

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013

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SENATE BILL 734

Agriculture/Environment/Natural Resources Committee Substitute Adopted 5/20/14

Finance Committee Substitute Adopted 5/21/14

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PROPOSED HOUSE COMMITTEE SUBSTITUTE S734-PCS35570-RO-47

Short Title: Regulatory Reform Act of 2014.

(Public)

Sponsors:

Referred to:

May 15, 2014

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THE CITIZENS OF NORTH CAROLINA BY PROVIDING FOR VARIOUS ADMINISTRATIVE REFORMS, BY ELIMINATING CERTAIN UNNECESSARY OR OUTDATED STATUTES AND REGULATIONS AND MODERNIZING OR SIMPLIFYING CUMBERSOME OR OUTDATED REGULATIONS, AND BY MAKING VARIOUS OTHER STATUTORY CHANGES.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

ELIMINATE, AS OBSOLETE, THE SMALL BUSINESS CONTRACTOR AUTHORITY, THE COMMITTEE ON DROPOUT PREVENTION, THE STATE EDUCATION COMMITTEE, THE STATE EDUCATION COMMISSION, THE NATIONAL HERITAGE AREA DESIGNATION COMMISSION, THE GOVERNOR'S MANAGEMENT COUNCIL, THE BOARD OF DIRECTORS OF THE NORTH CAROLINA CENTER FOR NURSING AND THE BOARD OF CORRECTIONS

SECTION 1.1.(a) Part 20 of Article 10 of Chapter 143B of the General Statutes is repealed.

SECTION 1.1.(b) Section 7.32(e) of S.L. 2007-323, as rewritten by Section 7.14(a) of S.L. 2008-107 and Section 7.19(e) of S.L. 2010-31, reads as rewritten:

"SECTION 7.32.(e) Report. – The Committee shall report to the Joint Legislative Commission on Dropout Prevention and High School Graduation created in subsection (f) of this section by December 1, 2007, on the grants awarded under subsection (d) of this section. The Committee shall terminate August 1, 2014."

SECTION 1.1.(c) G.S. 116C-1 reads as rewritten:

"§ 116C-1. Education Cabinet created.

(a) The Education Cabinet is created. The Education Cabinet shall be located administratively within, and shall exercise its powers within existing resources of, the Office of the Governor. However, the Education Cabinet shall exercise its statutory powers independently of the Office of the Governor.

(b) The Education Cabinet shall consist of the Governor, who shall serve as chair, the President of The University of North Carolina, the State Superintendent of Public Instruction,



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1 the Chairman of the State Board of Education, the President of the North Carolina Community
2 Colleges System, the Secretary of Health and Human Services, and the President of the North
3 Carolina Independent Colleges and Universities. The Education Cabinet may invite other
4 representatives of education to participate in its deliberations as adjunct members.

5 (c) The Education Cabinet shall be a nonvoting body that:

6 (1) Works to resolve issues between existing providers of education.

7 ~~(2) Sets the agenda for the State Education Commission.~~

8 (3) Develops a strategic design for a continuum of education programs, in
9 accordance with G.S. 116C-3.

10 (4) Studies other issues referred to it by the Governor or the General Assembly.

11 (d) The Office of the Governor, in coordination with the staffs of The University of
12 North Carolina, the North Carolina Community College System, and the Department of Public
13 Instruction, shall provide staff to the Education Cabinet."

14 **SECTION 1.1.(d)** G.S. 116C-2 is repealed.

15 **SECTION 1.1.(e)** Article 26 of Chapter 143 of the General Statutes is repealed.

16 **SECTION 1.1.(f)** Section 18.10 of S.L. 2001-491 reads as rewritten:

17 "**SECTION 18.10.** Notwithstanding G.S. 158-8.1, the Western North Carolina Regional
18 Economic Development Commission shall develop a regional heritage tourism plan and shall
19 present the plan to the 2002 Regular Session of the 2001 General Assembly no later than May
20 1, 2002. The National Heritage Area Designation Commission created pursuant to Section 18.4
21 of this act shall terminate August 1, 2014."

22 **SECTION 1.1.(g)** Part 24 of Article 9 of Chapter 143B of the General Statutes is
23 repealed.

24 **SECTION 1.1.(h)** G.S. 90-171.71 is repealed.

25 **SECTION 1.1.(i)** G.S. 143B-711 reads as rewritten:

26 "**§ 143B-711. Division of Adult Correction of the Department of Public Safety –**
27 **organization.**

28 The Division of Adult Correction of the Department of Public Safety shall be organized
29 initially to include the Post-Release Supervision and Parole Commission, ~~the Board of~~
30 ~~Correction,~~ the Section of Prisons of the Division of Adult Correction, the Section of
31 Community Corrections, the Section of Alcoholism and Chemical Dependency Treatment
32 Programs, and such other divisions as may be established under the provisions of the Executive
33 Organization Act of 1973."

34 **SECTION 1.1.(j)** G.S. 143B-715 is repealed.

36 CLARIFY PROCESS FOR READOPTION OF EXISTING RULES

37 **SECTION 1.2.** G.S. 150B-21.3A(d) reads as rewritten:

38 "(d) Timetable. – The Commission shall establish a schedule for the review and
39 readoption of existing rules in accordance with this section on a decennial basis as follows:

40 (1) With regard to the review process, the Commission shall assign by assigning
41 each Title of the Administrative Code a date by which the review required
42 by this section must be completed. In establishing the schedule, the
43 Commission shall consider the scope and complexity of rules subject to this
44 section and the resources required to conduct the review required by this
45 section. The Commission shall have broad authority to modify the schedule
46 and extend the time for review in appropriate circumstances. Except as
47 provided in ~~subsection~~ subsections (e) and (f) of this section, if the agency
48 fails to conduct the review by the date set by the Commission, the rules
49 contained in that Title which have not been reviewed will expire. The
50 Commission shall report to the Committee any agency that fails to conduct
51 the review. The Commission may exempt rules that have been adopted or

1 amended within the previous 10 years from the review required by this
2 section. However, any rule exempted on this basis must be reviewed in
3 accordance with this section no more than 10 years following the last time
4 the rule was amended.

5 (2) With regard to the readoption of rules as required by sub-subdivision (c)(2)g.
6 of this section, once the final determination report becomes effective, the
7 Commission shall establish a date by which the agency must readopt the
8 rules. The Commission shall consult with the agency and shall consider the
9 agency's rule-making priorities in establishing the readoption date. The
10 agency may amend a rule as part of the readoption process. If a rule is
11 readopted without substantive change, the agency is not required to prepare a
12 fiscal note as provided by G.S. 150B-21.4."

13 14 **AUTHORIZE LICENSING BOARDS TO ADOPT RULES FOR PROFESSIONAL** 15 **CORPORATIONS**

16 **SECTION 1.3.** G.S. 55B-12 reads as rewritten:

17 **"§ 55B-12. Application of regulations of licensing boards.**

18 (a) A professional corporation shall be subject to the applicable rules and regulations
19 adopted by, and all the disciplinary powers of, the licensing board as herein defined. Nothing in
20 this Chapter shall impair the disciplinary powers of any licensing board applicable to a licensee
21 as herein defined. No professional corporation may do any act which its shareholders as
22 licensees are prohibited from doing.

23 (b) Subject to the requirements of Article 2A of Chapter 150B of the General Statutes,
24 any licensing board subject to this Chapter may adopt rules to implement the provisions of this
25 Chapter, including any rules needed to establish fees within the limits set by this Chapter."

26 27 **OCCUPATIONAL LICENSING BOARD REPORTING AMENDMENTS**

28 **SECTION 1.4.** G.S. 93B-2 reads as rewritten:

29 **"§ 93B-2. Annual reports required; contents; open to inspection; sanction for failure to**
30 **report.**

31 (a) No later than October 31 of each year, each occupational licensing board shall file
32 electronically with the Secretary of State, the Attorney General, and the Joint ~~Regulatory~~
33 ~~Reform~~ Legislative Administrative Procedure Oversight Committee an annual report containing
34 all of the following information:

35 (1) The address of the board, and the names of its members and officers.

36 (1a) The total number of licensees supervised by the board.

37 (2) The number of persons who applied to the board for examination.

38 (3) The number who were refused examination.

39 (4) The number who took the examination.

40 (5) The number to whom initial licenses were issued.

41 (5a) The number who failed the examination.

42 (6) The number who applied for license by reciprocity or comity.

43 (7) The number who were granted licenses by reciprocity or comity.

44 (7a) The number of official complaints received involving licensed and
45 unlicensed activities.

46 (7b) The number of disciplinary actions taken against licensees, or other actions
47 taken against nonlicensees, including injunctive relief.

48 (8) The number of licenses suspended or revoked.

49 (9) The number of licenses terminated for any reason other than failure to pay
50 the required renewal fee.

1 (10) The substance of any anticipated request by the occupational licensing board
2 to the General Assembly to amend statutes related to the occupational
3 licensing board.

4 (11) The substance of any anticipated change in rules adopted by the
5 occupational licensing board or the substance of any anticipated adoption of
6 new rules by the occupational licensing board.

7 (b) No later than October 31 of each year, each occupational licensing board shall file
8 electronically with the Secretary of State, the Attorney General, the Office of State Budget and
9 Management, and the Joint ~~Regulatory Reform~~ Legislative Administrative Procedure Oversight
10 Committee a financial report that includes the source and amount of all funds credited to the
11 occupational licensing board and the purpose and amount of all funds disbursed by the
12 occupational licensing board during the previous fiscal year.

13 (c) The reports required by this section shall be open to public inspection.

14 (d) The Joint Legislative Administrative Procedure Oversight Committee shall notify
15 any board that fails to file the reports required by this section. Failure of a board to comply with
16 the reporting requirements of this section by October 31 of each year shall result in a
17 suspension of the board's authority to expend any funds until such time as the board files the
18 required reports. Suspension of a board's authority to expend funds under this subsection shall
19 not affect the board's duty to issue and renew licenses or the validity of any application or
20 license for which fees have been tendered in accordance with law. Each board shall adopt rules
21 establishing a procedure for implementing this subsection and shall maintain an escrow account
22 into which any fees tendered during a board's period of suspension under this subsection shall
23 be deposited."
24

25 OAH ELECTRONIC FILING

26 **SECTION 1.5.(a)** Article 3 of Chapter 150B of the General Statutes is amended by
27 adding a new section to read:

28 "§ 150B-23.3. Electronic filing.

29 In addition to any other method specified in G.S. 150B-23, documents filed and served in a
30 contested case may be filed and served electronically by means of an Electronic Filing Service
31 Provider. For purposes of this section, the following definitions apply:

32 (1) Electronic filing means the electronic transmission of the petition, notice of
33 hearing, pleadings, or any other documents filed in a contested case with the
34 Office of Administrative Hearings, as further defined by rules adopted by the
35 Office of Administrative Hearings.

