

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2015

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HOUSE BILL 482
Committee Substitute Favorable 6/17/15
PROPOSED COMMITTEE SUBSTITUTE H482-PCS20390-RN-34

Short Title: Employee Misclassification Reform.

(Public)

Sponsors:

Referred to:

April 2, 2015

1 A BILL TO BE ENTITLED
2 AN ACT TO ENACT THE EMPLOYEE FAIR CLASSIFICATION ACT.
3 The General Assembly of North Carolina enacts:

4
5 **PART I. EMPLOYEE FAIR CLASSIFICATION ACT**

6 **SECTION 1.1.** Chapter 143 of the General Statutes is amended by adding a new
7 Article to read:

8 "Article 81.

9 "Employee Fair Classification Act.

10 "**§ 143-760. Title.**

11 This Article shall be known and may be cited as the "Employee Fair Classification Act."

12 "**§ 143-761. Definitions; scope.**

13 (a) The following definitions apply in this Article:

- 14 (1) Employ. – As defined by G.S. 95-25.2(3). For the purposes of this Article,
15 an entity or individual shall not be deemed to be an employer of an
16 individual hired or otherwise engaged by or through the entity or individual's
17 independent contractor.
18 (2) Employee. – Any individual that is defined as an employee by either
19 G.S. 95-25.2(4), 96-1(10), 97-2(2), or 105-163.1(4). The term does not mean
20 an individual who is an independent contractor.
21 (3) Employee Classification Division or Division. – The Employee
22 Classification Division within the Department of Revenue.
23 (4) Employee misclassification. – Avoiding tax liabilities and other obligations
24 imposed by Chapter 95, 96, 97, or 105 of the General Statutes by
25 misclassifying an employee as an independent contractor.
26 (5) Employer. – Any individual or entity that employs one or more employees
27 as defined by G.S. 97-2(3).
28 (6) Secretary. – The Secretary of the Department of Revenue.

29 (b) Nothing in this Article shall be construed or is intended to change the definition of
30 "employer" or "employee" under any other provision of law.

31 "**§ 143-762. Establishment of Employee Classification Division; appointment of director;**
32 **salaries; other staff.**

33 (a) The Employee Classification Division is established within the Department of
34 Revenue.



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1 (b) The Secretary shall appoint a director of the Division to serve at the Secretary's
2 pleasure with such authority as the Secretary deems necessary to direct and oversee the
3 Division in carrying out the purposes of this Article. The director shall be exempt from the
4 State Human Resources Act and shall devote his or her entire time to the duties of the Division.
5 The director may delegate any duties and responsibilities as may be necessary to ensure the
6 proper management of the Division. The director's salary shall be set by the General Assembly.

7 (c) The Secretary may employ clerical staff, investigators, and other staff within the
8 Division as is necessary for the Division to perform its duties under this Article.
9 Notwithstanding Chapters 126, 143A, and 143B of the General Statutes or any other provision
10 of law, the director may hire or fire personnel and transfer personnel within the Division. The
11 Division shall be provided with adequate offices in which the Division's records shall be kept
12 and its official business transacted during regular business hours. The Division shall also be
13 provided with necessary office furniture, stationery, and other supplies.

14 (d) The Office of the State Chief Information Officer shall ensure that the Division is
15 provided with all necessary access to the Government Data Analytics Center and all other
16 information technology services.

17 **"§ 143-763. Division powers and duties.**

18 (a) The Division shall have the following duties:

- 19 (1) Be available during business hours to receive reports of employee
20 misclassification by telephonic, written, or electronic communication.
- 21 (2) Investigate reports of employee misclassification and coordinate with and
22 assist all relevant State agencies in recovering any back taxes, wages,
23 benefits, penalties, or other monies owed as a result of an employer engaging
24 in employee misclassification.
- 25 (3) Assess administrative civil penalties for instances of employee
26 misclassification as set forth in G.S. 143-765.
- 27 (4) Coordinate with relevant State agencies and District Attorneys' offices in the
28 prosecution of employers and individuals who fail to pay civil assessments
29 or penalties assessed as a result of the employer's or individual's involvement
30 in employee misclassification.
- 31 (5) Provide all relevant information pertaining to each instance of reported
32 employee misclassification to the North Carolina Department of Labor, the
33 North Carolina Division of Employment Security, and the North Carolina
34 Industrial Commission to facilitate investigation of potential violations of
35 Chapter 143, 95, 96, 97, or 105 of the General Statutes.
- 36 (6) Create a publicly available notice that includes the definition of employee
37 misclassification and indicates the civil penalties provided for in
38 G.S. 143-765.
- 39 (7) Develop methods and strategies for information sharing between State
40 agencies in order to proactively identify possible instances of employee
41 misclassification.
- 42 (8) Develop methods and strategies to educate employers, employees, and the
43 public about proper classification of employees and the prevention of
44 employee misclassification.

