

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2015

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HOUSE BILL 760  
PROPOSED COMMITTEE SUBSTITUTE H760-PCS40434-SB-7

Short Title: Regulatory Reform Act of 2015.

(Public)

Sponsors:

Referred to:

April 15, 2015

1 A BILL TO BE ENTITLED  
2 AN ACT TO PROVIDE FURTHER REGULATORY RELIEF TO THE CITIZENS OF  
3 NORTH CAROLINA BY PROVIDING FOR VARIOUS ADMINISTRATIVE  
4 REFORMS, BY ELIMINATING CERTAIN UNNECESSARY OR OUTDATED  
5 STATUTES AND REGULATIONS AND MODERNIZING OR SIMPLIFYING  
6 CUMBERSOME OR OUTDATED REGULATIONS, AND BY MAKING VARIOUS  
7 OTHER STATUTORY CHANGES.

8 The General Assembly of North Carolina enacts:

9  
10 **PART I. BUSINESS REGULATION**

11  
12 **MANUFACTURED HOME LICENSE/CRIMINAL HISTORY CHECK**

13 **SECTION 1.1.** G.S. 143-143.10A reads as rewritten:

14 **"§ 143-143.10A. Criminal history checks of applicants for licensure.**

15 (a) Definitions. – The following definitions shall apply in this section:

16 (1) Applicant. – A person applying for initial licensure as a manufactured home  
17 ~~manufacturer, dealer, salesperson, salesperson~~ or set-up contractor.

18 ...

19 (b) All applicants for initial licensure shall consent to a criminal history record check.  
20 Refusal to consent to a criminal history record check may constitute grounds for the Board to  
21 deny licensure to an applicant. The Board shall ensure that the State and national criminal  
22 history of an applicant is checked. Applicants shall obtain criminal record reports from one or  
23 more reporting services designated by the Board to provide criminal record reports. Each  
24 applicant is required to pay the designated service for the cost of the criminal record report. In  
25 the alternative, the Board may provide to the North Carolina Department of Public Safety the  
26 fingerprints of the applicant to be checked, a form signed by the applicant consenting to the  
27 criminal record check and the use of fingerprints and other identifying information required by  
28 the State or National Repositories of Criminal Histories, and any additional information  
29 required by the Department of Public Safety. The Board shall keep all information obtained  
30 pursuant to this section confidential.

31 ...."

32  
33 **AMEND FOOD PUSHCART AND MOBILE FOOD UNIT REQUIREMENTS**

34 **SECTION 1.2.** G.S. 130A-248(c1) reads as rewritten:

35 "(c1) The Commission shall adopt rules governing the sanitation of pushcarts and mobile  
36 food units. ~~A permitted restaurant or commissary shall serve as a base of operations for a~~



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1 ~~pushcart.~~ A pushcart or mobile food unit shall meet all of the sanitation requirements of a  
2 permitted commissary or shall have a permitted restaurant or commissary that serves as its base  
3 of operation. Pushcarts or mobile food units that are based from a permitted commissary or  
4 restaurant that is located on the premises of a facility which contains at least 3,000 permanent  
5 seats shall be allowed to prepare and serve food on the premises. Raw meat, poultry, and fish  
6 shall be prepared in a permitted commissary or restaurant in a pre-portioned or ready-to-cook  
7 form. Pushcarts or mobile food units that handle raw ingredients shall be equipped with a  
8 handwashing sink. All open food and utensils shall be provided with overhead protection or  
9 otherwise equipped with individual covers, such as domes, chafing lids, or cookers with hinged  
10 lids. Food equipment and supplies shall be located in enclosed areas and protected from  
11 environmental contamination when not in operation."

12  
13 **AMEND DEFINITION OF "EMPLOYEE" UNDER THE WORKERS'**  
14 **COMPENSATION ACT TO EXCLUDE VOLUNTEERS AND OFFICERS OF**  
15 **CERTAIN NONPROFIT CORPORATIONS AND ASSOCIATIONS**

16 **SECTION 1.3.** G.S. 97-2(2) reads as rewritten:

17 **"§ 97-2. Definitions.**

18 When used in this Article, unless the context otherwise requires:

- 19 ...
- 20 (2) Employee. – The term "employee" means every person engaged in an  
21 employment under any appointment or contract of hire or apprenticeship,  
22 express or implied, oral or written, including aliens, and also minors,  
23 whether lawfully or unlawfully employed, but excluding persons whose  
24 employment is both casual and not in the course of the trade, business,  
25 profession, or occupation of his employer, and as relating to those so  
26 employed by the State, the term "employee" shall include all officers and  
27 employees of the State, including such as are elected by the people, or by the  
28 General Assembly, or appointed by the Governor to serve on a per diem,  
29 part-time or fee basis, either with or without the confirmation of the Senate;  
30 as relating to municipal corporations and political subdivisions of the State,  
31 the term "employee" shall include all officers and employees thereof,  
32 including such as are elected by the people. The term "employee" shall  
33 include members of the North Carolina National Guard while on State active  
34 duty under orders of the Governor and members of the North Carolina State  
35 Defense Militia while on State active duty under orders of the Governor. The  
36 term "employee" shall include deputy sheriffs and all persons acting in the  
37 capacity of deputy sheriffs, whether appointed by the sheriff or by the  
38 governing body of the county and whether serving on a fee basis or on a  
39 salary basis, or whether deputy sheriffs serving upon a full-time basis or a  
40 part-time basis, and including deputy sheriffs appointed to serve in an  
41 emergency, but as to those so appointed, only during the continuation of the  
42 emergency. The sheriff shall furnish to the board of county commissioners a  
43 complete list of all deputy sheriffs named or appointed by him immediately  
44 after their appointment and notify the board of commissioners of any  
45 changes made therein promptly after such changes are made. Any reference  
46 to an employee who has been injured shall, when the employee is dead,  
47 include also the employee's legal representative, dependents, and other  
48 persons to whom compensation may be payable: Provided, further, that any  
49 employee, as herein defined, of a municipality, county, or of the State of  
50 North Carolina, while engaged in the discharge of the employee's official  
51 duty outside the jurisdictional or territorial limits of the municipality, county,

1 or the State of North Carolina and while acting pursuant to authorization or  
2 instruction from any superior officer, shall have the same rights under this  
3 Article as if such duty or activity were performed within the territorial  
4 boundary limits of their employer.

5 ~~Every~~ Except as otherwise provided herein, every executive officer  
6 elected or appointed and empowered in accordance with the charter and  
7 bylaws of a corporation shall be considered as an employee of such  
8 corporation under this Article.

9 Any such executive officer of a corporation may, notwithstanding any  
10 other provision of this Article, be exempt from the coverage of the  
11 corporation's insurance contract by such corporation's specifically excluding  
12 such executive officer in such contract of insurance, and the exclusion to  
13 remove such executive officer from the coverage shall continue for the  
14 period such contract of insurance is in effect, and during such period such  
15 executive officers thus exempted from the coverage of the insurance contract  
16 shall not be employees of such corporation under this Article.

17 All county agricultural extension service employees who do not receive  
18 official federal appointments as employees of the United States Department  
19 of Agriculture and who are field faculty members with professional rank as  
20 designated in the memorandum of understanding between the North  
21 Carolina Agricultural Extension Service, North Carolina State University, A  
22 & T State University, and the boards of county commissioners shall be  
23 deemed to be employees of the State of North Carolina. All other county  
24 agricultural extension service employees paid from State or county funds  
25 shall be deemed to be employees of the county board of commissioners in  
26 the county in which the employee is employed for purposes of workers'  
27 compensation.

28 The term "employee" shall also include members of the Civil Air Patrol  
29 currently certified pursuant to G.S. 143B-1031(a) when performing duties in  
30 the course and scope of a State-approved mission pursuant to Subpart C of  
31 Part 5 of Article 13 of Chapter 143B of the General Statutes.

32 "Employee" shall not include any person performing voluntary service as  
33 a ski patrolman who receives no compensation for such services other than  
34 meals or lodging or the use of ski tow or ski lift facilities or any combination  
35 thereof.

36 "Employee" shall not include any person performing voluntary service  
37 for a nonprofit corporation subject to Chapters 47A, 47C, 47F, 55A, or 59B  
38 of the General Statutes, or any organization exempt from federal income tax  
39 under section 501(c)(3) of the Internal Revenue Code, provided that the  
40 person receives no remuneration for the voluntary service other than  
41 reasonable reimbursement for expenses incurred in connection with the  
42 voluntary service. A person performing such voluntary service is not an  
43 "employee" even if the individual was elected or appointed and empowered  
44 as an executive officer, director, or committee member under the charter,  
45 articles, or bylaws of a nonprofit corporation subject to Chapters 47A, 47C,  
46 47F, 55A, or 59B of the General Statutes, or any organization exempt from  
47 federal tax under section 501(c)(3) of the Internal Revenue Code.

48 Any sole proprietor or partner of a business or any member of a limited  
49 liability company may elect to be included as an employee under the  
50 workers' compensation coverage of such business if he is actively engaged in  
51 the operation of the business and if the insurer is notified of his election to

1 be so included. Any such sole proprietor or partner or member of a limited  
2 liability company shall, upon such election, be entitled to employee benefits  
3 and be subject to employee responsibilities prescribed in this Article.

4 ~~Employee~~—"Employee" shall include an authorized pickup firefighter of  
5 the North Carolina Forest Service of the Department of Agriculture and  
6 Consumer Services when that individual is engaged in emergency fire  
7 suppression activities for the North Carolina Forest Service. As used in this  
8 section, "authorized pickup firefighter" means an individual who has  
9 completed required fire suppression training as a wildland firefighter and  
10 who is available as needed by the North Carolina Forest Service for  
11 emergency fire suppression activities, including immediate dispatch to  
12 wildfires and standby for initial attack on fires during periods of high fire  
13 danger.