36 (2) Electronic Filing Service Provider (EFSP) means the service provided by the
37 Office of Administrative Hearings for e-filing and e-service of documents
38 via the Internet.

39 (3) Electronic service means the electronic transmission of the petition, notice of
40 hearing, pleadings, or any other documents in a contested case, as further
41 defined by rules adopted by the Office of Administrative Hearings."

42 **SECTION 1.5.(b)** This section is effective when it becomes law and applies to
43 contested cases filed on or after that date.
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45 STREAMLINE RULE-MAKING PROCESS

46 **SECTION 1.6.(a)** G.S. 150B-19.1(h) is repealed.

47 **SECTION 1.6.(b)** G.S. 150B-21.4 reads as rewritten:

48 "§ 150B-21.4. Fiscal notes and regulatory impact analysis on rules.

49 (a) State Funds. – Before an agency ~~adopts~~ publishes in the North Carolina Register the
50 proposed text of a permanent rule change that would require the expenditure or distribution of
51 funds subject to the State Budget Act, Chapter 143C of the General Statutes it must submit the

1 text of the proposed rule change, an analysis of the proposed rule change, and a fiscal note on
2 the proposed rule change to the Office of State Budget and Management and obtain
3 certification from the Office of State Budget and Management that the funds that would be
4 required by the proposed rule change are available. The agency shall submit the text of the
5 proposed rule change, an analysis of the proposed rule change, and a fiscal note on the
6 proposed rule change to the Office at the same time as the agency submits the notice of text for
7 publication pursuant to G.S. 150B-21.2. The fiscal note must state the amount of funds that
8 would be expended or distributed as a result of the proposed rule change and explain how the
9 amount was computed. The Office of State Budget and Management must certify a proposed
10 rule change if funds are available to cover the expenditure or distribution required by the
11 proposed rule change.

12 (a1) DOT Analyses. – In addition to the requirements of subsection (a) of this section,
13 any agency that adopts a rule affecting environmental permitting of Department of
14 Transportation projects shall conduct an analysis to determine if the rule will result in an
15 increased cost to the Department of Transportation. The analysis shall be conducted and
16 submitted to the Board of Transportation when the agency submits the notice of text for
17 publication. The agency shall consider any recommendations offered by the Board of
18 Transportation prior to adopting the rule. Once a rule subject to this subsection is adopted, the
19 Board of Transportation may submit any objection to the rule it may have to the Rules Review
20 Commission. If the Rules Review Commission receives an objection to a rule from the Board
21 of Transportation no later than 5:00 P.M. of the day following the day the Commission
22 approves the rule, then the rule shall only become effective as provided in G.S. 150B-21.3(b1).

23 (b) Local Funds. – Before an agency ~~adopts~~ publishes in the North Carolina Register
24 the proposed text of a permanent rule change that would affect the expenditures or revenues of
25 a unit of local government, it must submit the text of the proposed rule change and a fiscal note
26 on the proposed rule change to the Office of State Budget and Management as provided by
27 G.S. 150B-21.26, the Fiscal Research Division of the General Assembly, the North Carolina
28 Association of County Commissioners, and the North Carolina League of Municipalities. The
29 fiscal note must state the amount by which the proposed rule change would increase or
30 decrease expenditures or revenues of a unit of local government and must explain how the
31 amount was computed.

32 (b1) Substantial Economic Impact. – Before an agency ~~adopts~~ publishes in the North
33 Carolina Register the proposed text of a permanent rule change that would have a substantial
34 economic impact and that is not identical to a federal regulation that the agency is required to
35 adopt, the agency shall prepare a fiscal note for the proposed rule change and have the note
36 approved by the Office of State Budget and Management. The agency must also obtain from
37 the Office a certification that the agency adhered to the regulatory principles set forth in
38 G.S. 150B-19.1(a)(2), (5), and (6). The agency may request the Office of State Budget and
39 Management to prepare the fiscal note only after, working with the Office, it has exhausted all
40 resources, internal and external, to otherwise prepare the required fiscal note. If an agency
41 requests the Office of State Budget and Management to prepare a fiscal note for a proposed rule
42 change, that Office must prepare the note within 90 days after receiving a written request for
43 the note. If the Office of State Budget and Management fails to prepare a fiscal note within this
44 time period, the agency proposing the rule change shall prepare a fiscal note. A fiscal note
45 prepared in this circumstance does not require approval of the Office of State Budget and
46 Management.

47 If an agency prepares the required fiscal note, the agency must submit the note to the Office
48 of State Budget and Management for review. The Office of State Budget and Management
49 shall review the fiscal note within 14 days after it is submitted and either approve the note or
50 inform the agency in writing of the reasons why it does not approve the fiscal note. After
51 addressing these reasons, the agency may submit the revised fiscal note to that Office for its

1 review. If an agency is not sure whether a proposed rule change would have a substantial
2 economic impact, the agency shall ask the Office of State Budget and Management to
3 determine whether the proposed rule change has a substantial economic impact. Failure to
4 prepare or obtain approval of the fiscal note as required by this subsection shall be a basis for
5 objection to the rule under G.S. 150B-21.9(a)(4).

6 As used in this subsection, the term "substantial economic impact" means an aggregate
7 financial impact on all persons affected of at least one million dollars (\$1,000,000) in a
8 12-month period. In analyzing substantial economic impact, an agency shall do the following:

- 9 (1) Determine and identify the appropriate time frame of the analysis.
- 10 (2) Assess the baseline conditions against which the proposed rule is to be
11 measured.
- 12 (3) Describe the persons who would be subject to the proposed rule and the type
13 of expenditures these persons would be required to make.
- 14 (4) Estimate any additional costs that would be created by implementation of the
15 proposed rule by measuring the incremental difference between the baseline
16 and the future condition expected after implementation of the rule. The
17 analysis should include direct costs as well as opportunity costs. Cost
18 estimates must be monetized to the greatest extent possible. Where costs are
19 not monetized, they must be listed and described.
- 20 (5) For costs that occur in the future, the agency shall determine the net present
21 value of the costs by using a discount factor of seven percent (7%).

22 (b2) Content. – A fiscal note required by subsection (b1) of this section must contain the
23 following:

- 24 (1) A description of the persons who would be affected by the proposed rule
25 change.
- 26 (2) A description of the types of expenditures that persons affected by the
27 proposed rule change would have to make to comply with the rule and an
28 estimate of these expenditures.
- 29 (3) A description of the purpose and benefits of the proposed rule change.
- 30 (4) An explanation of how the estimate of expenditures was computed.
- 31 (5) A description of at least two alternatives to the proposed rule that were
32 considered by the agency and the reason the alternatives were rejected. The
33 alternatives may have been identified by the agency or by members of the
34 public.

35 (c) Errors. – An erroneous fiscal note prepared in good faith does not affect the validity
36 of a rule.

37 (d) If an agency proposes the repeal of an existing rule, the agency is not required to
38 prepare a fiscal note on the proposed rule change as provided by this section."

39 **SECTION 1.6.(c)** This section is effective when it becomes law and applies to
40 proposed rules published on or after that date.

41 **PART II. BUSINESS REGULATION**

42 **PROHIBIT CERTAIN HEADLIGHTS**

43 **SECTION 2.1.(a)** G.S. 20-131 reads as rewritten:

44 **"§ 20-131. Requirements as to headlamps and auxiliary driving lamps.**

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

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

13 (b1) No person shall operate a motor vehicle that is equipped with any headlamps that (i)
14 change the original design or performance of the headlamps and (ii) do not comply with
15 Federal Motor Vehicle Safety Standard No. 108, as adopted by the National Highway Traffic
16 Safety Administration. Any person who violates this subsection is guilty of an infraction
17 punishable by a penalty of not more than one hundred dollars (\$100.00).

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

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

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

33 **SECTION 2.1.(b)** This section becomes effective December 1, 2014, and applies
34 to offenses committed on or after that date.

35 36 **BAIL BOND SHIELD AMENDMENT**

37 **SECTION 2.3.(a)** G.S. 58-71-40(d1) reads as rewritten:

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

- 41 (1) Be an exact duplicate in size, shape, color, and design of the shield approved
42 under G.S. 74C-5(12) and pictured in 12 NCAC 07D. 0405 on ~~May 1,~~
43 ~~2013.~~ May 1, 2013, except that the design may be altered by stamping,
44 inlaying, embossing, enameling, or engraving to accommodate the license
45 number, so long as the digits are gold in color and at least 3/8 of an inch in
46 height for visibility as pictured in 12 NCAC 07D. 0405. With respect to size
47 of the shield, the shield shall be 1.88 inches wide and 2.36 inches high.
- 48 (2) Include the licensee's last name and corresponding license number in the
49 same locations as the shield referenced in subdivision (1) of this subsection.
- 50 (3) With reference to the shield described in subdivision (1) of this subsection,
51 in lieu of the word "Private," the shield shall have the words "North

1 Carolina," and in lieu of the word "Investigator," the shield shall have the
 2 words "Bail Agent."
 3 Any shield that deviates from the design requirements as specified in this section shall be an
 4 unauthorized shield and its possession by a licensee shall constitute a violation of the statute by
 5 the licensee."

6 **SECTION 2.3.(b)** G.S. 15A-540 is amended by adding a new subsection to read:

7 "(d) A surety may utilize the services and assistance of any surety bondsman,
 8 professional bondsman, or runner licensed under G.S. 58-71-40 to affect the arrest or surrender
 9 of a defendant under subsection (a) or (b) of this section."

10 **REPEAL OUTDATED PUBLIC UTILITIES STATUTES OR REPORTS**

11 **SECTION 2.4.(a)** G.S. 62-36A and G.S. 62-36.1 are repealed.

12 **SECTION 2.4.(b)** G.S. 62-158(d) reads as rewritten:

13 "(d) The Commission, after hearing, may adopt rules to implement this section,
 14 including rules for the establishment of expansion funds, for the use of such funds, for the
 15 remittance to the expansion fund or to customers of supplier and transporter refunds and
 16 expansion surcharges or other funds that were sources of the expansion fund, and for
 17 appropriate accounting, reporting and ratemaking treatment. ~~The Commission and Public Staff~~
 18 ~~shall report to the Joint Legislative Commission on Governmental Operations on the operation~~
 19 ~~of any expansion funds in conjunction with the reports required under G.S. 62-36A."~~

20 **SECTION 2.4.(c)** G.S. 62-159(d) reads as rewritten:

21 "(d) The Commission, after hearing, shall adopt rules to implement this section as soon
 22 as practicable. ~~The Commission and Public Staff shall report to the Joint Legislative~~
 23 ~~Commission on Governmental Operations on the use of funding provided under this section in~~
 24 ~~conjunction with the reports required under G.S. 62-36A."~~

25 **SECTION 2.4.(d)** G.S. 62-133.2(g) is repealed.

26 **SECTION 2.4.(e)** Section 14 of S.L. 2002-4 is repealed.

27 **SECTION 2.4.(f)** Section 14 of S.L. 2007-397 is repealed.