45 (b) The director shall appoint an informal advisory council to advise the director on
46 issues within the jurisdiction of the Division. The members of the advisory council shall
47 include, at a minimum:

- 48 (1) The following officers or the officer's designee:
 - 49 a. Commissioner of Labor.
 - 50 b. Secretary of Revenue.
 - 51 c. Chairman of the Industrial Commission.

- 1 d. Assistant Secretary of Commerce for the Division of Employment
2 Security.
3 e. State Budget Director.

4 (2) A representative of workers in this State.

5 (3) A representative of employers in this State.

6 The members of the council shall not receive compensation, per diem, or expense
7 reimbursement from the State Treasury for their service on the advisory council.

8 (c) No later than October 1 of each year, the Division shall publish annually to the
9 Office of the Governor and to the Joint Legislative Commission on Governmental Operations a
10 report of the administration of this Article, together with any recommendations as the Division
11 deems advisable. This report shall include, at a minimum, the number of reports of employee
12 misclassification received, the number and amount of back taxes, wages, benefits, penalties, or
13 other monies assessed, the amount of back taxes, wages, benefits, penalties, or other monies
14 collected, and the number of cases referred to each State agency.

15 (d) The Division shall adopt rules in accordance with Article 2A of Chapter 150B of the
16 General Statutes and that are not inconsistent with this Article for the purpose of carrying out
17 the provisions of this Article and establishing the processes and procedures to be used under
18 this Article.

19 **"§ 143-764. Determination of independent contractor status.**

20 (a) The following factors shall be considered in determining whether an individual is an
21 independent contractor for purposes of this Article:

22 (1) Whether the individual is engaged in an independent business, calling, or
23 occupation.

24 (2) Whether the individual is to have the independent use of his or her special
25 skill, knowledge, or training in the execution of the work.

26 (3) Whether the individual is doing a specified piece of work at a fixed price or
27 for a lump sum or upon a quantitative basis.

28 (4) Whether the individual is not subject to discharge because he or she adopts
29 one method of doing the work rather than another.

30 (5) Whether the individual is not in the regular employ of the other contracting
31 party.

32 (6) Whether the individual is free to use such assistants as he or she may think
33 proper.

34 (7) Whether the individual has full control over such assistants.

35 (8) Whether the individual selects his or her own time.

36 (b) The presence of one or more of the foregoing factors is not controlling, nor is the
37 presence of all of the foregoing factors required in determining whether an individual is an
38 independent contractor.

39 (c) The provisions of this section are intended to codify the holding in *Hayes v. Board*
40 *of Trustees of Elon College*, 224 N.C. 11 (1944). Other factors consistent with that holding may
41 also be considered in making a determination under this section.

42 **"§ 143-765. Employee misclassification prohibited; civil penalties; repeated instances of**
43 **misclassification.**

44 (a) Employee misclassification is prohibited.

45 (b) Any employer who is found by the Division to have engaged in willful employee
46 misclassification after being assessed any back taxes, wages, benefits, penalties, or other
47 monies by any State agency as a result of misclassifying one or more employees within the
48 previous three calendar years shall be assessed a civil penalty of no greater than one thousand
49 dollars (\$1,000) per misclassified employee for any future instances of employee
50 misclassification. In determining the amount of the penalty to be assessed, the Division shall
51 consider the degree of willfulness or negligence by the employer in engaging in the employee

1 misclassification. The penalty herein provided shall be assessed by the Division
2 administratively. Any employer found by the Division to have engaged in employee
3 misclassification or any other violation of this Article may, within 60 days of receiving written
4 notification of a final finding by the Division, appeal the final finding and any accompanying
5 penalty or other sanction by either (i) commencing a contested case under Chapter 150B of the
6 General Statutes or (ii) filing a petition with the Superior Court of Wake County or of such
7 county where the events giving rise to the finding arose. The procedure shall be the same as in
8 all other contested cases or civil actions, except that the review of the Division's findings and
9 any accompanying penalties or sanctions shall be de novo for both factual findings and
10 questions of law. Enforcement of the penalty shall be made by the Office of the Attorney
11 General. The clear proceeds of penalties provided for in this subsection shall be remitted to the
12 Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2.

