



The Daily Bulletin: 2021-09-08

PUBLIC/HOUSE BILLS

H 103 (2021) [AUTOMATIC RENEWAL OF CONTRACTS](#). Filed Feb 17 2021, *AN ACT TO AMEND THE REQUIREMENTS FOR CERTAIN AUTOMATICALLY RENEWING CONSUMER CONTRACTS*.

Senate amendment makes the following changes to the 3rd edition.

Adds to the proposed changes to GS 75-41, regarding automatic renewal clauses in contracts, to require that the required disclosure statement be in at least 12 point type and in bold print. Amends the items that must be included in the disclosure statement to require including a statement that the contract will be automatically renewed unless the consumer gives notice to the seller of the consumer's intention to terminate the contract prior to the renewal date (was, that the contract will be automatically renewed if the consumer agrees to the contract) and adds that there must be a space beside this disclosure to be initialed by the consumer acknowledging the consumer's specific consent to this provision. Also amends the statute to prohibit imposing a charge for an automatic renewal if the consumer did not initial the space provided beside this automatic renewal disclosure (was, required obtaining the consumer's affirmative consent before charging the consumer for an automatic renewal). Deletes (d) of the statute, which exempted from the statute insurers licensed under GS Chapter 58, or banks, trust companies, savings and loan associations, savings banks, or credit unions licensed or organized under the laws of any state or the United States, or any foreign bank maintaining a branch or agency licensed under the laws of the U.S., or any subsidiary or affiliate thereof, or entities subject to regulation by the Federal Communications Commission under Title 47 of the United States Code or by the North Carolina Utilities Commission under GS Chapter 62, or to any entity doing business directly or through an affiliate pursuant to a franchise, license, certificate, or other authorization issued by a political subdivision of the State or its agencies.

Intro. by Stevens.

[GS 75](#)

[View summary](#)

[Business and Commerce, Consumer Protection](#)

H 218 (2021) [STREAMLINE PERMITS/REDEVELOPMENT OF PROPERTY](#). Filed Mar 3 2021, *AN ACT TO CLARIFY STORMWATER RUNOFF REQUIREMENTS APPLICABLE TO PREEXISTING DEVELOPMENT IN WATER SUPPLY WATERSHEDS AND TO EXEMPT CERTAIN FOOTPRINT EXPANSIONS FROM SITE PLAN MAJOR MODIFICATION REQUIREMENTS*.

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

Amends GS 143-214.5 by amending the criteria that must exist before a local government implementing a water supply watershed program must allow an applicant to exceed the allowable density under the applicable water supply watershed rules; now makes the requirement that the stormwater from all of the existing and new built-upon area on the property be treated in accordance with all applicable local government, State, and federal laws and regulations, be in the sole discretion and at the voluntary election of the property owner.

Amends GS 143-214.7(b3), which prohibits stormwater runoff rules and programs from requiring private property owners to install new or increased stormwater controls for (1) preexisting development or (2) redevelopment activities that do not remove or decrease existing stormwater controls. Adds that a property owner may voluntarily elect to treat all stormwater from preexisting development or redevelopment activities, as described in that subsection, for the purpose of exceeding allowable density under the applicable water supply watershed rules. Makes conforming organizational changes to the act.

Intro. by Zenger.

[GS 143, GS 160D](#)

[View summary](#)

[Development, Land Use and Housing, Building and](#)

**Construction, Environment, Environment/Natural Resources,
Government, Local Government**

H 264 (2021) **EMERGENCY POWERS ACCOUNTABILITY ACT**. Filed Mar 10 2021, *AN ACT TO CLARIFY THE EXPIRATION OF A STATEWIDE STATE OF EMERGENCY AND THE EXERCISE OF CERTAIN POWERS UNDER A STATEWIDE STATE OF EMERGENCY, TO CLARIFY THE ABATEMENT OF STATEWIDE IMMINENT HAZARDS, AND TO CLARIFY STATEWIDE QUARANTINES.*

Senate amendment to the 3rd edition makes the following changes.

Amends GS 130A-145(f) to give the State Health Director, for no more than seven calendar days, the authority to determine and order that a class or category of persons (was, persons or animals) need to be quarantined or isolated to protect the public health.

Intro. by Kidwell, D. Hall, Bell, Moffitt.

GS 130A, GS 166A

[View summary](#)

Courts/Judiciary, Civil, Civil Law, Government, Public Safety and Emergency Management, State Agencies, Department of Environmental Quality (formerly DENR), Department of Health and Human Services, State Government, Executive, Local Government, Health and Human Services, Health, Public Health

H 404 (2021) **IMMUNITY FOR 911 DISPATCHERS**. Filed Mar 24 2021, *AN ACT PROVIDING THAT PUBLIC SAFETY ANSWERING POINTS, REGIONAL PUBLIC SAFETY ANSWERING POINTS, AND THEIR EMPLOYEES AND AGENTS AND EMPLOYEES OF LAW ENFORCEMENT AGENCIES ARE NOT LIABLE FOR DAMAGES IN A CIVIL ACTION EXCEPT IN CASES OF GROSS NEGLIGENCE OR WANTON OR WILLFUL MISCONDUCT.*

Conference report makes the following changes to the 3rd edition. Further amends GS 143B-1413 to more specifically exempt the previously named individual and entities (employees, directors, officers, vendors, and agents of a communications provider, a 911 system provider, next generation 911 system providers, public safety answering point (PSAP) and a regional PSAP, and employees of a law enforcement agency who are certified by the North Carolina Sheriffs' Education and Training Standards Commission) from liability for any damages in excess of any applicable insurance coverage in a civil action resulting from death or injury to a person or from damage to property incurred by any person in connection with developing, adopting, implementing, maintaining, or operating the 911 system (previously, provided for limited liability for the named individuals for any damages in the described civil actions, without regard to applicable insurance coverage). Specifically prohibits applicable insurance coverage from excluding coverage for damages arising from the described actions. Adds to the exceptions to the limitation on liability granted, cases of gross negligence by the individual. Adds to the introductory language to reflect that the statute was amended by SL 2021-88. Makes conforming changes to the act's long title.

