no agent or broker must directly procure any contract of surplus lines insurance with any nonadmitted domestic surplus lines insurer or nonadmitted insurer unless they possess a current surplus lines insurance license. Makes additional technical changes.

Makes additional technical changes to GS 58-21-75.

Amends GS 58-21-105 to make it a Class 1 misdemeanor for any surplus lines licensee in this state to represent or aid a nonadmitted domestic surplus lines insurer in violation of Article 21.

Part III

Amends GS 58-36-30, concerning rate deviations, as follows. Clarifies that subsection (b) applies to automobile insurance. Amends the provisions related to automobile insurance and homeowners insurance by no longer requiring that the insurer obtain written consent from the insured before using consent to rate. Adds notice language that must be used by an insurer when disclosing that the rates used to calculate the premium are greater than those that apply in the state. Requires that the disclosure be included on any renewal of or endorsement to the policy when the rates exceed the approved manual rate (was, specific insurer not required to obtain the written consent of the insured on any renewal of or endorsement to the policy if the renewal or endorsement says that the rates are greater than those that are applicable in the state). Amends the language that must be included in the homeowners insurance policy notifying the insured that the rates used to calculate the premium are greater than those applied in the state. Deletes the required 30 days' notice to the insured for all written consent to rate and notices required for homeowner's insurance renewals and endorsements. Requires the Commissioner to collect annually and publish on the Department of Insurance's website the percentage of homeowner's insurance policies for which a consent to rate has been obtained, and the average difference between the approved premium and the consented premium. Requires insurers to collect consent to rate data for nonfleet private passenger motor vehicle physical damage and homeowners residential property with no more than four housing units to electronically transmit the 13 specified types of data to the Commissioner semiannually. Effective January 1, 2019, and applies to policies issued, renewed, or amended on or after that date.

Part IV

Amends GS 58-7-163 by amending the items not allowed as assets in any determination of the financial condition of an insurer to specify that any assets used as collateral to secure access to advances from a federal home loan bank is not disallowed (was, the amount of the asset's par value exceeding the par value amount of any outstanding obligations to the federal home loan bank are considered an unencumbered admitted asset).

Deletes proposed amendments to GS 58-7-179(c)(1) and instead amends (c)(1), which is one of the three amounts that a mortgage loan or loan made or acquired by an insurer on any one property must not exceed the larger of, to be 95% of the value of the real property or leasehold securing the real property in the case of a mortgage on a dwelling primarily intended for occupancy by not more than four families if they insure down to 80% with a licensed mortgage insurance company, or 80% of the value in the case of other real estate mortgages.

Amends GS 58-33-30 by amending the requirements for licensing nonresident agents by adding that if a nonresident licensee's license in the licensee's home state is no longer in good standing, the license issued by the Commissioner automatically lapses 30 days after the loss of the home state license. Specifies conditions under which the lapsed license may be reinstated.

Changes the effective date of proposed GS 58-44A-10(e) from September 1, 2017, to when the act becomes law.

Amends GS 58-50-56 by amending the definition of *preferred provider* to mean a health care provider who has agreed to accept special reimbursement or other terms for health care services from an insurer for health care services (was, for health care services on a fee-for-service basis). Allows the Department to adopt temporary rules to implement this change. Repeals GS 58-50-56(e), which provided that except where specifically prohibited either by the statute or by rules adopted by the Commissioner, the contractual terms and conditions for special reimbursements are those that the parties find mutually agreeable. Makes a conforming deletion in GS 58-65-1.

Amends GS 58-36-65 by adding that before a new automobile insurance policy is sold, the Bureau must obtain records of conviction for moving traffic violations, in accordance with rules established by the Bureau that must allow a reasonable period for underwriting review after the binding of coverage in the event that access to conviction records are unavailable at the time of sale or if the applicant has provided incorrect or incomplete information. Effective January 1, 2019, and applies to policies issued, renewed, or amended on or after that date.

Amends GS 58-2-164, which lists items that can be used to prove residence under the rate evasion statute by adding the following items: (1) valid NC driver's license of an owner of an applicant that is a corporation or an LLC if the person holds at least 20% ownership interest and (2) if the principal place of business of a corporation or LLC is the primary residence of the sole owner, any of the other specified documents, whether in the name of the corporation or LLC or in the name of the sole owner. Adds that for the purposes of these two newly added forms of identification, on policies to be ceded to the North Carolina Reinsurance Facility, proof of ownership is established through the execution by the owner of the corporation or LLC, on a form created by the Facility. Specifies that the execution of the form constitutes a written statement in support of an application for insurance or amendment to an automobile insurance policy.

Amends GS 58-68-25 by specifying that excepted benefits are not subject to requirements under GS Chapter 58 regarding coverage of a specific person, provider, treatment, service, condition, or disease unless that coverage is expressly required by law.

Part VI

Amends GS 15A-544.5, setting out the reasons for which a bail bond forfeiture can be set aside, to include when the defendant was incarcerated within the United States at any time between the failure to appear and the final judgement date and the district attorney was notified of the incarceration while the defendant was still incarcerated and the defendant remains incarcerated for a period of 10 days following the district attorney's receipt of the notice if the defendant was released before the time the motion to set aside was filed. Effective October 1, 2018, and applies to hearings held on or after that date.

Deletes proposed changes to GS 58-19-10 concerning the insurance holding company system regulatory act.

Except as otherwise provided, the act is effective when it becomes law.

Intro. by Setzer, Bumgardner, Henson, Destin Hall.