13 (c) Nothing in this section shall be construed to create a private right of action, at law or
14 in equity, for the activities prohibited by this Article.

15 **"§ 143-766. Temporary amnesty program.**

16 (a) The Division shall establish and administer a temporary amnesty program for the
17 purpose of encouraging voluntary self-reporting by employers currently engaging in employee
18 misclassification. Every employer participating in the temporary amnesty program shall be
19 immune from the civil penalties provided for in G.S. 143-765 for past instances of employee
20 misclassification that are voluntarily self-reported by the employer in accordance with the
21 procedures of the temporary amnesty program.

22 (b) The Division shall establish procedures for participation in the temporary amnesty
23 program. These procedures shall require, at a minimum, that a participating employer:

24 (1) File an application with the Division on a form prescribed by the Division on
25 or before October 1, 2016. This form shall require, at a minimum, the
26 employer's name, physical address, mailing address, telephone number,
27 Social Security number or taxpayer ID number, and disclosure of all actual
28 or potential instances of employee misclassification. If available, this form
29 shall require the employer's registered agent, drivers license number, license
30 number(s), and issuing agency of all licenses issued by a State licensing
31 board.

32 (2) Comply with any and all determinations made or directives issued by the
33 Division pertaining to the employer's application and compliance with this
34 Article.

35 (c) Nothing in this section shall be construed to limit the liability of a participating
36 employer in any civil or criminal matter not provided for by this Article.

37 **"§ 143-767. Occupational licensing boards and commissions; notice requirement;**
38 **applicant certification.**

39 (a) Every State occupational licensing board or commission that is authorized to issue
40 any license, permit, or certification shall include on every application for licensure, permit, or
41 certification, or application for renewal of the same, a certification that the applicant has read
42 and understands the employee misclassification notice set forth in G.S. 143-763(a)(7).

43 (b) Every applicant for a license, permit, or certification issued by a State occupational
44 licensing board or commission shall truthfully certify on the appropriate application that the
45 applicant has read and understands the employee misclassification notice set forth in
46 G.S. 143-763(a)(7).

47 (c) An occupational licensing board or commission shall deny the license, permit, or
48 certification application of any applicant who fails to comply with the certification requirement
49 set forth in subsection (b) of this section.

50 **"§ 143-768. Confidentiality; access to records.**

1 The records of the Division that are not civil penalty assessments or final orders relating to
2 an appeal of a civil penalty assessment, insofar as they refer to reported violations,
3 investigations, or other enforcement actions taken by the Division, are not public records under
4 G.S. 132-1 but may be shared by the Division with State and federal agencies as permitted or
5 required by law."

6 **SECTION 1.2.** G.S. 97-5.1 is repealed.

7 **SECTION 1.3.** G.S. 105-259(b) is amended by adding a new subdivision to read:

8 "(49) To furnish to the North Carolina Department of Labor, the North Carolina
9 Division of Employment Security, and the North Carolina Industrial
10 Commission employee misclassification information pursuant to
11 G.S. 143-763(a)(5) unless prohibited by law."

12 **SECTION 1.4.** G.S. 143-760, 143-761, and 143-762 are effective when the act
13 becomes law. The remainder of this section becomes effective January 1, 2016, and applies to
14 instances of employee misclassification occurring on or after that date.