Intro. by Zachary, Warren.

GS 143B

[View summary](#)

Courts/Judiciary, Civil, Civil Law, Government, Public Safety and Emergency Management

H 531 (2021) **TIMESHARE ACT CHANGES/ED. PROV. BOND REPEAL (NEW)**. Filed Apr 12 2021, *AN ACT TO MAKE CHANGES TO THE NORTH CAROLINA TIMESHARE ACT AND TO ELIMINATE BOND REQUIREMENTS FOR CERTIFICATION OF REAL ESTATE EDUCATION PROVIDERS.*

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

Further revises Article 4 of GS Chapter 93A, now cited as the North Carolina Timeshare Act. Makes technical corrections and changes throughout. Makes substantive changes as follows.

Regarding the scope of the Article, makes a technical change to consistently refer to a "managing entity" in the exemption set forth from the Article's provisions for the offering or sale by a managing entity up to a certain limit of timeshares in a timeshare program in a given year. Changes the definition of *managing entity* to mean any developer, timeshare owners' association, or third-party management firm that has the duties, responsibilities, and obligations of managing a timeshare project or timeshare program (was, any person who has such duties, responsibilities, and obligations, including a timeshare owners' association or a management firm). Now defines *resale advertising service* as the provisions of any good or service relating to advertising or promoting the resale or rental of a consumer resale timeshare (previously, also included a promise of assistance in connection with the same). No longer specified the means of communication used in offering resale brokerage or resale advertising services to consumer timeshare resellers in the definition of *resale service provider*. Replaces the proposed definition for *timeshare estate*, now defining the term to mean the right to occupy a timeshare unit coupled with ownership of any of the following real property interests: (1) a freehold estate or an estate for years with a future interest in property, (2) an ownership interest in a condominium unit, or (3) a direct or indirect beneficial interest in a trust, provided that the timeshare instrument contains a provision declaring that such interests are real property interests, and the trust does not contain any timeshares created in personal property (previously, defined as only an arrangement under which the owner acquired a right to occupy a timeshare unit together with ownership of a real property interest). Makes clarifying changes to the proposed definition of *timeshare project*. Now defines *timeshare transfer services* as any service offered or provided in this State, or offered or provided anywhere (was, any good or service offered in the State or provided to a consumer timeshare reseller resident in the State, or offered anywhere) in connection with a timeshare program containing timeshare units or a timeshare property located in this State, that provides assistance in the resale, transfer, relinquishment, or other disposition of a consumer timeshare reseller's timeshare. Replaces the definition of the proposed term *timeshare use*, now defining the term as the right to occupy a timeshare unit that is not coupled with ownership of a real property interest (was, an arrangement under which the owner received a right to occupy a timeshare unit but did not receive ownership of a real property interest).

Eliminates the proposed language in GS 93A-42, establishing that a timeshare estate includes a right to use a timeshare unit coupled with a freehold estate or an estate for years with a future interest in property, an ownership interest in a condo unit, or a direct or indirect beneficial interest in a trust if the timeshare instrument contains a provision declaring that such interests are real property interests and provided that the trust does not contain any timeshares created in personal property. Requires closing on the sale of a timeshare estate and recording a timeshare instrument within 180 days following the execution of the contract of sale by the purchaser, so long as all payments made by the purchaser are placed by the developer with an independent escrow agent in accordance with GS 93A-45 [was, upon the expiration of the escrow period pursuant to GS 93A-45(c)]. Bars developers from selling or closing a sale of any timeshare that would cause the total number of timeshares available for use (was, for use or sold) in the timeshare program to exceed the one-to-one use right to use right ratio.

Makes clarifying changes to the required content of a public offering statement, as required by new language in GS 93A-44. No longer explicitly includes providing the terms and conditions governing an owner's reservation, use, and occupancy of the timeshare units (maintains requiring a description of the method by which the owner can reserve, use, or occupy the units as previously specified). Now includes in the required summary of the rules governing access to and use of the reservation system, a description of the priorities applied in the operation of the timeshare program in addition to the limitations and restrictions of the program. More specifically requires the summary to include the transaction fees or other charges related to making, deferring, or cancelling reservations. Specifies that the required statement relating to the managing entity's right to reasonably reserve, deposit, or rent the timeshare period or timeshare units for the purpose of facilitating the use or future use of the accommodations or other benefits made available through the timeshare program by the owners applies only if the operator of the reservation system is going to exercise the right granted to it by GS 93A-63(d) (was, if the operator has the right to reserve, deposit, or rent timeshare periods or timeshare units as described). Regarding a developer's intention to guarantee the level of assessments for the timeshare program and disclose that the developer may be excused from the payment of the developer's share of the assessments which would have been assessed against developer-owned timeshares during the guarantee period, no longer specifies that, during the guarantee period, the developer must guarantee to each owner that the assessments imposed upon the owners will not increase over a stated dollar amount as set forth in the adopted, good-faith budget and that the developer is obligated to pay all common expenses incurred during the guarantee period in excess of the total revenues of the timeshare program. Specifies that provision of the signed documents described in new subsection (d) are to be provided to the purchaser contemporaneously with the execution of the contract. Eliminates the new subsection which permitted a purchaser to elect to execute the contract of sale and any other document required to be executed by the purchaser

by the developer by electronic means and to elect to receive delivery of the public offering statement and any documents required to be delivered to the purchaser by electronic means, so long as the developer gives the purchaser the option of executing or receiving the documents in paper format or by electronic means. Adds a new subsection prohibiting the developer from making any representations other than those contained in the contract of sale and the public offering statement. Makes conforming changes. Makes organizational changes.