[GS 15A](#), [GS 58](#), [GS 143](#)

[View summary](#)

[Business and Commerce](#), [Insurance](#), [Courts/Judiciary](#), [Criminal Justice](#), [Corrections \(Sentencing/Probation\)](#), [Development, Land Use and Housing](#), [Property and Housing](#), [Government, State Agencies](#), [Department of Insurance](#), [Health and Human Services](#), [Health](#), [Health Insurance](#)

H 529 (2017-2018) [AMEND FUNERAL LAWS](#). Filed Mar 29 2017, *AN ACT AMENDING THE LAWS PERTAINING TO THE PRACTICE OF FUNERAL SERVICE*.

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

Deletes the proposed changes to GS 90-210.133, which added an exception for acts required in GS 90-210.123(f1).

Amends GS 130A-415(j) by correcting a statutory cross-reference.

Intro. by Boles, Alexander, Hunter, Brenden Jones.

[GS 58](#), [GS 90](#), [GS 130A](#)

[View summary](#)

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

H 573 (2017-2018) [BUSINESS/REGULATORY CHANGES. \(NEW\)](#) Filed Apr 5 2017, *AN ACT TO MAKE BUSINESS AND REGULATORY CHANGES TO VARIOUS STATE LAWS*.

Senate amendments make the following changes to the 2nd edition.

Amendment #1 deletes proposed GS 153A-372.2, which authorizes counties to petition the superior court to appoint a receiver to rehabilitate, demolish, or sell a vacant building, structure, or dwelling upon the occurrence of any specified situation the statute deemed a nuisance per se. Makes conforming changes to the descriptive heading to Section 1 of the act and to the effective date provisions set out for Section 1 of the act.

Amendment #2 directs the Alcoholic Beverage Control Commission (Commission) to amend the Advertising Rule (14B NCAC 15B .1006) to allow a sports or entertainment venue with a permanently constructed seating capacity of 3,000 or more that is not located on the campus of a school, college, or university, to display point-of-sale advertising for malt beverages and

fortified wine inside the venue that is visible from outside the venue, and not require the venue to move or remove the advertising. Requires that the existing Advertising Rule be implemented as provided until the Rule is amended.

Intro. by Faircloth, Ross, Blust, Brockman.

[GS 18B](#), [GS 143B](#), [GS 153A](#), [GS 160A](#)

[View summary](#)

Alcoholic Beverage Control, Development, Land Use and Housing, Building and Construction, Property and Housing, Environment, Energy, Government, Local Government

H 810 (2017-2018) [LOAN ORIGINATION/LATE PAYMENT CHARGE CHANGES. \(NEW\)](#) Filed Apr 11 2017, *AN ACT TO MODERNIZE THE LOAN ORIGINATION FEE FOR NORTH CAROLINA BANKS AND TO ADJUST THE LATE PAYMENT CHARGE FOR CERTAIN LOANS.*

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

Makes organizational changes to the proposed changes to GS 24-1.1(e) concerning loan origination fees for North Carolina banks. Modifies the proposed table setting out maximum origination fees by principal amount for a loan or extension of credit with a principal amount less than \$100,000, with the table now setting the maximum origination fee at \$100 for loans or extensions with a principal amount of \$0 to \$1,499.99 and \$150 for loans or extension with a principal amount of \$1,500 to \$19,999.99 (previously, set the maximum origination fee at \$150 for loans or extension with a principal amount of \$0 to \$19,999). Further modifies the table to provide for the difference in cents between the specified levels of principal amounts. Adds a new subdivision (e)(3), prohibiting a loan or extension of credit with a principal amount of less than \$5,000 from having an annual percentage rate that exceeds 36%, inclusive of the charged permitted by subsection (e) and the interest rate provisions of subsection (c). Specifies that annual percentage rate as used here is calculated using the standards established by the federal Truth In Lending Act (15 USC 1601, et seq.) and all regulations and rulings issued pursuant to that Act. Limits the application of new subdivision (e)(3) to situations where the borrower is a natural person and the debt is incurred primarily for personal, family, or household purposes.

Adds to the proposed changes to GS 24-10.1(b)(1), concerning late payment charges imposed by lenders on a party to a loan or extension of credit. The previous edition proposed to prohibit a late payment charge greater than \$35 or 4% of the amount of the past due payment for a loan or extension of credit that (1) is made by a bank or savings institution organized under NC or federal law, (2) is not secured by real property, and (3) is governed by GS 24-1.1 (regarding contract rates and fees for specified loans and extensions of credit, amended by the act). Further requires the loan or extension of credit to have an original balance greater or equal to \$1,500 for the proposed prohibition in subdivision (b)(1) to apply.

Intro. by Destin Hall, Bradford, Stone, Saine.

[GS 24](#)

[View summary](#)

Banking and Finance

H 967 (2017-2018) [TELEMEDICINE POLICY](#). Filed May 17 2018, *AN ACT DIRECTING THE DEPARTMENT OF HEALTH AND HUMAN SERVICES TO STUDY AND REPORT RECOMMENDATIONS FOR VARIOUS TELEMEDICINE STANDARDS.*

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

Amends the study on telemedicine reimbursement standards for private health benefit plans to require that it include a recommendation on whether or not the General Assembly should require measurability assessments done in accordance with GS Chapter 143E (The North Carolina Measurability Assessment Act of 2016) in connection with establishing those reimbursement standards.

Amends the study on a plan to ensure that all state residents have sufficiently advanced internet connectivity to receive health care via telemedicine to require that it include a recommendation on whether or not the General Assembly should require measurability assessments done in accordance with GS Chapter 143E in connection with the plan.

Amends the study on recommended performance metrics to be used in assessing the quality of telemedicine service provided in the state to require that it include a recommendation on whether or not the General Assembly should require measurability assessments done in accordance with GS Chapter 143E in connection as part of the performance metrics.