28 **SECTION 2.4.(g)** Section 6.1 of S.L. 1995-27 is repealed.
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31 **MERCHANT EXEMPTION FROM LOCKSMITH LICENSING**

32 **SECTION 2.5.** G.S. 74F-16 reads as rewritten:

33 **"§ 74F-16. Exemptions.**

34 The provisions of this Chapter do not apply to:

35 ...

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

41"

42 **CLARIFY PROFESSIONAL ENGINEER EXEMPTION**

43 **SECTION 2.6.(a)** G.S. 89C-25 reads as rewritten:

44 **"§ 89C-25. Limitations on application of Chapter.**

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

- 46 (1) The practice of ~~architecture, architecture as defined in Chapter 83A of the~~
 47 ~~General Statutes, landscape architecture, landscape architecture as defined in~~
 48 ~~Chapter 89A of the General Statutes, or contracting or any other legally~~
 49 ~~recognized profession or trade, contracting as defined in Articles 1, 2, 4, and~~
 50 ~~5 of Chapter 87 of the General Statutes.~~
 51

- 1 (2) Repealed by Session Laws 2011-304, s. 7, effective June 26, 2011.
- 2 (3) Repealed by Session Laws 2011-304, s. 7, effective June 26, 2011.
- 3 (4) Engaging in engineering or land surveying as an employee or assistant under
4 the responsible charge of a professional engineer or professional land
5 surveyor or as an employee or assistant of a nonresident professional
6 engineer or a nonresident professional land surveyor provided for in
7 subdivisions (2) and (3) of this section, provided that the work as an
8 employee may not include responsible charge of design or
9 supervision.~~surveyor.~~
- 10 (5) The practice of professional engineering or land surveying by any person not
11 a resident of, and having no established place of business in this State, as a
12 consulting associate of a professional engineer or professional land surveyor
13 licensed under the provisions of this Chapter; provided, the nonresident is
14 qualified for performing the professional service in the person's own state or
15 country.
- 16 (6) Practice by members of the Armed Forces of the United States; employees
17 of the government of the United States while engaged in the practice of
18 engineering or land surveying solely for the government on
19 government-owned works and projects; or practice by those employees of
20 the Natural Resources Conservation Service, county employees, or
21 employees of the Soil and Water Conservation Districts who have federal
22 engineering job approval authority that involves the planning, designing, or
23 implementation of best management practices on agricultural lands.
- 24 (7) ~~The internal engineering or surveying activities of a person, firm or~~
25 ~~corporation engaged in manufacturing, processing, or producing a product,~~
26 ~~including the activities of public service corporations, public utility~~
27 ~~companies, authorities, State agencies, railroads, or membership~~
28 ~~cooperatives, or the installation and servicing of their product in the field; or~~
29 ~~research and development in connection with the manufacture of that~~
30 ~~product or their service; or of their research affiliates; or their employees in~~
31 ~~the course of their employment in connection with the manufacture,~~
32 ~~installation, or servicing of their product or service in the field, or~~
33 ~~on the premises maintenance of machinery, equipment, or apparatus~~
34 ~~incidental to the manufacture or installation of the product or service of a~~
35 ~~firm by the employees of the firm upon property owned, leased or used by~~
36 ~~the firm; inspection, maintenance and service work done by employees of~~
37 ~~the State of North Carolina, any political subdivision of the State, or any~~
38 ~~municipality including construction, installation, servicing, maintenance by~~
39 ~~regular full-time employees of streets, street lighting, traffic control signals,~~
40 ~~police and fire alarm systems, waterworks, steam, electric and sewage~~
41 ~~treatment and disposal plants; the services of superintendents, inspectors or~~
42 ~~foremen regularly employed by the State of North Carolina or any political~~
43 ~~subdivision of the State or a municipal corporation; provided, however, that~~
44 ~~the internal engineering or surveying activity is not a holding out to or an~~
45 ~~offer to the public of engineering or any service thereof as prohibited by this~~
46 ~~Chapter. Engineering work, not related to the foregoing exemptions, where~~
47 ~~the safety of the public is directly involved shall be under the responsible~~
48 ~~charge of a licensed professional engineer, or in accordance with standards~~
49 ~~prepared or approved by a licensed professional engineer.~~
- 50 (7a) The engineering or surveying activities of a person as defined by
51 G.S. 89C-3(5) who is engaged in manufacturing, processing, producing, or

1 transmitting and delivering a product, and which activities are reasonably
 2 necessary and connected with the primary services performed by individuals
 3 regularly employed in the ordinary course of business by the person,
 4 provided that the engineering or surveying activity is not a holding out or an
 5 offer to the public of engineering or surveying services, as prohibited by this
 6 Chapter. The engineering and surveying services may not be offered,
 7 performed, or rendered independently from the primary services rendered by
 8 the person. For purposes of this subdivision, "activities reasonably necessary
 9 and connected with the primary service" include the following:

- 10 a. Installation or servicing of the person's product by employees of the
 11 person conducted outside the premises of the person's business.
 12 b. Design, acquisition, installation, or maintenance of machinery,
 13 equipment, or apparatus incidental to the manufacture or installation
 14 of the product performed by employees of the person upon property
 15 owned, leased, or used by the person.
 16 c. Research and development performed in connection with the
 17 manufacturing, processing, or production of the person's product by
 18 employees of the person.

19 Engineering or surveying activities performed pursuant to this subdivision,
 20 where the safety of the public is directly involved, shall be under the
 21 responsible charge of a licensed professional engineer or licensed
 22 professional surveyor.

- 23 (8) The (i) preparation of fire sprinkler planning and design drawings by a fire
 24 sprinkler contractor licensed under Article 2 of Chapter 87 of the General
 25 Statutes, or (ii) the performance of internal engineering or survey work by a
 26 manufacturing or communications common carrier company, or by a
 27 research and development company, or by employees of those corporations
 28 provided that the work is in connection with, or incidental to products of, or
 29 nonengineering services rendered by those corporations or their affiliates.
 30 (9) The routine maintenance or servicing of machinery, equipment, facilities or
 31 structures, the work of mechanics in the performance of their established
 32 functions, or the inspection or supervision of construction by a foreman,
 33 superintendent, or agent of the architect or professional engineer, or services
 34 of an operational nature performed by an employee of a laboratory, a
 35 manufacturing plant, a public service corporation, or governmental
 36 operation.
 37 (10) The design of land application irrigation systems for an animal waste
 38 management plan, required by G.S. 143-215.10C, by a designer who
 39 exhibits, by at least three years of relevant experience, proficiency in soil
 40 science and basic hydraulics, and who is thereby listed as an Irrigation
 41 Design Technical Specialist by the North Carolina Soil and Water
 42 Conservation Commission."

43 **SECTION 2.6.(b)** G.S. 89C-19 reads as rewritten:

44 **"§ 89C-19. Public works; requirements where public safety involved.**

45 This State and its political subdivisions such as counties, cities, towns, or other political
 46 entities or legally constituted boards, commissions, public utility companies, or authorities, or
 47 officials, or employees of these entities shall not engage in the practice of engineering or land
 48 surveying involving either public or private property where the safety of the public is directly
 49 involved without the project being under the direct supervision of a professional engineer for
 50 ~~the preparations of plans and specifications for engineering projects, or a professional land~~

1 surveyor for land surveying projects, as provided for the practice of the respective professions
2 by this Chapter.

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

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

15 The provisions in this section shall not be construed to alter or modify the requirements of
16 Article 1 of Chapter 133 of the General Statutes."
17

18 **STUDY SERVICE OF PROCESS IN SUMMARY EJECTMENT**

19 **SECTION 2.7.** The Legislative Research Commission shall study whether and to
20 what extent service of process should be accomplished by an entity other than the local sheriff
21 in summary ejectment proceedings. The Commission shall report its findings and
22 recommendations, including any proposed legislative changes, to the 2015 General Assembly
23 on or before January 20, 2015.
24

25 **CLARIFY EFFECTIVE DATE OF DEFINITION OF DISCHARGE OF WASTE**

26 **SECTION 2.8.(a)** Section 17 of S.L. 2012-187 reads as rewritten:

27 "**SECTION 17.** Section 11 of this act is effective when it becomes law and applies to
28 contested cases filed or pending on or after that date. Except as otherwise provided, this act is
29 effective when it becomes law."
30

31 **SECTION 2.8.(b)** This section becomes effective July 16, 2012.

32 **STUDY MEMBERSHIP UNDER INSURANCE GUARANTY ASSOCIATION ACT**

33 **SECTION 2.9.(a)** The Department of Insurance, in consultation with the
34 Department of Labor and the Department of Commerce, shall study issues related to whether
35 claims incurred by a workers' compensation group self-insurer that merged with a North
36 Carolina Insurance Guaranty Association member insurer on or after January 1, 1997, should
37 be covered claims by the Association. The study shall also consider when a group self-insurer's
38 membership in the Association terminates in the event of merger with a mutual or stock
39 insurance company. The Department of Insurance shall report, with recommendations, to the
40 2015 General Assembly on or before January 20, 2015.
41

42 **SPECIALTY MARKETS**

43 **SECTION 2.10.** G.S. 66-255 reads as rewritten:

44 "**§ 66-255. Specialty market or operator of an event registration list.**

45 A specialty market operator or operator of an event where space is provided to a vendor
46 must maintain a daily registration list of all specialty market or other vendors selling or offering
47 goods for sale at the specialty market or other event. The registration list must clearly and
48 legibly show each vendor's name, permanent address, and certificate of registration number.
49 The specialty market operator or other event operator must require each vendor to exhibit a
50 valid certificate of registration for visual inspection by the specialty market operator or other
51 event operator at the time of registration, and must require each vendor to keep the certificate

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

10 ADA REQUIREMENTS FOR PRIVATE POOLS

11 **SECTION 2.11.(a)** Notwithstanding Section 1109.14 of the 2012 NC State
12 Building Code (Building Code), swimming pools shall be required to be accessible only to the
13 extent required by the Americans with Disabilities Act, 42 U.S.C. § 12101, et seq., and federal
14 rules and regulations adopted pursuant to that Act.

15 **SECTION 2.11.(b)** The Building Code Council shall adopt a rule to amend Section
16 1109.14 of the 2012 NC State Building Code (Building Code) consistent with Section 2.11(a)
17 of this act.

18 **SECTION 2.11.(c)** Section 2.11(a) of this act expires on the date that the rule
19 adopted pursuant to Section 2.11(b) of this act becomes effective.
20

21 JUMP-START OUR BUSINESS START-UPS ACT

22 **SECTION 2.13.(a)** G.S. 78A-17 is amended by adding a new subdivision to read:

23 "(20) Any offer or sale of a security by an issuer if the offer or sale is conducted in
24 accordance with G.S. 78A-17.1."