14 It shall be a rebuttable presumption that the term "employee" shall not  
15 include any person performing services in the sale of newspapers or  
16 magazines to ultimate consumers under an arrangement whereby the  
17 newspapers or magazines are to be sold by that person at a fixed price and  
18 the person's compensation is based on the retention of the excess of the fixed  
19 price over the amount at which the newspapers or magazines are charged to  
20 the person."  
21

## 22 OCCUPATIONAL LICENSING BOARD INVESTIGATORS AND INSPECTORS

23 **SECTION 1.4.** Chapter 93B of the General Statutes is amended by adding a new  
24 section to read:

### 25 "§ 93B-8.2. Prohibit licensees from serving as investigators.

26 No occupational licensing board shall contract with or employ a person licensed by the  
27 board to serve as an investigator or inspector if the licensee is actively practicing in the  
28 profession or occupation over which the board has jurisdiction. Nothing in this section shall  
29 prevent a board from employing licensees who are not otherwise employed in the same  
30 profession or occupation or for other purposes."  
31

## 32 PART II. STATE AND LOCAL GOVERNMENT REGULATION

### 33 ZONING DENSITY CREDITS

34 **SECTION 2.1.** G.S. 160A-381(a) reads as rewritten:

35 "(a) For the purpose of promoting health, safety, morals, or the general welfare of the  
36 community, any city may adopt zoning and development regulation ordinances. These  
37 ordinances may be adopted as part of a unified development ordinance or as a separate  
38 ordinance. A zoning ordinance may regulate and restrict the height, number of stories and size  
39 of buildings and other structures, the percentage of lots that may be occupied, the size of yards,  
40 courts and other open spaces, the density of population, the location and use of buildings,  
41 structures and land. The ordinance ~~may~~ shall provide density credits or severable development  
42 rights for dedicated rights-of-way pursuant to G.S. 136-66.10 or G.S. 136-66.11."  
43  
44

### 45 NO FISCAL NOTE REQUIRED FOR LESS STRINGENT RULES

46 **SECTION 2.2.(a)** G.S. 150B-21.3A(d) reads as rewritten:

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

49 ...

50 (2) With regard to the readoption of rules as required by sub-subdivision (c)(2)g.  
51 of this section, once the final determination report becomes effective, the

1 Commission shall establish a date by which the agency must readopt the  
2 rules. The Commission shall consult with the agency and shall consider the  
3 agency's rule-making priorities in establishing the readoption date. The  
4 agency may amend a rule as part of the readoption process. If a rule is  
5 readopted without substantive ~~change, change~~ or if the rule is amended to  
6 impose a less stringent burden on regulated persons, the agency is not  
7 required to prepare a fiscal note as provided by G.S. 150B-21.4."

8 **SECTION 2.2.(b)** This section is effective when it becomes law and applies to  
9 periodic review of existing rules occurring pursuant to G.S. 150B-21.3A on or after that date.

## 10 11 **APO TO MAKE RECOMMENDATIONS ON OCCUPATIONAL LICENSING BOARD** 12 **CHANGES**

13 **SECTION 2.3.** Pursuant to G.S. 120-70.101(3a), the Joint Legislative  
14 Administrative Procedure Oversight Committee (APO) shall review the recommendations  
15 contained in the Joint Legislative Program Evaluation Oversight Committee's report, entitled  
16 "Occupational Licensing Agencies Should Not be Centralized, but Stronger Oversight is  
17 Needed" to determine the best way to accomplish the recommendations contained in the report  
18 and to improve oversight of occupational licensing boards. In conducting the review, APO shall  
19 consult with occupational licensing boards, licensees, associations representing licensees, the  
20 Department of Commerce, and other interested parties. The APO cochairs may establish  
21 subcommittees to assist with various parts of the review, including determining whether  
22 licensing authority should be continued for the 12 boards identified in the report. The APO  
23 shall propose legislation to the 2016 Session of the 2015 General Assembly.

## 24 25 **COMMUNICATIONS TOWER LEASING**

26 **SECTION 2.4.(a)** G.S. 160A-272 is amended by adding a new subsection to read:

27 "(d) The council may approve a lease for the siting and operation communications  
28 towers, facilities, or equipment for a term up to 25 years without treating the lease as a sale of  
29 property and without giving notice by publication of the intended lease. This subsection shall  
30 apply to leases under G.S. 160A-272.1."

31 **SECTION 2.4.(b)** This section is effective when it becomes law and applies to  
32 leases entered into on or after that date.

## 33 34 **GOVERNMENT-NONPROFIT CONTRACTING TASK FORCE**

35 **SECTION 2.5.(a)** Findings. – The General Assembly finds the following:

- 36 (1) Private charitable nonprofits that provide public services to North  
37 Carolinians through State grants and contracts often experience problems  
38 with administration of these grants and contracts.
- 39 (2) These problems reduce the effectiveness and efficiency of the delivery of  
40 these essential services and unnecessarily increase costs to taxpayers.
- 41 (3) These problems often include delayed delivery and execution of contracts,  
42 late payments, overly burdensome and redundant application processes,  
43 overly burdensome and redundant financial and performance reporting  
44 requirements, midstream changes in the terms of contracts, and  
45 underpayment of actual, reasonable, documented indirect costs that are  
46 necessary to effectively and efficiently provide services.
- 47 (4) These problems create a sub-optimal use of taxpayer money by creating  
48 unnecessary costs and inefficiencies for State government's delivery of  
49 services.

- 1 (5) Joint government-nonprofit contracting task forces have led to solutions that  
2 have saved taxpayers money in other states, according to the "Partnering for  
3 Impact" report from the National Council of Nonprofits.

4 **SECTION 2.5.(b)** Task Force creation, membership. – To address the problems  
5 identified in subsection (a) of this section, there is created the North Carolina  
6 Government-Nonprofit Contracting Task Force (Task Force). The Task Force shall consist of  
7 13 voting members appointed as follows:

- 8 (1) Four members appointed by the Speaker of the House of Representatives, to  
9 include the following:  
10 a. One member of the House of Representatives.  
11 b. Two representatives of 501(c)(3) nonprofit service providers, to be  
12 selected from a list of four candidates recommended by the N.C.  
13 Center for Nonprofits.  
14 c. One member of the public with a financial background recommended  
15 by the N.C. Association of Certified Public Accountants.  
16 (2) Four members appointed by the President Pro Tempore of the Senate, to  
17 include the following:  
18 a. One member of the Senate.  
19 b. Two representatives of 501(c)(3) nonprofit service providers, to be  
20 selected from a list of four candidates recommended by the N.C.  
21 Center for Nonprofits.  
22 c. One member of the public with experience with government grants  
23 and contracts.  
24 (3) Five members appointed by the Governor, to include the following:  
25 a. One representative of the Office of State Budget and Management.  
26 b. One representative of the Department of Health and Human Services.  
27 c. The President of the N.C. Center for Nonprofits, or that person's  
28 designee.  
29 d. One member of the public with a financial background recommended  
30 by the N.C. Association of Certified Public Accountants.  
31 e. One member of the public with experience with government grants  
32 and contracts.

33 The Task Force shall also include the following nonvoting, ex officio members:

- 34 (1) The State Auditor, or that individual's designee.  
35 (2) The Director of the Program Evaluation Division of the General Assembly,  
36 or that individual's designee.  
37 (3) The Director of N.C. GEAR, or that individual's designee.

38 **SECTION 2.5.(c)** Chair and staff. – The Task Force shall be cochaired by a  
39 nonprofit representative designated by the Speaker of the House of Representatives and a  
40 government representative designated by the President Pro Tempore of the Senate. The Office  
41 of State Budget and Management shall be designated as the lead support agency and provide  
42 administrative staffing for the Task Force. Other departments included on the Task Force shall  
43 provide additional administrative staffing in conjunction with the Office of State Budget and  
44 Management to support the work of the Task Force.

45 **SECTION 2.5.(d)** Duties. – The Task Force shall study the entire body of State  
46 law, regulations, policies, reporting, monitoring, compliance, auditing, certification, licensing,  
47 compliance with OMB Uniform Guidance, and work processes, including timeliness of  
48 contract delivery and execution and timeliness of payment, that guide departmental operations  
49 and contracts to eliminate obsolete, redundant, or unreasonable regulations, reporting,  
50 monitoring, compliance, auditing, licensing, and certification, and to streamline policies and

1 practices that impede the effective and efficient delivery of public services through State grants  
2 and contracts to private nonprofits.

3 The Task Force shall identify immediate, near-term, and long-term opportunities to  
4 improve State laws, regulations, and policies on the effective and timely provision of services  
5 by private nonprofits that partner with the State to provide public services through State grants  
6 or contracts. In conducting the study, the Task Force shall also consider the following:

- 7 (1) The effect of current State laws, regulations, and policies on the effective  
8 and timely provision of services by private nonprofits that partner with the  
9 State to provide public services through State grants or contracts.
- 10 (2) Any procedures that have been adopted in other states to facilitate a more  
11 timely, cost-effective, streamlined, and accountable process for the provision  
12 of services by private nonprofits that partner with the State to provide public  
13 services through State grants and contracts.
- 14 (3) The feasibility of eliminating any redundant, unreasonable, or unnecessary  
15 laws, regulations, or policies that negatively affect the provision of services  
16 by private nonprofits that partner with the State to provide public services  
17 through State grants and contracts.
- 18 (4) Any best practices for the funding of private nonprofit service providers that  
19 could improve the delivery of public services through private nonprofits.
- 20 (5) The extent to which State agencies reimburse nonprofit grantees and  
21 contractors for their actual, reasonable, documented indirect costs, and the  
22 extent to which any underpayment for indirect costs reduces the efficiency  
23 or effectiveness of the delivery of public services.

24 **SECTION 2.5.(e) Powers.** – The Task Force may require each State agency that  
25 contracts with private nonprofits for the provision of public services to provide the necessary  
26 data for the Task Force to complete its charge, including the following:

- 27 (1) The timeliness of delivery and execution of contracts.
- 28 (2) The timeliness of payment for services that have been delivered.
- 29 (3) The extent to which nonprofit contractors or grantees are reimbursed for  
30 their indirect costs.
- 31 (4) A list of all nonprofit grantees and contractors, a complete list of all auditing  
32 or monitoring required of them, and any recommendations for removing  
33 unnecessary regulatory duplication.