Amends the study on recommended state licensing standards, credentialing processes, and prescribing standards for telemedicine providers to require that it include a recommendation on whether or not the General Assembly should require measurability assessments done in accordance with GS Chapter 143E in developing those standards and processes.

Intro. by Lambeth, Dobson.

STUDY

[View summary](#)

Government, State Agencies, Department of Health and Human Services, Department of Insurance, Office of Information Technology Services, Health and Human Services, Health, Health Care Facilities and Providers, Health Insurance

H 969 (2017-2018) **ENHANCE PRISON SECURITY**. Filed May 17 2018, *AN ACT TO ENHANCE PRISON SECURITY, AS RECOMMENDED BY THE JOINT LEGISLATIVE OVERSIGHT COMMITTEE ON JUSTICE AND PUBLIC SAFETY*.

House committee substitute deletes all provisions of 1st edition and replaces it with *AN ACT TO ENHANCE PRISON SECURITY, AS RECOMMENDED BY THE JOINT LEGISLATIVE OVERSIGHT COMMITTEE ON JUSTICE AND PUBLIC SAFETY*. Now amends GS Chapter 14, Article 33, concerning prison-related safety offenses including prison escapes and possession and furnishing of dangerous weapons in prison, adding new GS 14-254.5, defining the term *employee* as any person working for the State or local government, and *prisoner* as any person in the custody of a law enforcement officer, the Division of Adult Correction and Juvenile Justice, or any local confinement facility.

Adds new GS 14-258.7, requiring the Department of Public Safety and Juvenile Justice, the Conference of District Attorneys, and the Administrative Office of the Courts to each report to the Joint Legislative Oversight Committee on Justice and Public Safety annually by March 15. These reports must include the quantity and resolution of each violation of Article 33 and GS 14-34.5(b), 14-34.7(b), and 14-34.7(c)(2) (concerning assault on detention facility employees). Effective when the act becomes law.

Amends GS 14-258.4(a), which sets out the elements of the crime of malicious conduct by a prisoner, to include exposing genitalia to an employee and throwing an unknown substance on an employee. Makes other conforming changes. Amends GS 14-258, deleting all provisions and replacing them with new section "Providing forbidden articles or tools for escape; possessing tools for escape." Sets out the elements of providing forbidden articles or tools for escape as conveying to a prisoner an article forbidden by prison rules or a letter, oral message, weapon, tool, good, clothing, or device to effect an escape or aide in an assault or insurrection. Makes this a Class H felony, elevated to a Class F felony if committing this conveyance does effect an escape, assault, or insurrection. Sets possession of escape tools for the purpose of effecting an escape or aiding in an assault or insurrection as a Class H felony. Effective December 1, 2018, and applies to offenses committed on or after that date.

Amends GS 143B-919, which sets out the cases which the State Bureau of Investigation is required to investigate, adding any threat to school safety due to weapons on campus, and breaking or entering into a place of worship with intent to commit any felony or larceny. Makes other technical changes. Effective when the act becomes law.

Unless otherwise indicated, effective December 1, 2018.

Intro. by Davis, Boles.

GS 14, GS 143B

[View summary](#)

Courts/Judiciary, Criminal Justice, Corrections (Sentencing/Probation), Government, State Agencies, Department of Public Safety

H 998 (2017-2018) [IMPROVING NC RURAL HEALTH \(NEW\)](#). Filed May 23 2018, *AN ACT DIRECTING THE DEPARTMENT OF HEALTH AND HUMAN SERVICES TO STUDY AND REPORT RECOMMENDATIONS TO CREATE INCENTIVES FOR MEDICAL EDUCATION IN RURAL AREAS OF THE STATE AND TO ASSIST RURAL HOSPITALS IN BECOMING DESIGNATED AS TEACHING HOSPITALS BY THE CENTERS FOR MEDICARE AND MEDICAID SERVICES; TO DIRECT THE OFFICE OF RURAL HEALTH, DEPARTMENT OF HEALTH AND HUMAN SERVICES, TO ENSURE ITS LOAN REPAYMENT PROGRAM IS TARGETED TO BENEFIT HEALTH CARE PROVIDERS IN RURAL NORTH CAROLINA, INCLUDING IDENTIFYING AND MAKING RECOMMENDATIONS TO ADDRESS THE NEED FOR DENTISTS IN RURAL AREAS; AND TO DIRECT THE PROGRAM EVALUATION DIVISION TO STUDY THE STATE HEALTH PLAN AND TO DIRECT THE DEPARTMENT OF HEALTH AND HUMAN SERVICES TO STUDY CHANGES TO THE MEDICAID PROGRAM THAT WILL INCREASE PREVENTATIVE HEALTH SERVICES, IMPROVE HEALTH OUTCOMES, AND LOWER THE COST OF CARE; AND TO IMPROVE ACCESS TO DENTAL CARE IN RURAL NORTH CAROLINA.*

House amendments make the following changes to 2nd edition. Amends title to include language regarding improving access to dental care in rural North Carolina and the study of the impact of the Medicaid program on rural economies and resident's health.

Amendment #5 adds new Section 5, requiring the Department of Health and Human Services to study the impact of the Medicaid program on the health of individuals residing in rural areas of the state and economies of those areas. The study must include possible changes to the Medicaid program that would increase preventative health services and lower the overall cost of care, and an evaluation of the direct primary care model. Specifies four items that must be determined in the study. The report must be submitted to the Joint Legislative Oversight Committee on Medicaid and NC Health Choice by October 1, 2019.

Amendment #3 adds new Section 6. Adds a statement about the benefit of expediting the licensing of dentists in states that border NC.