25 **SECTION 2.13.(b)** Article 3 of Chapter 78A of the General Statutes is amended by
26 adding a new section to read:

27 **§ 78A-17.1. Invest NC exemption.**

28 (a) Exemption. – Except as otherwise provided in this Chapter, an offer or sale of a
29 security by an issuer is exempt from G.S. 78A-24 and G.S. 78A-49(d) if the offer or sale is
30 conducted in accordance with each of the following requirements:

31 (1) The issuer of the security is a business entity formed under the laws of the
32 State and registered with the Secretary of State.

33 (2) The transaction meets the requirements of the federal exemption for
34 intrastate offerings in section 3(a)(11) of the Securities Act of 1933, 15
35 U.S.C. § 77c(a)(11), and SEC rule 147, 17 C.F.R. § 230.147.

36 (3) The sum of all cash and other consideration to be received for all sales of the
37 security in reliance upon this exemption does not exceed the cap provided in
38 this subdivision.

39 a. One million dollars (\$1,000,000), less the aggregate amount received
40 for all sales of securities by the issuer within the 12 months before
41 the first offer or sale made in reliance upon this exemption, if the
42 issuer has not undergone and made available to each prospective
43 investor and the Administrator the documentation resulting from a
44 financial audit with respect to its most recently completed fiscal year
45 and meeting generally accepted accounting principles.

46 b. Two million dollars (\$2,000,000), less the aggregate amount received
47 for all sales of securities by the issuer within the 12 months before
48 the first offer or sale made in reliance upon this exemption, if the
49 issuer has undergone and made available to each prospective investor
50 and the Administrator the documentation resulting from a financial

1 audit with respect to its most recently completed fiscal year and
2 meeting generally accepted accounting principles.

3 (4) The issuer has not accepted more than two thousand dollars (\$2,000) from
4 any single purchaser unless the purchaser is an accredited investor as defined
5 by rule 501 of SEC regulation D, 17 C.F.R. § 230.501.

6 (5) Not less than 10 days prior to the commencement of an offering of securities
7 in reliance on this exemption or the use of any publicly available Web site in
8 connection with any such offering, the issuer shall file a notice with the
9 Administrator, in writing or in electronic form as specified by the
10 Administrator, containing the following:

11 a. A notice of claim of exemption from registration, specifying that the
12 issuer will be conducting an offering in reliance upon this exemption,
13 accompanied by the filing fee as specified in this section.

14 b. A copy of the disclosure statement to be provided to prospective
15 investors in connection with the offering, containing the following:

16 1. A description of the company, its type of entity, the address
17 and telephone number of its principal office, its history, its
18 business plan, and the intended use of the offering proceeds,
19 including any amounts to be paid, as compensation or
20 otherwise, to any owner, executive officer, director,
21 managing member, or other person occupying a similar status
22 or performing similar functions on behalf of the issuer.

23 2. The identity of all persons owning more than ten percent
24 (10%) of the ownership interests of any class of securities of
25 the company.

26 3. The identity of the executive officers, directors, managing
27 members, and other persons occupying a similar status or
28 performing similar functions in the name of and on behalf of
29 the issuer, including their titles and their prior experience.

30 4. The terms and conditions of the securities being offered and
31 of any outstanding securities of the company, the minimum
32 and maximum amount of securities being offered, if any, and
33 either the percentage ownership of the company represented
34 by the offered securities or the valuation of the company
35 implied by the price of the offered securities.

36 5. The identity of any person who has been or will be retained
37 by the issuer to assist the issuer in conducting the offering
38 and sale of the securities, including any Web sites, but
39 excluding persons acting solely as accountants or attorneys
40 and employees whose primary job responsibilities involve the
41 operating business of the issuer rather than assisting the issuer
42 in raising capital, and for each person identified in response
43 to this paragraph, a description of the consideration being
44 paid to such person for such assistance.

45 6. A description of any litigation or legal proceedings involving
46 the company or its management.

47 7. The names and addresses, including URL, of any Web sites
48 that will be used in connection with the offering.

49 c. An escrow agreement with a bank or other depository institution
50 located within this State in which the investor funds will be
51 deposited, providing that all offering proceeds will be released to the

1 issuer only when the aggregate capital raised from all investors is
2 equal to or greater than the minimum target offering amount
3 specified in the business plan as necessary to implement the business
4 plan and that all investors may cancel their commitments to invest if
5 that target offering amount is not raised by the time stated in the
6 disclosure document.

7 (6) The issuer is not, either before or as a result of the offering, an investment
8 company, as defined in section 3 of the Investment Company Act of 1940,
9 15 U.S.C. § 8a-3, or an entity that would be an investment company but for
10 the exclusions provided in section 3(c) of the act, or subject to the reporting
11 requirements of section 13 or 15(d) of the Securities Exchange Act of 1934,
12 15 U.S.C. § 78m and 78o(d).

13 (7) The issuer shall inform all prospective purchasers under this section that the
14 securities have not been registered under federal or State securities law and
15 that the securities are subject to limitations on resale. The issuer shall display
16 the following legend conspicuously on the cover page of the disclosure
17 document:

18 "IN MAKING AN INVESTMENT DECISION, INVESTORS
19 MUST RELY ON THEIR OWN EXAMINATION OF THE
20 ISSUER AND THE TERMS OF THE OFFERING, INCLUDING
21 THE MERITS AND RISKS INVOLVED. THESE SECURITIES
22 HAVE NOT BEEN RECOMMENDED BY ANY FEDERAL OR
23 STATE SECURITIES COMMISSION OR REGULATORY
24 AUTHORITY. FURTHERMORE, THE FOREGOING
25 AUTHORITIES HAVE NOT CONFIRMED THE ACCURACY OR
26 DETERMINED THE ADEQUACY OF THIS DOCUMENT. ANY
27 REPRESENTATION TO THE CONTRARY IS A CRIMINAL
28 OFFENSE. THESE SECURITIES ARE SUBJECT TO
29 RESTRICTIONS ON TRANSFERABILITY AND RESALE AND
30 MAY NOT BE TRANSFERRED OR RESOLD EXCEPT AS
31 PERMITTED BY SUBSECTION (E) OF SEC RULE 147, 17 C.F.R.
32 § 230.147(E) AS PROMULGATED UNDER THE SECURITIES
33 ACT OF 1933, AS AMENDED, AND THE APPLICABLE STATE
34 SECURITIES LAWS, PURSUANT TO REGISTRATION OR
35 EXEMPTION THEREFROM. INVESTORS SHOULD BE AWARE
36 THAT THEY WILL BE REQUIRED TO BEAR THE FINANCIAL
37 RISKS OF THIS INVESTMENT FOR AN INDEFINITE PERIOD
38 OF TIME."

39 (8) The issuer shall require each purchaser to certify in writing "I understand
40 and acknowledge that:

41 a. I am investing in a high-risk, speculative business venture. I may lose
42 all of my investment, and I can afford the loss of my investment.

43 b. This offering has not been reviewed or approved by any state or
44 federal securities commission or other regulatory authority and that
45 no such person or authority has confirmed the accuracy or
46 determined the adequacy of any disclosure made to me relating to
47 this offering.

48 c. The securities I am acquiring in this offering are illiquid, that there is
49 no ready market for the sale of such securities, that it may be difficult
50 or impossible for me to sell or otherwise dispose of this investment,

- 1 and that, accordingly, I may be required to hold this investment
2 indefinitely.
- 3 d. I may be subject to tax on my share of the taxable income and losses
4 of the company, whether or not I have sold or otherwise disposed of
5 my investment or received any dividends or other distributions from
6 the company."
- 7 (9) If the offer and sale of securities is made through an Internet Web site, the
8 following requirements apply:
- 9 a. Prior to the offer of an investment opportunity to residents of this
10 State through a Web site, the issuer shall provide to the Web site and
11 to the Administrator evidence that the issuer is organized under
12 North Carolina law and that it is authorized to do business within the
13 State.
- 14 b. The issuer shall obtain from each purchaser of a security under this
15 section evidence that the purchaser is a resident of North Carolina
16 and, if applicable, an accredited investor.
- 17 c. The Web site operator shall register with the Administrator by filing
18 a statement that it is a business entity that is organized under North
19 Carolina law and that it is authorized to do business within the State
20 and that it is being utilized to offer and sell securities pursuant to this
21 exemption. As part of the registration, the Web site shall notify the
22 Administrator of its and the issuer's identity, location, and contact
23 information.
- 24 d. The issuer and the Web site must keep and maintain records of the
25 offers and sales of securities effected through the Web site and must
26 provide ready access to the records to the Administrator, upon
27 request. The Administrator may access, inspect, and review any Web
28 site and its records.
- 29 (10) All payments for purchase of securities must be directed to and held by the
30 bank or depository institution subject to the provisions of sub-subdivision
31 (a)(5)c. of this section. The bank or depository institution shall notify the
32 Administrator of the receipt of payments for securities and the identity and
33 residence of the investors. The information shall be confidential and
34 considered trade secrets within the scope of G.S. 132-1.2 while in the
35 possession of the Administrator.
- 36 (11) No offers or sales of a security shall be made through an Internet Web site
37 unless the Web site is registered with the Administrator pursuant to
38 sub-subdivision (a)(9)c. of this section. The Web site shall not be subject to
39 the registration provisions of G.S. 78A-36 provided that all of the following
40 apply:
- 41 a. It does not offer investment advice or recommendations.
- 42 b. It does not solicit purchases, sales, or offers to buy the securities
43 offered or displayed on the Web site.
- 44 c. It does not compensate employees, agents, or other persons for the
45 solicitation or based on the sale of securities displayed or referenced
46 on the Web site.
- 47 d. It is not compensated based on the amount of securities sold, and it
48 does not hold, manage, possess, or otherwise handle investor funds
49 or securities.
- 50 e. It does not engage in such other activities as the Administrator, by
51 rule, determines appropriate.

1 (12) An executive officer, director, managing member, or person occupying a
2 similar status or performing similar functions in the name of and on behalf
3 of the issuer shall be exempt from the registration provisions of
4 G.S. 78A-36, provided that the person does not receive, directly or
5 indirectly, any commission or remuneration for offering and selling
6 securities of the issuer pursuant to this exemption.

7 (13) The issuer must provide a copy of the disclosure document provided to the
8 Administrator pursuant to sub-subdivision (a)(5)b. of this section to each
9 prospective investor at the time the offer of securities is made to the
10 prospective investor. In addition to the information described in
11 sub-subdivision (a)(5)b. of this section, the disclosure document provided to
12 the Administrator and to prospective investors should include additional
13 information material to the offering, including, where appropriate, a
14 discussion of significant factors that make the offering speculative or risky.
15 This discussion must be concise and organized logically and should not
16 present risks that could apply to any issuer or any offering.

17 (b) Indexing. – The dollar limitations provided in subdivision (a)(3) of this section shall
18 be cumulatively adjusted every fifth year by the Administrator to reflect the change in the
19 Consumer Price Index for All Urban Consumers published by the Bureau of Labor Statistics,
20 setting each dollar limitation to the nearest fifty thousand dollars (\$50,000).