Makes clarifying changes to the proposed new language in GS 93A-45 regarding a purchaser's right to cancel the contract of sale. Deems notice of cancellation given when transmitted (was, when transmitted from the place of origin) if delivered electronically. Now conditions the owner's right to void the transfer and receive from the developer all funds paid for the timeshare together with an amount equal to 10% of the sales price (up to \$3,000) upon the contract of sale not including the cancellation notice as required by GS 93A-44(a)(12) (was, upon the developer's failure to provide an owner to whom a timeshare is transferred with the cancellation notice). Eliminates the proposed provision which deemed a receipt signed by the owner stating that the owner has received the required notice as prima facie evidence of delivery of the statement. Codifies proposed subsection (e) of GS 93A-58, making developers and escrow agents who fail to comply with the requirements relating to an escrow account a Class E felony, as new subsection (i) of GS 93A-45.

Maintains the current \$1 fee for duplicate certificates of registration of a timeshare program under GS 93A-52 (was, increased to \$5).

Further amends GS 93A-57, requiring a developer to record a release of all liens or encumbrances affecting the timeshare being acquired by the purchaser prior to any closing, to consistently refer to a "managing entity." Makes additional clarifying changes.

Makes a conforming correction to a statutory cross-reference to GS 93A-42 in GS 93A-58, regarding the designation of a registrar and broker for registered timeshare programs.

Replaces the content of new GS 93A-60, now providing that any nonmaterial errors or omissions cannot be grounds for any claims or defenses asserted by the purchaser so long as the developer or managing entity has substantially complied with the Article; provided, however, that the developer or managing entity bears the burden of proof (previously, provided that if a developer or managing entity has, in good faith, attempted to comply with the Article and the developer has in fact substantially complied, nonmaterial errors or omissions are deemed not actionable and do not give rise to any purchaser cancellation rights provided that the developer or managing entity has the burden of proof).

Revises the language used in new GS 93A-61, now requiring the developer to provide each timeshare program with a managing entity, which must be either the developer, a third-party management firm (was, a separate management firm), or timeshare owners' association. Regarding the new statutory management responsibilities and rights of managing entities, no longer provides for the predecessor in interest to give the managing entity a copy of an instrument of transfer for timeshare uses. Regarding rights of the managing entity when a state of emergency has been declared under the North Carolina Emergency Management Act or by any governmental agency with authority where the timeshare property is located, now allows the managing entity to toll the expiration of any claim of lien specifically arising under GS 93A-62(d)(4) (providing for delinquent assessments) for the duration of the state of emergency so long as the beginning and ending date for each of tolling are recorded in the public records and the owner is notified of the end of the tolling period (was, so long as the tolling is recorded in the public records and the owner is notified prior to the end of the tolling period).

Revises new GS 93A-62, which sets out allowable charges on delinquent assessments. Makes clarifying changes regarding the expiration of a timeshare lien. Adds a new subsection providing that if the developer agrees to guarantee the level of assessments for the timeshare program for any period of time, the developer can be excused from the payment of the developer's share of the assessments that otherwise would have been assessed against developer-owned timeshares during the guarantee period, provided that the developer guarantees that (1) during the guarantee period the assessments against owner timeshares will not increase over the dollar amount stated in the adopted, good faith budget of the timeshare program, and (2) the developer will pay any amount by which all common expenses incurred during the guarantee period exceed the total revenues of the timeshare program during the guarantee period (similar to language previously required to be included in the public offering statement in GS 93A-44, now removed).

Revises new GS 93A-64 regarding items that must be included in the timeshare declaration with respect to (1) addition of timeshare units, amenities, or timeshare projects to the multisite timeshare program or (2) substitution of timeshare units, amenities, or timeshare projects for existing timeshare units, amenities, or timeshare projects in a multisite timeshare program.

Now requires compliance with the one-to-one use right to use right ration and the requirement of GS 93A-63, *Reservation systems* (was, GS 93A-65, *Resale purchase contracts; prohibition against advance listing fee*, including the demand balancing standard), in ascertaining the desirability of the proposed addition and any impact upon the demand for and availability of existing timeshare units, amenities, or timeshare projects. Makes conforming changes.

Amends new GS 93A-65, which requires consumer timeshare resellers or their agents to use a resale purchase contact that contains specified items. Corrects a statutory cross-reference in subdivision (a)(3).

Makes organizational and clarifying changes to the recordkeeping requirements under GS 93A-66 for resale service providers, lead dealers, and transfer service providers. No longer provides that in any civil or criminal action relating to the wrongful possession or wrongful use of personal contact information by a resale service provider or lead dealer, any failure by a resale service provider, transfer service provider, or lead dealer to produce the required records leads to a presumption that the personal contact information was wrongfully obtained. Eliminates the proposed penalties for the use of wrongfully obtained personal contact information.

Amends new GS 93A-67 which governs resale service providers. Corrects a statutory cross-reference in sub subdivision (c) (6)d. regarding required terms of a brokerage agreement to provide resale advertising services that must be signed by the consumer timeshare reseller. Eliminates the provision which made the use of any unfair or deceptive act or practice by any person in connection with resale advertising services a violation of the Act. Instead, makes any violation of the statute an unfair or deceptive trade practice prohibited by GS 75-1.1. Now requires the resale service provider who offers timeshare transfer services to comply with GS 93A-68 (was, GS 93A-68 through GS 93A-72).

Revises new GS 93A-68, which sets out six actions that are prohibited in the course of advertising, marketing, promoting, offering, sale, or performance of any timeshare transfer services. Now prohibits engaging in any timeshare transfer services for compensation (was, consideration), or the expectation of receiving compensation (was, consideration), without first obtaining a written timeshare transfer services agreement signed by the consumer timeshare reseller. Regarding the statement that must be included in a timeshare transfer services agreement providing that no compensation can be received by or paid to the transfer service provider before the delivery of all promised services are performed, no longer specifies that the services listed are not exhaustive. Of the terms that must be included in timeshare transfer services agreements, now includes the total cost to the consumer timeshare reseller of each timeshare transfer service promised to be provided pursuant to subdivision (c)(3) [previously, did not cross-reference (c)(3)] together with an itemized list of all of the fees and costs that comprise the total cost of that service (previously, also required a description of the related good or service). Revises the required statement of notice offering relief (was, assistance). Eliminates the provision which makes the use of any unfair or deceptive act or practice by any person in connection with timeshare transfer services a violation of the act. Instead, makes any violation of the statute an unfair or deceptive trade practice prohibited by GS 75-1.1. Makes further technical and clarifying changes.