Amends GS 90-36, concerning licensing dentists from other states, requiring the State Board of Dental Examiners to issue a dentist license by credentials to any applicant who holds a current license and is in good standing in a state bordering North Carolina that will also issue a license by credentials to a dentist licensed in North Carolina. A dentist seeking admission in this manner must otherwise fulfill the standard conditions for licensure in the State. Removes requirement that a licensed dentist must establish a practice location and actively practice dentistry in the state within one year of licensure. Effective October 1, 2018.

Intro. by Lewis, Murphy, White, Hunter.

[STUDY, GS 90](#)

[Education, Higher Education, Government, General Assembly, State Agencies, Department of Health and Human Services, Health and Human Services, Health, Health Care Facilities and Providers, Health Insurance, Social Services, Public Assistance](#)

[View summary](#)

H 1021 (2017-2018) [PEOPLE FIRST LANGUAGE 2018](#). Filed May 24 2018, *AN ACT TO UPDATE THE GENERAL STATUTES OF NORTH CAROLINA WITH PEOPLE FIRST LANGUAGE BY CHANGING THE PHRASE "MENTAL RETARDATION" TO "INTELLECTUAL DISABILITY" IN CERTAIN SECTIONS AND TO MAKE OTHER PEOPLE FIRST LANGUAGE AMENDMENTS AND TECHNICAL AMENDMENTS IN THOSE SECTIONS, AS RECOMMENDED BY THE GENERAL STATUTES COMMISSION.*

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

Amends the definitions that apply to GS Chapter 168, as found in GS 168A-3, to define *physical or mental impairment* as including any mental or psychological disorder such as intellectual disability, organic brain syndrome, emotional or mental illness, and specific learning disability (was, any mental disorder, such as intellectual disabilities, organic brain syndrome, mental illness, specific learning disabilities, and other developmental disabilities).

Intro. by Davis.

[GS 1, GS 7B, GS 8C, GS 14, GS 15, GS 15A, GS 35A, GS 58,](#)

GS 62, GS 90, GS 110, GS 115C, GS 130A, GS 143, GS 143B,
GS 153A, GS 159, GS 168, GS 168A

**Courts/Judiciary, Civil, Civil Procedure, Evidence, Criminal
Justice, Criminal Law and Procedure, Education, Elementary
and Secondary Education, Government, Local Government,
Health and Human Services, Health, Mental Health, Social
Services, Adult Services, Child Welfare**

[View summary](#)

H 1093 (2017-2018) [URGE FREEDOM OF AMERICAN IN TURKISH PRISON](#). Filed Jun 11 2018, *A JOINT RESOLUTION URGING THE RELEASE OF PASTOR ANDREW BRUNSON FROM A TURKISH PRISON.*

As title indicates.

Intro. by McGrady, Bert Jones, Ager, Dollar.

JOINT RES

[View summary](#)

Government, General Assembly

H 1094 (2017-2018) [URGE FREEDOM OF AMERICAN IN TURKISH PRISON](#). Filed Jun 11 2018, *A HOUSE RESOLUTION URGING THE RELEASE OF PASTOR ANDREW BRUNSON FROM A TURKISH PRISON.*

As title indicates.

Intro. by McGrady, Bert Jones, Ager, Dollar.

HOUSE RES

[View summary](#)

Government, General Assembly

PUBLIC/SENATE BILLS

S 168 (2017-2018) [AOC OMNIBUS CHANGES \(NEW\)](#). Filed Mar 1 2017, *AN ACT TO MAKE VARIOUS CHANGES TO THE LAW GOVERNING THE ADMINISTRATION OF JUSTICE.*

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

Deletes the previous provisions. Changes the act's long and short titles, and now provides the following.

Repeals GS 7A-6(c), which requires the Administrative Office of the Courts (AOC) to distribute the appellate reporter advance sheets to judges, justices, district attorneys, superior court clerks, prosecutors, special counsel at regional psychiatric facilities, and the Supreme Court library, as specified.

Amends GS 7A-111, concerning the receipt and disbursement of insurance and other moneys for minors and incapacitated adults by the public guardian or clerk of superior court, increasing the maximum proceeds of a policy under the statute from \$25,000 to \$50,000.

Amends GS 7A-307, clarifying that the fees set out for power of attorney proceedings before a clerk apply to the administration of trusts under wills and under powers of attorney. Adds power of attorney proceedings under GS 32C-1-116(a) to those proceedings to which the specified costs apply, which includes proceedings before a clerk of superior court to compel accounting by an agent, terminate or limit power of attorney, determine compensation for an agent, or determine an agent's authority and power under an agreement.

Amends GS 7A-308, establishing a \$300 fee to be collected by the clerk of superior court for in rem foreclosures conducted pursuant to GS 105-375. Effective July 1, 2018.

Amends GS 7A-343.1, which lists the various entities the AOC must distribute copies of the appellate division of reports to. Modifies the statute's language to require the AOC to distribute the copies upon request only. Eliminates 48 entities from those that the AOC must distribute copies to and modifies the number of copies that must be distributed, upon request, to the entities remaining on the list. Remaining entities (some modified) include: the attorney general, Utilities Commission, Industrial Commission, Office of Administrative Hearings, Division of Archives and History, Legislative Building Library, justices of the supreme court, judges of the court of appeals, judges of the superior court, clerks of the superior court, district attorneys, Supreme Court of North Carolina Library, Appellate Division Reporter, UNC School of Law, NC Central University School of Law, Duke University School of Law, Wake Forest University School of Law, Elon University School of Law, Campbell University School of Law, US Department of Justice, Library of Congress, federal judges resident in North Carolina, Librarian at the US Supreme Court, US attorneys resident in North Carolina, Supreme Court Library exchange list, and the Cherokee Supreme Court Eastern Band of Cherokee Indians.