34 **SECTION 2.5.(f) Reports.** – The Task Force shall submit a preliminary report to  
35 the Joint Legislative Commission on Governmental Operations by September 30, 2016. The  
36 preliminary report shall include recommendations for statutory, regulatory, budget, and policy  
37 changes that can be effectuated to increase the efficiency and effectiveness of the delivery of  
38 public services by nonprofits through State grants and contracts. No later than January 31,  
39 2017, the Task Force shall submit a final report of its findings and recommendations to the  
40 Joint Legislative Commission on Governmental Operations.

41 **SECTION 2.5.(g)** This section becomes effective July 1, 2015.

#### 42 43 **AMEND UNDERGROUND DAMAGE PREVENTION REVIEW BOARD, 44 ENFORCEMENT, AND CIVIL PENALTIES**

45 **SECTION 2.6.** G.S. 87-129 reads as rewritten:

46 "**§ 87-129. Underground Damage Prevention Review Board; enforcement; civil penalties.**

47 (a) ~~The Notification Center shall establish an~~ There is hereby established the  
48 Underground Damage Prevention Review Board to review reports of alleged violations of this  
49 Article. The members of the Board shall be appointed by the Governor. The Board shall consist  
50 of the following members: 15 members as follows:

- 51 (1) A representative from the North Carolina Department of Transportation;

- 1 (2) A representative from a facility contract locator;
- 2 (3) A representative from the Notification Center;
- 3 (4) A representative from an electric public utility;
- 4 (5) A representative from the telecommunications industry;
- 5 (6) A representative from a natural gas utility;
- 6 (7) A representative from a hazardous liquid transmission pipeline company;
- 7 (8) A representative recommended by the League of Municipalities;
- 8 (9) A highway contractor licensed under G.S. 87-10(b)(2) who does not own or
- 9 operate facilities;
- 10 (10) A public utilities contractor licensed under G.S. 87-10(b)(3) who does not
- 11 own or operate facilities;
- 12 (11) A surveyor licensed under Chapter 89C of the General Statutes;
- 13 (12) A representative from a rural water system;
- 14 (13) A representative from an investor-owned water system;
- 15 (14) A representative from an electric membership corporation; and
- 16 (15) A representative from a cable company.

17 (a1) Each member of the Board shall be appointed for a term of four years. Members of  
18 the Board may serve no more than two consecutive terms. Vacancies in appointments made by  
19 the Governor occurring prior to the expiration of a term shall be filled by appointment for the  
20 unexpired term.

21 (a2) No member of the Board may serve on a case where there would be a conflict of  
22 interest.

23 (a3) The Governor may remove any member at any time for cause.

24 (a4) Eight members of the Board shall constitute a quorum.

25 (a5) The Governor shall designate one member of the Board as chair.

26 (a6) The Board may adopt rules to implement this Article.

27 (b) The Notification Center shall transmit all reports of alleged violations of this Article  
28 to the Board, including any information received by the Notification Center regarding the  
29 report. ~~The Board shall meet at least quarterly to review all reports filed pursuant to~~  
30 ~~G.S. 87-120(e). The Board shall act as an arbitrator between the parties to the report. If, after~~  
31 ~~reviewing the report and any accompanying information, the Board determines that a violation~~  
32 ~~of this Article has occurred, the Board shall notify the violating party in writing of its~~  
33 ~~determination and the recommended penalty. The violating party~~

34 (b1) The Board shall review all reports of alleged violations of this Article and  
35 accompanying information. If the Board determines that a person has violated any provision of  
36 this Article, the Board shall determine the appropriate action or penalty to impose for each such  
37 violation. Actions and penalties may include training, education, and a civil penalty not to  
38 exceed two thousand five hundred dollars (\$2,500). The Board shall notify each person who is  
39 determined to have violated this Article in writing of the Board's determination and the Board's  
40 recommended action or penalty. A person determined to be in violation of this Article may  
41 request a hearing before the Board, after which the Board may reverse or uphold its original  
42 finding. If the Board recommends a penalty, the Board shall notify the Utilities Commission of  
43 the recommended penalty, and the Utilities Commission shall issue an order imposing the  
44 penalty.

45 (c) ~~A party-person~~ determined by the Board under subsection ~~(b)-(b1)~~ of this section to  
46 have violated this Article may ~~initiate~~ appeal the Board's determination by initiating an  
47 arbitration proceeding before the Utilities Commission. Commission within 30 days of the  
48 Board's determination. If the violating party elects to initiate an arbitration proceeding, the  
49 violating party shall pay a filing fee of two hundred fifty dollars (\$250.00) to the Utilities  
50 Commission, and the Utilities Commission shall open a docket regarding the report. The  
51 Utilities Commission shall direct the parties enter into an arbitration process. The parties shall



1 be responsible for selecting and contracting with the arbitrator. Upon completion of the  
2 arbitration process, the Utilities Commission shall issue an order encompassing the outcome of  
3 the binding arbitration process, including a determination of fault, a penalty, and assessing the  
4 costs of arbitration to the non-prevailing party. ~~Any party may~~

5 (c1) A person may timely appeal an order issued by the Utilities Commission pursuant to  
6 this section to the superior court division of the General Court of Justice in the county where  
7 the alleged violation of this Article occurred or in Wake County, for trial de novo, de novo  
8 within 30 days of entry of the Utilities Commission's order. The authority granted to the  
9 Utilities Commission within this section is limited to this section and does not grant the  
10 Utilities Commission any authority that they are not otherwise granted under Chapter 62 of the  
11 General Statutes.

12 ~~(d) Any person who violates any provision of this Article shall be subject to a penalty~~  
13 ~~as set forth in this subsection.~~ The provisions of this Article do not affect any civil remedies for  
14 personal injury or property damage otherwise available to any person, except as otherwise  
15 specifically provided for in this Article. The penalty provisions of this Article are cumulative to  
16 and not in conflict with provisions of law with respect to civil remedies for personal injury or  
17 property damage. The clear proceeds of any civil penalty assessed under this section shall be  
18 used as provided in Section 7(a) of Article IX of the North Carolina Constitution. ~~The penalties~~  
19 ~~for a violation of this Article shall be as follows:~~ In any arbitration proceeding before the  
20 Utilities Commission, any actions and penalties assessed against any person for violation of this  
21 Article shall include the actions and penalties set out in subsection (b1) of this section.

22 ~~(1) If the violation was the result of negligence, the penalty shall be a~~  
23 ~~requirement of training, a requirement of education, or both.~~

24 ~~(2) If the violation was the result of gross negligence, the penalty shall be a civil~~  
25 ~~penalty of one thousand dollars (\$1,000), a requirement of training, a~~  
26 ~~requirement of education, or a combination of the three.~~

27 ~~(3) If the violation was the result of willful or wanton negligence or intentional~~  
28 ~~conduct, the penalty shall be a civil penalty of two thousand five hundred~~  
29 ~~dollars (\$2,500), a requirement of training, and a requirement of education."~~  
30

## 31 **INSPECTIONS OF COMPONENTS OR ELEMENTS OF BUILDINGS CERTIFIED BY** 32 **LICENSED ARCHITECTS OR LICENSED ENGINEERS**

33 **SECTION 2.7.(a)** G.S. 153A-352 reads as rewritten:

### 34 **"§ 153A-352. Duties and responsibilities.**

35 (a) The duties and responsibilities of an inspection department and of the inspectors in  
36 it are to enforce within the county's territorial jurisdiction State and local laws and local  
37 ordinances and regulations relating to:

38 (1) The construction of buildings;

39 (2) The installation of such facilities as plumbing systems, electrical systems,  
40 heating systems, refrigeration systems, and air-conditioning systems;

41 (3) The maintenance of buildings in a safe, sanitary, and healthful condition;

42 (4) Other matters that may be specified by the board of commissioners.

43 ~~(a1) These~~ The duties and responsibilities set forth in subsection (a) of this section  
44 include receiving applications for permits and issuing or denying permits, making necessary  
45 inspections, issuing or denying certificates of compliance, issuing orders to correct violations,  
46 bringing judicial actions against actual or threatened violations, keeping adequate records, and  
47 taking any other actions that may be required to adequately enforce the laws and ordinances  
48 and regulations. The board of commissioners may enact reasonable and appropriate provisions  
49 governing the enforcement of the laws and ordinances and regulations.

50 (b) Except as provided in G.S. 153A-364, a county may not adopt a local ordinance or  
51 resolution or any other policy that requires regular, routine inspections of buildings or

1 structures constructed in compliance with the North Carolina Residential Code for One- and  
2 Two-Family Dwellings in addition to the specific inspections required by the North Carolina  
3 Building Code without first obtaining approval from the North Carolina Building Code  
4 Council. The North Carolina Building Code Council shall review all applications for additional  
5 inspections requested by a county and shall, in a reasonable manner, approve or disapprove the  
6 additional inspections. This subsection does not limit the authority of the county to require  
7 inspections upon unforeseen or unique circumstances that require immediate action.

8 (c) Notwithstanding the requirements of this Article, a county shall accept and approve,  
9 without further responsibility to inspect, a design or other proposal for a component or element  
10 in the construction of buildings from a licensed architect or licensed engineer provided all of  
11 the following apply:

12 (1) The submission is completed under valid seal of the licensed architect or  
13 licensed engineer.

14 (2) Field inspection of the installation or completion of construction is  
15 performed by that licensed architect or licensed engineer.

16 (3) That licensed architect or licensed engineer provides the county with a  
17 signed written document stating the component or element of the building so  
18 inspected is in compliance with the North Carolina State Building Code.

19 (d) Upon the acceptance and approval of a signed written document by the county as  
20 required under subsection (c) of this section, the county, its inspection department, and the  
21 inspectors shall be discharged and released from any duties and responsibilities imposed by this  
22 Article with respect to the component or element in the construction of the building for which  
23 the signed written document was submitted."

24 **SECTION 2.7.(b)** G.S. 153A-356 reads as rewritten:

25 **"§ 153A-356. Failure to perform duties.**

26 (a) If a member of an inspection department willfully fails to perform the duties  
27 required of him by law, or willfully improperly issues a permit, or gives a certificate of  
28 compliance without first making the inspections required by law, or willfully improperly gives  
29 a certificate of compliance, he is guilty of a Class 1 misdemeanor.

