

February 24, 2009

**H 274. REWRITE FOREIGN MONEY JUDGMENTS LAWS.** Filed 2/24/09. *TO REWRITE THE LAW CONCERNING THE RECOGNITION OF FOREIGN MONEY JUDGMENTS, AS RECOMMENDED BY THE GENERAL STATUTES COMMISSION.*

Repeals Article 18 of GS Chapter 1C (North Carolina Foreign Money Judgments Recognition Act).

Enacts new Article 20 of GS Chapter 1C to create the "North Carolina Uniform Foreign-Country Money Judgments Recognition Act," which requires state courts to recognize foreign-country judgments to the extent the judgment (1) grants or denies recovery of a sum of money and (2) is final, conclusive, and enforceable under the law of the foreign country rendering judgment. Specifies that the article does not apply to a foreign-country judgment for (1) taxes; (2) a fine or other penalty; or (3) alimony, support, or maintenance in matrimonial or family matters. Provides that the party seeking recognition of judgment has the burden of showing applicability of the article. Does not prohibit recognition of judgments not included in this Article under principles of comity or otherwise. Creates definitions for *foreign country* and *foreign-country judgment*. Provides for nonrecognition of judgments, and grants discretion to courts to deny recognition, in certain circumstances. Establishes the burdens of each party in seeking recognition and nonrecognition in relation to those circumstances. Prohibits refusal of recognition on the grounds of lack of personal jurisdiction if any of the following exists: (1) the defendant was served with process personally in the foreign country; (2) the defendant voluntarily appeared in the proceeding, other than for protecting from seizure, or possible seizure, property or for contesting jurisdiction; (3) the defendant, before commencement of the proceeding, agreed to submit to the jurisdiction of the foreign court with respect to the subject matter involved; (4) the defendant was domiciled in the foreign country when the proceeding was instituted or was a corporation or other form of business organization that had its principal place of business in, or was organized under the laws of, the foreign country; (5) the defendant had a business office in a foreign country and the proceeding in the foreign court arose from business done by the defendant through that office in the foreign country; (6) the defendant operated a motor vehicle or airplane in the foreign country and the proceeding arose from that operation; and (7) there is any other basis for personal jurisdiction consistent with the Due Process Clause of the Fourteenth Amendment to the US Constitution. Provides that this list is not exclusive. Sets forth the procedure for recognition and nonrecognition of a judgment. Provides that if a judgment is recognized under the procedure, then to the extent the foreign country judgment grants or denies the recovery of money, a recognized judgment is (1) conclusive between the parties to the same extent as the judgment of a sister state entitled to full faith and credit and (2) enforceable in the same manner and to the same extent as a judgment rendered in this state. Specifies that Article 17 of GS Chapter 1C (Enforcement of foreign judgments from other states) does not apply to the enforcement of foreign-country judgments recognized in this Article. Allows the court to stay proceedings related to a judgment if an appeal is pending until the appeal is concluded, the time for appeal expires without an appeal being taken, or the appellant has had sufficient time to prosecute the appeal and has failed to do so. Sets a statute of limitations for an action to recognize the judgment at 10 years from the date the foreign-country judgment became effective in the foreign country. Provides for the promotion of uniformity of interpretation with respect to this subject matter among states that enact it.

Requires the Revisor of Statutes to print all relevant portions of official comments and explanatory comments from the drafters related to the act that the Revisor deems appropriate.

Effective for all actions commenced on or after October 1, 2009, in which the issue of recognition of a foreign-country judgment is raised.

**Intro. by Ross.**

GS 1C

August 6, 2009

**H 274. CLARIFYING CHANGES TO STATE LAW (NEW).** Filed 2/24/09. Senate committee substitute changes to 1st edition to be digested in tomorrow's *Daily Bulletin*.

August 6, 2009

**H 274. CLARIFYING CHANGES TO STATE LAW.** Filed 2/24/09. Senate amendments changes to 2nd edition to be digested in tomorrow's *Daily Bulletin*.

August 7, 2009

**H 274. CLARIFYING CHANGES TO STATE LAW (NEW).** Filed 2/24/09. Senate committee substitute makes the following changes to 1st edition. Deletes the contents of the previous edition and replaces it with *AN ACT TO MAKE VARIOUS CLARIFYING CHANGES TO THE GENERAL STATUTES AND SESSION LAWS*.

Amends GS 15A-544.4(e) to provide that a notice of forfeiture must be mailed by the 30th day after the date on which the defendant fails to appear as required and a call and fail is ordered (was, 30th day after the day on which the forfeiture is entered).