Enacts GS 7A-498.3(b1) to require the Office of Indigent Defense Services (IDS) to develop a model appointment plan with minimum qualification standards for appointed private counsel by July 1, 2019, for adoption and promulgation by each judicial district. Permits judicial districts to request modifications to the model plan and qualification standards. Makes IDS's model plan and qualification standards effective January 2, 2021, in judicial districts that have not adopted the plan by that date. Directs IDS to review the model plan every five years and notify the judicial districts of any modifications to the model plan or qualification standards. Gives judicial districts 18 months from the date of the notice from IDS to seek modifications to the revised model plan or the qualification standards.

Amends GS 15A-304(b) regarding arrest warrants. Makes organizational changes to provide that in determining whether an arrest warrant should be issued, a judicial official must consider in determining whether the person should be taken into custody the person's failure to appear when previously summoned, facts making it apparent that a person summoned will fail to appear, danger that the person accused will escape, danger that there may be injury to persons or property, or the seriousness of the offense (previously, these factors and others were set out in subdivision (b)(2); two factors, the location of the accused is not readily discoverable and a relevant statute provides that the arrest is mandatory, are eliminated). Modifies subdivision (b) (3), permitting an official to find probable cause to issue a criminal summons or an arrest warrant pursuant to the statute based solely upon an affidavit or oral testimony under oath or affirmation of a person who is not a sworn law enforcement officer (previously, must be based on a written affidavit if the person is not a sworn law enforcement officer). Makes conforming changes. Effective October 1, 2018, and applies to warrants issued on or after that date.

Amends GS 28A-22-7, increasing the maximum personal property devise made to a minor that may be distributed by the estate's personal representative to the minor's parent or guardian from \$1,500 to \$5,000. Makes conforming changes concerning several devises of personal property to a single devisee with a combined total of less than \$5,000. Effective January 1, 2019.

Amends GS 30-15, increasing the allowance a surviving spouse is entitled to by statute out of the personal property of the deceased spouse for one year after the death of the deceased spouse from \$30,000 to \$60,000. Effective January 1, 2019, and applies to allowance applications made on or after that date.

Makes technical corrections to GS 35A-1114 concerning motions and hearings for interim guardian appointments.

Enacts new subsections (f) through (m) to GS 45-21.21 regarding foreclosure sale cancellations. Explicitly requires a foreclosure sale to begin at the time designated in the notice of sale or as soon thereafter as practicable, not exceeding one hour after the fixed time unless the sale is delayed by other sales held at the same place. Requires the sale to be held between 10:00 a.m. and 4:00 p.m. on any day the clerk of superior court's office is normally open for transactions. Requires a person exercising the power of sale to immediately deliver a written notice to the clerk of superior court (clerk) if it is determined the sale cannot be held pursuant to the statute or is postponed pursuant to the statute, and details the information to be included in the written notice. Details actions a person exercising the power of sale must take upon postponement of a sale in the event the notice required by existing subsection (b) of the statute is not received by the clerk prior to the scheduled time of the sale, including publicly announcing the cancellation of the sale at the time and place advertised for the sale. Directs the clerk to provide to a person exercising the power of sale an email address and/or fax number to use for delivery of cancellation notices. Establishes that the requirements of the statute are delayed until the next day the clerk's office is open for transactions in the event the office is unexpectedly closed on the day of the sale. Requires all notices of a scheduled foreclosure sale, withdrawal

of a scheduled sale, or postponement of a scheduled sale to be posted by the person exercising the power of sale, on the day of receipt of notice by the clerk, in the location at the county courthouse normally used for posting public notices. Requires notices of scheduled sales that have been withdrawn to remain posted for at least 30 days. Requires notices of sales that have been postponed to remain posted until replaced by a notice of a rescheduled sale or a withdrawn sale. Specifies that the delivery of notices required by the statute does not abate any responsibility of any party to file documents with the clerk as required by law. Authorizes a clerk to report habitual noncompliance with the statute to the AOC. Effective July 1, 2018, and applies to foreclosure sales noticed on or after that date.

Amends GS 48-9-102, regarding the confidentiality of adoption records. Excepts the Special Proceedings Index from the mandatory retention and sealing of all adoption records and indices of records upon the finalization of an adoption decree. Adds any orders of dismissal to those records related to an adoption that must be sent by the clerk of superior court to the Division of Social Services (Division) and retained by the clerk. Adds that all of the specified records relating to an adoption must be sent by the clerk to the Division within 10 days after the appeal period for a decree of adoption has expired (was, within 10 days after the decree of adoption is entered) or 10 days following the final disposition of an appeal pursuant to GS 48-2-607(b).

Amends GS 132-1.10 regarding the collection of personally identifying information by state and local government agencies. Enacts GS 132-1.10(f2), authorizing the AOC or a clerk of superior court to keep confidential the names, phone numbers, and email addresses collected for the purpose of a court proceeding notification system.

Enacts GS 75-104, authorizing a person to use an automatic dialing and recorded message player to make an unsolicited phone call if the call is generated from a court proceedings notification system established by the AOC.

Provides a severability clause.

Intro. by Randleman.

