

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2013

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SENATE BILL 493  
Transportation Committee Substitute Adopted 5/1/13  
House Committee Substitute Favorable 6/18/14  
PROPOSED HOUSE COMMITTEE SUBSTITUTE S493-PCS45198-ROf-45

Short Title: 2014 Regulatory Reform Act.

(Public)

Sponsors:

Referred to:

March 28, 2013

A BILL TO BE ENTITLED

AN ACT TO PROVIDE FURTHER REGULATORY RELIEF TO THE CITIZENS OF NORTH CAROLINA BY PROVIDING FOR VARIOUS ADMINISTRATIVE REFORMS, BY ELIMINATING CERTAIN UNNECESSARY OR OUTDATED STATUTES AND REGULATIONS AND MODERNIZING OR SIMPLIFYING CUMBERSOME OR OUTDATED REGULATIONS, AND BY MAKING VARIOUS OTHER STATUTORY CHANGES.

The General Assembly of North Carolina enacts:

**PART I. BUSINESS REGULATION**

**PROHIBIT CERTAIN HEADLIGHTS/AIRBAGS**

**SECTION 1.1.(a)** G.S. 20-131 reads as rewritten:

**"§ 20-131. Requirements as to headlamps and auxiliary driving lamps.**

(a) The headlamps of motor vehicles shall be so constructed, arranged, and adjusted that, except as provided in subsection (c) of this section, they will at all times mentioned in G.S. 20-129, and under normal atmospheric conditions and on a level road, produce a driving light sufficient to render clearly discernible a person 200 feet ahead, but any person operating a motor vehicle upon the highways, when meeting another vehicle, shall so control the lights of the vehicle operated by him by shifting, depressing, deflecting, tilting, or dimming the headlight beams in such manner as shall not project a glaring or dazzling light to persons within a distance of 500 feet in front of such headlamp. Every new motor vehicle, other than a motorcycle or motor-driven cycle, registered in this State after January 1, 1956, which has multiple-beam road-lighting equipment shall be equipped with a beam indicator, which shall be lighted whenever the uppermost distribution of light from the headlamps is in use, and shall not otherwise be lighted. Said indicator shall be so designed and located that when lighted it will be readily visible without glare to the driver of the vehicle so equipped.

(b) Headlamps shall be deemed to comply with the foregoing provisions prohibiting glaring and dazzling lights if none of the main bright portion of the headlamp beams rises above a horizontal plane passing through the lamp centers parallel to the level road upon which the loaded vehicle stands, and in no case higher than 42 inches, 75 feet ahead of the vehicle.

(b1) No person shall operate a motor vehicle that is equipped with any headlamps that (i) change the original design or performance of the headlamps and (ii) do not comply with Federal Motor Vehicle Safety Standard No. 108, as adopted by the National Highway Traffic



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1 Safety Administration. Any person who violates this subsection is guilty of an infraction  
2 punishable by a penalty of not more than one hundred dollars (\$100.00).

3 (c) Whenever a motor vehicle is being operated upon a highway, or portion thereof,  
4 which is sufficiently lighted to reveal a person on the highway at a distance of 200 feet ahead of  
5 the vehicle, it shall be permissible to dim the headlamps or to tilt the beams downward or to  
6 substitute therefor the light from an auxiliary driving lamp or pair of such lamps, subject to the  
7 restrictions as to tilted beams and auxiliary driving lamps set forth in this section.

8 (d) Whenever a motor vehicle meets another vehicle on any highway it shall be  
9 permissible to tilt the beams of the headlamps downward or to substitute therefor the light from  
10 an auxiliary driving lamp or pair of such lamps subject to the requirement that the tilted  
11 headlamps or auxiliary lamp or lamps shall give sufficient illumination under normal  
12 atmospheric conditions and on a level road to render clearly discernible a person 75 feet ahead,  
13 but shall not project a glaring or dazzling light to persons in front of the vehicle: Provided, that  
14 at all times required in G.S. 20-129 at least two lights shall be displayed on the front of and on  
15 opposite sides of every motor vehicle other than a motorcycle, road roller, road machinery, or  
16 farm tractor.

17 (e) No city or town shall enact an ordinance in conflict with this section."

18 **SECTION 1.1.(b)** G.S. 20-183.3(a)(2) reads as rewritten:

19 "(a) Safety. – A safety inspection of a motor vehicle consists of an inspection of the  
20 following equipment to determine if the vehicle has the equipment required by Part 9 of Article  
21 3 of this Chapter and if the equipment is in a safe operating condition:

22 ...  
23 (2) Lights, as required by G.S. 20-129 or G.S. 20-129.1. To determine if a  
24 vehicle's headlamps are in a safe operating condition that complies with the  
25 lighting restrictions in G.S. 20-131, a safety inspection mechanic must first  
26 determine if aftermarket headlamps are installed. If aftermarket headlamps  
27 have been installed, the mechanic must inspect the headlamps to verify the  
28 headlamps are marked "DOT," indicating compliance with the Federal  
29 Motor Vehicle Safety Standard No. 108, as adopted by the National  
30 Highway Traffic Safety Administration.

31 ...."

32 **SECTION 1.1.(c)** G.S. 20-4.01 is amended by adding the following new  
33 subdivisions to read:

34 "**§ 20-4.01. Definitions.**

35 Unless the context requires otherwise, the following definitions apply throughout this  
36 Chapter to the defined words and phrases and their cognates:

37 ...  
38 (4c) Counterfeit airbag. – A replacement motor vehicle inflatable occupant  
39 restraint system, including all component parts, such as the cover, sensors,  
40 controllers, inflators, and wiring that bears without authorization a mark  
41 identical or substantially similar to the genuine mark of the manufacturer of  
42 a motor vehicle.

43 ...

44 (23a) Nonfunctional airbag. – A replacement motor vehicle inflatable occupant  
45 restraint system, including all component parts, such as the cover, sensors,  
46 controllers, inflators, and wiring that has a fault that is detected by the  
47 vehicle diagnostic system after the installation procedure is completed.  
48 Nonfunctional airbag also means any object, including a counterfeit airbag,  
49 repaired airbag, or airbag component, installed to deceive the vehicle owner  
50 or operator into believing a functional airbag is installed.

51 ...."

**SECTION 1.1.(d)** G.S. 20-71.4(a) reads as rewritten:

- "(a) It shall be unlawful for any transferor of a motor vehicle to do any of the following:
- (1) Transfer a motor vehicle up to and including five model years old when the transferor has knowledge that the vehicle has been involved in a collision or other occurrence to the extent that the cost of repairing that vehicle, excluding the cost to replace the air bag restraint system, exceeds twenty-five percent (25%) of its fair market retail value at the time of the collision or other occurrence, without disclosing that fact in writing to the transferee prior to the transfer of the vehicle.
  - (2) Transfer a motor vehicle when the transferor has knowledge that the vehicle is, or was, a flood vehicle, a reconstructed vehicle, or a salvage motor vehicle, without disclosing that fact in writing to the transferee prior to the transfer of the vehicle.
  - (3) Transfer a motor vehicle when the transferor is a motor vehicle dealer who has knowledge that a counterfeit airbag or a nonfunctional airbag has been installed in the vehicle.

**SECTION 1.1.(e)** This section becomes effective December 1, 2014, and applies to offenses committed on or after that date.

**UNCLAIMED LIFE INSURANCE BENEFITS**

**SECTION 1.2.(a)** Article 58 of Chapter 58 of the North Carolina General Statutes is amended by adding a new Part to read:

"Part 7. Unclaimed Life Insurance Benefits.

**"§ 58-58-360. Purpose.**

This Part shall be known as the "Unclaimed Life Insurance Benefits Act."

**"§ 58-58-370. No preemption of Unclaimed Property Act.**

Nothing in this Part shall be construed to amend, modify, or supersede the North Carolina Unclaimed Property Act, Article 4 of Chapter 116B of the General Statutes.

**"§ 58-58-380. Definitions.**

The following definitions apply in this Part:

- (1) Account owner. – The owner of a retained asset account opened after July 1, 2015, by a resident of this State.
- (2) Annuity. – Any active annuity contract issued in this State after July 1, 2015, other than an annuity used to fund an employment-based retirement plan or program where the insurer is not committed by terms of the annuity contract to pay death benefits to the beneficiaries of specific plan participants or that is used to fund a preneed funeral contract as defined in G.S. 90-210.60.
- (3) Beneficiary. – An individual or other entity entitled to benefits under a policy or annuity.
- (4) Death master file or DMF. – The death master file from the United States Social Security Administration or any other database or service that an insurer may determine is substantially as inclusive as the death master file for determining that a person has reportedly died.
- (5) Death master file match or DMF match. – A search of a DMF that results in a match of a person's Social Security number or name and date of birth.
- (6) Insurer. – Any insurance company authorized to transact life insurance business in this State.
- (7) Person. – The policy insured, annuity owner, annuitant, or account owner, as applicable under the policy, annuity, or retained asset account subject to this Part.

- 1           (8) Policy. – Any policy or certificate of life insurance issued in this State after  
2 July 1, 2015, but does not include any policy or certificate of life insurance  
3 that provides a death benefit under any of the following:  
4           a. An employee benefit plan subject to the Employee Retirement  
5 Income Security Act of 1974, as periodically amended, compiled at  
6 29 U.S.C. § 1002, et seq.  
7           b. Any federal employee benefit program.  
8           c. Government plans or church plans as defined in the Employee  
9 Retirement Income Security Act of 1974, as periodically amended,  
10 29 U.S.C. § 1002, et seq.  
11           d. A policy or certificate of life insurance that is used to fund a preneed  
12 funeral contract as defined in G.S. 90-210.60.  
13           e. A policy or certificate of credit life or accident and health insurance.  
14           f. A policy of industrial life insurance as defined in G.S. 58-58-5.  
15           (9) Record-keeping services. – Those circumstances under which the insurer has  
16 agreed with a group life insurance policyholder to be responsible for  
17 obtaining, maintaining, and administering in its own systems information  
18 about each individual insured under the policyholder's group life insurance  
19 contract at least the following information:  
20           a. Individual insured's Social Security number or name and date of  
21 birth.  
22           b. Beneficiary designation information.  
23           c. Coverage eligibility.  
24           d. Benefit amount.  
25           e. Premium payment status.

26 **§ 58-58-390. Requirements for insurers.**

27           (a) To the extent that an insurer's records of its in-force policies, annuities, and account  
28 owners are available electronically, an insurer shall perform a comparison of such in-force  
29 policies, annuities, and account owners against a death master file, on a semiannual basis, to  
30 identify potential death master file matches. To the extent that an insurer's records of its  
31 in-force policies, annuities, and account owners are not available electronically, an insurer shall  
32 perform a comparison of such in-force policies, annuities, and account owners against a death  
33 master file, on a semiannual basis, to identify potential death master file matches, using the  
34 records most easily accessible by the insurer.

- 35           (1) This section shall not apply to policies or annuities for which the insurer has  
36 received premiums from outside the policy value or by check, bank draft,  
37 payroll deduction, or any other similar method of active premium payment,  
38 within the 18 months immediately preceding the death master file  
39 comparison.  
40           (2) An insurer may comply with the requirements of this section by using the  
41 full death master file once and thereafter using the death master file update  
42 files for future comparisons.

43           (b) If an insurer learns of the possible death of a person, through a DMF match or  
44 otherwise, then the insurer shall within 90 days complete a good-faith effort, which shall be  
45 documented by the insurer, to do the following:

- 46           (1) Confirm the death of such person against other available records and  
47 information.  
48           (2) Review its records to determine whether such deceased person had  
49 purchased any other products with the insurer.  
50           (3) Determine whether benefits may be due in accordance with any applicable  
51 policy, annuity, or retained asset account.

1           (4) Provide the appropriate claims forms or instructions to the beneficiary to  
2           make a claim and notify the beneficiary of the actions necessary to submit a  
3           valid claim.

4           (c) Except as prohibited by law, an insurer may disclose only the minimum necessary  
5           identifying personal information about such an insured, annuitant, account owner, or  
6           beneficiary to a person who the insurer reasonably believes may be able to assist the insurer in  
7           locating the beneficiary or a person otherwise entitled to payment of the claims proceeds.

8           (d) In the event an insurer is unable to confirm the death of a person following a DMF  
9           match, an insurer may determine that no further good-faith efforts, as described in subsection  
10           (b) of this section, are required of it with respect to such policy, annuity, or retained asset  
11           account.