Amends GS 20-71.4 (failure to disclose damage to a vehicle is a misdemeanor), GS 20-305.1 (related to liability for transportation damage and damage/repair disclosure), and GS 20-347(d) (disclosure requirements) to provide that the specified provisions do not apply to a state agency that assists the US Department of Defense with purchasing, transferring, or titling a vehicle to another state agency, a unit of local government, a volunteer fire department, or a volunteer rescue squad. Amends GS 20-73(b)(2) (related to a new owner obtaining a new certificate of title), as enacted by SL 2009-81, to make conforming changes. Enacts new GS 105-187.3(b1) (rate of tax) to provide that the retail value of a vehicle for which a certificate of title is issued because of a transfer by a state agency that assists the US Department of Defense with purchasing, transferring, or titling a vehicle to another state agency, a unit of local government, a volunteer fire department, or a volunteer rescue squad is the sales price paid by that entity.

Amends GS 20-130.1 by providing that subsection (c) [prohibiting the possession, use, installation of a blue light on a vehicle except publicly owned vehicles used for law enforcement] does not apply to the possession and installation of an inoperable blue light on a vehicle inspected by and registered with the Division of Motor Vehicles as a specially constructed vehicle used primarily in shows, exhibitions, parades, or holiday/weekend activities, and not for general daily transportation.

Amends GS 20-183.8G(b) to require the Division of Motor Vehicles to hold a hearing requested by a license holder that receives a statement of charges that could result in the suspension or revocation of the person's license within 10 business days after receiving the request (was, three business days unless the person asks for additional time to prepare for the hearing).

Amends GS 20-218 (Standard qualifications for school bus drivers; speed limit for school buses and school activity buses) to clarify that the statute applies to a school bus *occupied by one or more child passengers* (was, loaded with children). Amends GS 20-309(a) to require that the owner of a motor vehicle *provide proof of financial responsibility* for the vehicle to be registered.

Makes a conforming change to GS 75-63(g1).

Amends GS 105-40(7a) to modify the definition of a *nonprofit arts organization* to include that its primary purpose is to create, produce, present, or support music, dance, theatre, literature, or visual arts (was, offer choral and theatrical performances).

Modifies the definition of *restaurant* in GS 130A-492(8e) to mean a food or (was, and) lodging establishment that prepares and serves drink or food as regulated by the Commission for Public Health (Commission) pursuant to Part 6 of Article 8 of GS Chapter 130A in GS 130A-492(8e), as enacted by SL 2009-27. Amends Section 3 of SL 2009-27 to specify that the Commission may adopt rules to implement Parts 1A, 1B, and 1C of Article 23 (Smoking in Public Places) of GS Chapter 130A, as enacted by the act, on or after the date the act became law, provided that such rules do not become effective before January 2, 2010.

Amends GS 143B-434.1(c)(6) to allow a designee of the Chairperson of the Travel and Tourism Coalition to serve on the NC Travel and Tourism Board.

Amends GS 164-14 to expand the membership of the General Statutes Commission to 14 members (was, 12) by providing that the dean of the school of law of Elon University (Elon dean) and the dean of the Charlotte School of Law (NC) Inc. (Charlotte dean) must appoint one additional member each. Makes conforming changes. Specifies that the initial appointment by (1)

the Elon dean is to be for a term ending May 31, 2010, and (2) the Charlotte dean is to be for a term ending May 31, 2011.

Amends Section 5 of SL 2007-532 to provide that, of the funds credited to the Health Trust Account from the Master Settlement Agreement pursuant to *Section 6(3) of SL 1999-2* during 2008-09, \$5 million for 2008-09 must be transferred from the Department of State Treasurer to the North Carolina Health Insurance Risk Pool (Pool) (was, to the State Controller to support appropriations for the Pool).

Amends Section 16.6 of SL 2007-550, as amended, to extend the January 1, 2010, effective dates for certain statutes in Part 2E (Discarded Computer Equipment Management) of Article 9 of GS Chapter 130A and Sections 16.2, 16.6, and any other provision of Section 16 without a specified effective date to July 1, 2010. Adds that GS 130A-309.95(4) becomes effective July 1, 2010. Makes technical changes.

Amends Section 8 of SL 2008-208 to delete that Section 5 of the act is effective January 1, 2011. Changes the effective date of the remainder of the act to July 1, 2010 (was, when the act becomes law). Makes technical changes.

Also makes technical changes to GS 163-85(c)(10), as enacted by House Bill 908 if that bill becomes law.