GS 7A, GS 15A, GS 28A, GS 30, GS 35A, GS 45, GS 48, GS 75, GS 132

[View summary](#)

Courts/Judiciary, Civil, Civil Law, Court System, Criminal Justice, Criminal Law and Procedure, Government, State Agencies, Department of Justice

S 616 (2017-2018) **HEROIN & OPIOID PREVENTION & ENFORCEMENT ACT (NEW)** . Filed Apr 4 2017, *AN ACT AMENDING LAWS PERTAINING TO THE NORTH CAROLINA CONTROLLED SUBSTANCES ACT AND THE NORTH CAROLINA CONTROLLED SUBSTANCES REPORTING SYSTEM ACT. INCLUDING THE REVISION AND ESTABLISHMENT OF PENALTIES FOR CERTAIN VIOLATIONS, AND EXPRESSING THE INTENT TO APPROPRIATE ADDITIONAL FUNDS IN THE FUTURE FOR COMMUNITY-BASED SUBSTANCE USE DISORDER TREATMENT AND RECOVERY SERVICES, THE PURCHASE OF OVERDOSE MEDICATIONS, OPERATION MEDICINE DROP, AND A SPECIAL AGENT POSITION WITHIN THE STATE BUREAU OF INVESTIGATION.*

House committee substitute makes the following changes to the 3rd edition. Changes the effective date from July 1, 2018, to (1) September 1, 2018, for Section 10 of the act which amended GS 90-113.73 by adding to the items the dispenser must report and (2) December 1, 2018, for the criminal offenses created in GS 90-113.74(k) concerning improperly accessing data in the controlled substances reporting system.

Intro. by J. Davis.

APPROP, GS 17C, GS 17E, GS 90, GS 143C

[View summary](#)

Courts/Judiciary, Criminal Justice, Criminal Law and Procedure, Government, Budget/Appropriations, Public Safety, State Agencies, Department of Health and Human Services, Health and Human Services, Health, Public Health

S 711 (2017-2018) [NC FARM ACT OF 2018](#). Filed May 16 2018, *AN ACT TO MAKE VARIOUS CHANGES TO THE AGRICULTURAL LAWS*.

Senate amendments make the following changes to 3rd edition, as amended. Amendment #3 removes requirement for the Utilities Commission to adopt rules for reasonable limitations on the amount by which a natural gas local distribution company may increase its margin revenues in the event that actual construction costs exceed the estimated construction costs provided in the agreement. Makes other clarifying changes.

Amendment #4 adds whereas clauses. Amends GS 106-701, deleting previous provision to now provide that a nuisance action cannot be filed against an agricultural or forestry operation (operation) unless the plaintiff possesses the land affected by the conditions, the land is within half a mile of the operation, and the action is filed within one year of the establishment of the operation or one year of the operation undergoing a fundamental change. Removes exception to nuisance immunity which previously applied when the nuisance resulted from negligent or improper operation. Amends GS 106-702 to forbid a plaintiff from recovering punitive damages in a private nuisance action against an operation when the action was not brought within three years of the first alleged nuisance act. Makes other clarifying and technical changes. Deletes proposed changes to GS 106-700.

Intro. by B. Jackson, Cook, Sanderson.

[STUDY, GS 66, GS 90, GS 105, GS 106, GS 120, GS 139, GS 153A](#)

[View summary](#)

[Agriculture, Business and Commerce, Occupational Licensing, Government, Public Safety, State Agencies, Department of Agriculture and Consumer Services, Department of Commerce, Department of Revenue, Tax, Local Government, Health and Human Services, Health, Public Health, Public Enterprises and Utilities](#)

S 735 (2017-2018) [VARIOUS OLB AND ADMINISTRATIVE LAW CHANGES. \(NEW\)](#) Filed May 23 2018, *AN ACT TO REFORM FINANCIAL REPORTING OF OCCUPATIONAL LICENSING BOARDS, COMBINE THE FUNCTIONS OF THE NORTH CAROLINA BOARD OF BARBER EXAMINERS AND THE NORTH CAROLINA BOARD OF ELECTROLYSIS EXAMINERS, AUTHORIZE AGENCIES TO MAKE RULE TECHNICAL CORRECTIONS WITHOUT REVIEW BY THE RULES REVIEW COMMISSION, AUTHORIZE THE CODIFIER OF RULES TO MAKE RULE TECHNICAL CORRECTIONS, CLARIFY THAT A PARTY MAY COMMENCE A CONTESTED CASE IN A DISPUTE WITH AN AGENCY WITHOUT PETITIONING THE AGENCY FOR RULE MAKING OR OBTAINING A DECLARATORY RULING, REVISE THE PROCESS FOR THE REVIEW AND READOPTION OF EXISTING RULES, AND EXPAND THE MASSAGE AND BODYWORK THERAPY BOARD*.

Senate amendment makes the following changes to 2nd edition. Removes requirement for each occupational licensing board to make annual reports to the Secretary of State. Amends GS 93B-4 to provide that each occupational licensing board's books, records and operations are subject to audit, not oversight, by the State Auditor. Makes Sections 1.6 and 1.7, amending GS 93B-2 and GS 93B-4, effective July 1, 2019. Makes the remainder of the Part effective when it becomes law. Allows the Board of Barber and Electrolysis Examiners to employ attorneys to perform duties prescribed by the Board. Requires barber schools to annually renew their license by May 31. Sets fee the Board may charge for examination to become a barber school instructor at \$165. Makes other technical changes.

Intro. by Wells, Daniel.

[STUDY, GS 86A, GS 86B, GS 88A, GS 90, GS 93B, GS 143B, GS 150B](#)

[View summary](#)

[Business and Commerce, Occupational Licensing, Government, APA/Rule Making, General Assembly](#)

ACTIONS ON BILLS

PUBLIC BILLS

H 9: ALLOW ELECTION DAY SERVICE - RETIRED LEOS.