Changes the act's titles.

Intro. by Howard, Hastings, Moffitt, K. Hall.

[GS 47C, GS 53, GS 66, GS 93A](#)

[View summary](#)

[Courts/Judiciary, Civil, Civil Law, Development, Land Use and Housing, Property and Housing](#)

H 776 (2021) [REMOTE ELECTRONIC NOTARIZATION ACT. \(NEW\)](#) Filed May 3 2021, *AN ACT TO ALLOW REMOTE ELECTRONIC NOTARIZATION.*

Senate committee substitute amends the 2nd edition as follows.

Deletes proposed Article 4, Remote Online Notarization Act, of GS Chapter 10B. Instead, enacts new Part 4A, Remote Electronic Notarization, to Article 2, GS Chapter 10B as follows.

Sets forth defined terms. Authorizes a remote electronic notary registered with the Secretary of State to perform the types of notarial acts listed in GS 10B-115 by means of *communication technology*, defined as an electronic device, process, or system that allows a remote electronic notary and a remotely located principal to communicate with each other simultaneously by sight and sound using audiovisual technology and that makes reasonable accommodation for remotely located principals with

vision, hearing, or speech impairments. Allows for remote electronic notaries to perform any authorized remote electronic notarial act with respect to tangible records and electronic documents. Prohibits a remote electronic notary from performing a remote electronic notarial act if the principal is not physically located in the State, is not personally known to the notary, or whose identity cannot be verified. Also prohibits remote electronic notarial acts for any reason set forth in GS 10B-20 (limitations of notary publics) or GS 10B-134.9 as enacted (requirements and procedures for remote electronic notarial acts). Lists nine documents which remote electronic notaries are prohibited from performing any remote electronic notarial act upon, including self-proved wills, advance directives for a natural death, health care powers of attorney, trusts, codicils to wills, and mail-in absentee ballots. Provides an exception to the stated prohibitions if the remotely located principal is a member or spouse of a member of the US Armed Forces who meets specified criteria. Bars remotely notarized powers of attorney to be used by the attorney-in-fact with any other remotely notarized document to convey title to, or transfer any interest in, a remotely located principal's real property, with the exception of a member or spouse of the US Armed Forces meeting the specified criteria.

Lists requirements for the use of communication technology to perform remote electronic notarial acts for remotely located principals, including making reasonable accommodations for principals with vision, hearing, or speech impairments; hosting the meeting in real time; allowing direct interaction between the principal and the remote electronic notary so that each can communicate simultaneously by sight and sound through an electronic device, process, or system; being capable of recording; and being capable of using the IP address of the remotely located principal to corroborate that the remotely located principal is physically located in the State. Provides for security and automated backup requirements. Bars requiring a remote electronic notary from being required to use a communication technology the notary has not selected.

Requires the remote electronic notary and the remotely located principal to be physically located in the State in order to perform authorized remote electronic notarial acts, with the exception of a member or spouse of a member of the US Armed Forces who meets specified criteria. Makes such acts governed by State law. Requires verification of the remotely located principal through one of two described methods.

Details the requirements and procedures for remote electronic notarial acts. Requires the notary to give prior notice to the participants of the communication technology recording requirement, and to verify the identity of the remote located principal. Requires the principal to demonstrate that he or she is not under duress or being coerced to complete the transaction, and to verbally state the documents for the notarial record or the general nature of the transaction. Requires the notary to refuse to perform if the notary has reasonable grounds to believe the principal is acting under duress or being coerced or is aware of insecurity of the communication technology, if the electronic signature cannot be attached to the electronic document, if the notary's electronic notarial certificate and seal cannot be attached to the electronic document using an electronic technology that renders any subsequent change or modification to the document evident, or if the location of the remotely located principal cannot be verified as statutorily required. Requires using communication technology for oaths and affirmations. Allows any notary public registered with the Secretary, regardless of registration as a remote electronic notary, to administer an oral oath or affirmation to a remote witness in judicial actions or proceedings which do not require notarization of a record of a notarial certification and seal when done in person, so long as the notary is physically located in the State and the notary uses communication technology and meets the requirements for identity proofing. Specifies that a notary is not required to select the medium of communication technology or retain a recording of the performance of each remote oral oath or affirmation. Provides that failure to comply with the requirements for remote electronic notarization does not invalidate the notarial act or electronic record, but does not prevent an aggrieved person from seeking to invalidate the record on other substantive grounds. Requires the notary to maintain confidentiality of the remotely located principal's documents at all times.

Details requirements and procedures for the remote electronic notary to have each remotely located principal's the identity verified, which must include credential analysis, identity proofing, and related comparisons if the remote electronic notary does not have personal knowledge of the remotely located principal creating the electronic signature. Allows a remote electronic notary to require the principal to provide additional information or identification credentials necessary to assure the principal's identity.

Provides requirements for using electronic notarization and conducting remote electronic notarization. Requires each remote electronic notarization to include a communication technology recording.

Details electronic journaling requirements for remote electronic notaries performing remote electronic notarizations for each remote electronic notarization, deemed the exclusive property of the remote electronic notary. Requires a remote electronic notary or the notary's guardian, conservator, agent, or personal representative to retain a communication technology recording

of the performance of each remote electronic notarial act for 10 years after the performance of the notarial act. Provides required terms for third-party contracts for communication technology recording storage. Provides for retention of the electronic journal upon resignation or revocation or suspension of the remote electronic notary's commission. Provides for designation of a custodian for acts associated with electronic journaling. Allows for designation of a steward approved by the Secretary to maintain the electronic journal and backups, retain communication technology recordings and backups, and/or provide methods of access or export for the electronic journals or communication technology recordings. Provides for delivery of the electronic journal to a designated steward for maintenance for the designated time period upon death or adjudication of incompetency of a current or former remote electronic notary. Details security requirements of remote electronic notaries. Allows for surrender of the electronic journal upon termination of employment, with the duty to maintain an accurate backup of the journal for at least 10 years. Provides required action following discovery of any permanent loss of data, unauthorized use, loss of use, or compromised security of the electronic journal or communication technology recordings. Provides for suspension of the remote electronic notary's commission for failure to comply with a records request of the Department of State within 30 days until the Secretary reinstates the commission.