21 (c) Report. – An issuer of a security, the offer and sale of which is exempt under this
22 section, shall provide a quarterly report to the issuer's investors until no securities issued under
23 this section are outstanding. The report required by this subsection shall be free of charge. An
24 issuer may satisfy the reporting requirement of this subsection by making the information
25 available on an Internet Web site address if the information is made available within 45 days of
26 the end of each fiscal quarter and remains available until the succeeding quarterly report is
27 issued. An issuer shall file each such quarterly report with the Administrator and must provide
28 a written copy of the report to any investor upon request. The report must contain each of the
29 following:

30 (1) Compensation received by each director and executive officer, including
31 cash compensation earned since the previous report and on an annual basis
32 and any bonuses, stock options, other rights to receive securities of the issuer
33 or any affiliate of the issuer, or other compensation received.

34 (2) An analysis by management of the issuer of the business operations and
35 financial condition of the issuer.

36 (d) Offers and Sales to Controlling Persons. – The exemption provided in this section
37 shall not be used in conjunction with any other exemption under this Chapter, except offers and
38 sales to controlling persons shall not count toward the limitation in subdivision (3) of
39 subsection (a) of this section. A controlling person is an officer, director, partner, trustee, or
40 individual occupying similar status or performing similar functions with respect to the issuer or
41 to a person owning ten percent (10%) or more of the outstanding shares of any class or classes
42 of securities of the issuer.

43 (e) Disqualification. – The exemption allowed by this section shall not apply if an
44 issuer or person affiliated with the issuer or offering is subject to any disqualification contained
45 in 18 NCAC 06A .1207(a)(1) through (a)(6) or contained in Rule 262 as promulgated under the
46 Securities Act of 1933, 17 C.F.R. § 230.262. The provisions of this subsection shall not apply if
47 (i) upon a showing of good cause and without prejudice to any other action by the
48 Administrator, the Administrator determines that it is not necessary under the circumstances
49 that an exemption be denied and (ii) the issuer establishes that it made factual inquiry into
50 whether any disqualification existed under this subsection but did not know, and in the exercise
51 of reasonable care could not have known, that a disqualification existed under this subsection.

1 The nature and scope of the requisite inquiry will vary based on the circumstances of the issuer
2 and the other offering participants.

3 (f) Rules. – The Administrator may adopt rules to implement the provisions of this
4 section and to protect investors who purchase securities under this section."

5 **SECTION 2.13.(c)** G.S. 78A-49(d) reads as rewritten:

6 "(d) The Administrator may by rule or order require the filing of any prospectus,
7 pamphlet, circular, form letter, advertisement, or other sales literature or advertising
8 communication addressed or intended for distribution to prospective investors, unless the
9 security or transaction is exempted by ~~G.S. 78A-16 or 78A-17 (except 78A-17(9), (17), and~~
10 ~~(19))~~ G.S. 78A-16 and G.S. 78A-17 (except G.S. 78A-17(9), (17), (19), and (20)) and such
11 exemption has not been denied or revoked under G.S. 78A-18 or the security is a security
12 covered under federal law or the transaction is with respect to a security covered under federal
13 law."

14 **SECTION 2.13.(d)** Notwithstanding any provision of Article 2A of Chapter 150B
15 of the General Statutes, within 12 months of the effective date of this section, the Secretary of
16 State shall adopt rules to implement the provisions of this section in accordance with the
17 following procedure:

- 18 (1) At least 15 business days prior to adopting a rule, submit the rule and a
19 notice of public hearing to the Codifier of Rules. The Codifier of Rules shall
20 publish the proposed rule and the notice of public hearing on the Internet
21 within five business days.
- 22 (2) At least 15 business days prior to adopting a rule, notify persons on the
23 mailing list maintained pursuant to G.S. 150B-21.2(d) and any other
24 interested parties of the Secretary's intent to adopt a rule and of the public
25 hearing.
- 26 (3) Accept written comments on the proposed rule for at least 15 business days
27 prior to adoption of the rule.
- 28 (4) Hold at least one public hearing on the proposed rule no less than five days
29 after the rule and notice have been published.

30 A rule adopted in accordance with this section becomes effective on the first day of
31 the month following the month the Secretary adopts the rule and submits the rule to the
32 Codifier of Rules for entry into the North Carolina Administrative Code. Any rule adopted
33 more than 12 months after the effective date of this section shall comply with the requirement
34 of Article 2A of Chapter 150B of the General Statutes.

35 **SECTION 2.13.(e)** Section 2.13(d) is effective when it becomes law and expires
36 12 months after the effective date of this section. The remainder of this section is effective
37 when it becomes law and expires on July 1, 2017.

38 **STUDY INSURANCE RATES**

39 **SECTION 2.14.** The Legislative Research Commission shall study whether the
40 Commissioner of Insurance should be given authority to specify overall rates that do not exceed
41 the rates proposed by the Bureau filing. The Legislative Research Commission shall report its
42 findings, including any proposed legislative recommendations, to the 2015 General Assembly
43 prior to the convening of the 2015 Regular Session.

44 **REMOVE SUNSET FOR CERTAIN COLUMBARIUM**

45 **SECTION 2.15.(a)** G.S. 65-47(d) reads as rewritten:

46 "(d) ~~(Expires January 23, 2015)~~ A columbarium that is built built, on or before January
47 23, 2015, on the grounds of a private, self-contained retirement community in a county where
48 no commercially available columbarium exists, funded solely by the residents of that
49
50

1 community, and reserved exclusively for the residents' use shall be exempt from the provisions
2 of Article 9 of this Chapter."

3 **SECTION 2.15.(b)** Section 2 of S.L. 2013-335 reads as rewritten:

4 "**SECTION 2.** This act is effective when it becomes law and expires 18 months after that
5 ~~date.law.~~"

6 7 **STUDY STATUTORY CHANGES RELATED TO CORPORATIONS LAW**

8 **SECTION 2.16.** The Joint Legislative Economic Development and Global
9 Engagement Oversight Committee shall study the creation of statutory language which would
10 permit each of the following:

- 11 (1) A corporation incorporated under the laws of the State of North Carolina to
12 be merged, without shareholder authorization, into a direct or indirect wholly
13 owned subsidiary of the North Carolina corporation. The Committee shall
14 consider whether certain organizational documents of the surviving entity
15 should contain particular provisions as dictated by State law before such a
16 merger would be recognized as effective in this State.
- 17 (2) A North Carolina corporation to designate an exclusive forum for
18 shareholder disputes. The Committee shall consider any and all issues
19 pertinent to providing for an exclusive forum selection provision under
20 North Carolina law, including (i) the applicability of such a provision to
21 some or all shareholders, (ii) the appropriate governing documents in which
22 the provision must be included, and (iii) the class or classes of disputes to
23 which the applicability should be extended or limited.

24 The Committee shall make a final report, including any proposed legislation, prior
25 to the commencement of the 2015 Regular Session of the 2015 General Assembly.

26 27 **PART III. STATE AND LOCAL GOVERNMENT REGULATION**

28 29 **NOTIFY PROPERTY OWNERS OF RIGHT-OF-WAY TRANSFERS**

30 **SECTION 3.1.(a)** G.S. 136-66.10 reads as rewritten:

31 "**§ 136-66.10. Dedication of right-of-way under local ordinances.**

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

- 39 (1) A city or county may require an applicant for subdivision plat approval or
40 for a special use permit, conditional use permit, or special exception, or for
41 any other permission pursuant to a land use control ordinance authorized by
42 local act to dedicate for street or highway purpose, the right-of-way within
43 such corridor if the city or county allows the applicant to transfer density
44 credits attributable to the dedicated right-of-way to contiguous land owned
45 by the applicant. No dedication of right-of-way shall be required pursuant to
46 this subdivision unless the board or agency granting final subdivision plat
47 approval or the special use permit, conditional use permit, special exception,
48 or permission shall find, prior to the grant, that the dedication does not result
49 in the deprivation of a reasonable use of the original tract and that the
50 dedication is either reasonably related to the traffic generated by the

1 proposed subdivision or use of the remaining land or the impact of the
2 dedication is mitigated by measures provided in the local ordinance.

3 (2) If a city or county does not require the dedication of right-of-way within the
4 corridor pursuant to subdivision (1) of this subsection or other applicable
5 legal authority, but an applicant for subdivision plat approval or a zoning or
6 building permit, or any other permission pursuant to a land use control
7 ordinance authorized by local act elects to dedicate the right-of-way, the city
8 or county may allow the applicant to transfer density credits attributable to
9 the dedicated right-of-way to contiguous land that is part of a common
10 development plan or to transfer severable development rights attributable to
11 the dedicated right-of-way to noncontiguous land in designated receiving
12 districts pursuant to G.S. 136-66.11.

13 (3) Units of local government that require or accept right-of-way dedications
14 under this subsection shall notify the applicant and the property owner when
15 the local government begins review of or negotiations for a right-of-way
16 dedication and associated density credit transfer, whichever first occurs. If
17 the property owner is not the applicant, then the property owner shall be
18 given notification of right-of-way dedications and any related density credit
19 transfers under this subsection. The notification shall be sent to the last
20 known address for the owner and shall include a copy of this section and any
21 local ordinances, policies, or procedures governing the calculation and
22 application of the density credit transfer.

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

30 **SECTION 3.1.(b)** Section 3.1 becomes effective October 1, 2014, and applies to
31 dedications occurring on or after that date.

32 **DOT CONDEMNATION/CORRIDOR MAP CHANGES**

33 **SECTION 3.2.(a)** G.S. 136-113 reads as rewritten:

34 **"§ 136-113. Interest as a part of just compensation.**

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

40 **SECTION 3.2.(b)** G.S. 136-119 reads as rewritten:

41 **"§ 136-119. Costs and appeal.**

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

46 (b) The court having jurisdiction of the condemnation action instituted by the
47 Department of Transportation to acquire real property by condemnation shall award the owner
48 of any right, or title to, or interest in, such real property such sum as will in the opinion of the
49 court reimburse such owner for his reasonable cost, disbursements, and expenses, including
50

1 reasonable attorney fees, appraisal, and engineering fees, actually incurred because of the
2 condemnation proceedings, ~~if (i) the~~ if any of the following apply:

3 (1) The final judgment is that the Department of Transportation cannot acquire
4 real property by condemnation; or (ii) the condemnation.

5 (2) The proceeding is abandoned by the Department of Transportation.

6 (3) The final judgment exceeds the amount of the initial deposit by thirty-five
7 percent (35%) or more. Attorneys' fees awarded pursuant to this subsection
8 shall not exceed one-third of the difference between the verdict, plus
9 interest, and the initial deposit, nor shall such fees exceed the prevailing
10 hourly rate in the county where the land is located.