Senate: Withdrawn From Com

Senate: Re-ref to Select Committee on Elections. If fav, re-ref to Pensions and Retirement and Aging. If fav, re-ref to Rules and Operations of the Senate

H 92: CHEROKEE REG. PLATE/TEACHING AGREEMENT. (NEW)

House: Concurred In S Com Sub

House: Ordered Enrolled

H 223: SPECIAL PLATES/HANDICAPPED PLACARD RENEWAL. (NEW)

Senate: Special Message Sent To House

House: Special Message Received For Concurrence in S Com Sub

House: Cal Pursuant 36(b)

House: Placed On Cal For 06/13/2018

H 277: NATUROPATHIC STUDY (NEW).

Senate: Withdrawn From Com

Senate: Re-ref to Health Care. If fav, re-ref to Rules and Operations of the Senate

H 351: UTILITIES/RATE BASE/FAIR VALUE DETERMINATION.

Senate: Withdrawn From Com

Senate: Re-ref to Commerce and Insurance. If fav, re-ref to Rules and Operations of the Senate

H 361: SUPPORT SHELLFISH INDUSTRY (NEW).

House: Failed Concur In S Com Sub

H 379: TASK FORCE ON REGULATORY REFORM.

Senate: Reptd Fav

Senate: Placed on Today's Calendar

Senate: Passed 2nd Reading

Senate: Passed 3rd Reading

Senate: Special Message Sent To House

House: Special Message Received For Concurrence in S Com Sub

House: Cal Pursuant Rule 36(b)

H 382: DOI OMNIBUS-AB (NEW).

Senate: Reptd Fav

H 414: SWAIN COUNTY/OFFICIAL FLY FISHING MUSEUM (NEW).

House: Concurred In S Com Sub

House: Ordered Enrolled

H 496: FAIR AND NONPARTISAN BALLOT PLACEMENT.

Senate: Withdrawn From Com

Senate: Re-ref to Select Committee on Elections. If fav, re-ref to Rules and Operations of the Senate

H 512: MONITOR IMPLEMENTATION OF TBI WAIVER.

Senate: Withdrawn From Com

Senate: Re-ref to Health Care. If fav, re-ref to Rules and Operations of the Senate

H 529: AMEND FUNERAL LAWS.

House: Amend Adopted A1

House: Passed 2nd Reading

House: Passed 3rd Reading

House: Ordered Engrossed

H 573: BUSINESS/REGULATORY CHANGES. (NEW)

Senate: Reptd Fav

Senate: Placed on Today's Calendar

Senate: Amend Adopted A1

Senate: Amend Adopted A2

Senate: Passed 2nd Reading

Senate: Passed 3rd Reading

Engrossed

H 613: TRANSFER CERTAIN STATE PROPERTY. (NEW)

Senate: Reptd Fav

Senate: Placed on Today's Calendar

Senate: Passed 2nd Reading

Senate: Passed 3rd Reading

Senate: Special Message Sent To House

House: Special Message Received For Concurrence in S Com Sub

House: Cal Pursuant Rule 36(b)

H 659: FILLING VACANCIES/U.S. SENATE.

Senate: Withdrawn From Com

Senate: Re-ref to Select Committee on Elections. If fav, re-ref to Rules and Operations of the Senate

H 717: JUDICIAL ELECTIONS CHANGES. (NEW)

Senate: Conf Com Appointed

H 779: CHARTER SCHOOL CHANGES.

Senate: Withdrawn From Com

Senate: Re-ref to Commerce and Insurance. If fav, re-ref to Rules and Operations of the Senate

H 810: LOAN ORIGINATION/LATE PAYMENT CHARGE CHANGES. (NEW)

Senate: Reptd Fav

Senate: Placed on Today's Calendar

Senate: Amend Adopted A1

Senate: Passed 2nd Reading

Senate: Passed 3rd Reading

Engrossed

H 826: MODIFY LOW-PERFORMING SCHOOL DEFINITION.

Senate: Withdrawn From Com

Senate: Re-ref to Commerce and Insurance. If fav, re-ref to Rules and Operations of the Senate

H 945: RAPE EVIDENCE COLLECTION KIT TRACKING ACT.

House: Withdrawn From Cal

House: Cal Pursuant Rule 36(b)

House: Placed On Cal For 06/12/2018

H 967: TELEMEDICINE POLICY.

House: Amend Adopted A1

House: Passed 2nd Reading

House: Passed 3rd Reading

House: Ordered Engrossed

H 969: ENHANCE PRISON SECURITY.

House: Reptd Fav Com Substitute

House: Cal Pursuant Rule 36(b)

House: Placed On Cal For 06/13/2018

H 982: IDD DATA SHARING/LONGITUDINAL DATA SYSTEM.

Senate: Withdrawn From Com

Senate: Re-ref to Education/Higher Education. If fav, re-ref to Rules and Operations of the Senate

H 998: IMPROVING NC RURAL HEALTH (NEW).

House: Amend Adopted A3

House: Amend Adopted A5

House: Passed 3rd Reading

House: Ordered Engrossed

House: Ordered Engrossed

H 1002: MEDICAL EDUCATION & RESIDENCY STUDY.

House: Passed 2nd Reading

House: Passed 3rd Reading

House: Special Message Sent To Senate

Senate: Special Message Received From House

Senate: Passed 1st Reading

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

H 1021: PEOPLE FIRST LANGUAGE 2018.

House: Reptd Fav Com Substitute

House: Cal Pursuant Rule 36(b)

House: Placed On Cal For 06/13/2018

H 1022: COLLABORATIVE LAW.

House: Passed 2nd Reading

House: Passed 3rd Reading

House: Special Message Sent To Senate

Senate: Special Message Received From House

Senate: Passed 1st Reading

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

H 1029: DOT/DMV LEGISLATIVE REQUESTS.