12           (e) An insurer or its service provider shall not charge any beneficiary or other person  
13           who may be entitled to benefits any fees or costs associated with a DMF search or the  
14           verification of a DMF match conducted pursuant to this section.

15           (f) The benefits from life insurance policies, annuities, or retained asset accounts, any  
16           applicable accrued contractual interest, and interest payable under G.S. 58-58-110 shall first be  
17           payable to the beneficiaries or account owners as provided for in such policies, annuities, or  
18           retained asset accounts. In the event the beneficiaries or account owners cannot be found, the  
19           benefits and any associated interest shall escheat to the State as unclaimed property as set forth  
20           in Article 4 of Chapter 116B of the General Statutes.

21           (g) The Commissioner may exempt an insurer from the DMF comparisons required  
22           under subsection (a) of this section if the insurer demonstrates to the commissioner's  
23           satisfaction that compliance would result in hardship to the insurer.

24           (h) Nothing in this section limits an insurer from requiring a valid death certificate as  
25           part of any claims validation process or otherwise requiring compliance with the terms and  
26           conditions of the policy or annuity relative to filing and payment of claims.

27           **"§ 58-58-400. Noncompliance may constitute unfair claims settlement practice.**

28           A pattern of failures to meet the requirements of this Part may constitute an unfair claims  
29           settlement practice under G.S. 58-3-100(a)(5) and G.S. 58-63-15. Nothing in this Part shall be  
30           construed to create or imply a private cause of action for a violation of this Part."

31           **SECTION 1.2.(b)** The Commissioner of Insurance is authorized to promulgate  
32 rules under Article 2A of Chapter 150B of the General Statutes to implement Section 1.2(a) of  
33 this act, provided such rules shall not impose any duty or requirements not stated in this act.  
34

## 35 BAIL BOND SHIELD AMENDMENT

36           **SECTION 1.3.** G.S. 58-71-40(d1) reads as rewritten:

37           "(d1) While engaged in official duties, a licensee is authorized to carry, possess, and  
38 display a shield as described in this subsection. The shield shall fulfill all of the following  
39 requirements:

40           (1) Be an exact duplicate in size, shape, color, and design of the shield approved  
41           under G.S. 74C-5(12) and pictured in 12 NCAC 07D. 0405 on ~~May 1,~~  
42           ~~2013.~~ May 1, 2013, except that the design may be altered by stamping,  
43           inlaying, embossing, enameling, or engraving to accommodate the license  
44           number.

45           (2) Include the licensee's last name and corresponding license number in the  
46           same locations as the shield referenced in subdivision (1) of this subsection.

47           (3) With reference to the shield described in subdivision (1) of this subsection,  
48           in lieu of the word "Private," the shield shall have the words "North  
49           Carolina," and in lieu of the word "Investigator," the shield shall have the  
50           words "Bail Agent."

1 Any shield that deviates from the design requirements as specified in this section shall be an  
2 unauthorized shield and its possession by a licensee shall constitute a violation of the statute by  
3 the licensee."  
4

5 **REPEAL UNNECESSARY UTILITIES PROVISION**

6 **SECTION 1.4.(a)** G.S. 62-36.1 is repealed.

7 **SECTION 1.4.(b)** G.S. 62-36A is repealed.  
8

9 **MERCHANT EXEMPTION FROM LOCKSMITH LICENSING**

10 **SECTION 1.5.** G.S. 74F-16 reads as rewritten:

11 **"§ 74F-16. Exemptions.**

12 The provisions of this Chapter do not apply to:

13 ...

- 14 (6) A merchant, or retail or hardware store, when the merchant or store does not  
15 purport to be a locksmith and lawfully (i) rekeys a lock at the time of sale of  
16 the lock, (ii) duplicates a key, ~~except for including~~ duplicating a transponder  
17 type key that requires programming, or (iii) installs as a service a lock on a  
18 door if both the door and lock were purchased from the same merchant.

19 ...."  
20

21 **CLARIFY PROFESSIONAL ENGINEER EXEMPTION**

22 **SECTION 1.6.(a)** G.S. 89C-25 reads as rewritten:

23 **"§ 89C-25. Limitations on application of Chapter.**

24 This Chapter shall not ~~be construed to prevent or affect~~ prevent the following activities:

- 25 (1) The practice of ~~architecture, architecture as defined in Chapter 83A of the~~  
26 General Statutes, landscape architecture, landscape architecture as defined in  
27 Chapter 89A of the General Statutes, or contracting or any other legally  
28 recognized profession or trade, contracting as defined in Articles 1, 2, 4, and  
29 5 of Chapter 87 of the General Statutes.  
30 (2) Repealed by Session Laws 2011-304, s. 7, effective June 26, 2011.  
31 (3) Repealed by Session Laws 2011-304, s. 7, effective June 26, 2011.  
32 (4) Engaging in engineering or land surveying as an employee or assistant under  
33 the responsible charge of a professional engineer or professional land  
34 surveyor or as an employee or assistant of a nonresident professional  
35 engineer or a nonresident professional land surveyor provided for in  
36 subdivisions (2) and (3) of this section, provided that the work as an  
37 employee may not include responsible charge of design or  
38 supervision. ~~surveyor.~~  
39 (5) The practice of professional engineering or land surveying by any person not  
40 a resident of, and having no established place of business in this State, as a  
41 consulting associate of a professional engineer or professional land surveyor  
42 licensed under the provisions of this Chapter; provided, the nonresident is  
43 qualified for performing the professional service in the person's own state or  
44 country.  
45 (6) Practice by members of the Armed Forces of the United States; employees  
46 of the government of the United States while engaged in the practice of  
47 engineering or land surveying solely for the government on  
48 government-owned works and projects; or practice by those employees of  
49 the Natural Resources Conservation Service, county employees, or  
50 employees of the Soil and Water Conservation Districts who have federal

1 engineering job approval authority that involves the planning, designing, or  
2 implementation of best management practices on agricultural lands.

3 ~~(7) The internal engineering or surveying activities of a person, firm or~~  
4 ~~corporation engaged in manufacturing, processing, or producing a product,~~  
5 ~~including the activities of public service corporations, public utility~~  
6 ~~companies, authorities, State agencies, railroads, or membership~~  
7 ~~cooperatives, or the installation and servicing of their product in the field; or~~  
8 ~~research and development in connection with the manufacture of that~~  
9 ~~product or their service; or of their research affiliates; or their employees in~~  
10 ~~the course of their employment in connection with the manufacture,~~  
11 ~~installation, or servicing of their product or service in the field, or~~  
12 ~~on the premises maintenance of machinery, equipment, or apparatus~~  
13 ~~incidental to the manufacture or installation of the product or service of a~~  
14 ~~firm by the employees of the firm upon property owned, leased or used by~~  
15 ~~the firm; inspection, maintenance and service work done by employees of~~  
16 ~~the State of North Carolina, any political subdivision of the State, or any~~  
17 ~~municipality including construction, installation, servicing, maintenance by~~  
18 ~~regular full-time employees of streets, street lighting, traffic control signals,~~  
19 ~~police and fire alarm systems, waterworks, steam, electric and sewage~~  
20 ~~treatment and disposal plants; the services of superintendents, inspectors or~~  
21 ~~foremen regularly employed by the State of North Carolina or any political~~  
22 ~~subdivision of the State or a municipal corporation; provided, however, that~~  
23 ~~the internal engineering or surveying activity is not a holding out to or an~~  
24 ~~offer to the public of engineering or any service thereof as prohibited by this~~  
25 ~~Chapter. Engineering work, not related to the foregoing exemptions, where~~  
26 ~~the safety of the public is directly involved shall be under the responsible~~  
27 ~~charge of a licensed professional engineer, or in accordance with standards~~  
28 ~~prepared or approved by a licensed professional engineer.~~

29 (7a) The engineering or surveying activities of a person as defined by  
30 G.S. 89C-3(5) who is engaged in manufacturing, processing, producing, or  
31 transmitting and delivering a product, and which activities are reasonably  
32 necessary and connected with the primary services performed by individuals  
33 regularly employed in the ordinary course of business by the person,  
34 provided that the engineering or surveying activity is not a holding out or an  
35 offer to the public of engineering or surveying services, as prohibited by this  
36 Chapter. The engineering and surveying services may not be offered,  
37 performed, or rendered independently from the primary services rendered by  
38 the person. For purposes of this subdivision, "activities reasonably necessary  
39 and connected with the primary service" include the following:

- 40 a. Installation or servicing of the person's product by employees of the  
41 person conducted outside the premises of the person's business.  
42 b. Design, acquisition, installation, or maintenance of machinery,  
43 equipment, or apparatus incidental to the manufacture or installation  
44 of the product performed by employees of the person upon property  
45 owned, leased, or used by the person.  
46 c. Research and development performed in connection with the  
47 manufacturing, processing, or production of the person's product by  
48 employees of the person.

49 Engineering or surveying activities performed pursuant to this subdivision,  
50 where the safety of the public is directly involved, shall be under the

1 responsible charge of a licensed professional engineer or licensed  
2 professional surveyor.

- 3 (8) The (i) preparation of fire sprinkler planning and design drawings by a fire  
4 sprinkler contractor licensed under Article 2 of Chapter 87 of the General  
5 Statutes, or (ii) the performance of internal engineering or survey work by a  
6 manufacturing or communications common carrier company, or by a  
7 research and development company, or by employees of those corporations  
8 provided that the work is in connection with, or incidental to products of, or  
9 nonengineering services rendered by those corporations or their affiliates.
- 10 (9) The routine maintenance or servicing of machinery, equipment, facilities or  
11 structures, the work of mechanics in the performance of their established  
12 functions, or the inspection or supervision of construction by a foreman,  
13 superintendent, or agent of the architect or professional engineer, or services  
14 of an operational nature performed by an employee of a laboratory, a  
15 manufacturing plant, a public service corporation, or governmental  
16 operation.
- 17 (10) The design of land application irrigation systems for an animal waste  
18 management plan, required by G.S. 143-215.10C, by a designer who  
19 exhibits, by at least three years of relevant experience, proficiency in soil  
20 science and basic hydraulics, and who is thereby listed as an Irrigation  
21 Design Technical Specialist by the North Carolina Soil and Water  
22 Conservation Commission."

23 **SECTION 1.6.(b)** G.S. 89C-19 reads as rewritten:

24 **"§ 89C-19. Public works; requirements where public safety involved.**

25 This State and its political subdivisions such as counties, cities, towns, or other political  
26 entities or legally constituted boards, commissions, public utility companies, or authorities, or  
27 officials, or employees of these entities shall not engage in the practice of engineering or land  
28 surveying involving either public or private property where the safety of the public is directly  
29 involved without the project being under the direct supervision of a professional engineer for  
30 ~~the preparations of plans and specifications for~~ engineering projects, or a professional land  
31 surveyor for land surveying projects, as provided for the practice of the respective professions  
32 by this Chapter.

33 An official or employee of the State or any political subdivision specified in this section,  
34 holding the positions set out in this section as of June 19, 1975, shall be exempt from the  
35 provisions of this section so long as such official or employee is engaged in substantially the  
36 same type of work as is involved in the present position.

37 Nothing in this section shall be construed to prohibit inspection, maintenance and service  
38 work done by employees of the State of North Carolina, any political subdivision of the State,  
39 or any municipality including construction, installation, servicing, and maintenance by regular  
40 full-time employees of, secondary roads and drawings incidental to work on secondary roads,  
41 streets, street lighting, traffic-control signals, police and fire alarm systems, waterworks, steam,  
42 electric and sewage treatment and disposal plants, the services of superintendents, inspectors or  
43 foremen regularly employed by the State of North Carolina or any political subdivision of the  
44 State, or municipal corporation.

45 The provisions in this section shall not be construed to alter or modify the requirements of  
46 Article 1 of Chapter 133 of the General Statutes."