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

17 **SECTION 3.2.(c)** G.S. 136-44.51 reads as rewritten:

18 **"§ 136-44.51. Effect of transportation corridor official map.**

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

27 (b) In any event, no application for building permit issuance or subdivision plat
28 approval for a tract subject to a valid transportation corridor official map shall be delayed by
29 the provisions of this section for more than ~~three years~~ two years from the date of its original
30 submittal to the appropriate local jurisdiction. A submittal to the local jurisdiction for corridor
31 map determination shall require only the name of the property owner, the street address of the
32 property parcel, the parcel number or tax identification number, a vicinity map showing the
33 location of the parcel with respect to nearby roads and other landmarks, a sketch of the parcel
34 showing all existing and proposed structures or other uses of the property, and a description of
35 the proposed improvements. If the impact of an adopted corridor on a property submittal for
36 corridor map determination is still being reviewed after the ~~three-year~~ two-year period
37 established pursuant to this subsection, the entity that adopted the transportation corridor
38 official map affecting the issuance of building permits or subdivision plat approval shall issue
39 approval for an otherwise eligible request or initiate acquisition proceedings on the affected
40 properties. If the entity that adopted the transportation corridor official map has not initiated
41 acquisition proceedings or issued approval within the time limit established pursuant to this
42 subsection, an applicant within the corridor may treat the real property as unencumbered and
43 free of any restriction on sale, transfer, or use established by this Article.

44 (c) No submittal to a local jurisdiction for corridor map determination shall be
45 construed to be an application for building permit issuance or subdivision plat approval. The
46 provisions of this section shall not apply to valid building permits issued prior to August 7,
47 1987, or to building permits for buildings and structures which existed prior to the filing of the
48 transportation corridor, provided the size of the building or structure is not increased and the
49 type of building code occupancy as set forth in the North Carolina Building Code is not
50 changed."

1 **SECTION 3.2.(d)** Sections 3.2(a) and 3.2(b) of this section become effective July
2 1, 2015, and apply to condemnation actions filed on or after that date. Sections 3.2(c) and
3 3.2(d) of this act become effective July 1, 2014.

5 **NOTICE TO CHRONIC VIOLATORS**

6 **SECTION 3.3.(a)** G.S. 160A-200 is repealed.

7 **SECTION 3.3.(b)** G.S. 160A-200.1 reads as rewritten:

8 "**§ 160A-200.1. Annual notice to chronic violators of public nuisance ordinance.**

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

14 (b) The notice shall be sent by registered or certified mail. When service is attempted
15 by registered or certified mail, a copy of the notice may also be sent by regular mail. Service
16 shall be deemed sufficient if the registered or certified mail is unclaimed or refused, but the
17 regular mail is not returned by the post office within 10 days after the mailing. If service by
18 regular mail is used, a copy of the notice shall be posted in a conspicuous place on the premises
19 affected. ~~A chronic violator is a person who owns property whereupon, in the previous calendar~~
20 ~~year, the city gave notice of violation at least three times under any provision of the public~~
21 ~~nuisance ordinance.~~

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

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

28 **ALLOW FOR DIFFERENTIAL TREATMENT OF FRATERNITIES AND** 29 **SORORITIES IN ZONING**

30 **SECTION 3.4.(a)** G.S. 153A-340(k) reads as rewritten:

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

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

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

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

44 **SECTION 3.4.(b)** G.S. 160A-381(g) reads as rewritten:

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

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

- 1 (2) The ordinance shall permit a fraternity or sorority seeking approval or
2 recognition at least three years to establish approval or recognition.
3 (3) The ordinance shall require that a property may not be occupied successively
4 by a fraternity or sorority seeking to reestablish approval or recognition and
5 a fraternity or sorority seeking approval or recognition, and vice versa,
6 unless the property is occupied by a fraternity or sorority approved or
7 recognized for at least 12 successive months between the two."
8

9 **REPEAL SUPERMAJORITY EFFECT OF PROTEST PETITIONS**

10 **SECTION 3.5.(a)** G.S. 160A-385(a) is repealed.

11 **SECTION 3.5.(b)** G.S. 160A-386 is repealed.

12 **SECTION 3.5.(c)** G.S. 122C-403(3) reads as rewritten:

13 "(3) Regulate the development of the reservation in accordance with the powers
14 granted in Article 19, Parts 2, 3, 3C, 5, 6, and 7, of Chapter 160A of the
15 General Statutes. The Secretary may not, however, grant a special use
16 permit, a conditional use permit, or a special exception under Part 3 of that
17 Article. In addition, the Secretary is not required to notify landowners of
18 zoning classification actions under G.S. 160A-384, ~~and the protest petition~~
19 ~~requirements in G.S. 160A-385, and 160A-386 do not apply,~~ but the
20 Secretary shall give the mayor of the Town of Butner at least 14 days'
21 advance written notice of any proposed zoning change. The Secretary may
22 designate Advisory establish a board to act like a Board of Adjustment to
23 make recommendations to the Secretary concerning implementation of plans
24 for the development of the reservation. When acting as a Board of
25 Adjustment, Advisory that board shall be subject to subsections (b), (c), (d),
26 (f), and (g) of G.S. 160A-388."

27 **SECTION 3.5.(d)** This section also repeals any local act authority for submission,
28 review, or action by any municipality upon any zoning protest petition, whether or not enacted
29 as a provision in a municipal charter.
30

31 **REPEAL OBSOLETE DEPARTMENT OF INSURANCE STATUTES**

32 **SECTION 3.6.(a)** G.S. 58-2-165(b) reads as rewritten:

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

38 **SECTION 3.6.(b)** G.S. 58-2-170 is repealed.

39 **SECTION 3.6.(c)** G.S. 58-3-191(a) and (b1) are repealed.

40 **SECTION 3.6.(d)** G.S. 58-67-140(a)(7) is repealed.

41 **SECTION 3.6.(e)** G.S. 58-36-3(c) is repealed.

42 **SECTION 3.6.(f)** G.S. 58-40-130(e) is repealed.

43 **SECTION 3.6.(g)** G.S. 58-50-95 is repealed.
44

45 **STUDY POST-ARREST PHOTOGRAPHIC IMAGES NOT PUBLIC**

46 **SECTION 3.7.** The Administrative Office of the Courts and the Department of
47 Public Safety shall study whether or not photographs of individuals charged with a crime
48 should be a public record, including the admissibility of such photographs, posting on the
49 Internet of such photographs prior to conviction, and any other matters related to the use of
50 photographs of charged individuals. The Administrative Office of the Courts and the

1 Department of Public Safety shall report, with recommendations, to the Joint Legislative
2 Oversight Committee on Justice and Public Safety on or before December 31, 2014.

4 **COMPLIANCE WITH BUILDING CODE INSPECTION REQUIREMENTS**

5 **SECTION 3.8.(a)** G.S. 153A-360 reads as rewritten:

6 "**§ 153A-360. Inspections of work in progress.**

7 ~~As Subject to the provisions of G.S. 153A-352(b), as the~~ work pursuant to a permit
8 progresses, local inspectors shall make as many inspections of the work as may be necessary to
9 satisfy them that it is being done according to the provisions of the applicable State and local
10 laws and local ordinances and regulations and of the terms of the permit. In exercising this
11 power, each member of the inspection department has a right, upon presentation of proper
12 credentials, to enter on any premises within the territorial jurisdiction of the department at any
13 reasonable hour for the purposes of inspection or other enforcement action. If a permit has been
14 obtained by an owner exempt from licensure under G.S. 87-1(b)(2), no inspection shall be
15 conducted without the owner being personally present, unless the plans for the building were
16 drawn and sealed by an architect licensed pursuant to Chapter 83A of the General Statutes."

17 **SECTION 3.8.(b)** G.S. 160A-420 reads as rewritten:

18 "**§ 160A-420. Inspections of work in progress.**

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

30 **STUDY ETHICS REQUIREMENTS FOR CERTAIN CITY OFFICIALS**

31 **SECTION 3.9.** The State Ethics Commission and the School of Government at the
32 University of North Carolina at Chapel Hill shall study the implications and impact of requiring
33 municipal and county elected officials to file a statement of economic interest. The State Ethics
34 Commission and the School of Government at the University of North Carolina at Chapel Hill
35 shall report to the Joint Legislative Administrative Procedure Oversight Committee on or
36 before December 31, 2014.

38 **BUILDING CODE STUDY**

39 **SECTION 3.10.** The North Carolina Building Code Council shall undertake a
40 study of the authority granted to local building inspectors in those counties and cities where
41 building plans are reviewed and approved prior to the issuance of a building permit, pursuant to
42 G.S. 153A-357, 153A-359, 153A-360, 153A-362, 153A-365, 160A-417, 160A-419, 160A-420,
43 and any other statutes deemed relevant by the Council. The Council shall report to the 2015
44 General Assembly on its findings and make recommendations on any statutory amendments
45 that are necessary to ensure local field inspectors cannot disregard or independently require
46 changes to any construction plans previously approved by a county or city.

48 **BRAC RELATED AMENDMENTS**

49 **SECTION 3.11.(a)** Article 8B of Chapter 143 of the General Statutes is amended
50 by adding a new section to read:

51 "**§ 143-135.29. Review of Military Lands Protection Act proposals.**

1 The State Construction Office shall maintain, and make available to the public, accurate
2 maps of areas surrounding major military installations, as defined in G.S. 143-151.71,
3 including Military Trainings Routes and Military Operating Areas that are subject to the
4 provisions of Article 9G of Chapter 143 of the General Statutes."

5 **SECTION 3.11.(b)** G.S. 143-151.71 reads as rewritten:

6 **"§ 143-151.71. Definitions.**

7 Within the meaning of this Article:

- 8 (1) "Area surrounding major military installations" is the area that extends five
9 miles beyond the boundary of a major military installation and may include
10 incorporated and unincorporated areas of counties and municipalities.
- 11 ~~(2) "Building Code Council" means the Council created pursuant to Article 9 of~~
12 ~~Chapter 143 of the General Statutes.~~
- 13 (3) "Commissioner" means the Commissioner of Insurance.
- 14 (4) "Construction" includes reconstruction, alteration, or expansion.
- 15 (5) "Major military installation" means Fort Bragg, Pope Army Airfield, Camp
16 Lejeune Marine Corps Air Base, New River Marine Corps Air Station,
17 Cherry Point Marine Corps Air Station, Military Ocean Terminal at Sunny
18 Point, the United States Coast Guard Air Station at Elizabeth City, Naval
19 Support Activity Northwest, Air Route Surveillance Radar (ARSR-4) at Fort
20 Fisher, and Seymour Johnson Air Force Base, in its own right and as the
21 responsible entity for the Dare County Bombing Range, and any facility
22 located within the State that is subject to the installations' oversight and
23 control.
- 24 (6) "Person" means any individual, partnership, firm, association, joint venture,
25 public or private corporation, trust, estate, commission, board, public or
26 private institution, utility, cooperative, interstate body, the State of North
27 Carolina and its agencies and political subdivisions, or other legal entity.
- 28 (6a) "State Construction Office" means the State Construction Office of the
29 Department of Administration.
- 30 (7) "Tall buildings or structures" means any building, structure, or unit within a
31 multiunit building with a vertical height of more than 200 feet measured
32 from the top of the foundation of the building, structure, or unit and the
33 uppermost point of the building, structure, or unit. "Tall buildings or
34 structures" do not include buildings and structures listed individually or as
35 contributing resources within a district listed in the National Register of
36 Historic Places."