House: Withdrawn From Cal

House: Cal Pursuant Rule 36(b)

House: Placed On Cal For 06/12/2018

H 1031: LOCAL ED. FUNDING DISPUTE PROCESS.

House: Serial Referral To State and Local Government II Stricken

H 1040: AMEND SUM EJECT SERVICE/ALLOW PROCESS SERVER.

House: Withdrawn From Cal

House: Cal Pursuant Rule 36(b)

H 1054: UNC CAPITAL PROJECTS.

House: Passed 2nd Reading

H 1055: RETIREMENT COMPLEXITY REDUCTION ACT OF 2018.-AB

House: Withdrawn From Com

House: Cal Pursuant Rule 36(b)

House: Placed On Cal For 06/12/2018

H 1056: FAIR 2018.-AB

House: Passed 2nd Reading

House: Passed 3rd Reading

House: Special Message Sent To Senate

Senate: Special Message Received From House

Senate: Passed 1st Reading

Senate: RefTo Com On Rules and Operations of the Senate

H 1088: AUTHORIZE WILDLIFE ACT RESOLUTION.

House: Passed 1st Reading

House: RefTo Com On Rules, Calendar, and Operations of the House

H 1089: CHANGE BURDEN OF PROOF/CANDIDACY CHALLENGE.

House: Passed 1st Reading

House: RefTo Com On Elections and Ethics Law

H 1092: CONST. AMENDMENT - REQUIRE PHOTO ID TO VOTE.

House: Passed 1st Reading

House: RefTo Com On Elections and Ethics Law

H 1093: URGE FREEDOM OF AMERICAN IN TURKISH PRISON.

House: Filed

H 1094: URGE FREEDOM OF AMERICAN IN TURKISH PRISON.

House: Filed

S 15: ISD AND LOCAL BOARD CONTRACTING CHANGES (NEW).

House: Withdrawn From Cal

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

S 168: AOC OMNIBUS CHANGES (NEW).

House: Reptd Fav Com Substitute

House: Cal Pursuant Rule 36(b)

House: Placed On Cal For 06/13/2018

S 335: STUDY/FAIR TREATMENT OF COLLEGE ATHLETES.

House: Conf Com Dismissed

House: Conferees Reappointed

S 462: CHANGE NAME OF UNC GENERAL ADMINISTRATION. (NEW)

Senate: Concurred In H Com Sub

Senate: Ordered Enrolled

S 616: HEROIN & OPIOID PREVENTION & ENFORCEMENT ACT (NEW) .

House: Reptd Fav Com Sub 2

House: Cal Pursuant Rule 36(b)

House: Placed On Cal For 06/13/2018

S 622: BUSINESS CORPORATION ACT REVISIONS.

House: Withdrawn From Com

House: Re-ref Com On Judiciary II

S 655: CHANGE DATE WHEN PRIMARY ELECTIONS HELD.

Senate: Withdrawn From Com

Senate: Re-ref to Select Committee on Elections. If fav, re-ref to Rules and Operations of the Senate

S 711: NC FARM ACT OF 2018.

Senate: Amend Adopted A3

Senate: Amend Adopted A4

Senate: Passed 3rd Reading

Engrossed

S 735: VARIOUS OLB AND ADMINISTRATIVE LAW CHANGES. (NEW)

Senate: Reptd Fav

Senate: Placed on Today's Calendar

Senate: Amend Adopted A1

Senate: Passed 2nd Reading

Senate: Passed 3rd Reading

Engrossed

S 758: BUILD NC BOND ACT OF 2018.

House: Withdrawn From Com

House: Cal Pursuant Rule 36(b)

House: Placed On Cal For 06/12/2018

LOCAL BILLS

H 929: RECREATION SERVICE DISTRICT - JOHNSTON COUNTY.

House: Withdrawn From Cal

House: Cal Pursuant Rule 36(b)

House: Placed On Cal For 06/12/2018

H 950: CARTHAGE, POLLOCKSVILLE SATELLITE ANNEXATIONS (NEW).

Senate: Withdrawn From Com

Senate: Re-ref to State and Local Government. If fav, re-ref to Rules and Operations of the Senate

H 971: WINSTON-SALEM DEANNEXATION.

House: Passed 2nd Reading

H 1004: WRIGHTSVILLE BEACH LOCAL ACT CHANGES.

House: Passed 3rd Reading

House: Ordered Engrossed

H 1017: MOORE/STANLY COUNTY LOCAL SALES TAX USE RESTRICTION (NEW).

House: Passed 2nd Reading

H 1027: BALD HEAD ISLAND/NO-WAKE ZONE. (NEW)

Senate: Withdrawn From Com

Senate: Re-ref to State and Local Government. If fav, re-ref to Rules and Operations of the Senate

H 1028: OAK ISLAND CHARTER AMENDMENT.

Senate: Withdrawn From Com

Senate: Re-ref to State and Local Government. If fav, re-ref to Rules and Operations of the Senate

H 1090: AVERY COUNTY FIRE COMMISSION.

House: Passed 1st Reading

House: Ref To Com On State and Local Government I

H 1091: NORWOOD CHARTER REVISED & CONSOLIDATED.

House: Passed 1st Reading

House: Ref To Com On State and Local Government I

S 566: WRIGHTSVILLE BEACH/WILMINGTON DEANNEX-ANNEX (NEW).

Senate: Withdrawn From Cal

Senate: Placed On Cal For 06/18/2018

S 809: GREENSBORO CRIMINAL JUSTICE ADVISORY COMM.

Senate: Passed 1st Reading

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

S 810: WEATHER ACCOMMODATE CERTAIN COUNTIES.

Senate: Passed 1st Reading

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

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