47 **SECTION 1.6.(c)** G.S. 143-64.31 is amended by adding new subsection to read:

48 "(f) Except as provided in this subsection, no work product or design may be solicited,  
49 submitted, or considered as part of the selection process under this Article; and no costs or fees,  
50 other than unit price information, may be solicited, submitted, or considered as part of the  
51 selection process under this Article. Examples of prior completed work may be solicited,



1 submitted, and considered when determining demonstrated competence and qualification of  
2 professional services; and discussion of concepts or approaches to the project, including impact  
3 on project schedules, is encouraged."  
4

## 5 SUMMARY EJECTMENT SERVICE OF PROCESS

6 SECTION 1.9.(a) G.S. 42-28 reads as rewritten:

### 7 "§ 42-28. Summons issued by clerk.

8 When the lessor or his assignee files a complaint pursuant to G.S. 42-26 or 42-27, and asks  
9 to be put in possession of the leased premises, the clerk of superior court shall issue a summons  
10 requiring the defendant to appear at a certain time and place not to exceed seven days from the  
11 issuance of the summons, excluding weekends and legal holidays, to answer the complaint. The  
12 plaintiff may claim rent in arrears, and damages for the occupation of the premises since the  
13 cessation of the estate of the lessee, not to exceed the jurisdictional amount established by  
14 G.S. 7A-210(1), but if he omits to make such claim, he shall not be prejudiced thereby in any  
15 other action for their recovery. After issuance of the summons, the clerk shall either return the  
16 summons to the plaintiff or shall forward the summons to the Sheriff, at the election of the  
17 plaintiff."

18 SECTION 1.9.(b) G.S. 42-29 reads as rewritten:

### 19 "§ 42-29. Service of summons.

20 (a) The officer receiving the summons shall mail a copy of the summons and complaint  
21 to the defendant no later than the end of the next business day or as soon as practicable at the  
22 defendant's last known address in a stamped addressed envelope provided by the plaintiff to the  
23 action. The officer may, within five days of the issuance of the summons, attempt to telephone  
24 the defendant requesting that the defendant either personally visit the officer to accept service,  
25 or schedule an appointment for the defendant to receive delivery of service from the officer. If  
26 the officer does not attempt to telephone the defendant or the attempt is unsuccessful or does  
27 not result in service to the defendant, the officer shall make at least one visit to the place of  
28 abode of the defendant within five days of the issuance of the summons, but at least two days  
29 prior to the day the defendant is required to appear to answer the complaint, excluding legal  
30 holidays, at a time reasonably calculated to find the defendant at the place of abode to attempt  
31 personal delivery of service. He then shall deliver a copy of the summons together with a copy  
32 of the complaint to the defendant, or leave copies thereof at the defendant's dwelling house or  
33 usual place of abode with some person of suitable age and discretion then residing therein. If  
34 such service cannot be made the officer shall affix copies to some conspicuous part of the  
35 premises claimed and make due return showing compliance with this section.

36 (b) As used in this section and for purposes of this Chapter only, the term "officer"  
37 means either (i) a person over the age of 21 years who is not a party to the action and is  
38 employed by the plaintiff to serve the summons and the complaint in summary ejectment in  
39 accordance with this Article or (ii) the sheriff of the county where the premises is located."

40 SECTION 1.9.(c) This section becomes effective October 1, 2014.

## 41 CLARIFY EFFECTIVE DATE OF DEFINITION OF DISCHARGE OF WASTE

42 SECTION 1.10. Section 17 of S.L. 2012-187 reads as rewritten:

43 "SECTION 17. Section 11 of this act is effective when it becomes law and applies to  
44 contested cases filed or pending on or after that date. Except as otherwise provided, this act is  
45 effective when it becomes law."  
46

## 47 CLARIFY MEMBERSHIP UNDER INSURANCE GUARANTY ASSOCIATION ACT

48 SECTION 1.11.(a) G.S. 58-48-20 reads as rewritten:

### 49 "§ 58-48-20. Definitions.

50 As used in this Article:  
51

1 ...  
 2 (4) "Covered claim" means an unpaid claim, including one of unearned  
 3 premiums, which is in excess of fifty dollars (\$50.00) and arises out of and is  
 4 within the coverage and not in excess of the applicable limits of an insurance  
 5 policy to which this Article applies as issued by an insurer, if such insurer  
 6 becomes an insolvent insurer after the effective date of this Article and (i)  
 7 the claimant or insured is a resident of this State at the time of the insured  
 8 event; or (ii) the property from which the claim arises is permanently located  
 9 in this State. "Covered claim" shall not include any amount awarded (i) as  
 10 punitive or exemplary damages; (ii) sought as a return of premium under any  
 11 retrospective rating plan; or (iii) due any reinsurer, insurer, insurance pool,  
 12 or underwriting association, as subrogation or contribution recoveries or  
 13 otherwise. "Covered claim" also shall not include fines or penalties,  
 14 including attorneys fees, imposed against an insolvent insurer or its insured  
 15 or claims of any claimant whose net worth exceeds fifty million dollars  
 16 (\$50,000,000) on December 31 of the year preceding the date the insurer  
 17 becomes insolvent. The term "covered claim" includes all claims incurred  
 18 against a workers' compensation group self-insurer, licensed and regulated  
 19 under Part 1 of Article 47 of this Chapter, that merged with a member  
 20 insurer on or after January 1, 1997.

21 ...."

22 SECTION 1.11.(b) G.S. 97-131 reads as rewritten:

23 "§ 97-131. Creation.

24 (a) There is created a nonprofit unincorporated legal entity to be known as the North  
 25 Carolina Self-Insurance Security Association. The Association is to provide mechanisms for  
 26 the payment of covered claims against member self-insurers, to avoid excessive delay in  
 27 payment of covered claims, to avoid financial loss to claimants because of the insolvency of a  
 28 member self-insurer, to assist the Commissioner in the detection of self-insurer insolvencies, to  
 29 fund the Association Aggregate Security System, and to capitalize the Fund to ensure the  
 30 availability of financial resources to pay covered claims and to fund the activities of the  
 31 Association.

32 (b) All individual self-insurers and group self-insurers shall be and remain members of  
 33 the Association as a condition of being licensed to self-insure in this State. The Association  
 34 shall perform its functions under a Plan of Operation established or amended, or both, by the  
 35 Board and shall exercise its powers through the Board.

36 (1) An individual self-insurer or a group self-insurer shall be deemed to be a  
 37 member of the Association for purposes of another member's insolvency, as  
 38 defined in G.S. 97-135, when:

- 39 a. The individual self-insurer or group self-insurer is a member of the  
 40 Association when an insolvency occurs, or
- 41 b. The individual self-insurer or group self-insurer has been a member  
 42 of the Association at some point in time during the 12-month period  
 43 immediately preceding the insolvency in question.

44 (2) An individual self-insurer or a group self-insurer shall be deemed to be a  
 45 member of the Association for purposes of its own insolvency if it is a  
 46 member when the compensable injury occurs.

47 (3) In determining the membership of the Association for the purposes of  
 48 subdivisions (1) and (2) of this subsection for any date after the effective  
 49 date of this Article, no individual self-insurer or group self-insurer may be  
 50 deemed to be a member of the Association on any date after the effective  
 51 date of this Article, unless that employer is on that date licensed as an

1 individual self-insurer by the Commissioner under Article 5 of this Chapter  
2 or a group of employers is at that time licensed as a group self-insurer by the  
3 Commissioner under Article 47 of Chapter 58 of the General Statutes.

4 (c) The membership in the Association of an individual self-insurer or group  
5 self-insurer shall terminate for purposes of another member's insolvency or any other purpose  
6 upon the merger of the individual self-insurer or group self-insurer to a mutual insurance  
7 company pursuant to Article 8 of Chapter 58 of the General Statutes or a stock insurance  
8 company pursuant to Article 7 of Chapter 58 of the General Statutes and Article 11 of Chapter  
9 55 of the General Statutes on or after January 1, 1997."

## 10 PART II. STATE AND LOCAL GOVERNMENT REGULATION

### 11 NOTIFY PROPERTY OWNERS OF RIGHT OF WAY TRANSFERS

12 SECTION 2.1.(a) G.S. 136-66.10 reads as rewritten:

#### 13 "§ 136-66.10. Dedication of right-of-way under local ordinances.

14 (a) Whenever a tract of land located within the territorial jurisdiction of a city or  
15 county's zoning or subdivision control ordinance or any other land use control ordinance  
16 authorized by local act is proposed for subdivision or for use pursuant to a zoning or building  
17 permit, and a portion of it is embraced within a corridor for a street or highway on a plan  
18 established and adopted pursuant to G.S. 136-66.2, a city or county zoning or subdivision  
19 ordinance may provide for the dedication of right-of-way within that corridor pursuant to any  
20 applicable legal authority, or:

21 (1) A city or county may require an applicant for subdivision plat approval or  
22 for a special use permit, conditional use permit, or special exception, or for  
23 any other permission pursuant to a land use control ordinance authorized by  
24 local act to dedicate for street or highway purpose, the right-of-way within  
25 such corridor if the city or county allows the applicant to transfer density  
26 credits attributable to the dedicated right-of-way to contiguous land owned  
27 by the applicant. No dedication of right-of-way shall be required pursuant to  
28 this subdivision unless the board or agency granting final subdivision plat  
29 approval or the special use permit, conditional use permit, special exception,  
30 or permission shall find, prior to the grant, that the dedication does not result  
31 in the deprivation of a reasonable use of the original tract and that the  
32 dedication is either reasonably related to the traffic generated by the  
33 proposed subdivision or use of the remaining land or the impact of the  
34 dedication is mitigated by measures provided in the local ordinance.

35 (2) If a city or county does not require the dedication of right-of-way within the  
36 corridor pursuant to subdivision (1) of this subsection or other applicable  
37 legal authority, but an applicant for subdivision plat approval or a zoning or  
38 building permit, or any other permission pursuant to a land use control  
39 ordinance authorized by local act elects to dedicate the right-of-way, the city  
40 or county may allow the applicant to transfer density credits attributable to  
41 the dedicated right-of-way to contiguous land that is part of a common  
42 development plan or to transfer severable development rights attributable to  
43 the dedicated right-of-way to noncontiguous land in designated receiving  
44 districts pursuant to G.S. 136-66.11.

45 (3) Units of local government that require or accept right-of-way dedications  
46 under this subsection shall notify the applicant and the property owner when  
47 the local government begins review of or negotiations for a right-of-way  
48 dedication and associated density credit transfer, whichever first occurs. If  
49 the property owner is not the applicant, then the property owner shall be  
50  
51

1 given notification of right-of-way dedications and any related density credit  
2 transfers under this subsection. The notification shall be sent to the last  
3 known address for the owner and shall include a copy of this section, and  
4 any local ordinances, policies, or procedures governing the calculation and  
5 application of the density credit transfer.

6 (b) When used in this section, the term "density credit" means the potential for the  
7 improvement or subdivision of part or all of a parcel of real property, as permitted under the  
8 terms of a zoning and/or subdivision ordinance, and/or other land use control ordinance  
9 authorized by local act, expressed in dwelling unit equivalents or other measures of  
10 development density or intensity or a fraction or multiple of that potential that may be  
11 transferred to other portions of the same parcel or to contiguous land in that is part of a  
12 common development plan."

13 **SECTION 2.1.(b)** Section 2.1 becomes effective October 1, 2014, and applies to  
14 dedications occurring on or after that date.

## 15 **DOT CONDEMNATION/CORRIDOR MAP CHANGES**

16 **SECTION 2.2.(a)** G.S. 136-113 reads as rewritten:

### 17 **"§ 136-113. Interest as a part of just compensation.**

18 To said amount awarded as damages by the commissioners or a jury or judge, the judge  
19 shall, as a part of just compensation, add interest at the legal rate as provided in G.S. 24-1 on  
20 said amount from the date of taking to the date of judgment; the judgment is paid; but interest  
21 shall not be allowed from the date of deposit on so much thereof as shall have been paid into  
22 court as provided in this Article."

23 **SECTION 2.2.(b)** G.S. 136-119 reads as rewritten:

### 24 **"§ 136-119. Costs and appeal.**

25 (a) The Department of Transportation shall pay all court costs taxed by the court. Either  
26 party shall have a right of appeal to the Supreme Court for errors of law committed in any  
27 proceedings provided for in this Article in the same manner as in any other civil actions and it  
28 shall not be necessary that an appeal bond be posted.