Details security measures required of the Secretary. Allows the Secretary to establish guidelines for the secure storage of the electronic journal and communication technology recordings associated with remote electronic notarial acts that use standard encryption technologies; establish any necessary additional guidelines for identity proofing and credential analysis; establish standards and processes for the technology communication to allow secure real-time communication; establish standards for tamper-evident technologies; require use of a communication technology provided by a third-party vendor that has presented evidence of compliance with industry standards; adopt rules to ensure the integrity, security, and authenticity of remote electronic notarizations, such as imposing additional educational requirements; and adopt rules regarding the performance of a remote electronic notarial act as specified. Requires technology selected by a remote electronic notary, and communication technology, credential analysis, identity proofing, and custodial services selected by the notary, to conform with standards established by the Secretary. Provides for liability of third-party vendors.

Provides for laws and court and NC State Bar opinions relating to the unauthorized practice of law to be unaffected by the new Part, including laws and opinions concerning real estate transactions. Explicitly prohibits a remote electronic notary who is not an NC licensed attorney from rendering services or advice that constitutes the practice of law.

Makes conforming changes to GS 10B-2.

Adds remote electronic notary public or remote electronic notary to the defined terms in 10B-101, applicable to Article 2 (Electronic Notary Act). Makes technical changes.

Makes the qualifications for electronic notary registration and registration procedures for electronic notaries under GS 10B-105 and GS 10B-106 applicable to remote electronic notaries. Additionally makes the electronic notarial components required for electronic documents, set forth in GS 10B-117, applicable to remote electronic notarial acts; adds required attachment of the phrase "Remote Electronic Notary Public Utilizing Communication Technology."

Enacts new Part 7, Article 2, GS Chapter 10B. Deems a paper or tangible duplicate of an electronic document subject to electronic notarization to be a true and correct duplicate of the notarized electronic document if the electronic notarial certificate is affixed to the document in compliance with new GS 10B-226, and the electronic document has not been changed or modified since the affixation of the certificate. Makes a custodian's attestation of such requirements prima facie evidence that the requirements of the statute have been satisfied with respect to the paper or tangible duplicate of the electronic document. Requires the custodian to attest that the electronic document is in tamper-evident format, along with five other attestations, including that the custodian personally printed or supervised the printing of the electronic document onto paper or other tangible medium. Requires documents with the described attestation to be accepted for recording by a register of deeds so long as all other statutory and locally adopted prerequisites are met. Defines custodian.

Amends GS 20-30, as amended by SL 2021-34, to permit making a color photocopy of a color reproduction of a drivers license, learner's permit, or special identification card to perform a remote notarization act under new Part 4A, Article 2, GS Chapter 10B (currently, limited to black and white copies).

Effective January 1, 2022. Authorizes the Secretary to begin rulemaking to implement new Part 4A, Article 2, GS Chapter 10B prior to that date, but prohibits temporary or permanent rules from becoming effective prior to January 1, 2022.

Makes conforming changes to the act's titles.

Intro. by D. Hall, Davis, Hardister, Reives.

GS 10B, GS 20

[View summary](#)**Courts/Judiciary, Civil, Civil Law, Motor Vehicle,
Government, State Agencies, Secretary of State**

H 854 (2021) **LAND USE CLARIFICATIONS. (NEW)** Filed May 4 2021, *AN ACT TO PROVIDE REFORMS TO LOCAL GOVERNMENT ZONING AUTHORITY TO INCREASE HOUSING OPPORTUNITIES AND TO MAKE VARIOUS CHANGES AND CLARIFICATIONS TO THE ZONING STATUTES.*

Senate committee substitute deletes the content of the 1st edition and replaces it with the following.

Amends GS 160D-108, which provides for development permit choice and statutory vesting. Specifies that the permit applicant's right to choose which local regulations are applicable to a project where multiple permits are required, limited to subsequent permit applications filed within 18 months of the initial permit approval, to complete the project does not limit or affect the duration of the statutory vested right established. States legislative intent for the provisions to clarify and restate the intent of existing law.

Amends GS 160D-706, which states governing law in instances of conflict between zoning regulations and statute or local ordinance or regulation. Specifies that governing law is subject to GS 160A-174(b), which requires city ordinances to be consistent with the Constitution and laws of North Carolina and of the United States and enumerates six instances in which an ordinance is deemed inconsistent with the Constitution and laws of NC and the US. States legislative intent for the provisions to clarify and restate the intent of existing law.

Amends GS 160D-406(k) concerning judicial review of a quasi-judicial local board decision, to specify that the governing board of the local government that is a party of the judicial review of the quasi-judicial decision has authority to settle the litigation.

Amends GS 160D-1402(i), regarding supplementation of the record on appeals of a decision-making board. States that a failure to object at a hearing by a person with standing under the statute is not a waiver of a right to assert impermissible conflict involving a member of the decision-making board. Enacts a new subsection to provide that, if a special use permit is issued by the applicable decision-making board after remand from an order of the court of competent jurisdiction and no injunction prevents the issuance of a special use permit, then any appeal of the court's order or the subsequently issued special use permit is rendered moot.

Changes the act's titles.

Intro. by Hardister, Szoka, Bradford, Richardson.

GS 160D

[View summary](#)**Development, Land Use and Housing, Land Use, Planning and
Zoning, Government, Local Government**

H 890 (2021) **ABC OMNIBUS LEGISLATION.** Filed May 4 2021, *AN ACT TO MAKE VARIOUS CHANGES TO THE ALCOHOLIC BEVERAGE CONTROL COMMISSION LAWS.*

Senate amendments make the following changes to the 4th edition.