37 **SECTION 3.11.(c)** G.S. 143-151.73 reads as rewritten:

38 **"§ 143-151.73. Certain buildings and structures prohibited without endorsement.**

39 (a) No county or city may authorize the construction of and no person may construct a
40 tall building or structure in any area surrounding a major military installation in this State,
41 unless the county or city is in receipt of either a letter of endorsement issued to the person by
42 the ~~Building Code Council~~State Construction Office pursuant to G.S. 143-151.75 or proof of
43 the ~~Council's~~State Construction Office's failure to act within the time allowed pursuant to
44 G.S. 143-151.75.

45 (b) No county or city may authorize the provision of the following utility services to
46 any building or structure constructed in violation of subsection (a) of this section: electricity,
47 telephone, gas, water, sewer, or septic system."

48 **SECTION 3.11.(d)** G.S. 143-151.75 reads as rewritten:

49 **"§ 143-151.75. Endorsement for proposed tall buildings or structures required.**

50 (a) No person shall undertake construction of a tall building or structure in any area
51 surrounding a major military installation in this State without either first obtaining the

1 endorsement from the ~~Building Code Council~~State Construction Office or proof of the
2 ~~Council's~~State Construction Office's failure to act within the time allowed.

3 (b) A person seeking endorsement for a proposed tall building or structure in any area
4 surrounding a major military installation in this State shall provide written notice of the intent
5 to seek endorsement to the base commander of the major military installation that is located
6 within five miles of the proposed tall building or structure and shall provide all of the following
7 to the ~~Building Code Council~~State Construction Office:

8 (1) Identification of the major military installation and the base commander of
9 the installation that is located within five miles of the proposed tall building
10 or structure.

11 (2) A copy of the written notice sent to the base commander of the installation
12 identified in subdivision (1) of this subsection that is located within five
13 miles of the proposed tall building or structure.

14 (3) A written "Determination of No Hazard to Air Navigation" issued by the
15 Federal Aviation Administration pursuant to Subpart D of Part 77 of Title 14
16 of the Code of Federal Regulations (January 1, 2012, Edition) for the
17 proposed tall building or structure.

18 (c) After receipt of the information provided by the applicant pursuant to subsection (b)
19 of this section, the ~~Building Code Council~~State Construction Office shall, in writing, request a
20 written statement concerning the proposed tall building or structure from the base commander
21 of the major military installation identified in subdivision (1) of subsection (b) of this section.
22 The ~~Building Code Council~~State Construction Office shall request that the following
23 information be included in the written statement from the base commander:

24 (1) A determination whether the location of the proposed tall building or
25 structure is within a protected area that surrounds the installation.

26 (2) A determination whether any activities of the installation may be adversely
27 affected by the proposed tall building or structure. A detailed description of
28 the potential adverse effects, including frequency disturbances and physical
29 obstructions, shall accompany the determination required by this
30 subdivision.

31 (d) The ~~Building Code Council~~State Construction Office shall not endorse a tall
32 building or structure if the Council finds any one or more of the following:

33 (1) The proposed tall building or structure would encroach upon or otherwise
34 interfere with the mission, training, or operations of any major military
35 installation in North Carolina and result in a detriment to continued military
36 presence in the State. In its evaluation, the ~~Building Code Council~~State
37 Construction Office may consider whether the proposed tall building or
38 structure would cause interference with air navigation routes, air traffic
39 control areas, military training routes, or radar based on the written
40 statement received from a base commander as provided in subsection (c) of
41 this section and written comments received by members of affected
42 communities. Provided, however, if the ~~Building Code Council~~State
43 Construction Office does not receive a written statement requested pursuant
44 to subsection (c) of this section within 45 days of issuance of the request to
45 the base commander, the ~~Building Code Council~~State Construction Office
46 shall deem the tall building or structure as endorsed by the base commander.

47 (2) The ~~Council~~State Construction Office is not in receipt of the written
48 "Determination of No Hazard to Air Navigation" issued to the person by the
49 Federal Aviation Administration required pursuant to subdivision (3) of
50 subsection (b) of this section.

1 (e) The ~~Building Code Council~~ State Construction Office shall make a final decision on
2 the request for endorsement of a tall building or structure within 90 days from the date on
3 which the ~~Council~~ State Construction Office requested the written statement from the base
4 commander of the major military installation identified in subdivision (1) of subsection (b) of
5 this section. If the ~~Council~~ State Construction Office determines that a request for a tall building
6 or structure fails to meet the requirements for endorsement under this section, the ~~Council~~ State
7 Construction Office shall deny the request. The ~~Council~~ State Construction Office shall notify
8 the person of the denial, and the notice shall include a written statement of the reasons for the
9 denial. If the ~~Council~~ State Construction Office fails to act within any time period set forth in
10 this section, the person may treat the failure to act as a decision to endorse the tall building or
11 structure.

12 (f) The ~~Building Code Council~~ State Construction Office may meet by telephone, video,
13 or Internet conference, so long as consistent with applicable law regarding public meetings, to
14 make a decision on a request for endorsement for a tall building or structure pursuant to
15 subsection (e) of this section."

16 **SECTION 3.11.(e)** G.S. 143-138(j2) is repealed.

17 **SECTION 3.11.(f)** Chapter 127C of the General Statutes is amended by adding a
18 new section to read:

19 **"§ 127C-5. Protection of sensitive documents.**

20 (a) In carrying out any purpose set out in G.S. 127C-1(b), the Commission and the
21 Department of Commerce may share documents and discussions protected from disclosure
22 under G.S. 132-1.2 and G.S. 143-318.11 with other public bodies. Any information shared
23 under this subsection shall be confidential and exempt from Chapter 132 of the General
24 Statutes to the same extent that it is confidential in the possession of the Commission or the
25 Department.

26 (b) In carrying out any purpose set out in G.S. 127C-1(b), the Commission and the
27 Department of Commerce may share documents and discussions protected from disclosure
28 under G.S. 132-1.2 and G.S. 143-318.11 with any third party in its discretion. Any information
29 shared under this subsection shall be shared under an agreement to keep the information
30 confidential to the same extent that it is confidential in the possession of the Commission or the
31 Department."

32 **SECTION 3.11.(g)** G.S. 132-1.2 is amended by adding a new subdivision to read:

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

36 **SECTION 3.11.(h)** G.S. 143-318.11(a)(4) reads as rewritten:

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

45 **SECTION 3.11.(i)** G.S. 127C-1 is amended by adding a new subsection to read:

46 "(d) Meetings and Records. – In accordance with Article 33C of Chapter 143 of the
47 General Statutes and Chapter 132 of the General Statutes, the Commission may withhold
48 documents and discussions related to the federal government's process to determine closure or
49 realignment of military installations from public inspection so long as public inspection would
50 frustrate the purpose of a closed session."

1 **SECTION 3.11.(j)** Sections 3.11(g) through (i) of this section become effective
2 October 1, 2014, and apply to meetings held or on after that date. The remainder of this section
3 is effective when it becomes law.
4

5 **ABC PERMITS/SCHOOLS AND COLLEGES**

6 **SECTION 3.12.** G.S. 18B-1006(a) reads as rewritten:

7 "(a) School and College Campuses. – No permit for the sale of ~~malt beverages,~~
8 ~~unfortified wine, or fortified wine~~ alcoholic beverages shall be issued to a business on the
9 campus or property of a public ~~school, college, or university.~~ school or college, other than at a
10 regional facility as defined by G.S. 160A-480.2 operated by a facility authority under Part 4 of
11 Article 20 of Chapter 160A of the General Statutes except for a public school or college
12 function, unless that business is a hotel or a nonprofit alumni organization with a mixed
13 beverages permit or a special occasion permit. This subsection shall not apply on property
14 owned by a local board of education which was leased for 99 years or more to a nonprofit
15 auditorium authority created prior to 1991 whose governing board is appointed by a city board
16 of aldermen, a county board of commissioners, or a local school board. This subsection shall
17 also not apply to the constituent institutions of The University of North Carolina with respect to
18 the sale of beer and wine at (i) performing arts centers located on property owned or leased by
19 the institutions if the seating capacity does not exceed 2,000 seats; (ii) any golf courses owned
20 or leased by the institutions and open to the public for use; or (iii) any stadiums that support a
21 NASCAR sanctioned one-fourth mile asphalt flat oval short track, that are owned or leased by
22 the institutions, and that only sell malt beverages, unfortified wine, or fortified wine at events
23 that are not sponsored or funded by the institutions. Notwithstanding this subsection, special
24 one-time permits as described in G.S. 18B-1002(a)(5) may be issued to the University of North
25 Carolina at Chapel Hill for the Loudermilk Center for Excellence facility. This subsection shall
26 not apply to the following:

- 27 (1) A regional facility as defined by G.S. 160A-480.2 operated by a facility
28 authority under Part 4 of Article 20 of Chapter 160A of the General Statutes,
29 unless the permit is for a public school or public college or university
30 function.
31 (2) Property owned by a local board of education and leased for 99 years or
32 more to a nonprofit auditorium authority created prior to 1991 whose
33 governing board is appointed by a city governing board, a county board of
34 commissioners, or a local school board.
35 (3) A hotel.
36 (4) A nonprofit alumni organization.
37 (5) Restaurants, eating establishments, food businesses, or retail businesses on
38 the property defined by G.S. 116-198.33(4).
39 (6) Any golf courses owned or leased by the public college or university and
40 open to the public for use.
41 (7) The sale of malt beverages, unfortified wine, or fortified wine at the
42 following:
43 a. Performing arts centers located on property owned or leased by the
44 public college or university.
45 b. Any stadiums that support a NASCAR-sanctioned one-fourth mile
46 asphalt flat oval short track, that are owned or leased by the public
47 college or university, and that only sell malt beverages, unfortified
48 wine, or fortified wine at events that are not sponsored or funded by
49 the public college or university.

- 1 (8) Special one-time permits as described in G.S. 18B-1002(a)(5) for the
2 Loudermilk Center for Excellence facility at the University of North
3 Carolina at Chapel Hill."
4

5 **EXTEND DEADLINE FOR ADOPTION OF DIVISION OF EMPLOYMENT**
6 **SECURITY RULES**

7 **SECTION 3.13.(a)** Section 1.10(c) of S.L. 2011-401 reads as rewritten:

8 "SECTION 1.10.(c) The Department of Commerce, Division of Employment Security,
9 shall adopt all existing rules and regulations in accordance with Article 2A of Chapter 150B of
10 the General Statutes. Any existing rule that has not been readopted by ~~December 31, 2012,~~
11 December 31, 2015, shall expire."

