

May 19, 2010

S 1242. CHAPTER 50B FEE CLARIFICATION (=H 1874). Filed 5/19/10. *TO CLARIFY WHEN COURT COSTS APPLY FOR AMENDMENTS AND COUNTERCLAIMS IN CHAPTER 50B OF THE GENERAL STATUTES ACTIONS, AS RECOMMENDED BY THE JOINT LEGISLATIVE COMMITTEE ON DOMESTIC VIOLENCE.*

Identical to H 1874, filed 5/19/10.

Intro. by Graham.

GS 7A

July 8, 2010

S 1242. CLARIFYING CHANGES TO THE GEN. STATUTES (NEW). Filed 5/19/10. House committee substitute deletes the provisions of the 2nd edition and replaces it with *AN ACT TO MAKE VARIOUS CLARIFYING CHANGES TO THE GENERAL STATUTES AND THE SESSION LAWS.*

Amends GS 1-398 to provide that for good cause the court may increase the time for filing a partition by 30 additional days. Also removes the requirement that the good cause for an extension of time for filing a complaint, petition, or any pleading be shown by affidavit.

Amends GS 20-179(p) (limit on amelioration of punishment for conviction of impaired driving offenses) to provide that for active terms of imprisonment the defendant may not be released on parole unless he is otherwise eligible, has served the mandatory minimum, and has obtained a substance abuse assessment and completed any recommended treatment program *or is paroled into a residential treatment program.*

Amends GS 20-183.4C to amend when a vehicle subject to a safety inspection, an emissions inspection, or both, must be inspected as follows. Provides that a new or used vehicle acquired from a retailer or private sale (was, only from a retailer) in the state and registered with the Department of Motor Vehicles (DMV) with a new registration or a transferred registration must be inspected when the current registration and adds if the vehicle has received a passing inspection within the previous 12 months; makes a conforming deletion of the provision concerning used vehicles bought at a private sale. Allows unregistered vehicles to be registered with the DMV in accordance with GS 20-50(b) for up to 10 days before the vehicle receives a passing inspection (was, unregistered vehicle must be inspected before it is registered with DMV unless it has received a passing inspection within the previous 12 months). Further amends the statute to allow the DMV to issue a 10 day (was, three day) permit authorizing a person to drive a vehicle whose inspection authorization or registration has expired. Provides that the permit authorizes the person to drive the described vehicle for a period not to exceed 10 days from the day of issuance (was, drive the described vehicle only from the place the vehicle is parted to an inspection station, repair shop, or DMV or contract agent registration office). Deletes provision in the statute for the issuance of a 10 day temporary permit to allow driving of a vehicle that failed to pass the emissions inspection.

Provides that a for-hire motor carrier that is not registered as required under GS 20-382 may obtain an emergency trip permit (was, may obtain an emergency trip permit by filing an application with the DMV).

Rewrites GS 36C-4-401.2 to clarify that upon petition of an interested party in accordance with the provisions of GS Chapter 36C or in any other matter that is properly before the court, a court may create or establish a trust by judgment or decree. Provides that the court's authority includes creating or establishing a trust under USC Title 42 § 1396p(d)(4). Amends GS 36C-8-816.1(c)(7) to provide that if a trustee of an original trust exercises power as a trustee to distribute principal or income from that trust by appointing property to a second trust, and the trustee's power to make distributions is subject to an ascertainable standard, then the distribution power with regards to the second trust must be subject to the same ascertainable standard as in the original trust and the power to distribute income or principal must be exercisable in favor of the same current beneficiaries to whom the distribution could be made in the original trust.

Current law requires a landlord to provide a minimum of one operable carbon monoxide detector per rental unit, per level. Amends GS 42-42(7) to clarify that the subdivision applies only to dwelling units with a heater, appliance, or fireplace fueled by fossil fuel, wood, wood products, biomass, or any other combustible product and any dwelling unit with an attached garage.

Amends GS 143-138(b2) to insert identical language in the provisions in the North Carolina State Building Code requirements regarding the installation of carbon monoxide detectors in dwelling units.

Amends GS 58-3-285(a) to provide that only persons authorized by law to fit hearing aids, including individuals licensed under GS Chapter 93D, are eligible to fit a hearing aid under this statute.

Amends GS 93B-9 to authorize the North Carolina Criminal Justice Education and Training Standards Commission and the North Carolina Sheriffs' Education and Training Standards Commission to establish an age requirement for holding certification through either Commission that is more than 18 years of age.

Amends GS 95-25.5(n) to define *qualified youth under 18 years of age* as used in the subsection to mean an uncompensated fire department or rescue squad member who is at least 15 years of age (was, over 15 years of age) and under 18 years of age.

Amends GS 116-62(f) to provide that any supporting data, including aging reports, regarding unclaimed property held by the clerk of superior court or any other office of state or local government may be confidential but is to be disclosed to the Treasurer in accordance with the reporting of escheated and abandoned property. Provides that the supporting data and lists of apparent owners held by the Treasurer may be confidential until 12 (was, six) months after the lists required by this statute have been distributed.