29 (b) The court having jurisdiction of the condemnation action instituted by the  
30 Department of Transportation to acquire real property by condemnation shall award the owner  
31 of any right, or title to, or interest in, such real property such sum as will in the opinion of the  
32 court reimburse such owner for his reasonable cost, disbursements, and expenses, including  
33 reasonable attorney fees, appraisal, and engineering fees, actually incurred because of the  
34 condemnation proceedings, ~~if (i) the~~ if any of the following apply:

- 35 (1) The final judgment is that the Department of Transportation cannot acquire  
36 real property by condemnation; or (ii) the condemnation.  
37 (2) The proceeding is abandoned by the Department of Transportation.  
38 (3) The final judgment exceeds the amount of the initial deposit by twenty-five  
39 percent (25%) or more. Attorneys' fees awarded pursuant to this subdivision  
40 shall not exceed one-third of the difference between the judgment award,  
41 plus interest, and the initial deposit.  
42

43 (c) The judge rendering a judgment for the plaintiff in a proceeding brought under  
44 G.S. 136-111 awarding compensation for the taking of property, shall determine and award or  
45 allow to such plaintiff, as a part of such judgment, such sum as will in the opinion of the judge  
46 reimburse such plaintiff for his reasonable cost, disbursements and expenses, including  
47 reasonable attorney, appraisal, and engineering fees, actually incurred because of such  
48 proceeding."

49 **SECTION 2.2.(c)** G.S. 136-44.51 reads as rewritten:

### 50 **"§ 136-44.51. Effect of transportation corridor official map.**

1 (a) After a transportation corridor official map is filed with the register of deeds, no  
2 building permit shall be issued for any building or structure or part thereof located within the  
3 transportation corridor, nor shall approval of a subdivision, as defined in G.S. 153A-335 and  
4 G.S. 160A-376, be granted with respect to property within the transportation corridor. The  
5 Secretary of Transportation or his designee, the director of a regional public transportation  
6 authority, or the director of a regional transportation authority, as appropriate, shall be notified  
7 within 10 days of all submittals for corridor map determination, as provided in subsections (b)  
8 and (c) of this section.

9 (b) In any event, no application for building permit issuance or subdivision plat  
10 approval for a tract subject to a valid transportation corridor official map shall be delayed by  
11 the provisions of this section for more than ~~three years~~ one year from the date of its original  
12 submittal to the appropriate local jurisdiction. A submittal to the local jurisdiction for corridor  
13 map determination shall require only the name of the property owner, the street address of the  
14 property parcel, the parcel number or tax identification number, a vicinity map showing the  
15 location of the parcel with respect to nearby roads and other landmarks, a sketch of the parcel  
16 showing all existing and proposed structures or other uses of the property, and a description of  
17 the proposed improvements. If the impact of an adopted corridor on a property submittal for  
18 corridor map determination is still being reviewed after the ~~three-year~~ one-year period  
19 established pursuant to this subsection, the entity that adopted the transportation corridor  
20 official map affecting the issuance of building permits or subdivision plat approval shall issue  
21 approval for an otherwise eligible request or initiate acquisition proceedings on the affected  
22 properties. If the entity that adopted the transportation corridor official map has not initiated  
23 acquisition proceedings or issued approval within the time limit established pursuant to this  
24 subsection, an applicant within the corridor may treat the real property as unencumbered and  
25 free of any restriction on sale, transfer, or use established by this Article.

26 (c) No submittal to a local jurisdiction for corridor map determination shall be  
27 construed to be an application for building permit issuance or subdivision plat approval. The  
28 provisions of this section shall not apply to valid building permits issued prior to August 7,  
29 1987, or to building permits for buildings and structures which existed prior to the filing of the  
30 transportation corridor, provided the size of the building or structure is not increased and the  
31 type of building code occupancy as set forth in the North Carolina Building Code is not  
32 changed."

33 **SECTION 2.2.(d)** Sections 2.2(a) and 2.2(b) of this act become effective July 1,  
34 2014, and apply to condemnation actions filed on or after that date. Sections 2.2(c) and 2.2(d)  
35 of this act become effective July 1, 2014.

## 36 37 **NOTICE TO CHRONIC VIOLATORS**

38 **SECTION 2.5.(a)** G.S. 160A-200 is repealed.

39 **SECTION 2.5.(b)** G.S. 160A-200.1 reads as rewritten:

40 "**§ 160A-200.1. Annual notice to chronic violators of public nuisance ordinance.**

41 (a) A city may notify a chronic violator of the city's public nuisance ordinance that, if  
42 the violator's property is found to be in violation of the ordinance, the city shall, without further  
43 notice in the calendar year in which notice is given, take action to remedy the violation, and the  
44 expense of the action shall become a lien upon the property and shall be collected as unpaid  
45 taxes.

46 (b) The notice shall be sent by registered or certified mail. When service is attempted  
47 by registered or certified mail, a copy of the notice may also be sent by regular mail. Service  
48 shall be deemed sufficient if the registered or certified mail is unclaimed or refused, but the  
49 regular mail is not returned by the post office within 10 days after the mailing. If service by  
50 regular mail is used, a copy of the notice shall be posted in a conspicuous place on the premises  
51 affected. ~~A chronic violator is a person who owns property whereupon, in the previous calendar~~

1 year, the city gave notice of violation at least three times under any provision of the public  
2 nuisance ordinance.

3 (c) A municipality may also give notice to a chronic violator of the municipality's  
4 overgrown vegetation ordinance in accordance with this section.

5 (d) For purposes of this section, a chronic violator is a person who owns property  
6 whereupon, in the previous calendar year, the city gave notice of violation at least three times  
7 under any provision of the public nuisance ordinance."

## 9 ALLOW FOR DIFFERENTIAL TREATMENT OF FRATERNITIES AND 10 SORORITIES IN ZONING

11 SECTION 2.6.(a) G.S. 153A-340(k) reads as rewritten:

12 "(k) ~~A~~ With respect to fraternities and sororities, a zoning or unified development  
13 ordinance may not differentiate in terms of the regulations applicable to fraternities or sororities  
14 between those fraternities or sororities that are approved or recognized by a college or  
15 university and those that are not not only as follows:

16 (1) The ordinance shall permit a fraternity or sorority suspended or not  
17 recognized at least two years to reestablish approval or recognition.

18 (2) The ordinance shall permit a fraternity or sorority seeking approval or  
19 recognition at least three years to establish approval or recognition.

20 (3) The ordinance shall require that a property may not be occupied successively  
21 by a fraternity or sorority seeking to reestablish approval or recognition and  
22 a fraternity or sorority seeking approval or recognition, and vice versa,  
23 unless the property is occupied by a fraternity or sorority approved or  
24 recognized for at least 12 successive months between the two."

25 SECTION 2.6.(b) G.S. 160A-381(g) reads as rewritten:

26 "(g) ~~A~~ With respect to fraternities and sororities, a zoning or unified development  
27 ordinance may not differentiate in terms of the regulations applicable to fraternities or sororities  
28 between those fraternities or sororities that are approved or recognized by a college or  
29 university and those that are not not only as follows:

30 (1) The ordinance shall permit a fraternity or sorority suspended or not  
31 recognized at least two years to reestablish approval or recognition.

32 (2) The ordinance shall permit a fraternity or sorority seeking approval or  
33 recognition at least three years to establish approval or recognition.

34 (3) The ordinance shall require that a property may not be occupied successively  
35 by a fraternity or sorority seeking to reestablish approval or recognition and  
36 a fraternity or sorority seeking approval or recognition, and vice versa,  
37 unless the property is occupied by a fraternity or sorority approved or  
38 recognized for at least 12 successive months between the two."

## 40 REPEAL PROTEST PETITIONS

41 SECTION 2.7.(a) G.S. 160A-385(a) is repealed.

42 SECTION 2.7.(b) G.S. 160A-386 is repealed.

43 SECTION 2.7.(c) G.S. 122C-403(3) reads as rewritten:

44 "(3) Regulate the development of the reservation in accordance with the powers  
45 granted in Article 19, Parts 2, 3, 3C, 5, 6, and 7, of Chapter 160A of the  
46 General Statutes. The Secretary may not, however, grant a special use  
47 permit, a conditional use permit, or a special exception under Part 3 of that  
48 Article. In addition, the Secretary is not required to notify landowners of  
49 zoning classification actions under G.S. 160A-384, ~~and the protest petition~~  
50 ~~requirements in G.S. 160A-385, and 160A-386 do not apply,~~ but the  
51 Secretary shall give the mayor of the Town of Butner at least 14 days'

1 advance written notice of any proposed zoning change. The Secretary may  
2 designate Advisory establish a board to act like a Board of Adjustment to  
3 make recommendations to the Secretary concerning implementation of plans  
4 for the development of the reservation. When acting as a Board of  
5 Adjustment, Advisory that board shall be subject to subsections (b), (c), (d),  
6 (f), and (g) of G.S. 160A-388."

7 **SECTION 2.7.(d)** This section also repeals any local act authority for submission,  
8 review, or action by any municipality upon any zoning protest petition, whether or not enacted  
9 as a provision in a municipal charter.

## 10 11 **REPEAL OBSOLETE DEPARTMENT OF INSURANCE STATUTES**

12 **SECTION 2.9.(a)** G.S. 58-2-165(b) reads as rewritten:

13 "(b) The Commissioner may require statements under this ~~section, G.S. 58-2-170,~~  
14 section and G.S. 58-2-190 to be filed in a format that can be read by electronic data processing  
15 equipment, provided that this subsection does not apply to an audited financial statement  
16 prepared by a certified public accountant that is submitted by a town or county mutual pursuant  
17 to subsection (a1) of this section."

18 **SECTION 2.9.(b)** G.S. 58-2-170 is repealed.

19 **SECTION 2.9.(c)** G.S. 58-3-191 is repealed.

20 **SECTION 2.9.(d)** G.S. 58-36-3(c) is repealed.

21 **SECTION 2.9.(e)** G.S. 58-40-130(e) is repealed.

22 **SECTION 2.9.(f)** G.S. 58-50-95 is repealed.

23 **SECTION 2.9.(g)** G.S. 58-67-140(a)(7) reads as rewritten:

24 "(7) Has knowingly published or made to the Department or to the public any  
25 false statement or report, including any report or any data that serves as the  
26 basis for any ~~report, required to be submitted under G.S. 58-3-191-report.~~"

27 **SECTION 2.9.(h)** G.S. 135-48.51(1) is repealed.

## 28 29 **POST-ARREST PHOTOGRAPHIC IMAGES NOT PUBLIC**

30 **SECTION 2.10.(a)** G.S. 15A-502 is amended by adding a new subsection to read:

31 "(f) A photograph of a person charged with the commission of a misdemeanor or felony  
32 taken by a law enforcement officer or agency pursuant to this section is confidential and  
33 exempt from disclosure as a public record under Chapter 132 of the General Statutes, except  
34 that the photograph may be disclosed to the public if (i) the person is charged with a felony or  
35 (ii) the officer or agency determines that release of the photograph is reasonably necessary to  
36 secure the public's safety. Any photograph exempt from disclosure under this subsection shall  
37 become public upon conviction of the person charged."

38 **SECTION 2.10.(b)** This section is effective when it becomes law and applies as to  
39 persons charged with a misdemeanor or felony on or after that date.

## 40 41 **COMPLIANCE WITH BUILDING CODE INSPECTION REQUIREMENTS**

42 **SECTION 2.13.(a)** G.S. 153A-360 reads as rewritten:

43 **"§ 153A-360. Inspections of work in progress.**

44 ~~As~~ Subject to the provisions of G.S. 153A-352(b), as the work pursuant to a permit  
45 progresses, local inspectors shall make as many inspections of the work as may be necessary to  
46 satisfy them that it is being done according to the provisions of the applicable State and local  
47 laws and local ordinances and regulations and of the terms of the permit. In exercising this  
48 power, each member of the inspection department has a right, upon presentation of proper  
49 credentials, to enter on any premises within the territorial jurisdiction of the department at any  
50 reasonable hour for the purposes of inspection or other enforcement action. If a permit has been  
51 obtained by an owner exempt from licensure under G.S. 87-1(b)(2), no inspection shall be

1 conducted without the owner being personally present, unless the plans for the building were  
2 drawn and sealed by an architect licensed pursuant to Chapter 83A of the General Statutes."

3 **SECTION 2.13.(b)** G.S. 160A-420 reads as rewritten:

4 **"§ 160A-420. Inspections of work in progress.**

5 ~~As~~ Subject to the provisions of G.S. 160A-412(b), as the work pursuant to a permit  
6 progresses, local inspectors shall make as many inspections thereof as may be necessary to  
7 satisfy them that the work is being done according to the provisions of any applicable State and  
8 local laws and of the terms of the permit. In exercising this power, members of the inspection  
9 department shall have a right to enter on any premises within the jurisdiction of the department  
10 at all reasonable hours for the purposes of inspection or other enforcement action, upon  
11 presentation of proper credentials. If a permit has been obtained by an owner exempt from  
12 licensure under G.S. 87-1(b)(2), no inspection shall be conducted without the owner being  
13 personally present, unless the plans for the building were drawn and sealed by an architect  
14 licensed pursuant to Chapter 83A of the General Statutes."