Part XXV.

Amendment #1 changes the effective date from August 1, 2021, to October 1, 2021, for the changes to GS 105-164.13, which exempts from sales tax sales of machinery, equipment, parts, and accessories for use in the manufacture of the following specified items by the following specified permittees, as well as supplies and ingredients used or consumed in the manufacture: unfortified winery permittees for the manufacture of unfortified wine; fortified winery permittees for the manufacture of fortified wine; brewery permittees for the manufacture of malt beverages; and distillery permittees for the manufacture of spirituous liquor.

Part XXIX.

Amendment #2 removes Part 29 from the act, with enacted GS 18B-1002.2, establishing an international trade market event permit, set the permit fee at \$250, and allowed any international trade market event permit issued in 2021 to be used for three international trade market events of no more than 21 days per event.

Intro. by Moffitt, Boles, Willingham, Saine.

[GS 18B, GS 105, GS 106, GS 130A, GS 153A, GS 160A](#)

[View summary](#)

[Alcoholic Beverage Control, Government, Tax, Local Government, Health and Human Services, Health, Public Health](#)

H 974 (2021) [HONOR JERRY CARTER, FORMER MEMBER](#). Filed Sep 8 2021, *A JOINT RESOLUTION HONORING THE LIFE AND MEMORY OF JERRY CARTER, FORMER MEMBER OF THE NORTH CAROLINA HOUSE OF REPRESENTATIVES.*

Includes whereas clauses. As title indicates.

Intro. by Stevens, Hanig, Sasser, Pyrtle.

[JOINT RES, UNCODIFIED](#)

[View summary](#)

[Government, General Assembly](#)

PUBLIC/SENATE BILLS

S 257 (2021) [MEDICATION COST TRANSPARENCY ACT](#). Filed Mar 11 2021, *AN ACT TO PROMOTE PRICING TRANSPARENCY FOR PATIENTS AND TO ESTABLISH STANDARDS AND CRITERIA FOR THE REGULATION AND LICENSURE OF PHARMACY BENEFITS MANAGERS PROVIDING SERVICES FOR HEALTH BENEFIT PLANS IN NORTH CAROLINA.*

Conference report makes the following changes to the 5th edition.

Replaces the definition given to the new defined term *340B covered entity*, applicable to Article 56A, Pharmacy Benefits Management, of GS Chapter 58. Now more specifically defines the term to mean any entity defined in one of nine identified sub-subdivisions of 42 USC 256b(a)(4), rather than any entity defined in that subdivision. Defines *pharmacy* by statutory cross-reference rather than as a pharmacy registered with the NC Board of Pharmacy. Limits the term *pharmacy benefits manager affiliate* to no longer include a pharmacy or pharmacist that is under common ownership or control with a pharmacy benefits manager. Renames the defined term *pharmacy services administration organization* as *pharmacy service administrative organization* (PSAO), and makes conforming changes throughout to reflect the change. No longer includes *biosimilar* or *other prescription drug or device services* in the Article's defined terms. Makes technical changes.

Maintains rather than amends existing law regarding consumer protections set forth in subsections (a) and (b) of GS 58-56A-3, which prohibit (1) pharmacies and pharmacists from penalizing (previously, expanded to include prohibiting, restricting, or penalizing) pharmacy benefits managers from discussing the insured's cost share of prescription drugs, or selling a lower-priced drug to the insured, and (2) pharmacy benefits manager from contracting to prohibit (was, to prohibit or restrict) a pharmacy from offering and providing direct and limited delivery services to an insured as an ancillary service of the pharmacy, as set forth in the contract between the pharmacy benefits manager and the pharmacy. Revises the remaining provisions as follows. Eliminates the five additional prohibitions of pharmacy benefits managers contracting with pharmacies previously added to subsection (b), including contracting to prohibit or restrict the pharmacy from disclosing to any insured any health care information that the pharmacy or pharmacist determines is appropriate so long as it is within the pharmacist's scope of practice, or discussing information relating to the total costs for pharmacist services for a prescription drug.

Eliminates the proposed provision which prohibited a pharmacy benefits manager from penalizing or retaliating against a pharmacy for any activities described in subsection (b). Now requires the pharmacy or pharmacist to disclose that a shipping and handling fee for mailed or delivered prescriptions is agreed to by the health benefit plan or pharmacy benefits manager. Now prohibits the pharmacy benefits manager from charging or attempting to collect from an insured a copayment

that exceeds the total submitted charged by the network pharmacy (was, prohibited from charging or attempting to collect a copayment that exceeds the lesser of (1) the total submitted charges by the network pharmacy; (2) the contracted copayment amount; or (3) the amount an individual would pay for a prescription drug if that individual was not insured and was paying cash for the prescription drug). Replaces proposed new subsection (c1), which added a new requirement for an insurer to include any amounts paid by the insured or paid on behalf of the insured by another person when calculating an insured's overall contribution to any out-of-pocket maximum or any cost-sharing requirement under a health benefit plan, to the extent allowed under state and federal law. Instead, requires the insurer or pharmacy benefits manager to include in the calculation of any out-of-pocket maximum, deductible, copayment, coinsurance, or other applicable cost-sharing requirement, any amounts paid by the insured or on the insured's behalf for a prescription that is either without an AB-rated generic equivalent, or with an AB-rated generic equivalent and the insured has obtained authorization for the drug through one of three methods. Defines generic equivalent; excludes a drug listed by the FDA as having unresolved bioequivalence concerns as specified. Eliminates the provisions of proposed subsections (f) through (i), which: prohibited a pharmacy benefits manager from causing or knowingly permitting the use of any advertisement, promotion, solicitation, representation, proposal, or offer that is untrue, deceptive, or misleading, knowingly making any misrepresentation, or requiring an insured to use a pharmacy benefits manager affiliate for the filling of a prescription or the provision of any pharmacy care services; provided that an insured cannot be restricted from using any in-network pharmacy or pharmacist for any prescription drug covered by the health benefit plan or pharmacy benefits manager applicable; prohibited a pharmacy benefits manager from contracting to prohibit a pharmacy from discussing information relating to the total cost for pharmacist services for a prescription drug, or from selling a more affordable alternative to the insured if a more affordable alternative is available; and barred a pharmacy benefits manager from prohibiting a pharmacy or pharmacist from sharing proprietary or confidential information.