30 (b) A member of the inspection department shall not be in violation of this section when  
31 the county, its inspection department, or one of the inspectors accepted a signed written  
32 document of compliance with the North Carolina State Building Code from a licensed architect  
33 or licensed engineer in accordance with G.S. 153A-352(c)."

34 **SECTION 2.7.(c)** G.S. 160A-412 reads as rewritten:

35 **"§ 160A-412. Duties and responsibilities.**

36 (a) The duties and responsibilities of an inspection department and of the inspectors  
37 therein shall be to enforce within their territorial jurisdiction State and local laws relating to

38 (1) The construction of buildings and other structures;

39 (2) The installation of such facilities as plumbing systems, electrical systems,  
40 heating systems, refrigeration systems, and air-conditioning systems;

41 (3) The maintenance of buildings and other structures in a safe, sanitary, and  
42 healthful condition;

43 (4) Other matters that may be specified by the city council.

44 (a1) ~~These~~The duties and responsibilities set forth in subsection (a) of this section shall  
45 include the receipt of applications for permits and the issuance or denial of permits, the making  
46 of any necessary inspections, the issuance or denial of certificates of compliance, the issuance  
47 of orders to correct violations, the bringing of judicial actions against actual or threatened  
48 violations, the keeping of adequate records, and any other actions that may be required in order  
49 adequately to enforce those laws. The city council shall have the authority to enact reasonable  
50 and appropriate provisions governing the enforcement of those laws.

1 (b) Except as provided in G.S. 160A-424, a city may not adopt a local ordinance or  
2 resolution or any other policy that requires regular, routine inspections of buildings or  
3 structures constructed in compliance with the North Carolina Residential Code for One- and  
4 Two-Family Dwellings in addition to the specific inspections required by the North Carolina  
5 Building Code without first obtaining approval from the North Carolina Building Code  
6 Council. The North Carolina Building Code Council shall review all applications for additional  
7 inspections requested by a city and shall, in a reasonable manner, approve or disapprove the  
8 additional inspections. This subsection does not limit the authority of the city to require  
9 inspections upon unforeseen or unique circumstances that require immediate action.

10 (c) Notwithstanding the requirements of this Article, a city shall accept and approve a  
11 design or other proposal for a component or element in the construction of buildings from a  
12 licensed architect or licensed engineer provided all of the following apply:

13 (1) The submission is completed under valid seal of the licensed architect or  
14 licensed engineer.

15 (2) Field inspection of the installation or completion of construction is  
16 performed by that licensed architect or licensed engineer.

17 (3) That licensed architect or licensed engineer provides the county with a  
18 signed written document stating the component or element of the building so  
19 inspected is in compliance with the North Carolina State Building Code.

20 (d) Upon the acceptance and approval of a signed written document by the city as  
21 required under subsection (c) of this section, the city, its inspection department, and the  
22 inspectors shall be discharged and released from any duties and responsibilities imposed by this  
23 Article with respect to the component or element in the construction of the building for which  
24 the signed written document was submitted."

25 **SECTION 2.7.(d)** G.S. 160A-416 reads as rewritten:

26 **"§ 160A-416. Failure to perform duties.**

27 (a) If any member of an inspection department shall willfully fail to perform the duties  
28 required of him by law, or willfully shall improperly issue a permit, or shall give a certificate of  
29 compliance without first making the inspections required by law, or willfully shall improperly  
30 give a certificate of compliance, he shall be guilty of a Class 1 misdemeanor.

31 (b) A member of the inspection department shall not be in violation of this section when  
32 the city, its inspection department, or one of the inspectors accepted a signed written document  
33 of compliance with the North Carolina State Building Code from a licensed architect or  
34 licensed engineer in accordance with G.S. 160A-412(c)."

## 36 **CLARIFY AUTHORITY OF COUNTIES AND CITIES TO EXPAND ON DEFINITION** 37 **OF BEDROOM**

38 **SECTION 2.8.(a)** G.S. 153A-346 reads as rewritten:

39 **"§ 153A-346. Conflict with other laws.**

40 (a) When regulations made under authority of this Part require a greater width or size of  
41 yards or courts, or require a lower height of a building or fewer number of stories, or require a  
42 greater percentage of a lot to be left unoccupied, or impose other higher standards than are  
43 required in any other statute or local ordinance or regulation, the regulations made under  
44 authority of this Part govern. When the provisions of any other statute or local ordinance or  
45 regulation require a greater width or size of yards or courts, or require a lower height of a  
46 building or a fewer number of stories, or require a greater percentage of a lot to be left  
47 unoccupied, or impose other higher standards than are required by regulations made under  
48 authority of this Part, the provisions of the other statute or local ordinance or regulation govern.

49 (b) When adopting regulations under this Part, a county may not use a definition of  
50 dwelling unit, bedroom, or sleeping unit that exceeds any definition of the same in another  
51 statute or in a rule adopted by a State agency."

1           **SECTION 2.8.(b)** G.S. 160A-390 reads as rewritten:

2   "**§ 160A-390. Conflict with other laws.**

3       (a) When regulations made under authority of this Part require a greater width or size of  
4 yards or courts, or require a lower height of a building or fewer number of stories, or require a  
5 greater percentage of a lot to be left unoccupied, or impose other higher standards than are  
6 required in any other statute or local ordinance or regulation, regulations made under authority  
7 of this Part shall govern. When the provisions of any other statute or local ordinance or  
8 regulation require a greater width or size of yards or courts, or require a lower height of a  
9 building or a fewer number of stories, or require a greater percentage of a lot to be left  
10 unoccupied, or impose other higher standards than are required by the regulations made under  
11 authority of this Part, the provisions of that statute or local ordinance or regulation shall govern.

12       (b) When adopting regulations under this Part, a city may not use a definition of  
13 dwelling unit, bedroom, or sleeping unit that exceeds any definition of the same in another  
14 statute or in a rule adopted by a State agency."

15           **SECTION 2.8.(c)** This section is effective when it becomes law.

## 16 17 **DEVELOPMENT AGREEMENTS**

18           **SECTION 2.9.(a)** G.S. 153A-349.4 reads as rewritten:

19   "**§ 153A-349.4. Developed property ~~must contain certain number of acres; criteria;~~**  
20   **~~permissible durations of agreements.~~**

21       (a) A local government may enter into a development agreement with a developer for  
22 the development of property as provided in this Part, ~~provided the property contains 25 acres or~~  
23 ~~more of developable property (exclusive of wetlands, mandatory buffers, unbuildable slopes,~~  
24 ~~and other portions of the property which may be precluded from development at the time of~~  
25 ~~application). Part.~~ Development agreements shall be of a reasonable term specified in the  
26 agreement, ~~provided they may not be for a term exceeding 20 years.~~ agreement.

27       (b) ~~Notwithstanding the acreage requirements of subsection (a) of this section, a local~~  
28 ~~government may enter into a development agreement with a developer for the development of~~  
29 ~~property as provided in this Part for developable property of any size (exclusive of wetlands,~~  
30 ~~mandatory buffers, unbuildable slopes, and other portions of the property which may be~~  
31 ~~precluded from development at the time of application), if the developable property that would~~  
32 ~~be subject to the development agreement is subject to an executed brownfields agreement~~  
33 ~~pursuant to Part 5 of Article 9 of Chapter 130A of the General Statutes. Development~~  
34 ~~agreements shall be of a term specified in the agreement, provided they may not be for a term~~  
35 ~~exceeding 20 years."~~

36           **SECTION 2.9.(b)** G.S. 160A-400.23 reads as rewritten:

37   "**§ 160A-400.23. Developed property ~~must contain certain number of acres; criteria;~~**  
38   **~~permissible durations of agreements.~~**

39       (a) A local government may enter into a development agreement with a developer for  
40 the development of property as provided in this Part, ~~provided the property contains 25 acres or~~  
41 ~~more of developable property (exclusive of wetlands, mandatory buffers, unbuildable slopes,~~  
42 ~~and other portions of the property which may be precluded from development at the time of~~  
43 ~~application). Part.~~ Development agreements shall be of a reasonable term specified in the  
44 agreement, ~~provided they may not be for a term exceeding 20 years.~~ agreement.

45       (b) ~~Notwithstanding the acreage requirements of subsection (a) of this section, a local~~  
46 ~~government may enter into a development agreement with a developer for the development of~~  
47 ~~property as provided in this Part for developable property of any size (exclusive of wetlands,~~  
48 ~~mandatory buffers, unbuildable slopes, and other portions of the property which may be~~  
49 ~~precluded from development at the time of application), if the developable property that would~~  
50 ~~be subject to the development agreement is subject to an executed brownfields agreement~~  
51 ~~pursuant to Part 5 of Article 9 of Chapter 130A of the General Statutes. Development~~

1 agreements shall be of a term specified in the agreement, provided they may not be for a term  
2 exceeding 20 years."

3 **SECTION 2.9.(c)** G.S. 153A-349.3 reads as rewritten:

4 "**§ 153A-349.3. Local governments authorized to enter into development agreements;  
5 approval of governing body required.**

6 (a) A local government may establish procedures and requirements, as provided in this  
7 Part, to consider and enter into development agreements with developers. A development  
8 agreement must be approved by the governing body of a local government by ordinance.

9 (b) The development agreement may, by ordinance, be incorporated, in whole or in  
10 part, into any planning, zoning, or subdivision ordinance adopted by the local government."

11 **SECTION 2.9.(d)** G.S. 160A-400.22 reads as rewritten:

12 "**§ 160A-400.22. Local governments authorized to enter into development agreements;  
13 approval of governing body required.**

14 (a) A local government may establish procedures and requirements, as provided in this  
15 Part, to consider and enter into development agreements with developers. A development  
16 agreement must be approved by the governing body of a local government by ordinance.

17 (b) The development agreement may, by ordinance, be incorporated, in whole or in  
18 part, into any planning, zoning, or subdivision ordinance adopted by the local government."