15  
16 **ETHICS REQUIREMENTS FOR CERTAIN CITY OFFICIALS**

17 **SECTION 2.14.(a)** Article 5 of Chapter 160A of the General Statutes is amended  
18 by adding a new section to read:

19 **"§ 160A-88. Additional ethics requirements for governing boards.**

20 (a) All members of governing boards of cities and consolidated city-counties shall  
21 complete a statement of economic interest as if that member were a public servant as defined in  
22 G.S. 138A-3. That statement of economic interest shall be filed with the clerk to the board of  
23 the governing board on or before April 15 of each year.

24 (b) All members of governing boards of cities and consolidated city-counties shall not  
25 mention or permit another person to mention the member's public position in nongovernmental  
26 advertising that advances the private interest of the member or others.

27 (c) A member shall not use or permit the use of public funds for any advertisement or  
28 public service announcement in a newspaper, on the radio, on television, in magazines, or on  
29 billboards that contains that member's name, picture, or voice, except in the case of local, State,  
30 or national emergency, and only if the announcement is reasonably necessary to the member's  
31 official function. This subsection shall not apply to fund-raising on behalf of and aired on  
32 public radio or public television.

33 (d) A member shall not use or disclose nonpublic information gained in the course of,  
34 or by reason of, the member's official responsibilities in a way that would affect a personal  
35 financial interest of the member or any other person.

36 (e) This section applies only to cities and city-counties with a population of more than  
37 75,000 according to the last federal decennial census."

38 **SECTION 2.14.(b)** This section becomes effective October 1, 2014. The statement  
39 of interest required by G.S. 160A-88(a), as enacted by this act, shall be filed with the clerk to  
40 the board on or before January 1, 2015.

41  
42 **BUILDING CODE STUDY**

43 **SECTION 2.16.** The North Carolina Building Code Council shall undertake a  
44 study of the authority granted to local building inspectors in those counties and cities where  
45 building plans are reviewed and approved prior to the issuance of a building permit, pursuant to  
46 G.S. 153A-357, 153A-359, 153A-360, 153A-362, 153A-365, 160A-417, 160A-419, 160A-420,  
47 and any other statutes deemed relevant by the Council. The Council shall report to the 2015  
48 General Assembly on its findings and make recommendations on any statutory amendments  
49 that are necessary to ensure local field inspectors cannot disregard or independently require  
50 changes to any construction plans previously approved by a county or city.  
51



**ANIMAL EUTHANASIA REQUIREMENTS**

**SECTION 2.17.(a)** G.S. 19A-24 is amended by adding the following new subsections to read:

**"§ 19A-24. Powers of Board of Agriculture.**

...

(e) A certified euthanasia technician shall correctly calculate chemical agent dosage based upon the species, age, weight, and condition of the animal and record the identification number of the animal, its species, sex, weight, breed description and date, dosages for drugs that are administered, and amounts for drugs wasted.

(f) When a certified euthanasia technician uses any chemical agent having instructions that direct the amount of the dosage be determined, in whole or in part, upon the animal's weight, the certified euthanasia technician shall weigh the animal to be euthanized using a mechanical or digital scale accurate to plus or minus one pound or plus or minus one half kilogram. If the certified euthanasia technician increases or decreases the dose of the chemical agent from the amount recommended for an animal of a given weight, the technician shall record the amount of chemical agent administered and the reason for administering an amount different from that recommended for an animal of that weight."

**SECTION 2.17.(b)** This section becomes effective July 1, 2015.

**BRAC RELATED DISCUSSION AND DOCUMENTS**

**SECTION 2.18.(a)** G.S. 132-1.2 is amended by adding a new subdivision to read:

"(6) Reveals documents related to the federal government's process to determine closure or realignment of military installations until a final decision has been made by the federal government in that process."

**SECTION 2.18.(b)** G.S. 143-318.11(a)(4) reads as rewritten:

"(4) To discuss matters relating to the location or expansion of industries or other businesses in the area served by the public body, including agreement on a tentative list of economic development incentives that may be offered by the public body in ~~negotiations~~, or to discuss matters relating to military installation closure or realignment. ~~The~~ Any action approving the signing of an economic development contract or commitment, or the action authorizing the payment of economic development expenditures, shall be taken in an open session."

**SECTION 2.18.(c)** This section becomes effective October 1, 2014, and applies to meetings held or on after that date.

**RETAIL PERMIT HOLDER PRIVATE LABEL BRAND EXEMPTION**

**SECTION 2.19.** G.S. 18B-1303(b) reads as rewritten:

"(b) No Discrimination. – A wholesaler shall service all retail permit holders within his designated territory without discrimination and shall make a good faith effort to make available to each retail permit holder in the territory each brand of malt beverage which the wholesaler has been authorized to distribute in that area. ~~The provisions of this subsection shall not apply to retail permit holder private label brands.~~"

**BUILDING CODE ALTERNATE METHODS RULE MAKING**

**SECTION 2.21.** The North Carolina Building Code Council (Council) shall issue rules following the procedures set forth in G.S. 143-138(a) revising the Administrative Code and Policies of the North Carolina State Building Code to provide a procedure for approval of alternative material, design, or methods. The rules shall include, at a minimum, the following:

(1) The initial application and supporting information necessary to initiate the approval process.

- 1 (2) Process timelines providing for a decision regarding a completed approval  
2 application within 30 days of the date the application is considered complete  
3 by the Department.  
4 (3) Procedures for appeal of a denied application for approval similar to those  
5 used by the Department for appeals under G.S. 143-140.1.

6 From funds available to it, the Engineering Division of the North Carolina  
7 Department of Insurance shall provide sufficient staffing for the support and administration of  
8 the approval procedure. The Council shall post a description of the approval procedure on its  
9 Web site and shall also maintain on the Web site a listing of any alternative materials, design,  
10 or construction within 15 days of approval. For purposes of this section, "alternative" shall be  
11 interpreted by the Council in the same manner as for appeals of alternative designs and  
12 construction under G.S. 143-140.1."

### 13 14 **CLARIFY OFFICIAL MISCONDUCT FOR CODE OFFICIALS**

15 **SECTION 2.22.(a)** G.S. 143-151.8 reads as rewritten:

#### 16 **"§ 143-151.8. Definitions.**

17 ...

18 (c) For purposes of this Article, "willful misconduct, gross negligence, or gross  
19 incompetence", in addition to the meaning of those terms under other provisions of the General  
20 Statutes or at common law, shall include any of the following:

- 21 (1) The enforcement of a Code requirement applicable to a certain area or set of  
22 circumstances in other areas or circumstances not specified in the  
23 requirement.  
24 (2) For an alternative design or construction method that has been appealed  
25 under G.S. 143-140.1 and found by the Department of Insurance to comply  
26 with the Code, to refuse to accept the decision by the Department to allow  
27 that alternative design or construction method under the conditions or  
28 circumstances set forth in the Department's decision for that appeal.  
29 (3) For an alternative construction method currently included in the Building  
30 Code, to refuse to allow the alternative method under the conditions or  
31 circumstances set forth in the Code for that alternative method.  
32 (4) The enforcement of a requirement that is more stringent than or otherwise  
33 exceeds the Code requirement."

34 **SECTION 2.22.(b)** The North Carolina Code Officials Qualification Board shall,  
35 no later than October 1, 2014, notify all Code enforcement officials in the State of the  
36 clarification to the grounds for disciplinary action enacted by this section.

### 37 38 **PART III. HEALTH AND SAFETY REGULATION**

#### 39 40 **AUTISM HEALTH INSURANCE COVERAGE**

41 **SECTION 3.1.(a)** Article 3 of Chapter 58 of the General Statutes is amended by  
42 adding a new section to read:

#### 43 **"§ 58-3-192. Coverage for autism spectrum disorders.**

44 (a) As used in this section, the following definitions apply:

- 45 (1) Applied behavior analysis. – The design, implementation, and evaluation of  
46 environmental modifications using behavioral stimuli and consequences to  
47 produce socially significant improvement in human behavior, including the  
48 use of direct observation, measurement, and functional analysis of the  
49 relationship between environment and behavior.  
50 (2) Autism spectrum disorder. – Any of the pervasive developmental disorders  
51 or autism spectrum disorders as defined by the most recent edition of the

- 1 Diagnostic and Statistical Manual of Mental Disorders (DSM) or the most  
2 recent edition of the International Statistical Classification of Diseases and  
3 Related Health Problems.
- 4 (3) Behavioral health treatment. – Counseling and treatment programs,  
5 including applied behavior analysis, that are both of the following:  
6 a. Necessary to (i) increase appropriate or adaptive behaviors, (ii)  
7 decrease maladaptive behaviors, or (iii) develop, maintain, or restore,  
8 to the maximum extent practicable, the functioning of an individual.  
9 b. Provided or supervised by (i) a licensed behavior analyst or (ii) a  
10 licensed psychologist or licensed psychological associate, so long as  
11 the services performed are commensurate with the psychologist's  
12 training and experience.
- 13 (4) Diagnosis of autism spectrum disorder. – Any medically necessary  
14 assessments, evaluations, or tests to determine whether an individual has  
15 autism spectrum disorder.
- 16 (5) Health benefit plan. – As defined in G.S. 58-3-167.
- 17 (6) Pharmacy care. – Medications prescribed by a licensed physician and any  
18 health-related services deemed medically necessary to determine the need  
19 for or effectiveness of the medications.
- 20 (7) Psychiatric care. – Direct or consultative services provided by a licensed  
21 psychiatrist.
- 22 (8) Psychological care. – Direct or consultative services provided by a licensed  
23 psychologist or licensed psychological associate.
- 24 (9) Therapeutic care. – Direct or consultative services provided by a licensed  
25 speech therapist, licensed occupational therapist, licensed physical therapist,  
26 licensed clinical social worker, or licensed professional counselor.
- 27 (10) Treatment for autism spectrum disorders. – Any of the following care for an  
28 individual diagnosed with autism spectrum disorder, or equipment related to  
29 that care, ordered by a licensed physician or a licensed psychologist who  
30 determines the care to be medically necessary:  
31 a. Behavioral health treatment.  
32 b. Pharmacy care.  
33 c. Psychiatric care.  
34 d. Psychological care.  
35 e. Therapeutic care.
- 36 (b) Every health benefit plan shall provide coverage for the screening, diagnosis, and  
37 treatment of autism spectrum disorder for individuals 23 years of age or younger. No insurer  
38 shall terminate coverage or refuse to issue, amend, or renew coverage to an individual solely  
39 because the individual is diagnosed with autism spectrum disorder or has received treatment for  
40 autism spectrum disorder. Individuals must have received a diagnosis of autism spectrum  
41 disorder prior to the age of eight to qualify for required coverage under this section.
- 42 (c) Coverage under this section may not be subject to any limits on the number of visits  
43 an individual may have for treatment of autism spectrum disorder.
- 44 (d) Coverage under this section may not be denied on the basis that the treatments are  
45 habilitative or educational in nature.
- 46 (e) Coverage under this section may be subject to co-payment, deductible, and  
47 coinsurance provisions of a health benefit plan that are not less favorable than the co-payment,  
48 deductible, and coinsurance provisions that apply to substantially all medical services covered  
49 by the health benefit plan.
- 50 (f) This section shall not be construed as limiting benefits that are otherwise available  
51 to an individual under a health benefit plan.

1 (g) Coverage for behavioral health treatment under this section may be subject to a  
2 maximum benefit of up to thirty-six thousand dollars (\$36,000) per year.

3 (h) Except for inpatient services, if an individual is receiving treatment for autism  
4 spectrum disorder, an insurer shall have the right to request a review of that treatment not more  
5 than once annually, unless the insurer and the individual's licensed physician or the individual's  
6 licensed psychologist agree that a more frequent review is necessary. Any such agreement  
7 regarding the right to review a treatment plan more frequently shall apply only to a particular  
8 insured being treated for an autism spectrum disorder and shall not apply to all individuals  
9 being treated for an autism spectrum disorder by a physician or psychologist. The cost of  
10 obtaining any review shall be borne by the insurer.

11 (i) Nothing in this section shall apply to non-grandfathered health plans in the  
12 individual and small group markets that are subject to the requirement to cover the essential  
13 health benefit package under 45 C.F.R. § 147.150(a). For purposes of this subsection,  
14 "non-grandfathered health plan" is a health benefit plan not included in the plans defined under  
15 G.S. 58-50-110(10a).