Makes the following modifications regarding pharmacy and pharmacist protections, set out in GS 58-56A-4. Prohibits charging fees or adjustments for the receipt and processing of a claim or its adjudication without a justification on the remittance advice or as set out in contract and agreed upon by the pharmacy or pharmacist for each adjustment or fee (previously, limited to justification on the remittance advice only). Maintains existing law which exempts from the application of the protections provided for pharmacies and pharmacists, claims under an employee benefits plan under the Employee Retirement Income Security Act of 1974 (previously, qualified the explicit application of the protections under such plans to the extent such application is allowed under federal law). Further specifies that a pharmacy or pharmacist cannot be prohibited by a pharmacy benefits manager from dispensing any prescription drug allowed under licensure, including dispensing specialty drugs dispensed by a credentialed and accredited pharmacy (previously, removed the specification of specialty drugs dispensed by a credentialed and accredited pharmacy). Reinstates the previously proposed provision including a pharmacy or pharmacist's agreement to an adjustment in situations that warrant retroactive denial or reduction of a claim for pharmacist services after adjudication of the claim. Eliminates previously proposed subsection (g) and (h), which: prohibited a pharmacy benefits manager from engaging in the pattern or practice of reimbursing independent pharmacies and pharmacists in the state consistently less than the amount of the National Drug Average Acquisition Cost (NDAAC) or the amount that the pharmacy benefits manager reimburses a pharmacy benefits affiliate for providing the same pharmacist services; and barred pharmacy benefits managers from requiring the use of mail order or a pharmacy benefits manager affiliate for filling prescriptions.

Eliminates proposed new subsections (b1) and (e) of GS 58-56A-5, which: required a pharmacy benefits manager to update its maximum allowable cost list for a prescription drug within five calendar days and provide notice to contracted pharmacies within 72 business hours of the update if any of three described circumstances exist; and barred a pharmacy benefits manager from engaging in a pattern or practice of reimbursing independent pharmacies or pharmacists consistently less than the amount of the NDAAC, the Wholesale Acquisition Cost when the NDAAC is not available, or an amount that the pharmacy benefits manager reimburses a pharmacy benefits manager affiliate for providing the same pharmacist services.

Eliminates proposed GS 58-56A-6, which required a health benefit plan or pharmacy benefits manager that authorizes coverage for a biosimilar of a prescription medication to authorize coverage for all biosimilars of that prescription medication with coverage at the same level, and prohibited a health benefit plan or pharmacy benefits manager from requiring the use or the dispensing of a reference product over a biosimilar.

Eliminates GS 58-56A-10, which prohibited pharmacy benefits managers or insurers from requiring any prescription medication to be obtained from an entity operating as an intermediary to have prescription medications administered or delivered to a patient or another pharmacy, hospital, clinic, or provider unless that entity is a pharmacy operating as an intermediary and meets five criteria.

Replaces the provisions governing pharmacy benefits manager networks set out in proposed GS 58-56A-15 with the following. Now prohibits pharmacy benefits managers from denying properly licensed pharmacists or pharmacies from participating in a retail pharmacy network on the same terms and conditions of other similarly situated network participants. Entitles pharmacists or pharmacies that are members of a PSAO that contracts with a health benefit plan issuer or pharmacy benefits manager on the pharmacy's behalf to receive from the PSAO a copy of the contract provisions application to the pharmacy, including the pharmacy's rights and obligations under the contract. Provides for continued liability for payment due for services rendered following termination of a pharmacist or pharmacy from a pharmacy benefits manager network, excluding cases of fraud, waste and abuse.

Eliminates the proposed new provisions regarding penalties for violations of the Article as follows, no longer requiring the Commissioner of Insurance to consider specified factors in determining the amount of a civil penalty for a violation of the Article (other than violations GS 58-56A-5, which governs the maximum allowable cost price of prescription drugs).

Adds a new directive requiring the Department of Insurance to convene a stakeholder workgroup by December 1, 2021, to study and recommend a single, unified process to accredit specialty pharmacies in the State. States required membership of the workgroup and requires the workgroup to meet at least three times. Charges the workgroup with examining the regulatory, administrative, and financial challenges facing those who wish to gain specialty pharmacy status. Requires the workgroup to report to the specified NCGA committees by May 15, 2022.

Intro. by Perry, Britt, Johnson.

STUDY

[View summary](#)

Government, State Agencies, Department of Insurance, Health and Human Services, Health, Health Insurance

S 550 (2021) **MODIFY SURETY/BAIL BOND/BONDSMEN PROVISIONS**. Filed Apr 5 2021, *AN ACT TO MODIFY QUALIFICATIONS AND TESTING PROCEDURES FOR BAIL BONDSMEN AND RUNNERS AND TO MODIFY VARIOUS PROVISIONS RELATED TO BAIL BOND FORFEITURES AND BAIL BOND SURETIES*.

Senate committee substitute amends the 1st edition as follows.

Revises the proposed changes to GS 58-71-50, which add documented US citizenship to the qualifications for licensure of bail bondsmen and runners, to instead include legal residency or documented US citizenship as a qualification.

Amends Section 3 of the act as follows.

Adds *charitable bail organization* to the defined terms for Article 26, set forth in GS 15A-531. Defines the term to mean an organization that solicits or accepts donations from the public for the purpose of depositing money to secure appearance bonds required under GS 15A-534(a)(4) (which provides for the execution of an appearance bond as a condition of pretrial release).

Amends GS 15A-544.2, which states information required to be entered on each executed bail bond, to include the name and mailing address of any surety executing the bond and the name and mailing address of the charitable bail organization any surety acted on behalf of, if any.