15

16 **PART II. MISCLASSIFICATION NOTICE ADDED TO NCDOL POSTERS**

17 **SECTION 2.1.** G.S. 95-25.15(c) reads as rewritten:

18 "(c) A poster summarizing the major provisions of this Article shall be displayed in
19 every establishment subject to this Article. This poster shall also include notice indicating the
20 following:

- 21 (1) Any worker who is defined as an employee by either G.S. 95-25.2(4),
22 143-761(2), 96-1(10), 97-2(2), or 105-163.1(4) shall be treated as an
23 employee unless the individual is an independent contractor.
24 (2) Any employee who believes that he or she has been misclassified as an
25 independent contractor by their employer may report the suspected
26 misclassification to the Employee Classification Division within the
27 Department of Revenue.
28 (3) The physical location, mailing address, telephone number, and e-mail
29 address where alleged incidents of employee misclassification may be
30 reported to the Employee Classification Division within the Department of
31 Revenue."

32

33 **PART III. SANCTIONS AND OTHER REQUIREMENTS CONCERNING**

34 **EMPLOYEE MISCLASSIFICATION**

35 **SECTION 3.1.** G.S. 87-11 reads as rewritten:

36 "**§ 87-11. Revocation of license; charges of fraud, negligence, incompetency, etc.; hearing**
37 **thereon; reissuance of certificate.**

38 (a) The Board shall have the power to refuse to issue or renew or revoke, suspend, or
39 restrict a certificate of license or to issue a reprimand or take other disciplinary action if a
40 general contractor licensed under this Article is found guilty of any fraud or deceit in obtaining
41 a license, or gross negligence, incompetency, or misconduct in the practice of his or her
42 profession, or willful violation of any provision of this ~~Article~~ Article, or if a penalty was
43 imposed pursuant to G.S. 143-765(b) that has been upheld upon final adjudication, the violation
44 giving rise to the penalty was willful, and there was no good-faith argument that the individual
45 was an independent contractor. The Board shall also have the power to revoke, suspend, or
46 otherwise restrict the ability of any person to act as a qualifying party for a license to practice
47 general contracting, as provided in G.S. 87-10(c), for any copartnership, corporation or any
48 other organization or combination, if that person committed any act in violation of the
49 provisions of this section and the Board may take disciplinary action against the individual
50 license held by that person.

1 (a1) Any person may prefer charges of fraud, deceit, negligence, or misconduct against
2 any general contractor licensed under this Article. The charges shall be in writing and sworn to
3 by the complainant and submitted to the Board. The charges, unless dismissed without hearing
4 by the Board as unfounded or trivial, shall be heard and determined by the Board in accordance
5 with the provisions of Chapter 150B of the General Statutes.

6 (b) The Board shall adopt and publish guidelines, consistent with the provisions of this
7 Article, governing the suspension and revocation of licenses. These guidelines shall include
8 references to the prohibition of employee misclassification under Article 81 of Chapter 143 of
9 the General Statutes and state that engaging in employee misclassification is grounds for
10 revocation of a license issued under this Article.

11 (c) The Board shall establish and maintain a system whereby detailed records are kept
12 regarding complaints against each licensee. This record shall include, for each licensee, the date
13 and nature of each complaint, investigatory action taken by the Board, any findings by the
14 Board, and the disposition of the matter.

15 (d) The Board may reissue a license to any person, firm or corporation whose license
16 has been revoked: Provided, five or more members of the Board vote in favor of such
17 reissuance for reasons the Board may deem sufficient.

18 The Board shall immediately notify the Secretary of State of its findings in the case of the
19 revocation of a license or of the reissuance of a revoked license.

20 A certificate of license to replace any certificate lost, destroyed or mutilated may be issued
21 subject to the rules and regulations of the Board.

22 (e) The Board shall be entitled to recover its reasonable administrative costs associated
23 with the investigation and prosecution of a violation of this Article or rules or regulations of the
24 Board up to a maximum of five thousand dollars (\$5,000) for any licensee or qualifying party
25 found to have committed any of the following:

26 (1) Fraud or deceit in obtaining a license.

27 (2) Gross negligence, incompetency, or misconduct in the practice of general
28 contracting.

29 (3) Willful violation of any provision of this Article."