16 (j) This section shall not be construed as affecting any obligation to provide services to  
17 an individual under an individualized family service plan, an individualized education program,  
18 or an individualized service plan.

19 (k) The Commissioner of Insurance shall grant a health benefit plan issuer a waiver  
20 from the provisions of this section for a health benefit plan if the issuer demonstrates to the  
21 Commissioner, by actual claims experience over any consecutive 12-month period, that  
22 compliance with this section has increased the cost of the health benefit plan by an amount of  
23 one percent (1%) or greater in the premium rate charged under the health benefit plan over the  
24 most recent calendar year."

25 **SECTION 3.1.(b)** Article 3 of Chapter 58 of the General Statutes is amended by  
26 adding a new section to read:

27 **"§ 58-3-305. Report on mandated coverage requirements.**

28 (a) Each health insurance issuer that issues, sells, offers, or renews a health benefit plan  
29 in this State shall submit a biennial report, on or before the first day of May of each  
30 odd-numbered year, to the Commissioner with the following information:

- 31 (1) The cost and utilization information for each of the mandated coverage  
32 requirements per number of covered lives per month.
- 33 (2) The number of members covered by the health insurance issuer.
- 34 (3) Any additional information specified in rules adopted by the Commissioner.

35 (b) The report required under subsection (a) of this section shall be in detail and form as  
36 required by the Commissioner. Information provided in any report required under subsection  
37 (a) of this section shall be held confidential by the Commissioner and shall not be considered a  
38 public record.

39 (c) The Commissioner shall consolidate the information contained in the reports  
40 received under subsection (a) of this section and report to the General Assembly, not later than  
41 the first day of October of each odd-numbered year, the following information:

- 42 (1) The mandated coverage requirements contained in the report.
- 43 (2) The average costs of the mandated coverage requirements per number of  
44 covered lives per month and the effect of those costs on premium pricing.
- 45 (3) The average utilization of services that are mandated coverage requirements.
- 46 (4) Other such information that the Commissioner deems appropriate.

47 (d) As used in this section, the following definitions apply:

- 48 (1) Health benefit plan. – As defined in G.S. 58-3-167.
- 49 (2) Mandated coverage requirements. – Benefits specific to care, treatment, and  
50 services that an insurer is required to offer, as well as benefits relating to  
51 coverage of provider types, cost-sharing, or reimbursement methods."

1           **SECTION 3.1.(c)** The Commissioner shall adopt rules implementing Section  
2 3.1(b) of this act and may adopt temporary rules as necessary to ensure that the reports required  
3 by G.S. 58-3-305(a) are received by May 1, 2015.

4           **SECTION 3.1.(d)** Section 3.1(a) of this act becomes effective October 1, 2014,  
5 and applies to insurance contracts issued, renewed, or amended on or after that date. The  
6 remainder of this section is effective when it becomes law.

## 7 8 **BEHAVIOR ANALYST LICENSURE**

9           **SECTION 3.2.(a)** Chapter 90 of the General Statutes is amended by adding a new  
10 Article to read:

11   "Article 43.

12   "Behavior Analyst Licensure.

### 13 **"§ 90-726.1. Declaration of purpose.**

14           The practice of behavior analysis in North Carolina is hereby declared to affect the public  
15 health, safety, and welfare of citizens of North Carolina and to be subject to regulation to  
16 protect the public from (i) the practice of behavior analysis by unqualified persons and (ii)  
17 unprofessional, unethical, or harmful conduct by individuals licensed to practice behavior  
18 analysis.

### 19 **"§ 90-726.2. Definitions.**

20           The following definitions apply in this Article:

- 21           (1) Board. – The North Carolina Behavior Analyst Board.  
22           (2) Certifying entity. – The nationally accredited Behavior Analyst Certification  
23 Board, Inc., or its successor.  
24           (3) Licensed assistant behavior analyst. – An individual who is certified by the  
25 certifying entity as a Board Certified Assistant Behavior Analyst and to  
26 whom a license has been issued pursuant to this Article, if the license is in  
27 force and not suspended or revoked, and whose license permits the  
28 individual to engage in the practice of behavior analysis under the  
29 supervision of a licensed behavior analyst.  
30           (4) Licensed behavior analyst. – An individual who is certified by the certifying  
31 entity as a Board Certified Behavior Analyst and to whom a license has been  
32 issued pursuant to this Article, if the license is in force and not suspended or  
33 revoked.  
34           (5) Practice of behavior analysis. – The design, implementation, and evaluation  
35 of instructional and environmental modifications to produce socially  
36 significant improvements in human behavior. The practice of behavior  
37 analysis includes the empirical identification of functional relations between  
38 behavior and environmental factors, known as functional assessment and  
39 analysis. Behavior analysis interventions are based on scientific research and  
40 the direct observation and measurement of behavior and the environment. In  
41 the practice of behavior analysis, behavior analysts utilize contextual factors,  
42 motivating operations, antecedent stimuli, positive reinforcement, and other  
43 consequences to help people develop new behaviors, increase or decrease  
44 existing behaviors, and emit behaviors under specific environmental  
45 conditions. The practice of behavior analysis expressly excludes  
46 psychological testing, cognitive therapy, sex therapy, psychoanalysis,  
47 hypnotherapy, and long-term counseling as treatment modalities.  
48           (6) Registered Behavior Technician. – An individual who is credentialed by the  
49 certifying entity as a Registered Behavior Technician and who acts under the  
50 extended authority or direction of a licensed behavior analyst or a licensed  
51 assistant behavior analyst.

**"§ 90-726.3. North Carolina Behavior Analysis Board.**

(a) Establishment. – The North Carolina Behavior Analysis Board is created. The Board shall consist of seven members who shall serve staggered terms. The initial Board shall be selected on or before August 1, 2014, as follows:

(1) The General Assembly, upon the recommendation of the Speaker of the House of Representatives, shall appoint the following three members:

a. One behavior analyst, who is certified by the certifying entity as a Board Certified Behavior Analyst, to serve a one-year term.

b. One behavior analyst, who is certified by the certifying entity as a Board Certified Behavior Analyst, to serve a two-year term.

c. One assistant behavior analyst, who is certified by the certifying entity as a Board Certified Assistant Behavior Analyst, to serve a three-year term.

(2) The General Assembly, upon the recommendation of the President Pro Tempore of the Senate, shall appoint the following three members:

a. One assistant behavior analyst, who is certified by the certifying entity as a Board Certified Assistant Behavior Analyst, to serve a one-year term.

b. One behavior analyst, who is certified by the certifying entity as a Board Certified Behavior Analyst, to serve a two-year term.

c. One behavior analyst, who is certified by the certifying entity as a Board Certified Behavior Analyst, to serve a three-year term.

(3) The Governor shall appoint one public member to serve a two-year term.

Upon the expiration of the terms of the initial Board members, each member shall be appointed by the appointing authorities designated in subdivisions (1) through (3) of this subsection for a three-year term, shall be required to be licensed under this Article, and shall serve until a successor is appointed and qualified. No member may serve more than two consecutive full terms.

(b) Vacancies. – In the event that a member of the Board cannot complete a term of office, the vacancy shall be filled in the same manner as the original appointment, for the remainder of the unexpired term. No Board member shall participate in any matter before the Board in which the member has a pecuniary interest or similar conflict of interest.

(c) Removal. – The Board may remove any of its members for neglect of duty, incompetence or unprofessional conduct. A member subject to disciplinary proceedings shall be disqualified from participating in Board business until the charges have been resolved.

(d) Meetings. – The Board shall elect annually a chair and other officers as it deems necessary to carry out the purposes of this Article. The Board may hold additional meetings upon the call of the chairperson or any two board members. A majority of the Board shall constitute a quorum.

(e) Per Diem. – Each member of the Board may receive per diem and reimbursement for travel and subsistence set forth in G.S. 93B-5.

**"§ 90-726.4. Powers and duties of Board.**

The Board shall have the following powers and duties:

(1) Administer, coordinate, and enforce the provisions of this Article.

(2) Adopt, amend, or repeal rules to administer and enforce this Article.

(3) Establish and determine qualification and fitness of applicants for licensure under this Article.

- 1           (4) Issue, renew, and deny, suspend, revoke, or refuse to issue or renew any  
2           license under this Article.  
3           (5) Establish fees for applications, initial and renewal licenses, and other  
4           services provided by the Board.  
5           (6) Discipline persons licensed under this Article.

6 **"§ 90-726.5. License application.**

7           (a) Each individual desiring to obtain a license under this Article shall apply to the  
8 Board upon the form and in the manner prescribed by the Board. Each applicant shall furnish  
9 evidence satisfactory to the Board that the applicant meets all of the following criteria:

- 10           (1) The individual is of good moral character and conducts his or her  
11 professional activities in accordance with accepted professional and ethical  
12 standards.  
13           (2) The individual has not engaged or is not engaged in any practice that would  
14 be a ground for denial, revocation, or suspension of a license under  
15 G.S. 90-726.11.  
16           (3) The individual has submitted the required criminal history record as required  
17 by G.S. 90-726.13.  
18           (3) The individual is qualified for licensure pursuant to the requirements of this  
19 Article.

20           (b) A license obtained through fraud or by any false representation is void.

21 **"§ 90-726.6. Requirements for licensure as a behavior analyst.**

22           Each applicant shall be issued a license by the Board to engage in the practice of behavior  
23 analysis as a licensed behavior analyst if the applicant meets the qualifications set forth in  
24 G.S. 90-726.5(a) and provides satisfactory evidence to the Board of all the following criteria:

- 25           (1) The applicant has passed the certifying entity's Board Certified Behavior  
26 Analyst examination.  
27           (2) The applicant has an active status with the certifying entity as a Board  
28 Certified Behavior Analyst.

29 **"§ 90-726.7. Requirement of licensure as an assistant behavior analyst.**

30           Each applicant shall be issued a license by the Board to engage in the practice of behavior  
31 analysis as a licensed assistant behavior analyst if the applicant meets the qualifications set  
32 forth in G.S. 90-726.5(a) and provides satisfactory evidence to the Board of all the following  
33 criteria:

- 34           (1) The applicant has passed the certifying entity's Board Certified Assistant  
35 Behavior Analyst examination.  
36           (2) The applicant has an active status with the certifying entity as a Board  
37 Certified Assistant Behavior Analyst.  
38           (3) The applicant has an ongoing arrangement for supervision by a licensed  
39 behavior analyst in a manner consistent with the certifying entity's  
40 requirements for supervision of Board Certified Assistant Behavior  
41 Analysts.

42 **"§ 90-726.8. Renewal of license.**

43           (a) A license shall be granted under this Article for the period of two years.

44           (b) The Board shall renew a license granted under this Article upon completion of the  
45 following:

- 46           (1) Proof of completion of any continuing education required by the certifying  
47 entity.  
48           (2) Payment of the renewal fee.  
49           (3) Evidence of active certification by certifying entity.  
50           (4) For assistant behavior analysts, evidence of the ongoing arrangement for  
51 supervision by a licensed behavior analyst as required by G.S. 90-726.7.

**"§ 90-726.9. Temporary licensure.**

(a) An individual residing and practicing behavior analysis in another state and who is certified as Board Certified Behavior Analyst by the certifying entity may apply to the Board for a temporary license to practice behavior analysis in North Carolina.

(b) An individual residing and practicing behavior analysis in another state who is actively licensed in another state as a behavior analyst may apply to the Board for a temporary license to practice behavior analysis in North Carolina.

(c) A temporary license is available only if the behavior analysis services are to be delivered during a limited and defined period of service approved by the Board.

**"§ 90-726.10. Reciprocity.**

(a) The Board shall issue a license to an individual who is actively licensed as a behavior analyst or assistant behavior analyst in another state that currently imposes comparable licensure requirements as those imposed by this Article and that offers reciprocity to individuals licensed under this Article.

(b) Applicants for licensure by reciprocity shall submit the following items:

(1) Proof of ethical compliance.

(2) Proof of current licensure.

(3) Proof of current certification by the certifying entity.

(4) A criminal history record as required by G.S. 90-726.13.

(5) Any other eligibility requirement as deemed appropriate by the Board.

**"§ 90-726.11. Sanction of licensee status.**

(a) The Board may deny or refuse to renew a license, may suspend or revoke a license, or may impose probationary conditions on a license upon demonstration of ineligibility for licensure under this Article, failure to maintain active certification by the certifying entity, falsification of documentation submitted for licensure, or other reasons as specified in rules adopted by the Board.