Renames Article 36A of GS Chapter 143 as State Employee Suggestion Program and identifies the program by the logo, NC-Thinks (was, State Employee Incentive Bonus Program with the acronym, SEIBP). Makes conforming changes to GS 143-345.20 through GS 143-345.25 to reference the State Employee Suggest Program by the logo, NC-Thinks. Also amends catch lines in Article 36A to reflect the name change to the State Employees Suggestion Program. Also renames the Incentive Bonus Review Committee as the State Suggestion Review Committee.

Amends GS 162-62 (regarding the legal status of prisoners). Deletes the provision that instructs the administrator or person in charge of a facility to make a query through the Division of Criminal Information system to the Law Enforcement Support Center of Immigration and Customs Enforcement of the United States Department of Homeland Security, if the administrator or person in charge is unable to determine if the prisoner is a legal resident or citizen of the United States or its territories. Instead, instructs the administrator or person in charge to make a query to Immigration and Customs Enforcement of the United States Department of Homeland Security. Also deletes the reporting requirement as to the number of queries performed under this statute annually.

Amends Section 12 of SL 2009-516 to provide that Sections 7(a), 8(a), 9, and 10(a) also apply to probation judgments modified on or after the effective date of December 1, 2009 (was, applied to probation judgments entered or deferred prosecution agreements executed on or after the effective date).

Provides that if House Bill 1734, 2009 Regular Session becomes law, then amends GS 136-18(2) to delete the qualifying phrase, "as permitted by local zoning," as a condition for the relocation or initial location above or below ground of distributed antenna systems (DAS). Also provides that all changes or alterations authorized by this statute are subject to right-of-way plans.

Provides that if Senate Bill 1015, 2009 Regular Session, becomes law, then amends GS 75-120(3) as enacted by Section 2 of Senate Bill 1015 to add a new subdivision providing that *engaged in the business of foreclosure rescue transactions* means directly or indirectly arranging, controlling, or otherwise participating in more than one foreclosure rescue transaction in a five-year period. Provides that if Senate Bill 1015, 2009 Regular Session, becomes law, then amends GS 75-122, as enacted by Section 2 of Senate Bill 1015 to provide that a violation of GS 75-21 is an unfair trade practice under GS 75-1.1; however the failure of the transferee to obtain an appraisal is not, by itself, a violation of GS 75-121 when there is clear and convincing evidence that the purchase price exceeded 50% of the fair market value of the property. Also provides that nothing in GS Chapter 75 is to be construed as subjecting an individual homeowner who is selling the homeowner's primary residence, to liability under GS 75-1.1. Effective October 1, 2010, and applies to transactions entered into on or after that date.

Except as otherwise provide, effective when the act becomes law.

July 9, 2010

S 1242. CLARIFYING CHANGES TO THE GEN. STATUTES. Filed 5/19/10. House committee substitute makes the following changes to 3rd edition.

Amends GS 42-42(7) (concerning landlord requirements) to clarify that the subdivision, under which a landlord must install at least one carbon monoxide monitor per rental unit per level, applies only to dwelling units having a fossil-fuel burning heater, appliance, or fireplace (was, applicable to dwelling units having a heater, appliance, or fireplace fueled by fossil fuel, wood, wood products, biomass, or any other combustible product), and in any dwelling unit having an attached garage. Makes a conforming change to GS 143-138(b2) (NC State Building Code).

Amends GS 136-18(2) (concerning the powers of the Department of Transportation) if House Bill 1734, 2009 Regular Session, becomes law, to delete language that subjected all changes or alterations authorized by that subdivision to right-of-way plans.

Deletes proposed sub-subdivision to GS 75-120(3), as enacted if Senate Bill 1015, 2009 Regular Session becomes law, which provided that the transferee, an agent of the transferee, or others acting in concert with the transferee are engaged in the business of foreclosure rescue transactions, and included a definition.

Amends GS 75-122, as enacted by Section 2 of Senate Bill 1015 if that bill becomes law, to provide that a violation of GS 75-121 is an unfair trade practice under GS 75-1.1 (deletes provision stating that the failure of the transferee to obtain an appraisal will not, by itself, violate GS 75-121 where there is clear and convincing evidence that the purchase price exceeded 50% of the property's fair market value).

Renumbers bill accordingly.

July 28, 2010

SL 2010-97 (S 1242). CLARIFYING CHANGES TO THE GENERAL STATUTES. AN ACT TO MAKE VARIOUS CLARIFYING CHANGES TO THE GENERAL STATUTES AND THE SESSION LAWS. Summarized in *Daily Bulletin* 7/8/10 and 7/9/10. Enacted July 20, 2010. Effective July 20, 2010, except as otherwise provided.