30 **SECTION 3.1A.** G.S. 87-23 reads as rewritten:

31 "**§ 87-23. Revocation or suspension of license for cause.**

32 (a) The Board shall have power to revoke or suspend the license of or order the
33 reprimand or probation of any plumbing, heating, or fire sprinkler contractor, or any
34 combination thereof, who is guilty of any fraud or deceit in obtaining or renewing a license, or
35 who fails to comply with any provision or requirement of this Article, or the rules adopted by
36 the Board, if a penalty was imposed pursuant to G.S. 143-765(b) that has been upheld upon
37 final adjudication, the violation giving rise to the penalty was willful, and there was no
38 good-faith argument that the individual was an independent contractor, or for gross negligence,
39 incompetency, or misconduct, in the practice of or in carrying on the business of a plumbing,
40 heating, or fire sprinkler contractor, or any combination thereof, as defined in this Article. Any
41 person may prefer charges of such fraud, deceit, gross negligence, incompetency, misconduct,
42 or failure to comply with any provision or requirement of this Article, or the rules of the Board,
43 against any plumbing, heating, or fire sprinkler contractor, or any combination thereof, who is
44 licensed under the provisions of this Article. All of the charges shall be in writing and
45 investigated by the Board. Any proceedings on the charges shall be carried out by the Board in
46 accordance with the provisions of Chapter 150B of the General Statutes.

47 (b) The Board shall adopt and publish guidelines, consistent with the provisions of this
48 Chapter, governing the suspension and revocation of licenses.

49 (c) The Board shall establish and maintain a system whereby detailed records are kept
50 regarding complaints against each licensee.

1 (d) The Board may conduct audits of the pay records and project records of licensee
2 firms in furtherance of this Article or the Employee Fair Classification Act, Article 81 of
3 Chapter 143 of the General Statutes."

4 **SECTION 3.1B.** G.S. 87-42 reads as rewritten:

5 "**§ 87-42. Duties and powers of Board.**

6 In order to protect the life, health and property of the public, the State Board of Examiners
7 of Electrical Contractors shall provide for the written examination of all applicants for
8 certification as a qualified individual, as defined in G.S. 87-41.1. The Board shall receive all
9 applications for certification as a qualified individual and all applications for licenses to be
10 issued under this Article, shall examine all applicants to determine that each has met the
11 requirements for certification and shall discharge all duties enumerated in this Article.
12 Applicants for certification as a qualified individual must be at least 18 years of age and shall
13 be required to demonstrate to the satisfaction of the Board their good character and adequate
14 technical and practical knowledge concerning the safe and proper installation of electrical work
15 and equipment. The examination to be given for this purpose shall include, but not be limited
16 to, the appropriate provisions of the National Electrical Code as incorporated in the North
17 Carolina State Building Code, the analysis of electrical plans and specifications, estimating of
18 electrical installations, and the fundamentals of the installation of electrical work and
19 equipment. Certification of qualified individuals shall be issued in the same classifications as
20 provided in this Article for license classifications. The Board shall prescribe the standards of
21 knowledge, experience and proficiency to be required of qualified individuals, which may vary
22 for the various license classifications. The Board shall issue certifications and licenses to all
23 applicants meeting the requirements of this Article and of the Board upon the receipt of the fees
24 prescribed by G.S. 87-44. The Board shall have power to make rules and regulations necessary
25 to the performance of its duties and for the effective implementation of the provisions of this
26 Article. The Board may conduct audits of the pay records and project records of licensee firms
27 in furtherance of this Article or the Employee Fair Classification Act, Article 81 of Chapter 143
28 of the General Statutes. The Board shall have the power to administer oaths and issue
29 subpoenas requiring the attendance of persons and the production of papers and records before
30 the Board in any hearing, investigation, or proceeding conducted by it. Members of the Board's
31 staff or the sheriff or other appropriate official of any county of this State shall serve all notices,
32 subpoenas, and other papers given to them by the Chairman for service in the same manner as
33 process issued by any court of record. Any person who neglects or refuses to obey a subpoena
34 issued by the Board shall be guilty of a Class 1 misdemeanor. The Board shall have the power
35 to acquire, rent, encumber, alienate, and otherwise deal with real property in the same manner
36 as a private person or corporation, subject only to approval of the Governor and the Council of
37 State. Collateral pledged by the Board for an encumbrance is limited to the assets, income, and
38 revenues of the Board. The Board shall keep minutes of all its proceedings and shall keep an
39 accurate record of receipts and disbursements which shall be audited at the close of each fiscal
40 year by a certified public accountant, and the audit report shall be filed with the State of North
41 Carolina in accordance with Chapter 93B of the General Statutes."