12 **SECTION 3.13.(b)** The Department of Commerce, Division of Employment
13 Security, shall report to the Joint Legislative Oversight Committee on Unemployment
14 Insurance on its progress towards the adoption of rules, as required by subsection (a) of this
15 section, on or before September 3, 2014.

16 **SECTION 3.13.(c)** G.S. 120-70.156 reads as rewritten:

17 "**§ 120-70.156. Purpose and powers of Committee.**

18 (a) Purpose. – The Joint Legislative Oversight Committee on Unemployment Insurance
19 is directed to study and review all unemployment insurance matters, workforce development
20 programs, and reemployment assistance efforts of the State. The following duties and powers,
21 which are enumerated by way of illustration, shall be liberally construed to provide maximum
22 review by the Committee of these matters:

- 23 (1) Study the unemployment insurance laws of North Carolina and the
24 administration of those laws.
25 (2) Review the State's unemployment insurance laws to determine which laws
26 need clarification, technical amendment, repeal, or other change to make the
27 laws concise, intelligible, and easy to administer.
28 (3) Monitor the payment of the debt owed by the Unemployment Trust Fund to
29 the federal government.
30 (4) Review and determine the adequacy of the balances in the Unemployment
31 Trust Fund and the Unemployment Insurance Reserve Fund.
32 (5) Study the workforce development programs and reemployment assistance
33 efforts of the Division of Workforce Solutions of the Department of
34 Commerce.
35 (6) Call upon the Department of Commerce to cooperate with it in the study of
36 the unemployment insurance laws and the workforce development efforts of
37 the State.
38 (7) Review rules adopted by the Division of Employment Security of the
39 Department of Commerce and recommend statutory policies and procedures,
40 if necessary, to ensure the Division is operating in conformity with the
41 provisions of Chapter 96 of the General Statutes and in compliance with
42 federal laws and regulations and written guidance promulgated and issued by
43 the U.S. Department of Labor.

44 (b) The Committee may report its findings and recommendations to any regular session
45 of the General Assembly. A report to the General Assembly may contain any legislation needed
46 to implement a recommendation of the Committee."

47 **SECTION 3.13.(d)** Section 3.13(a) becomes effective December 31, 2012. The
48 remainder of this section is effective when it becomes law.

49
50 **BUILDING CODE ALTERNATE APPROVAL METHODS STUDY**

1 **SECTION 3.14.** The North Carolina Building Code Council (Council) shall study
2 procedures and policies for the approval of alternative materials, designs, or methods. The
3 study shall address at least the following elements:

- 4 (1) Required content for initial applications and supporting information to
5 initiate and complete the approval process and to include specific project
6 applications for the specific installation in question.
- 7 (2) Time lines for the full application process, including initial application
8 submissions, Council review of applications and supporting information, and
9 final Council approval or denial of submitted applications. Time lines shall
10 allow for final determinations to be rendered on completed applications
11 within 30 days of the date of submission of a completed application.
- 12 (3) Procedures for appeal of Council denials of applications.

13 In conducting the study, the Council may utilize support services of staff from the
14 Engineering Division of the Department of Insurance. The Council shall report its findings and
15 recommendations, including any proposed legislative changes, to the 2015 General Assembly
16 on or before January 20, 2015.

17 18 **CLARIFY OFFICIAL MISCONDUCT FOR CODE OFFICIALS**

19 **SECTION 3.15.(a)** G.S. 143-151.8 reads as rewritten:

20 **"§ 143-151.8. Definitions.**

21 ...

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

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

38 **SECTION 3.15.(b)** The North Carolina Code Officials Qualification Board shall,
39 no later than October 1, 2014, notify all Code enforcement officials in the State of the
40 clarification to the grounds for disciplinary action enacted by this section.

41 42 **ENFORCE MUNICIPAL FLOODPLAIN ORDINANCE IN ETJ**

43 **SECTION 3.16.** G.S. 160A-360(k) reads as rewritten:

44 (k) As used in this subsection, "bona fide farm purposes" is as described in
45 G.S. 153A-340. As used in this subsection, "property" means a single tract of property or an
46 identifiable portion of a single tract. Property that is located in the geographic area of a
47 municipality's extraterritorial jurisdiction and that is used for bona fide farm purposes is exempt
48 from exercise of the municipality's extraterritorial jurisdiction under this Article. Property that
49 is located in the geographic area of a municipality's extraterritorial jurisdiction and that ceases
50 to be used for bona fide farm purposes shall become subject to exercise of the municipality's
51 extraterritorial jurisdiction under this Article. For purposes of complying with 44 C.F.R. Part

1 60, Subpart A, property that is exempt from the exercise of extraterritorial jurisdiction pursuant
2 to this subsection shall be subject to the county's floodplain ordinance or all floodplain
3 regulation provisions of the county's unified development ordinance."
4

5 **CLARIFY WHEN A COUNTY OR MUNICIPALITY MAY ENACT ZONING**
6 **ORDINANCES RELATED TO DESIGN AND AESTHETIC CONTROLS**

7 **SECTION 3.17.(a)** G.S. 160A-381 is amended by adding new subsections to read:

8 "(g) Any zoning and development regulation ordinance relating to building design
9 elements adopted under this Part, under Part 2 of this Article, or under any recommendation
10 made under G.S. 160A-452(6)c. may not be applied to any structures subject to regulation
11 under the North Carolina Residential Code for One- and Two-Family Dwellings except under
12 one or more of the following circumstances:

- 13 (1) The structures are located in an area designated as a local historic district
14 pursuant to Part 3C of Article 19 of Chapter 160A of the General Statutes.
- 15 (2) The structures are located in an area designated as a historic district on the
16 National Register of Historic Places.
- 17 (3) The structures are individually designated as local, State, or national historic
18 landmarks.
- 19 (4) The regulations are directly and substantially related to the requirements of
20 applicable safety codes adopted under G.S. 143-138.
- 21 (5) Where the regulations are applied to manufactured housing in a manner
22 consistent with G.S. 160A-383.1 and federal law.
- 23 (6) Where the regulations are adopted as a condition of participation in the
24 National Flood Insurance Program.

25 Regulations prohibited by this subsection may not be applied, directly or indirectly, in any
26 zoning district, special use district, conditional use district, or conditional district unless
27 voluntarily consented to by the owners of all the property to which those regulations may be
28 applied as part of and in the course of the process of seeking and obtaining a zoning
29 amendment or a zoning, subdivision, or development approval, nor may any such regulations
30 be applied indirectly as part of a review pursuant to G.S. 160A-383 of any proposed zoning
31 amendment for consistency with an adopted comprehensive plan or other applicable officially
32 adopted plan. For the purposes of this subsection, the phrase "building design elements" means
33 exterior building color; type or style of exterior cladding material; style or materials of roof
34 structures or porches; exterior nonstructural architectural ornamentation; location or
35 architectural styling of windows and doors, including garage doors; the number and types of
36 rooms; and the interior layout of rooms. The phrase "building design elements" does not
37 include any of the following: (i) the height, bulk, orientation, or location of a structure on a
38 zoning lot; (ii) the use of buffering or screening to minimize visual impacts, to mitigate the
39 impacts of light and noise, or to protect the privacy of neighbors; or (iii) regulations adopted
40 pursuant to this Article governing the permitted uses of land or structures subject to the North
41 Carolina Residential Code for One- and Two-Family Dwellings.

42 (h) Nothing in subsection (g) of this section shall affect the validity or enforceability of
43 private covenants or other contractual agreements among property owners relating to building
44 design elements."

45 **SECTION 3.17.(b)** G.S. 153A-340 is amended by adding new subsections to read:

46 "(k) Any zoning and development regulation ordinance relating to building design
47 elements adopted under this Part, under Part 2 of this Article, or under any recommendation
48 made under G.S. 160A-452(6)c. may not be applied to any structures subject to regulation
49 under the North Carolina Residential Code for One- and Two-Family Dwellings except under
50 one or more of the following circumstances:

- 1 (1) The structures are located in an area designated as a local historic district
 2 pursuant to Part 3C of Article 19 of Chapter 160A of the General Statutes.
 3 (2) The structures are located in an area designated as a historic district on the
 4 National Register of Historic Places.
 5 (3) The structures are individually designated as local, State, or national historic
 6 landmarks.
 7 (4) The regulations are directly and substantially related to the requirements of
 8 applicable safety codes adopted under G.S. 143-138.
 9 (5) Where the regulations are applied to manufactured housing in a manner
 10 consistent with G.S. 153A-341.1 and federal law.
 11 (6) Where the regulations are adopted as a condition of participation in the
 12 National Flood Insurance Program.

13 Regulations prohibited by this subsection may not be applied, directly or indirectly, in any
 14 zoning district, special use district, conditional use district, or conditional district unless
 15 voluntarily consented to by the owners of all the property to which those regulations may be
 16 applied as part of and in the course of the process of seeking and obtaining a zoning
 17 amendment or a zoning, subdivision, or development approval, nor may any such regulations
 18 be applied indirectly as part of a review pursuant to G.S. 153A-341 of any proposed zoning
 19 amendment for consistency with an adopted comprehensive plan or other applicable officially
 20 adopted plan. For the purposes of this subsection, the phrase "building design elements" means
 21 exterior building color; type or style of exterior cladding material; style or materials of roof
 22 structures or porches; exterior nonstructural architectural ornamentation; location or
 23 architectural styling of windows and doors, including garage doors; the number and types of
 24 rooms; and the interior layout of rooms. The phrase "building design elements" does not
 25 include any of the following: (i) the height, bulk, orientation, or location of a structure on a
 26 zoning lot; (ii) the use of buffering or screening to minimize visual impacts, to mitigate the
 27 impacts of light and noise, or to protect the privacy of neighbors; or (iii) regulations adopted
 28 pursuant to this Article governing the permitted uses of land or structures subject to the North
 29 Carolina Residential Code for One- and Two-Family Dwellings.

30 (1) Nothing in subsection (k) of this section shall affect the validity or enforceability of
 31 private covenants or other contractual agreements among property owners relating to building
 32 design elements."

33 **SECTION 3.17.(c)** This section is effective when it becomes law. This section
 34 clarifies and restates the intent of existing law and applies to ordinances adopted before, on,
 35 and after the effective date.

37 **PERMANENT LICENSE PLATES FOR CHARTER SCHOOLS**

38 **SECTION 3.20.** G.S. 20-84(b) is amended by adding a new subdivision to read:

39 "(b) Permanent Registration Plates. – The Division may issue permanent plates for the
 40 following motor vehicles:

- 41 ...
- 42 (3a) A motor vehicle that is owned and exclusively operated by a nonprofit
 43 corporation authorized under G.S. 115C-238.29D to operate a charter school
 44 and identified by a permanent decal or painted marking disclosing the name
 45 of the nonprofit organization.

46 "

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

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

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