Further amends GS 15A-544.3, which provides for court-ordered forfeiture of a bail bond for failure to appear. Adds to the information that must be included on the forfeiture the name and address of the charitable bail organization for which any surety on the bail bond acted on behalf of, if any.

Moves the proposed changes to GS 15A-544.5, which expands the grounds for setting aside the forfeiture of a bail bond, to Section 3.

Directs the Administrative Office of the Courts (AOC) to compile specified data, including the total number of bail bonds executed and forfeited and those executed by a surety acting on behalf of a charitable bail organization and the number of those that were forfeited. Requires AOC to annually report the data with a statistical analysis and a compilation by county to the specified NCGA committee beginning February 1, 2023.

Makes the proposed changes and directive of Section 3, as amended, effective December 1, 2021 (was, effective on the date the act becomes law).

Intro. by Britt, Craven, Lazzara.

GS 15A, GS 58

[View summary](#)

**Business and Commerce, Occupational Licensing,
Courts/Judiciary, Court System, Criminal Justice, Criminal
Law and Procedure, Government, State Agencies, Department
of Justice**

ACTIONS ON BILLS

PUBLIC BILLS

H 91: ACCOUNTABILITY AND FAIR PLAY IN ATHLETICS. (NEW)

Senate: Passed 3rd Reading

Senate: Engrossed

Senate: Special Message Sent To House

House: Special Message Received For Concurrence in S Com Sub

House: Ref to the Com on Education - K-12, if favorable, Rules, Calendar, and Operations of the House

H 103: AUTOMATIC RENEWAL OF CONTRACTS.

Senate: Amend Adopted A1

Senate: Passed 2nd Reading

Senate: Passed 3rd Reading

H 110: LANDLORD SUBMISSION OF HOPE APPLICATION. (NEW)

Senate: Passed 2nd Reading

Senate: Passed 3rd Reading

H 181: WILDLIFE RESOURCES COMM'N. AMENDMENTS.-AB

House: Withdrawn From Cal

House: Added to Calendar

House: Concurred In S Com Sub

House: Ordered Enrolled

H 218: STREAMLINE PERMITS/REDEVELOPMENT OF PROPERTY.

Senate: Amend Adopted A1

Senate: Passed 2nd Reading

Senate: Passed 3rd Reading

Senate: Reconsidered 3rd Reading

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

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

H 264: EMERGENCY POWERS ACCOUNTABILITY ACT.

Senate: Amend Adopted A1

Senate: Passed 2nd Reading

Senate: Passed 3rd Reading

Senate: Engrossed

H 320: MODERNIZE REMOTE BUSINESS ACCESS.

Senate: Passed 2nd Reading

Senate: Passed 3rd Reading

H 404: IMMUNITY FOR 911 DISPATCHERS.

House: Conf Com Reported

House: Cal Pursuant Rule 44(d)

House: Placed On Cal For 09/15/2021

H 531: TIMESHARE ACT CHANGES/ED. PROV. BOND REPEAL (NEW).

Senate: Reptd Fav Com Substitute

Senate: Com Substitute Adopted

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

H 685: ELECTRONIC TRANSACTION FEES/OFFICIAL FEES.

Senate: Passed 2nd Reading

Senate: Passed 3rd Reading

Senate: Ordered Enrolled

H 776: REMOTE ELECTRONIC NOTARIZATION ACT. (NEW)

Senate: Reptd Fav Com Substitute

Senate: Com Substitute Adopted

Senate: Re-ref Com On Commerce and Insurance

H 854: LAND USE CLARIFICATIONS. (NEW)

Senate: Reptd Fav Com Substitute

Senate: Com Substitute Adopted

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

H 890: ABC OMNIBUS LEGISLATION.

Senate: Amend Adopted A1

Senate: Amend Adopted A2

Senate: Passed 2nd Reading

Senate: Passed 3rd Reading

Senate: Engrossed

Senate: Special Message Sent To House

House: Special Message Received For Concurrence in S Com Sub

House: Added to Calendar

House: Concurred In S Com Sub

House: Ordered Enrolled

House: Ratified

House: Pres. To Gov. 9/8/2021

H 974: HONOR JERRY CARTER, FORMER MEMBER.

House: Filed

S 257: MEDICATION COST TRANSPARENCY ACT.

Senate: Conf Com Reported

Senate: Placed on Today's Calendar

Senate: Conf Report Adopted

House: Conf Com Reported

House: Added to Calendar

House: Conf Report Adopted

Senate: Ordered Enrolled

S 360: PROHIBIT COLLUSIVE SETTLEMENTS BY THE AG.

House: Reptd Fav

House: Serial Referral To Rules, Calendar, and Operations of the House Stricken

House: Cal Pursuant Rule 36(b)

S 388: PROPERTY/SALES TAX CHGS FOR FARMERS/WILDLIFE. (NEW)

Senate: Passed 2nd Reading

Senate: Passed 3rd Reading

S 389: DEQ/DNCR OMNIBUS.-AB

Senate: Concurred In H Com Sub

Senate: Ordered Enrolled

Senate: Ratified

Senate: Pres. To Gov. 9/8/2021

S 550: MODIFY SURETY/BAIL BOND/BONDSMEN PROVISIONS.

Senate: Reptd Fav Com Substitute

Senate: Com Substitute Adopted

Senate: Re-ref Com On Finance

LOCAL BILLS

H 3: CRAVEN BD OF ED/PARTISAN ELECTORAL DISTRICTS. (NEW)

House: Concurred In S Com Sub

House: Ordered Enrolled

H 24: CHIMNEY ROCK/LAKE LURE DEANNEX-ANNEX. (NEW)

House: Concurred On 2nd Reading

House: Withdrawn From Cal

House: Placed On Cal For 09/15/2021

H 143: SWAIN COUNTY SHERIFF VACANCIES.

House: Concurred In S Com Sub

House: Ordered Enrolled

H 248: SPRING LAKE CHARTER AMENDMENT.

House: Concurred In S Com Sub

House: Ordered Enrolled

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