19 **SECTION 2.9.(e)** This section becomes effective October 1, 2015, and applies to  
20 development agreements entered into on or after that date.

## 21 **PART III. ENVIRONMENTAL AND NATURAL RESOURCE REGULATION**

### 22 **AMEND ISOLATED WETLANDS LAW**

23  
24 **SECTION 3.1.(a)** For the purposes of implementing Section .1300 of Subchapter  
25 2H of Chapter 2 of Title 15A of the North Carolina Administrative Code (Discharges to  
26 Isolated Wetlands and Isolated Waters), the isolated wetlands provisions of Section .1300 shall  
27 apply only to a Basin Wetland or Bog and no other wetland types as described in the North  
28 Carolina Wetland Assessment User Manual prepared by the North Carolina Wetland  
29 Functional Assessment Team, version 4.1 October 2010 that are not jurisdictional wetlands  
30 under the federal Clean Water Act. The isolated wetlands provisions of Section .1300 shall not  
31 apply to an isolated man-made ditch or pond constructed for stormwater management purposes,  
32 any other man-made isolated pond, or any other type of isolated wetland, and the Department  
33 of Environment and Natural Resources shall not regulate such water bodies under Section  
34 .1300.  
35

36 **SECTION 3.1.(b)** The Environmental Management Commission may adopt rules  
37 to amend Section .1300 of Subchapter 2H of Chapter 2 of Title 15A of the North Carolina  
38 Administrative Code consistent with subsection (a) of this section.

39 **SECTION 3.1.(c)** Section 54 of S.L. 2014-120 reads as rewritten:

40 "**SECTION 54.(a)** Until the effective date of the revised permanent rule that the  
41 Environmental Management Commission is required to adopt pursuant to Section 54(c) of this  
42 act, the Commission and the Department of Environment and Natural Resources shall  
43 implement 15A NCAC 02H .1305 (Review of Applications) as provided in Section 54(b) of  
44 this act.

45 "**SECTION 54.(b)** Notwithstanding 15A NCAC 02H .1305 (Review of Applications), all  
46 of the following shall apply to the implementation of 15A NCAC 02H .1305:

- 47 (1) The amount of impacts of isolated wetlands under 15A NCAC 02H  
48 .1305(d)(2) shall be less than or equal to one acre of isolated wetlands east  
49 of I-95 for the entire project and less than or equal to 1/3 acre of isolated  
50 wetlands west of I-95 for the entire project.

- 1           (2) Mitigation requirements for impacts to isolated wetlands shall only apply to  
 2 the amount of impact that exceeds the thresholds set out in subdivision (1) of  
 3 this section. The mitigation ratio for impacts ~~of greater than one acre~~  
 4 exceeding the thresholds for the entire project under 15A NCAC 02H  
 5 .1305(g)(6) shall be 1:1 and may be located on the same parcel.
- 6           (3) ~~For purposes of Section 54(b) of this section, "isolated wetlands" means a~~  
 7 ~~Basin Wetland or Bog as described in the North Carolina Wetland~~  
 8 ~~Assessment User Manual prepared by the North Carolina Wetland~~  
 9 ~~Functional Assessment Team, version 4.1 October, 2010, that are not~~  
 10 ~~jurisdictional wetlands under the federal Clean Water Act. An "isolated~~  
 11 ~~wetland" does not include an isolated man-made ditch or pond constructed~~  
 12 ~~for stormwater management purposes or any other man-made isolated pond.~~
- 13           (4) Impacts to isolated wetlands shall not be combined with the project impacts  
 14 to 404 jurisdictional wetlands or streams for the purpose of determining  
 15 when impact thresholds that trigger a mitigation requirement are met.

16       **"SECTION 54.(c)** The Environmental Management Commission shall adopt rules to  
 17 amend 15A NCAC 02H .1300 through 15A NCAC 02H .1305 consistent with Section 54(b) of  
 18 this act. Notwithstanding G.S. 150B-19(4), the rule adopted by the Commission pursuant to this  
 19 subsection shall be substantively identical to the provisions of Section 54(b) of this act. Rules  
 20 adopted pursuant to this subsection are not subject to Part 3 of Article 2A of Chapter 150B of  
 21 the General Statutes. Rules adopted pursuant to this subsection shall become effective as  
 22 provided in G.S. 150B-21.3(b1) as though 10 or more written objections had been received as  
 23 provided by G.S. 150B-21.3(b2).

24       **"SECTION 54.(d)** The Department of Environment and Natural Resources shall study (i)  
 25 how the term "isolated wetland" has been previously defined in State law and whether the term  
 26 should be clarified in order to provide greater certainty in identifying isolated wetlands; (ii) the  
 27 surface area thresholds for the regulation of mountain bog isolated wetlands, including whether  
 28 mountain bog isolated wetlands should have surface area regulatory thresholds different from  
 29 other types of isolated wetlands; and (iii) whether impacts to isolated wetlands should be  
 30 combined with the project impacts to jurisdictional wetlands or streams for the purpose of  
 31 determining when impact thresholds that trigger a mitigation requirement are met. The  
 32 Department shall report its findings and recommendations to the Environmental Review  
 33 Commission on or before November 1, 2014.

34       **"SECTION 54.(e)** This section is effective when it becomes law. Section 54(b) of this act  
 35 expires on the date that rules adopted pursuant to Section 54(c) of this act become effective."  
 36

### 37 AMEND STORMWATER MANAGEMENT LAW

38       **SECTION 3.2.(a)** Section 3 of S.L. 2013-82 reads as rewritten:

39       **"SECTION 3.** The Environmental Management Commission shall adopt rules  
 40 implementing Section 2 of this act no later than ~~July 1, 2016.~~November 1, 2016."

41       **SECTION 3.2.(b)** G.S. 143-214.7 reads as rewritten:

42       **"§ 143-214.7. Stormwater runoff rules and programs.**

43       ...

44       (b2) ~~For purposes of implementing stormwater programs, State stormwater programs and~~  
 45 ~~local stormwater programs approved pursuant to subsection (d) of this section, all of the~~  
 46 following shall apply:

- 47           (1) ~~"built-upon area"~~"Built-upon area" means impervious surface and partially  
 48 impervious surface to the extent that the partially impervious surface does  
 49 not allow water to infiltrate through the surface and into the subsoil.  
 50 "Built-upon area" does not include a slatted deck or the water area of a  
 51 swimming pool.

- 1           (2) Vegetative buffers adjacent to intermittent streams shall be measured from  
 2 the center of the stream bed.
- 3           (3) The volume, velocity, and discharge rates of water associated with the  
 4 one-year, 24-hour storm and the difference in stormwater runoff from the  
 5 predevelopment and postdevelopment conditions for the one-year, 24-hour  
 6 storm shall be calculated using any acceptable engineering hydrologic and  
 7 hydraulic methods.
- 8           (4) Development may occur within a vegetative buffer if the stormwater runoff  
 9 from the development is discharged outside of the vegetative buffer and is  
 10 managed so that it otherwise complies with all applicable State and federal  
 11 stormwater management requirements.
- 12           (5) The requirements that apply to development activities within one-half mile  
 13 of and draining to Class SA waters or within one-half mile of Class SA  
 14 waters and draining to unnamed freshwater tributaries shall not apply to  
 15 development activities and associated stormwater discharges that do not  
 16 occur within one-half mile of and draining to Class SA waters or are not  
 17 within one-half mile of Class SA waters and draining to unnamed freshwater  
 18 tributaries."

19           ...

20           (d) The Commission shall review each stormwater management program submitted by  
 21 a State agency or unit of local government and shall notify the State agency or unit of local  
 22 government that submitted the program that the program has been approved, approved with  
 23 modifications, or disapproved. The Commission shall approve a program only if it finds that  
 24 the standards of the program equal ~~or exceed~~ those of the model program adopted by the  
 25 Commission pursuant to this section.

26           ...."

27           **SECTION 3.2.(c)** No later than January 1, 2016, a State agency or local  
 28 government that implements a stormwater management program approved pursuant to  
 29 subsection (d) of G.S. 143-214.7 shall submit its current stormwater management program or a  
 30 revised stormwater management program to the Environmental Management Commission. No  
 31 later than July 1, 2016, the Environmental Management Commission shall review and act on  
 32 each of the submitted stormwater management programs in accordance with subsection (d) of  
 33 G.S. 143-214.7, as amended by this section.

34           **SECTION 3.2.(d)** The Environmental Review Commission, with the assistance of  
 35 the Department of Environment and Natural Resources, shall review the current status of State  
 36 statutes, session laws, rules, and guidance documents related to the management of stormwater  
 37 in the State. The Commission shall specifically examine whether State statutes, session laws,  
 38 rules, and guidance documents related to the management of stormwater in the State should be  
 39 recodified or reorganized in order to clarify State law for the management of stormwater. The  
 40 Commission shall submit legislative recommendations, if any, to the 2016 Regular Session of  
 41 the 2015 General Assembly.

## 42 43 **RIPARIAN BUFFER REFORM**

44           **SECTION 3.3.(a)** G.S. 143-214.23 reads as rewritten:

45 **"§ 143-214.23. Riparian Buffer Protection Program: Delegation of riparian buffer**  
 46 **protection requirements to local governments.**

47           (a) Delegation Permitted. – The Commission may delegate responsibility for the  
 48 implementation and enforcement of the State's riparian buffer protection requirements to units  
 49 of local government that have the power to regulate land use. A delegation under this section  
 50 shall not affect the jurisdiction of the Commission over State agencies and units of local  
 51 government. Any unit of local government that has the power to regulate land use may request

1 that responsibility for the implementation and enforcement of the State's riparian buffer  
2 protection requirements be delegated to the unit of local government. To this end, units of local  
3 government may adopt ordinances and regulations necessary to establish and enforce the State's  
4 riparian buffer protection requirements.

5 (b) Procedures. – Within 90 days after the Commission receives a complete application  
6 requesting delegation of responsibility for the implementation and enforcement of the State's  
7 riparian buffer protection requirement, the Commission shall review the application and notify  
8 the unit of local government that submitted the application whether the application has been  
9 approved, approved with modifications, or disapproved. The Commission shall not approve a  
10 delegation unless the Commission finds that local implementation and enforcement of the  
11 State's riparian buffer protection requirements will equal implementation and enforcement by  
12 the State.