42 **SECTION 3.1C.** G.S. 87-47(a1) reads as rewritten:

43 "(a1) The following activities are prohibited:

- 44 (1) Offering to engage or engaging in electrical contracting without being
45 licensed.
- 46 (2) Selling, transferring, or assigning a license, regardless of whether for a fee.
- 47 (3) Aiding or abetting an unlicensed person, partnership, firm, or corporation to
48 offer to engage or to engage in electrical contracting.
- 49 (4) Being convicted of a crime involving fraud or moral turpitude.
- 50 (5) Engaging in fraud or misrepresentation to obtain a certification, obtain or
51 renew a license, or practice electrical contracting.

- 1 (6) Engaging in false or misleading advertising.
2 (7) Engaging in malpractice, unethical conduct, fraud, deceit, gross negligence,
3 gross incompetence, or gross misconduct in the practice of electrical
4 contracting.
5 (8) Willfully engaging in employee misclassification in violation of
6 G.S. 143-765(b) where there was no good-faith argument that the individual
7 was an independent contractor."

8 **SECTION 3.2.** G.S. 143-59.2(a) reads as rewritten:

9 "(a) Ineligible Vendors. – A vendor is not entitled to enter into a contract for goods or
10 services with any department, institution, or agency of the State government subject to the
11 provisions of this Article if any officer or director of the vendor, or any owner if the vendor is
12 an unincorporated business ~~entity,entity~~; within five years prior to the date of the bid
13 solicitation, has been assessed a civil penalty pursuant to G.S. 143-765(b) that has been upheld
14 upon final adjudication, the violation giving rise to the penalty was willful, and there was no
15 good-faith argument that the individual was an independent contractor; or within 10 years
16 immediately prior to the date of the bid solicitation, has been convicted of any violation of
17 Chapter 78A of the General Statutes or the Securities Act of 1933 or the Securities Exchange
18 Act of 1934."

19 **SECTION 3.3.** G.S. 153A-134 is amended by adding a new subsection to read:

20 "(d) An applicant subject to regulation and licensure by a county under this section shall
21 certify to the county on the relevant application that the applicant has read and understands the
22 employee misclassification notice required under G.S. 143-763(a)(7)."

23 **SECTION 3.4.** G.S. 160A-194 is amended by adding a new subsection to read:

24 "(d) An applicant subject to regulation and licensure by a city under this section shall
25 certify to the city on the relevant application that the applicant has read and understands the
26 employee misclassification notice required under G.S. 143-763(a)(7)."

27 **SECTION 3.5.** G.S. 153A-360 reads as rewritten:

28 "**§ 153A-360. Inspections of work in progress.**

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

39 (b) Each owner shall certify to the county on the relevant application that the owner has
40 read and understands the employee misclassification notice required under G.S. 143-763(a)(7)."

41 **SECTION 3.6.** G.S. 160A-420 reads as rewritten:

42 "**§ 160A-420. Inspections of work in progress.**

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

1 (b) Each owner shall certify to the city on the relevant application that the owner has
2 read and understands the employee misclassification notice required under G.S. 143-763(a)(7)."
3

4 **PART IV. APPROPRIATIONS**

5 **SECTION 4.(a)** There is appropriated from the General Fund to the Department of
6 Revenue the sum of two hundred ninety-three thousand dollars (\$293,000) for the 2015-2016
7 fiscal year and the sum of two hundred ninety-three thousand dollars (\$293,000) for the
8 2016-2017 fiscal year to establish up to five new positions in the Employee Classification
9 Division of the Department of Revenue to carry out the duties of the Division pursuant to
10 G.S. 143-763. The Department of Revenue shall consult with the Industrial Commission, the
11 Office of State Budget and Management, the Division of Employment Security of the
12 Department of Commerce, and the Department of Labor in hiring staff for this function.

13 **SECTION 4.(b)** There is appropriated from the General Fund to the Employee
14 Classification Division of the Department of Revenue the sum of seventeen thousand five
15 hundred dollars (\$17,500) for the 2015-2016 fiscal year for nonrecurring costs associated with
16 the positions authorized by this section.
17

18 **PART V. SEVERABILITY**

19 **SECTION 5.** 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 so declared to be unconstitutional or invalid.
22

23 **PART VI. EFFECTIVE DATE**

24 **SECTION 6.** Except as otherwise provided, this act becomes effective January 1,
25 2016.