(b) The denial, refusal to renew, suspension, revocation, or imposition of a probationary condition upon a license may be ordered by the Board after a hearing is held in accordance with G.S. Chapter 150B of the General Statutes and rules adopted by the Board.

**"§ 90-726.12. Fees.**

The Board may collect fees established by its rules, but those fees shall not exceed the amounts listed below:

(1) Application fee for licensure \$250.00

(2) License renewal \$200.00

(3) Late renewal fee \$50.00

(4) Reciprocal license application \$250.00

(5) Temporary license application \$100.00

**"§ 90-726.13. Criminal history record checks of applicants for licensure.**

(a) All applicants for licensure shall consent to a criminal history record check. Refusal to consent to a criminal history record check may constitute grounds for the Board to deny licensure to an applicant. The Board shall be responsible for providing to the North Carolina Department of Justice the fingerprints of the applicant to be checked, a form signed by the applicant consenting to the criminal history record check and the use of fingerprints and other identifying information required by the State or National Repositories, and any additional information required by the Department of Justice. The Board shall keep all information obtained pursuant to this section confidential.

(b) The cost of the criminal history record check and the fingerprinting shall be borne by the applicant. The Board shall collect any fees required by the Department of Justice and shall remit the fees to the Department of Justice for expenses associated with conducting the criminal history record check.



1       (c) If an applicant's criminal history record reveals one or more criminal convictions,  
2 the conviction shall not automatically bar licensure. The Board shall consider all of the  
3 following factors regarding the conviction:

- 4           (1) The level of seriousness of the crime.
- 5           (2) The date of the crime.
- 6           (3) The age of the person at the time of conviction.
- 7           (4) The circumstances surrounding the commission of the crime, if known.
- 8           (5) The nexus between the criminal conduct of the person and the job duties of  
9 the position to be filled.
- 10          (6) The applicant's prison, jail, probation, parole, rehabilitation, and  
11 employment records since the date the crime was committed.

12       If, after reviewing the factors, the Board determines that any of the grounds to deny  
13 licensure exist, the Board may deny licensure of the applicant. The Board may disclose to the  
14 applicant information contained in the criminal history record that is relevant to the denial if  
15 disclosure of the information is permitted by applicable State and federal law. The Board shall  
16 not provide a copy of the criminal history to the applicant. The applicant shall have to right to  
17 appear before the Board to appeal the Board's decision. An appearance before the full Board  
18 shall constitute an exhaustion of administrative remedies in accordance with Chapter 150B of  
19 the General Statutes.

20       (d) The Board, its officers, and employees, acting in good faith and in compliance with  
21 this section, shall be immune from civil liability for denying licensure to an applicant based on  
22 information provided in the applicant's criminal history record."

23       **SECTION 3.2.(b)** Article 43 of Chapter 90 of the General Statutes is amended by  
24 adding the following new sections to read:

25 **"§ 90-726.14. Prohibited acts and penalties.**

26       (a) Except as permitted in G.S. 90-726.16, it shall be a violation of this Article for any  
27 person not licensed in accordance with the provisions of this Article to practice behavior  
28 analysis or to hold himself or herself out to the public as a person practicing behavior analysis.

29       (b) Any person not licensed in accordance with the provisions of this Article practicing  
30 behavior analysis or holding himself or herself out to the public as a person practicing behavior  
31 analysis in violation of this Article is guilty of a Class 2 misdemeanor. Each violation shall  
32 count as a separate offense.

33 **"§ 90-726.15. Injunction.**

34       The Board may apply to the superior court for an injunction to prevent violations of this  
35 Article or any rules enacted pursuant thereto. The court is empowered to grant such injunctions  
36 regardless of whether criminal prosecution or other action has been or may be instituted as a  
37 result of such violation.

38 **"§ 90-726.16. Exemptions from licensure.**

39       (a) A person is exempt from the requirements of this Article if any of the following  
40 conditions are met:

- 41           (1) The person is a duly licensed psychologist or psychological associate in this  
42 State.
- 43           (2) The person is a Registered Behavior Technician and is acting under the  
44 extended authority or direction of a licensed behavior analyst or a licensed  
45 assistant behavior analyst.
- 46           (3) The person is a family member, guardian, or other caretaker implementing a  
47 behavior analysis treatment plan under the direction of a licensed behavior  
48 analyst or a licensed assistant behavior analyst.
- 49           (4) The person engages in the practice of behavior analysis with nonhuman  
50 subjects. This includes, but is not limited to, persons who are animal  
51 behaviorists and animal trainers.

- 1           (5)   The person provides general behavior analysis services to organizations, so  
2           long as the services are for the benefit of the organizations and do not  
3           involve direct services to individuals.
- 4           (6)   The person is a professional licensed under this Chapter, so long as the  
5           licensed professional does not represent that he or she is a licensed behavior  
6           analyst or licensed assistant behavior analyst and the services of the licensed  
7           professional are within the scope of practice of the license possessed by that  
8           professional and the services performed are commensurate with the licensed  
9           professional's education, training, and experience.
- 10          (7)   The activities are part of a defined college or university course program of  
11          study, practicum, or intensive practicum, so long as that person is under  
12          direct supervision of a (i) licensed behavior analyst, (ii) an instructor in a  
13          course sequence approved by the certifying entity, or (iii) a qualified faculty  
14          member.
- 15          (8)   The person is pursuing experience in behavior analysis consistent with the  
16          certifying entity's experience requirements, so long as the person's activities  
17          are supervised by a licensed behavior analyst.
- 18          (9)   The behavior analysis services are performed with a student while the person  
19          is employed by a local board of education as part of the person's position or  
20          regular duties of office. Any person exempted from this Article under this  
21          subdivision who does not possess a license under this Article shall not  
22          provide or offer to provide behavior analysis services to any persons other  
23          than students and shall not accept remuneration for providing behavior  
24          analysis services other than the remuneration received from the local board  
25          of education."

26           **SECTION 3.2.(c)** G.S. 90-270.4 is amended by adding a new subsection to read:

27           "(f1) Nothing in this Article shall be construed to prevent a behavior analyst or an  
28           assistant behavior analyst licensed under Article 43 of Chapter 90 of the General Statutes from  
29           offering services within the scope of practice authorized by the North Carolina Behavior  
30           Analysis Board."

31           **SECTION 3.2.(d)** The North Carolina Behavior Analysis Board shall adopt  
32           temporary rules to implement this act no later than November 1, 2014. The temporary rules  
33           shall remain in effect until permanent rules that replace the temporary rules become effective.

34           **SECTION 3.2.(e)** Section 3.2(b) and Section 3.2(c) of this act become effective  
35           January 1, 2015. The remainder of this act is effective when it becomes law.

## 37 **PHARMACY BENEFITS MANAGEMENT REGULATION**

38           **SECTION 3.3.(a)** Chapter 58 of the General Statutes is amended by adding a  
39           Article to read:

40   "Article 56A.

41   "Pharmacy Benefits Management.

### 42 **"§ 58-56A-1. Definitions.**

43           The following definitions apply in this Article:

- 44           (1)   Health benefit plan. – As defined in G.S. 58-50-110(11). This definition  
45           specifically excludes the State Health Plan for Teachers and State  
46           Employees and any entity retained by that Plan while performing under  
47           contract with that Plan.
- 48           (2)   Insurer. – Any entity that provides or offers a health benefit plan.
- 49           (3)   Maximum allowable cost price. – The per unit amount that a pharmacy  
50           benefits manager reimburses a pharmacy for a prescription drug, excluding

1 dispensing fees, co-payments, coinsurance, and other cost-sharing charges, if  
2 any.

3 (4) Widely available. – Available to all pharmacies in this State for purchase,  
4 without limitation, from regional or national wholesalers and not obsolete or  
5 temporarily unavailable.

6 (5) Pharmacy. – A pharmacy registered with the North Carolina Board of  
7 Pharmacy.

8 (6) Pharmacy benefits management. – Administration or management of  
9 prescription drug benefits, including the following activities:

10 a. Retail pharmacy network management.

11 b. Pharmacy discount card management.

12 c. Claims payment to a retail pharmacy for prescription medications  
13 dispensed to covered individuals.

14 d. Clinical formulary development and management services, including  
15 utilization and quality assurance programs.

16 e. Rebate contracting and administration.

17 f. Auditing contracted pharmacies.

18 g. Establishing pharmacy reimbursement pricing and methodologies.

19 h. Determining single- and multiple-source medications.

20 i. Mail service pharmacy.

21 (7) Pharmacy benefits manager. – A person who contracts a pharmacy on behalf  
22 of an insurer or third-party administrator that provides pharmacy benefit  
23 management services.

24 (8) Therapeutically equivalent drug substitute. – A drug identified as  
25 therapeutically or pharmaceutically equivalent to another drug by the United  
26 States Food and Drug Administration.

27 (9) Third-party administrator – As defined in G.S. 58-56-2.

28 **"§ 58-56A-3. Maximum allowable cost price.**

29 (a) A pharmacy benefits manager may not set a maximum allowable cost price if the  
30 prescription drug does not have three or more nationally available therapeutically equivalent  
31 drug substitutes.

32 (b) A pharmacy benefits manager shall remove a maximum allowable cost price for a  
33 prescription drug, or modify a maximum allowable cost price, as necessary for a cost of a  
34 prescription drug to remain consistent with changes in the national marketplace for prescription  
35 drugs. A review of the maximum allowable cost prices for removal or modification made under  
36 this subsection must be completed by the pharmacy benefits manager at least once every seven  
37 business days and any removal or modification shall occur within seven business days.

38 (c) A pharmacy benefits manager shall disclose to all pharmacies with which it  
39 contracts the following information:

40 (1) At the beginning of each calendar year, the basis of methodology and the  
41 sources used to establish the maximum allowable cost prices used by the  
42 pharmacy benefits manager.

43 (2) Promptly and in writing, any changes made to the maximum allowable cost  
44 prices.

45 (3) At least once every seven business days, the maximum allowable cost price  
46 used by the pharmacy benefits manager.

47 **"§ 58-56A-5. Appeals of maximum allowable cost prices.**

48 (a) A pharmacy benefits manager must provide an appeals procedure to reasonably  
49 allow a pharmacy to contest maximum allowable cost prices.

50 (b) The appeals procedure required under subsection (a) of this section shall meet the  
51 following requirements:

1           (1)    The pharmacy benefits manager must respond to a pharmacy not more than  
2                   seven calendar days after a pharmacy contests a maximum allowable cost  
3                   price.

4           (2)    The pharmacy benefits manager shall retroactively make adjustments for all  
5                   pharmacies with which it contracts if an appealing pharmacy is successful in  
6                   an appeal. Adjustments shall be retroactive to the date of the appealed price  
7                   change.

8    **"§ 58-56A-7. Disclosure of information.**

9           (a)    A pharmacy benefits manager shall not provide, sell, lease, or rent drug utilization  
10                   or claims data unless the sale complies with all federal and state laws and the pharmacy  
11                   benefits manager has obtained written approval for the provision, sale, lease, or rental from the  
12                   covered individual whose information is to be released.

13           (b)    A pharmacy benefits manager shall not directly contact a covered individual by any  
14                   means without the express written permission of the insurer or third party administrator for  
15                   whom the pharmacy benefit management services are provided.

16           (c)    No personally identifiable demographic, drug, utilization, or claims data shall be  
17                   provided by a pharmacy benefits manager to the following entities unless a covered individual  
18                   has voluntarily elected in writing to release the information:

19                   (1)    A pharmacy owned by, affiliated with, or under contract with the pharmacy  
20                           benefits manager.

21                   (2)    A pharmacy owned by, affiliated with, or under contract with the insurer or  
22                           third party administrator for whom the pharmacy benefit management  
23                           services are provided.

24           (d)    In addition to the provisions of the Health Insurance Portability and Accountability  
25                   Act of 1996, P.L. 104-191, as amended, a pharmacy benefit manager shall not knowingly  
26                   disclose or use records containing personally identifiable information for marketing a  
27                   prescribed product to a patient or prescriber.

28           (e)    This section shall not prevent a prescription benefit manager from disclosing  
29                   personally identifiable information to the identified individual so long as the information does  
30                   not include protected information pertaining to any other person.