13 (b1) Exceeding Minimum State Requirements. – The Commission may approve a  
14 delegation application proposing a riparian buffer width that exceeds that required by the State  
15 for the type of surface body of water and the river basin or basins in which the unit of local  
16 government is located only in accordance with the procedures of this section:

17 (1) Units of local government may request exceedances in riparian buffer widths  
18 from the Commission when submitting an application under subsection (b)  
19 of this section. Exceedances in buffer width enforced by units of local  
20 government under an existing local ordinance may not be enforced after  
21 February 1, 2016, unless the unit of local government has either received  
22 approval for an exceedance under the procedures set forth in this subsection  
23 or has an application for an exceedance pending with the Commission.  
24 Under no circumstances shall any existing local ordinance be enforced after  
25 June 1, 2016, unless the Commission has approved the exceedance. For  
26 purposes of this subdivision, an "existing local ordinance" is a local  
27 ordinance approved prior to August 1, 2015, that includes an exceedance in  
28 riparian buffer width from that required by the State.

29 (2) The Commission may consider a request for an exceedance in riparian buffer  
30 width only if the request is accompanied by a scientific study prepared by or  
31 on behalf of the unit of local government that provides a justification for the  
32 exceedance based on the topography, soils, hydrology, and environmental  
33 impacts within the jurisdiction of the unit of local government. The  
34 Commission may also require that the study include any other information it  
35 finds necessary to evaluate the request for the exceedance.

36 (3) The Commission shall grant the request for an exceedance only if it finds  
37 that the need for the exceedance in riparian buffer width is established by the  
38 scientific evidence presented by the unit of local government requesting the  
39 exceedance in order to meet the nutrient reduction goal set by the  
40 Commission for the basin subject to the riparian buffer rule.

41 (4) For purposes of this subsection, "existing local ordinance" shall include a  
42 zoning district, subdivision or development regulation; comprehensive plan;  
43 policy; resolution; or any other act carrying the effect of law.

44 (c) Local Program Deficiencies. – If the Commission determines that a unit of local  
45 government is failing to implement or enforce the State's riparian buffer protection  
46 requirements, the Commission shall notify the unit of local government in writing and shall  
47 specify the deficiencies in implementation and enforcement. If the local government has not  
48 corrected the deficiencies within 90 days after the unit of local government receives the  
49 notification, the Commission shall rescind delegation and shall implement and enforce the  
50 State's riparian buffer protection program. If the unit of local government indicates that it is  
51 willing and able to resume implementation and enforcement of the State's riparian buffer



1 protection requirements, the unit of local government may reapply for delegation under this  
2 section.

3 (d) Technical Assistance. – The Department shall provide technical assistance to units  
4 of local government in the development, implementation, and enforcement of the State's  
5 riparian buffer protection requirements.

6 (e) Training. – The Department shall provide a stream identification training program to  
7 train individuals to determine the existence of surface water for purposes of rules adopted by  
8 the Commission for the protection and maintenance of riparian buffers. The Department may  
9 charge a fee to cover the full cost of the training program. No fee shall be charged to an  
10 employee of the State who attends the training program in connection with the employee's  
11 official duties.

12 (e1) Restriction on Treatment of Buffer by State and Local Governments. – Units of  
13 local government shall not treat the land within a riparian buffer as if the land is the property of  
14 the State or any of its subdivisions unless the land or an interest therein has been acquired by  
15 the State or its subdivisions by a conveyance or by eminent domain. Land within a riparian  
16 buffer in which neither the State nor its subdivisions holds any property interest may be used to  
17 satisfy any other development-related regulatory requirements based on property size.

18 (e2) Recordation of Common Area Buffers. – When riparian buffers are included within  
19 a lot, units of local governments shall require that the buffer area be denominated on the  
20 recorded plat. When riparian buffers are (i) placed outside of lots in portions of a subdivision  
21 that are designated as common areas or open space and (ii) neither the State nor its subdivisions  
22 holds any property interest in that riparian buffer area, the unit of local government shall  
23 attribute to each lot abutting the riparian buffer area a proportionate share based on the area of  
24 all lots abutting the riparian buffer area for purposes of development-related regulatory  
25 requirements based on property size.

26 (e3) Limitation on Local Government Riparian Area Restrictions. – Units of local  
27 government may impose restrictions upon the use of riparian areas as defined in 15A NCAC  
28 02B .0202 only within river basins where riparian buffers are required by the State. Units of  
29 local government may impose restrictions upon riparian areas to satisfy State riparian buffer  
30 requirements by means of a zoning district, subdivision or development regulation;  
31 comprehensive plan; policy; resolution; or any other act carrying the effect of law. The width of  
32 the restricted area and the body of water to which the restrictions apply shall not deviate from  
33 State requirements unless the deviation has been approved under subsection (b1) of this section.  
34 For purposes of this subsection, the terms "riparian areas" and "riparian buffer areas" shall have  
35 the same meaning, and shall include all landward setbacks from a surface water body with  
36 State-required riparian buffers.

37 (e4) Exception. – Neither the restrictions in subsection (e3) of this section nor the  
38 riparian buffer deviation approval procedures of subsection (b1) of this section shall apply to  
39 any local ordinance initially adopted prior to July 22, 1997, and any subsequent modifications  
40 that have the following characteristics:

41 (1) The ordinance includes findings that the setbacks from surface water bodies  
42 are imposed for purposes that include the protection of aesthetics, fish and  
43 wildlife habitat, and recreational use by maintaining water temperature,  
44 healthy tree canopy and understory, and the protection of the natural  
45 shoreline through minimization of erosion and potential chemical pollution  
46 in addition to the protection of water quality and the prevention of excess  
47 nutrient runoff.

48 (2) The ordinance includes provisions to permit under certain circumstances (i)  
49 small or temporary structures within 50 feet of the water body and (ii) docks  
50 and piers within and along the edge of the water body.

1       (e5) Definition. – For purposes of this section, "development-related regulatory  
2 requirements based on property size" means requirements that forbid or require particular uses,  
3 activities, or practices for some percentage of the area of a lot or for lots above or below a  
4 particular size, including, but not limited to, perimeter buffers, maximum residential density,  
5 tree conservation ordinances, minimum lot size requirements, or nonresidential floor area ratio  
6 requirements.

7       (f) Rules. – The Commission may adopt rules to implement this section."

8       **SECTION 3.3.(b)** Part 1 of Article 21 of Chapter 143 of the General Statutes is  
9 amended by adding two new sections to read:

10 **"§ 143-214.18. Exemption to riparian buffer requirements for certain private properties.**

11       (a) Definition. – For purposes of this section, "applicable buffer rule" refers to any of  
12 the following rules that are applicable to a tract of land:

13           (1) Neuse River Basin. – 15A NCAC 02B .0233, effective August 1, 2000.

14           (2) Tar-Pamlico River Basin. – 15A NCAC 02B .0259, effective August 1,  
15 2000.

16           (3) Randleman Lake Water Supply Watershed. – 15A NCAC 02B .0250,  
17 effective June 1, 2010.

18           (4) Catawba River Basin. – 15A NCAC 02B .0243, effective August 1, 2004.

19           (5) Jordan Water Supply Nutrient Strategy. – 15A NCAC 02B .0268, effective  
20 September 1, 2011.

21           (6) Goose Creek Watershed of the Yadkin-Pee Dee River Basin. – 15A NCAC  
22 02B .0605 and 02B .0607, effective February 1, 2009.

23       (b) Exemption. – Absent a requirement of federal law or an imminent threat to public  
24 health or safety, an applicable buffer rule shall not apply to any tract of land that meets all of  
25 the following criteria:

26           (1) With the exception set forth in subsection (c) of this section, the tract was  
27 platted and recorded in the register of deeds in the county where the tract is  
28 located prior to the effective date of the applicable buffer rule.

29           (2) Other than the applicable buffer rule, the use of the tract complies with either  
30 of the following:

31               a. The rules and other laws regulating and applicable to that tract on the  
32 effective date for the applicable buffer rule set out in subsection (a)  
33 of this section.

34               b. The current rules, if the application of those rules to the tract was  
35 initiated after the effective date for the applicable buffer rule by the  
36 unit of local government with jurisdiction over the tract and not at the  
37 request of the property owner.

38       (c) If a tract of land described in subsection (b) of this section is converted to a use that  
39 does not comply with subdivision (2) of subsection (b) of this section, then the applicable  
40 buffer rule shall apply.

41       (d) The tract of land shall retain an exemption under subsection (b) of this section if  
42 either of the following applies:

43           (1) The tract has been replatted and rerecorded after the effective date for the  
44 applicable buffer rule as a result of an eminent domain action and the tract  
45 continues to comply with subdivision (2) of subsection (b) of this section.

46           (2) The tract is a recombination exempt from the definition of subdivision under  
47 G.S. 160A-376 or G.S. 153A-33 and recorded after the effective date of the  
48 applicable buffer rule and the recombination consists of all, or portions of,  
49 parcels meeting the requirements for exemption from the applicable buffer  
50 rule set forth in subsection (b) of this section.

1 (e) For purposes of meeting the requirements of subdivision (2) of subsection (b) of this  
2 section, the following shall be interpreted to be "complying with the rules and other laws  
3 regulating and applicable to that property on the effective date for the applicable buffer rule":

4 (1) The conversion of a tract of land that was undeveloped prior to the effective  
5 date of the applicable buffer rule to a use that was permitted under  
6 applicable local ordinances in effect prior to the effective date of the  
7 applicable buffer rule, even if the conversion is approved after the effective  
8 date of the applicable buffer rule.

9 (2) The conversion of the tract of land to a use permitted under applicable local  
10 rules or ordinances that have been applied to the property since the effective  
11 date of the applicable buffer rule as a result of either (i) a change in  
12 regulations applied by the unit of local government with jurisdiction over the  
13 tract or (ii) a change in the unit of local government having jurisdiction over  
14 the tract which results in the application of regulations to the tract after the  
15 effective date of the applicable buffer rule.