August 7, 2009

**H 274. CLARIFYING CHANGES TO STATE LAW.** Filed 2/24/09. Senate amendments make the following changes to 2nd edition. Amendment #1 amends Section 5 (transitional rules for existing licensees under Article 19A of GS Chapter 53, which is repealed by Section 1 of the act) of SL 2009-374 to specify that nothing in the act adversely affects the Commissioner of Banks' ability to bring and maintain any action or pursue any remedy that the Commissioner could have brought under Article 19A against any person for any acts or omissions in violation of Article 19A occurring on or before July 30, 2009.

Amendment #2 amends SL 2009-406, *Permit Extension Act of 2009*, to provide that, if a developmental approval expired between January 1, 2008, and the effective date of this act is revived by operation of this act, and (1) in reliance upon such expiration, the water or sewer capacity was reallocated to other development projects prior to the effective date of the act and (2) there is no longer sufficient supply or treatment capacity to accommodate the project subject to the revival, this act is not to be construed to revive any vested right to the water or sewer allocation associated with that revival, but the revived approval holder may request new capacity and must be given first priority if additional supply or treatment becomes available.

Amendment #3 amends GS 105-164.14(b)(1), if Senate Bill 509 becomes law, to allow a semiannual refund of sales and use taxes paid on direct purchases of tangible personal property and services, other than electricity, telecommunications service, and ancillary service, by a nonprofit hospital, including hospitals and medical accommodations operated by an authority (was, authority created under the Hospital Authorities Law) or *other public hospital described in Article 2 of GS Chapter 131E* for use in carrying on its work.

Amendment #4 amends Section 10.15A(h1)(2) and (h1)(3) of SL 2008-107, as amended, to require that the Department of Health and Human Services (DHHS) notify a Medicaid applicant or recipient, and the provider, if applicable, 10 (was, 30) days before the effective date of an adverse determination [a determination by DHHS to deny, terminate, suspend, or reduce Medicaid covered services] in writing of the determination and the applicant's or recipient's right to appeal. Adds that if a request for a hearing to appeal an adverse determination concerns the reduction, modification, or termination of Medicaid services, upon receipt of the timely appeal, DHHS must reinstate the services to the level or manner prior to action by DHHS as permitted by federal law or regulation. Amends Section 10.15A(h2) of SL 2008-107, as amended, to require that, to the extent possible, the Office of Administrative Hearings (was, the Hearings Division) schedule and hear *all* contested Medicaid cases within 55 (was, 45) days of submission of a request for appeal. Provides that hearings be conducted telephonically or by video technology, however the recipient or applicant, or the recipient's or applicant's representative, may request that the hearing be conducted before the administrative law judge in-person in Wake County, unless good cause can be shown to have the hearing conducted in the applicant's or recipient's county of residence.

Lists specific factors that demonstrate good cause. Requires that DHHS provide written notice to the recipient or applicant of the use of telephonic hearings, hearings by video conference, and in-person hearings before an administrative law judge, and how to request a hearing in a county of residence. Provides for continuances and dismissal of the contested case for failure to appear. Requires the Office of Administrative Hearings (was, the chief administrative law judge) to notify the Mediation Network of North Carolina upon receipt of an appeal request. Provides for the notification of a successful mediation to the Office of Administrative Hearings (was, Hearings Division) and DHHS *within 24 hours of a resolution by fax or email*. Provides for the submittal of new evidence by the petitioner and a hearing determination on whether DHHS substantially prejudiced the rights of the petitioner and whether there were any of the specified improper actions by DHHS. Amends Section 10.15A(e2) of SL 2008-107 to provide that a hearing officer must ensure that a hearing involving a community support provider appeal be held in Wake County, except that the hearing officer may take testimony and receive evidence by telephone or other electronic means (was, after consideration of certain factors). Allows the petitioner and the petitioner's legal representative to appear before the hearing officer in Wake County (was, allowed officer to determine to hold the hearing in the petitioner's county of residence). Deletes that each party to a contested case must provide each other party with a copy of any documentary evidence that the party intends to introduce at the hearing within five days of the hearing. Deletes that the hearing officer has the power to subpoena witnesses and rule on prehearing motions. Requires that DHHS include a copy of the recording at the hearing as part of the official record if a petition for judicial review is filed (was, a transcript would be prepared in that limited circumstance at no cost to a petitioner). Prohibits a final decision from the DHHS designated official more than 180 (was, 90) days from the date of filing the petition and removes the 30 day limit on the potential extension of that time limit for good cause shown. Also makes conforming changes.

September 1, 2009

**SL 2009-550 (H 274). CLARIFYING CHANGES TO STATE LAW. AN ACT TO MAKE VARIOUS CLARIFYING CHANGES TO THE GENERAL STATUTES AND SESSION LAWS.** Summarized in *Daily Bulletin* 8/7/09. Enacted August 28, 2009. Effective August 28, 2009, except as otherwise provided.