31    **"§ 58-56A-9. Incentives offered by pharmacy benefit managers.**

32           (a)    Subject to G.S. 58-51-37, a pharmacy benefit manager shall not take any action that  
33                   would restrict a covered individual's choice of pharmacy from which to receive prescription  
34                   medications.

35           (b)    A pharmacy benefits manager shall not provide any incentive to a covered  
36                   individual to use a particular pharmacy, including a particular mail-order pharmacy. This  
37                   includes manipulating the amount of the drug co-payment that it charges in a manner that  
38                   would encourage covered individuals to receive prescription medication from a mail-order  
39                   pharmacy."

40           **SECTION 3.3.(b)** This section becomes effective January 1, 2015, and applies to  
41                   contracts entered into, renewed, or amended on or after that date.

42  
43    **LIMITED FOOD SERVICES AT LODGING FACILITIES**

44           **SECTION 3.4.(a)** G.S. 130A-247(7) reads as rewritten:

45                   (7)    "Limited food services establishment" means an establishment as described  
46                           in G.S. 130A-248(a4), with food handling operations that are restricted by  
47                           rules adopted by the Commission pursuant to G.S. 130A-248(a4) and that  
48                           prepares or serves food only in conjunction with amateur athletic events.  
49                           Limited food service establishment also includes lodging facilities that serve  
50                           only reheated food that has already been pre-cooked."

51           **SECTION 3.4.(b)** G.S. 130A-148(a4) reads as rewritten:

1 "(a4) For the protection of the public health, the Commission shall adopt rules governing  
2 the sanitation of limited food service establishments. In adopting the rules, the Commission  
3 shall not limit the number of days that limited food service establishments may operate.  
4 Limited food service establishment permits shall be issued only to the following:

5 (1) ~~political~~ Political subdivisions of the ~~State, State.~~

6 (2) ~~establishments~~ Establishments operated by volunteers that prepare or serve  
7 food in conjunction with amateur athletic ~~events, events.~~

8 (3) Lodging facilities that serve only reheated food that has already been  
9 pre-cooked.

10 (4) ~~or for establishments~~ Establishments operated by organizations that are  
11 exempt from federal income tax under section 501(c)(3) or section 501(c)(4)  
12 of the Internal Revenue Code."

13 **SECTION 3.4.(c)** The Commission for Public Health shall adopt rules to conform  
14 to the provisions of this section.

## 16 YOUTH SKIN CANCER PREVENTION

17 **SECTION 3.5.(a)** G.S. 104E-9.1(a) reads as rewritten:

18 "(a) Operators of tanning equipment and owners of tanning facilities subject to rules  
19 adopted pursuant to this Chapter shall comply with or ensure compliance with the following:

20 (1) The operator shall provide to each consumer a warning statement that  
21 defines the potential hazards and consequences of exposure to ultraviolet  
22 radiation. Before allowing the consumer's initial use of the tanning  
23 equipment, the operator shall obtain the signature of the consumer on the  
24 warning statement acknowledging receipt of the warning.

25 (2) The operator shall not allow a person ~~13 years and younger~~ under 18 years  
26 of age to use tanning equipment ~~without a written prescription from the~~  
27 ~~person's medical physician specifying the nature of the medical condition~~  
28 ~~requiring the treatment, the number of visits, and the time of exposure for~~  
29 ~~each visit.~~ equipment.

30 (3) Neither an operator nor an owner shall claim or distribute promotional  
31 materials that claim that using tanning equipment is safe or free from risk or  
32 that using tanning equipment will result in medical or health benefits."

33 **SECTION 3.5.(b)** This section becomes effective July 1, 2014.

## 35 NURSING HOME ADMINISTRATOR ACT REVISION

36 **SECTION 3.6.** G.S. 90-280(a) reads as rewritten:

37 "(a) Each applicant for an examination ~~administered by the Board~~ and each applicant for  
38 an administrator-in-training program and reciprocity endorsement shall pay a processing fee set  
39 by the Board not to exceed five hundred dollars (\$500.00) plus the actual cost of the exam."

## 41 ADA REQUIREMENTS FOR PRIVATE POOLS

42 **SECTION 3.7.(a)** Notwithstanding Section 1109.14 of the 2012 NC State Building  
43 Code (Building Code), swimming pools shall be required to be accessible only to the extent  
44 required by the Americans with Disabilities Act, 42 U.S.C. § 12101, et seq., and federal rules  
45 and regulations adopted pursuant to that Act.

46 **SECTION 3.7.(b)** The Building Code Council shall adopt a rule to amend Section  
47 1109.14 of the 2012 NC State Building Code (Building Code) consistent with Section 3.7(a) of  
48 this act.

49 **SECTION 3.7.(c)** Section 3.7(a) of this act expires on the date that the rule adopted  
50 pursuant to Section 3.7(b) of this act becomes effective.

51

**REPORT ON SEEK**

**SECTION 3.8.** The Division of Child Development and Early Education shall report to the Joint Legislative Oversight Committee on Health and Human Services and the 2015 General Assembly prior to statewide implementation of the Subsidized Early Education for Kids (SEEK) system. The report shall be due no later than March 15, 2015, and shall include (i) outcomes of the SEEK system pilot implementation that has been ongoing since 2011 and the current system pilot, (ii) barriers to full implementation, and (iii) plans to ensure effective and efficient statewide implementation.

**EXCEPTION TO HOSPITAL AUTHORITY CONFLICT OF INTEREST**

**SECTION 3.10.** G.S. 131E-21 is amended by adding a new subsection to read:

"(c1) Subsection (a) of this section shall not apply if the commissioner or employee is not involved in making or administering the contract. A commissioner or employee is involved in administering the contract if the commissioner or employee oversees the performance of or interprets the contract. A commissioner or employee is involved in making a contract if the commissioner or employee participates in the development of specifications or terms or in the preparation or award of the contract. A commissioner or employee is not involved in making or administering the contract solely because of the performance of ministerial duties related to the contract. A commissioner is also involved in making a contract if the hospital authority takes action on the contract, whether or not the commissioner actually participates in that action, unless the contract is approved under an exception to this section under which the commissioner is allowed to benefit and is prohibited from voting."

**REPORT ON MULTIPLICATIVE AUDITING AND MONITORING OF CERTAIN SERVICE PROVIDERS**

**SECTION 3.11.** No later than December 1, 2014, the Deputy Secretary of Behavioral Health and Developmental Disabilities Services of the Department of Health and Human Services shall report to the Joint Legislative Oversight Committee on Health and Human Services on the status of multiplicative auditing and monitoring of all provider agencies under the Division of Mental Health, Developmental Disabilities, and Substance Abuse Services who have been nationally accredited through a recognized national accrediting body. The report shall include all group home facilities licensed under Chapter 122 of the General Statutes. The report shall include a complete list of all auditing and monitoring and shall provide recommendations to remove all unnecessary regulatory duplication and to enhance efficiency.

**END SUNSET FOR FACILITIES THAT USE ALTERNATIVE ELECTRONIC MONITORING SYSTEMS**

**SECTION 3.12.** Section 4 of S.L. 2009-490, as amended by S.L. 2012-15, reads as rewritten:

**"SECTION 4.** The Department of Health and Human Services, Division of Health Service Regulation shall establish a pilot program to study the use of electronic supervision devices as an alternative means of supervision during sleep hours at facilities for children and adolescents who have a primary diagnosis of mental illness and/or emotional disturbance. The pilot program shall be implemented at a facility currently authorized to waive the requirement set forth in 10A NCAC 27G .1704(c) or any related or subsequent rule or regulation by the Commission for Mental Health, Developmental Disabilities, and Substance Abuse Services setting minimum overnight staffing requirements. The waiver shall remain in effect ~~until December 31, 2015;~~ effect, however, the Division reserves the right to rescind the waiver if, at the time of the facility's license renewal, there are outstanding deficiencies that have remained uncorrected upon follow-up survey, that are related to electronic supervision."

**STATE MEDICAID RECREDENTIALING PERIOD**

**SECTION 3.13.(a)** Section 12H.7 of S.L. 2013-360 is codified as G.S. 108C-9(e).

**SECTION 3.13.(b)** Effective July 1, 2017, and applying to all recREDENTIALINGS due on or after that date, G.S. 108C-9(e), as codified by subsection (a) of this section, reads as rewritten:

"(e) The Department of Health and Human Services, Division of Medical Assistance, shall charge an application fee of one hundred dollars (\$100.00), and the amount federally required, to each provider enrolling in the Medicaid Program for the first time. The fee shall be charged to all providers at recREDENTIALING every ~~three~~-five years."

**USE OF NATURAL SPRING WATER AT CO-LOCATED RESTAURANTS**

**SECTION 3.14.(a)** Until the effective date of the revised permanent rule that the Commission for Public Health is required to adopt pursuant to Section 3.14(c) of this act, the Commission and the Department of Health and Human Services shall implement 15A NCAC 18A .1723 (Springs) as provided in Section 3.14(b) of this act.

**SECTION 3.14.(b)** Notwithstanding the provisions of 15A NCAC 18A .1723 (Springs), or any other applicable rule, a spring which transverses a property on which a restaurant is located may be used for the purpose of water service to restaurant patrons, and for employees of the restaurant, for consumption purposes without a requirement that it be equipped with a continuous disinfection device, nor shall the owner of the restaurant be required to submit a certification to the Department of Public Health concerning the spring, or be subject to any other requirements under law with respect to water service from the spring, except as may be required by the federal Safe Drinking Water Act.

**SECTION 3.14.(c)** The Commission for Public Health shall adopt rules to amend 15A NCAC 18A .1723 consistent with Section 3.14(b) of this act. Notwithstanding G.S. 150B-19(4), the rule adopted by the Commission pursuant to Section 3.14(c) of this act shall be substantively identical to the provisions of Section 3.14(b) of this act. Rules adopted pursuant to Section 3.14(c) of this act are not subject to Part 3 of Article 2A of Chapter 150B of the General Statutes. Rules adopted pursuant to Section 3.14(c) of this act shall become effective as provided in G.S. 150B-21.3(b1) as though 10 or more written objections had been received as provided by G.S. 150B-21.3(b2).

**SECTION 3.14.(e)** This section is effective when it becomes law. Section 3.14(b) of this act expires on the date that rules adopted pursuant to Section 3.14(c) of this act become effective."

**SECTION 3.14.(f)** Article 10 of Chapter 130A of the General Statutes is amended by adding a new section to read:

**"§ 130A-330. Restaurants served by natural springs.**

Notwithstanding any requirement of this Article, or other any other provision of law, a spring which transverses a property on which a restaurant is located may be used for the purpose of water service to restaurant patrons, and for employees of the restaurant, and shall be exempt from any requirements for disinfection of the spring water, and other requirements that may be applicable to a public water system. This provision shall only apply to the extent not preempted by requirements of the federal Safe Drinking Water Act."

**PART III-A. SPECIALTY MARKETS**

**SECTION 3.15.** G.S. 66-255 reads as rewritten:

**"§ 66-255. Specialty market or operator of an event registration list.**

A specialty market operator or operator of an event where space is provided to a vendor must maintain a daily registration list of all specialty market or other vendors selling or offering goods for sale at the specialty market or other event. The registration list must clearly and

1 legibly show each vendor's name, permanent address, and certificate of registration number.  
2 The specialty market operator or other event operator must require each vendor to exhibit a  
3 valid certificate of registration for visual inspection by the specialty market operator or other  
4 event operator at the time of registration, and must require each vendor to keep the certificate  
5 of registration conspicuously and prominently displayed, so as to be visible for inspection by  
6 patrons of the vendor at the places or locations at which the goods are offered for sale. Each  
7 daily registration list maintained pursuant to this section must be retained by the specialty  
8 market operator or other event operator for no less than two years and must at any time be  
9 made available upon request to any law enforcement officer or the Secretary of Revenue or the  
10 Secretary's duly authorized agent. For purposes of the registration list, the exemptions in  
11 ~~G.S. 66-256~~ G.S. 66-256, other than those applicable to farmers markets and tailgate markets,  
12 do not apply."

13 **SECTION 3.16.** This Part is effective when it becomes law.  
14

15 **PART IV. SEVERABILITY CLAUSE AND EFFECTIVE DATE**

16 **SECTION 4.1.** If any section or provision of this act is declared unconstitutional or  
17 invalid by the courts, it does not affect the validity of this act as a whole or any part other than  
18 the part declared to be unconstitutional or invalid.

19 **SECTION 4.2.** Except as otherwise provided, this act is effective when it becomes  
20 law.