16 (f) An exemption to an applicable buffer rule under this section runs with the land, if  
17 notice of the exemption is recorded with the register of deeds at or prior to the next conveyance  
18 of the tract or portion of the tract.

19 **"§ 143-214.19. Delineation of protective riparian buffers for coastal wetlands in the Neuse**  
20 **River and Tar-Pamlico River Basins.**

21 (a) The following definitions apply in this section:

22 (1) Coastal wetlands. – Any salt marsh or other marsh subject to regular or  
23 occasional flooding by tides, including wind tides (whether or not the  
24 tidewaters reach the marshland areas through natural or artificial  
25 watercourses), provided this shall not include hurricane or tropical storm  
26 tides.

27 (2) Marshlands. – The term has the same meaning as G.S. 113-229(n).

28 (b) If State law requires a protective riparian buffer for coastal wetlands in either the  
29 Neuse River Basin or the Tar-Pamlico River Basin, the coastal wetlands and marshlands shall  
30 not be treated as part of the surface waters but instead shall be included in the measurement of  
31 the protective riparian buffer. The protective riparian buffer for any of the coastal wetlands or  
32 marshlands in the Neuse River Basin or the Tar-Pamlico River Basin shall be delineated as  
33 follows:

34 (1) If the coastal wetlands or marshlands extend less than 50 feet from the high  
35 normal water level or normal water level, as appropriate, and therefore  
36 would not encompass a 50-foot area beyond the appropriate water level, then  
37 the protective riparian buffer shall include all of the coastal wetlands and  
38 marshlands and enough of the upland footage to equal a total of 50 feet from  
39 the appropriate normal high water level or the normal water level measured  
40 horizontally on a line perpendicular to the surface water.

41 (2) If the coastal wetlands or marshlands extend 50 feet or more from the  
42 normal high water level or normal water level, as appropriate, then the  
43 protective riparian buffer shall be the full width of the marshlands or coastal  
44 wetlands up to the landward limit of the marshlands or coastal wetlands but  
45 shall not extend beyond the landward limit of the marshlands or coastal  
46 wetlands."

47 **SECTION 3.3.(c)** Article 21 of Chapter 143 of the General Statutes is amended by  
48 adding a new section to read:

49 **"§ 143-214.27 Riparian buffer conditions in environmental permits.**

50 (a) Except as set forth in subsection (b) of this section, the Department may not impose  
51 as a condition of any permit issued under this Article riparian buffer requirements that exceed

1 established standards for the river basin within which the activity or facility receiving the  
2 permit is located. If no riparian buffer standards have been established for the river basin within  
3 which the activity or facility receiving the permit is located, then the Department shall not  
4 impose a buffer standard as a condition for a permit that exceeds the standard for the Neuse  
5 River Basin set forth in 15A NCAC 02B .0233.

6 (b) The Department may impose as a condition of any permit issued under this Article a  
7 more restrictive riparian buffer requirement than that established for the river basin within  
8 which the activity or facility receiving the permit is located, or a riparian buffer requirement in  
9 a river basin where no riparian buffer standards have been established as set forth in this  
10 subsection. Prior to imposing the riparian buffer permit condition, the Commission must make  
11 a finding that the condition is necessary in order to meet the nutrient reduction goals for the  
12 river basin within which the activity or facility receiving the permit is located, based on  
13 basin-specific evidence compiled through a scientific study prepared by or on behalf of the  
14 Department that provides a justification for the permit condition based on the topography, soils,  
15 or hydrology of the river basin, the environmental impacts of the activity or facility, and any  
16 other information the Commission finds necessary to evaluate the need for the riparian buffer  
17 permit condition."

18 **SECTION 3.3.(d)** This section becomes effective August 1, 2015.

#### 20 **WILDLIFE SEARCH AND SEIZURE**

21 **SECTION 3.4.(a)** G.S. 113-136(k) reads as rewritten:

22 "(k) It is unlawful to refuse to exhibit upon request by any inspector, protector, or other  
23 law enforcement officer any item required to be carried by any law or rule as to which  
24 inspectors or protectors have enforcement jurisdiction. The items that must be exhibited include  
25 boating safety or other equipment or any license, permit, tax receipt, certificate, or  
26 identification. It is unlawful to refuse to allow inspectors, protectors, or other law enforcement  
27 officers to inspect weapons, equipment, fish, or wildlife that the officer reasonably believes to  
28 be possessed incident to an activity regulated by any law or rule as to which inspectors and  
29 protectors have enforcement jurisdiction. Except as authorized by G.S. 113-137, nothing in this  
30 section gives an inspector, protector, or other law enforcement officer the authority to inspect  
31 weapons, equipment, fish, or wildlife in the absence of a person in apparent control of the item  
32 to be inspected."

33 **SECTION 3.4.(b)** The Wildlife Resources Commission shall study whether and  
34 under what circumstances reasonable suspicion that a violation has been committed should be  
35 required before a wildlife protector, marine fisheries inspector, or other law enforcement officer  
36 may inspect weapons, equipment, fish, or wildlife pursuant to G.S. 113-136(k). The  
37 Commission shall consult with the Division of Marine Fisheries and other law enforcement  
38 agencies in the conduct of this study. The Commission shall report the results of this study,  
39 including any recommendations, to the Joint Legislative Oversight Committee on Justice and  
40 Public Safety no later than March 1, 2016.

41 **SECTION 3.4.(c)** The Wildlife Resources Commission shall report to the Joint  
42 Legislative Oversight Committee on Justice and Public Safety no later than March 1, 2016, and  
43 annually thereafter, on the number of complaints received against Commission law  
44 enforcement officers, the subject matter of the complaints, and the geographic areas in which  
45 the complaints were filed.

46 **SECTION 3.4.(d)** Section 3.4(a) of this section becomes effective December 1,  
47 2015, and applies to offenses committed on or after that date. The remainder of this section is  
48 effective when it becomes law.

50 **REPEAL FOR-HIRE LICENSE LOGBOOK REQUIREMENT; REPEAL AUTHORITY**  
51 **OF THE DIVISION OF MARINE FISHERIES TO ENTER INTO A JOINT**

1 **ENFORCEMENT AGREEMENT; DIRECT THE DIVISION OF MARINE FISHERIES**  
2 **TO STUDY THE LOGBOOK REQUIREMENT AND THE JOINT ENFORCEMENT**  
3 **AGREEMENT**

4 **SECTION 3.5.(a)** G.S. 113-174.3(e) is repealed.

5 **SECTION 3.5.(b)** G.S. 113-224 reads as rewritten:

6 **"§ 113-224. Cooperative agreements by Department.**

7 (a) ~~The~~Except as otherwise provided in this section, the Department is empowered to  
8 enter into cooperative agreements with public and private agencies and individuals respecting  
9 the matters governed in this Subchapter. Pursuant to such agreements the Department may  
10 expend funds, assign employees to additional duties within or without the State, assume  
11 additional responsibilities, and take other actions that may be required by virtue of such  
12 agreements, in the overall best interests of the conservation of marine and estuarine resources.

13 (b) The Fisheries Director or a designee of the Fisheries Director may not enter into an  
14 agreement with the National Marine Fisheries Service of the United States Department of  
15 Commerce allowing Division of Marine Fisheries inspectors to accept delegation of law  
16 enforcement powers over matters within the jurisdiction of the National Marine Fisheries  
17 Service."

18 **SECTION 3.5.(c)** G.S. 128-1.1(c2) is repealed.

19 **SECTION 3.5.(d)** The Division of Marine Fisheries shall conduct a 12-month  
20 process to seek input from stakeholders on the following issues:

21 (1) The costs and benefits of a logbook requirement similar to that repealed by  
22 subsection (a) of this section and whether such a requirement should be  
23 reenacted.

24 (2) The impacts, costs, and benefits of a joint enforcement agreement similar to  
25 that prohibited by subsection (b) of this section and whether the  
26 authorization to enter into such an agreement should be reenacted.

27 The process shall also include the establishment of a stakeholder advisory group that  
28 includes persons who are for-hire license holders representing all major recreational fishing  
29 areas on the North Carolina coast, other recreational fishing interests, and relevant advocacy  
30 groups. The Division shall review and provide a written response to any issues raised by the  
31 advisory group and shall report to the Environmental Review Commission no later than  
32 October 15, 2016, its conclusions, including any recommendations for legislation.

33  
34 **AMEND THE DEFINITION OF "NEW ANIMAL WASTE MANAGEMENT SYSTEM"**  
35 **AND THE APPLICATION OF SWINE WASTE MANAGEMENT SYSTEM**  
36 **PERFORMANCE STANDARDS**

37 **SECTION 3.6.** Section 21 of S.L. 2013-413 reads as rewritten:

38 **"SECTION 21.(a)** 15A NCAC 02T .1302 ~~(Definitions)~~(Definitions) and 15A NCAC 02T  
39 .1307 (Swine Waste Management System Performance Standards). – Until the effective date of  
40 the revised permanent ~~rule-rules~~ that the Environmental Management Commission is required  
41 to adopt pursuant to Section 21(c) of this act, the Commission and the Department of  
42 Environment and Natural Resources shall implement 15A NCAC 02T .1302 (Definitions) and  
43 15A NCAC 02T .1307 (Swine Waste Management System Performance Standards) as provided  
44 in Section 21(b) of this act.

45 **"SECTION 21.(b)** Implementation. – Notwithstanding 15A NCAC 02T .1302  
46 (Definitions), "new animal waste management system" means animal waste management  
47 systems which are constructed and operated at a site where no feedlot existed ~~previously, where~~  
48 ~~a system serving a feedlot has been abandoned or unused for a period of four years or more and~~  
49 ~~is then put back into service, previously~~ or where a permit for a system has been rescinded, and  
50 is then reissued when the permittee confines animals in excess of the thresholds established in  
51 G.S. 143-215.10B. Notwithstanding subsection (a) of 15A NCAC 02T .1307 (Swine Waste

1 Management System Performance Standards), the Swine Waste Management System  
2 Performance Standards shall:

3 (1) Apply to any farm facility that receives a permit for its animal waste  
4 management system that allows a level of production at the farm, as  
5 measured by steady state live weight, greater than the largest production for  
6 which the farm has received a permit in the past, and so that they also apply  
7 to any other animal waste management system otherwise subject to  
8 regulation under G.S. 143-215.10I.

9 (2) Not apply to any facility that meets all of the following conditions:

10 a. Has had no animals on site for five continuous years or more.

11 b. Notifies the Division of Water Resources in writing at least 60 days  
12 prior to bringing any animals back on to the site.

13 c. Before bringing the animals on the site, has all of the necessary  
14 permits from the Division of Water Resources and the permit for the  
15 animal waste management system does not allow a level of  
16 production, as measured by steady state live weight, greater than the  
17 largest production for which the farm has received a permit in the  
18 past.

19 "SECTION 21.(c) Additional Rule-Making Authority. – The Environmental Management  
20 Commission shall adopt ~~a rule~~ rules as promptly as practicable to amend 15A NCAC 02T .1302  
21 (Definitions) and 15A NCAC 02T .1307 (Swine Waste Management System Performance  
22 Standards) consistent with Section 21(b) of this act. Notwithstanding G.S. 150B-19(4), the ~~rule~~  
23 rules adopted by the Commission pursuant to this section shall be substantively identical to the  
24 provisions of Section 21(b) of this act. Rules adopted pursuant to this section are not subject to  
25 Part 3 of Article 2A of Chapter 150B of the General Statutes. Rules adopted pursuant to this  
26 section shall become effective as provided in G.S. 150B-21.3(b1) as though 10 or more written  
27 objections had been received as provided by G.S. 150B-21.3(b2).

28 "SECTION 21.(d) Sunset. – Section 21(b) of this act expires on the date that rules adopted  
29 pursuant to Section 21(c) of this act become effective."  
30

### 31 **STUDY FLOOD ELEVATIONS AND BUILDING HEIGHT REQUIREMENTS**

32 **SECTION 3.7.** The Department of Insurance, the Building Code Council, and the  
33 Coastal Resources Commission shall jointly study how flood elevations and building heights  
34 for structures are established and measured in the coastal region of the State. The Department,  
35 Council, and Commission shall specifically consider how flood elevations and coastal building  
36 height requirements affect flood insurance rates and how height calculation methods might be  
37 made more consistent and uniform in order to provide flood insurance rate relief. In conducting  
38 this study, the Department, Council, and Commission shall engage a broad group of  
39 stakeholders, including property owners, local governments, and representatives of the  
40 development industry. No later than January 1, 2016, the Department, Council, and  
41 Commission shall jointly submit the results of their study, including any legislative  
42 recommendations, to the 2015 General Assembly.

### 43 **PART IIIB. UTILITY REGULATION**

#### 44 **AMEND CONTRACTS FOR QUALIFYING FACILITIES AND CLARIFY AVOIDED** 45 **COST REQUIREMENTS**

46 **SECTION 3B.1.(a)** G.S. 62-3(27a) reads as rewritten:

47 "(27a) "Small power producer" means a person or corporation owning or operating  
48 an electrical power production facility with a power production capacity  
49 which, together with any other facilities located at the same site, does not  
50  
51

1 exceed 80 megawatts of electricity and which depends upon renewable  
2 resources for its primary source of energy. For the purposes of this section,  
3 renewable resources shall mean: hydroelectric power, power, solar electric,  
4 solar thermal, wind, geothermal, ocean current, wave energy resources, and  
5 biomass derived from agricultural waste, animal waste, wood waste, spent  
6 pulping liquors, combustible residues, liquids, or gases not derived from  
7 fossil fuel, energy crops, or landfill methane. A small power producer shall  
8 not include persons primarily engaged in the generation or sale of electricity  
9 from other than small power production facilities."

10 **SECTION 3B.1.(b)** G.S. 62-156 reads as rewritten:

11 **"§ 62-156. Power sales by small power producers to public utilities.**

12 (a) In the event that a small power producer and an electric utility are unable to  
13 mutually agree to a contract for the sale of electricity or to a price for the electricity purchased  
14 by the electric utility, the commission shall require the utility to purchase the power, under  
15 rates and terms established as provided in ~~subsection (b)~~ of this section.

16 (b) No later than March 1, 1981, and at least every two years thereafter, the ~~commission~~  
17 Commission shall determine the rates to be paid by electric utilities for power purchased from  
18 small power producers, according to the following standards:

19 (1) Term of Contract. – The Commission shall approve standard contracts for  
20 the purchase of power from small power producers and shall require electric  
21 utilities to provide standard contracts to small power facilities that do not  
22 exceed 100 kilowatts of capacity. Long-term contracts for the purchase of  
23 electricity by the utility from small power producers shall be encouraged in  
24 order to enhance the economic feasibility of small power production  
25 ~~facilities.~~ facilities, but the term of a contract may not be for a period of  
26 greater than 15 years.

27 (2) Avoided Cost of Energy to the Utility. – The rates paid by a utility to a small  
28 power producer shall not exceed, over the term of the purchase power  
29 contract, the incremental cost to the electric utility of the electric energy  
30 which, but for the purchase from a small power producer, the utility would  
31 generate or purchase from another source. A determination of the avoided  
32 ~~energy~~ costs to the utility shall include a consideration of the following  
33 factors over the term of the power contracts: the known and measurable  
34 expected costs of the additional or existing generating capacity which could  
35 be displaced, the known and measurable expected cost of fuel and other  
36 operating expenses of electric energy production which a utility would  
37 otherwise incur in generating or purchasing power from another source, and  
38 the expected security of the supply of fuel for the utilities' alternative power  
39 sources.

40 (3) Availability and Reliability of Power. – The rates to be paid by electric  
41 utilities for power purchased from a small power producer shall be  
42 established with consideration of the reliability and availability of the power.

43 (4) Avoided Cost of Capacity. – The standard contract shall not require payment  
44 for capacity during the years in which the electric utility lacks a capacity  
45 need, as demonstrated through the electric public utility's most recent  
46 integrated resource plan approved by the Commission under  
47 G.S. 62-110.1(c)."

48 **SECTION 3B.1.(c)** This section becomes effective July 1, 2015, and applies to  
49 rates approved by the Commission on or after that date.

50  
51 **AMEND COST CAPS FOR REPS COMPLIANCE**

**SECTION 3B.2.(a)** G.S. 62-133.8(h)(4) reads as rewritten:

"(4) An electric power supplier shall be allowed to recover the incremental costs incurred to comply with the requirements of subsections (b), (c), (d), (e), and (f) of this section and fund research as provided in subdivision (1) of this subsection through an annual rider not to exceed the following per-account annual charges:

Customer Class	2008-2011	<del>2015 and thereafter</del>	
		2012-2014	<u>and thereafter</u>
Residential per account	\$10.00	\$12.00	\$34.00
Commercial per account	\$50.00	\$150.00	\$150.00
Industrial per account	\$500.00	\$1,000.00	\$1,000.00"

**SECTION 3B.2.(b)** Incremental costs incurred by an electric power supplier prior to July 1, 2015, to comply with the requirements of G.S. 62-133.8 may be recovered as provided in G.S. 62-133.8(h), as amended by this section. For the purposes of cost recovery under this act, costs incurred prior to July 1, 2015, include all of the following:

- (1) Costs under purchase contracts for renewable energy entered into prior to July 1, 2015, for the purpose of complying with REPS requirements repealed or amended by this act.
- (2) The costs of renewable energy facilities built by a public utility for which a certificate of public convenience and necessity has been issued by the Commission prior to July 1, 2015, for the purpose of complying with REPS requirements repealed or amended by this act.
- (3) Other costs the Utilities Commission determines are reasonable and prudent costs incurred prior to July 1, 2015, to comply with the REPS requirements repealed or amended by this act.

**SECTION 3B.2.(c)** This section becomes effective July 1, 2015, and applies to cost recovery proceedings that occur on or after that date.

**STUDY OF THE COSTS AND BENEFITS OF DISTRIBUTED GENERATION**

**SECTION 3B.3.(a)** No later than May 1, 2016, the Energy Policy Council shall provide to the Joint Legislative Commission on Governmental Operations and the North Carolina Utilities Commission a comprehensive assessment of known and measurable costs and benefits to the electrical grid of distributed generation, including the comprehensive costs of and benefits of net metering from distributed solar generation in this State. The Energy Policy Council may contract with a consultant to perform the assessment.

The assessment shall include an analysis of, and recommendations with respect to, the following:

- (1) The impact of current and future nondispatchable distributed generation on the affordability, reliability, resiliency, and safety of North Carolina's electric grid.
- (2) Whether changes to existing State law, regulations, policies, and incentives are appropriate considering the cost and operational impacts of current and future nondispatchable distributed generation on North Carolina's electric grid.
- (3) Whether standby, generation, transmission, or other charges and credits are necessary to recognize the costs and benefits associated with nondispatchable distributed generation to ensure the protection of North Carolina electric customers.
- (4) The costs and benefits of distributed solar generation to the State, customer-generators who participate in net metering, customers of a utility who do not participate in net metering, and each utility that offers net



1 metering. The costs and benefits of solar distributed generation considered in  
2 the study shall include all of the following to the extent they are known and  
3 measurable:

- 4 a. Value of energy at the time of generation.  
5 b. Market price effects on other fuel sources for energy production.  
6 c. Effects on utility delivery systems, generation capacity, transmission  
7 capacity, and transmission and distribution line losses.  
8 d. Environmental impacts of energy production.  
9 e. Effects on reliability of the electric system.  
10 f. Any fixed distribution costs that the utility recovers from its  
11 customers on a volumetric basis.  
12 g. Any other costs or benefits the Energy Policy Council believes are  
13 appropriate.

14 **SECTION 3B.3.(b)** Each public utility, electric membership corporation, and  
15 municipality that distributes electricity in this State shall to the fullest extent possible cooperate  
16 with the Energy Policy Council and furnish the Energy Policy Council with any information it  
17 requests in the course of completing the assessment provided for in this act.

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

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

22 **SECTION 4.2.** Except as otherwise provided, this act is effective when it becomes  
23 law.  
24