

GENERAL ASSEMBLY OF NORTH CAROLINA
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SENATE BILL DRS35233-NO-31C

Short Title: ROD Code of Ethics & Breach Notices/Costs. (Public)

Sponsors: Senators Daniel, B. Newton, and Britt (Primary Sponsors).

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT REQUIRING COUNTY BOARDS OF COMMISSIONERS TO ADOPT A CODE OF
3 ETHICS FOR REGISTERS OF DEEDS AND TO PROVIDE A PROCESS TO REMOVE
4 A REGISTER OF DEEDS FROM OFFICE FOR CERTAIN ACTIONS FOUND TO BE IN
5 VIOLATION OF THE CODE OF ETHICS AND REQUIRING THIRD-PARTY ENTITIES
6 THAT CAUSE SECURITY BREACHES TO PAY FOR OR REIMBURSE NORTH
7 CAROLINA GOVERNMENTS FOR COSTS ASSOCIATED WITH BREACH
8 NOTIFICATIONS UNDER THE IDENTITY THEFT PROTECTION ACT.

9 The General Assembly of North Carolina enacts:

10
11 **PART I. ESTABLISHING A CODE OF ETHICS AND REMOVAL PROCESS FOR**
12 **REGISTERS OF DEEDS.**

13 **SECTION 1.** Article 1 of Chapter 161 of the General Statutes is amended by adding
14 a new section to read:

15 **"§ 161-11.7. Code of ethics for registers of deeds.**

16 (a) Code of Ethics Established. – Notwithstanding the provisions of G.S. 153A-76(a) or
17 any other provision of law, each county board of commissioners shall adopt a resolution or policy
18 establishing a code of ethics to guide actions by the county's register of deeds in the performance
19 of his or her official duties. The code of ethics shall seek to ensure the proper performance of
20 duties and the maintenance of integrity, professionalism, and respect within the office of the
21 register of deeds, and shall address at least all of the following:

22 (1) The need to faithfully perform the duties of the office.

23 (2) The need to uphold the integrity of the office.

24 (3) The need to avoid impropriety in the exercise of the register of deeds' official
25 duties.

26 (4) The need to maintain professionalism and respect toward the public,
27 employees, and all stakeholders associated with the office.

28 (b) Complaint; Review. – A person alleging that a register of deeds has violated the code
29 of ethics established under subsection (a) of this section may file a written complaint with the
30 county manager providing sufficient information to adequately describe how the register of deeds
31 allegedly violated the code of ethics. Upon receipt of the complaint, the county manager shall,
32 by registered mail, return receipt requested, give notice to the register of deeds that a complaint
33 has been made against him or her and the allegations included in the complaint and shall inform
34 the board of the complaint and allegations made therein. Not later than 10 business days after
35 receipt of the complaint, the register of deeds may respond in writing to the county manager. The
36 county manager shall, in a closed review, promptly consider whether the allegations made in the



1 complaint constitute a violation of the code of ethics established under subsection (a) of this
2 section but, in no case, shall the closed review be held more than 15 business days after the
3 complaint is filed. If the county manager finds that the register of deeds violated the code of
4 ethics, the county manager shall, in a written report, inform the board of his or her findings and
5 conclusions in detail and the basis for the same.

6 (c) Public Hearing. – The board shall, in a closed session, consider the report submitted
7 by the county manager. If the board determines that the findings in the report constitute a
8 violation of the code of ethics, the board shall hold a public hearing on the matter not later than
9 15 business days after the county manager's review. The board shall by registered mail, return
10 receipt requested, notify the register of deeds and the complainant of the date, time, and place of
11 the public hearing, and that they are entitled to be represented by counsel and to inspect and copy
12 any records upon which the board plans to rely upon at the public hearing if the records are
13 requested, in writing, by the register of deeds, the complainant, or their attorney prior to the day
14 set for the public hearing. For the public hearing held under this section, the board shall comply
15 with all applicable laws governing open meetings and public records.

16 (d) Decision; Sanctions. – The board shall render its decision, in writing, on whether the
17 register of deeds violated the code of ethics not later than 10 business days after the public hearing
18 is held. Notwithstanding the provisions of G.S. 153A-76(a) or any other provision of law, if the
19 board determines, by a majority vote, that the register of deeds violated the code of ethics, the
20 board may, but shall not be required to, impose one or more of the following sanctions: (i) private
21 censure, (ii) public censure, (iii) suspension from office without pay, or (iv) removal from the
22 office of the register of deeds; provided, however, a register of deeds may be removed from office
23 only if one of the following grounds is found:

24 (1) Willful or habitual neglect or refusal to perform the duties of the office.

25 (2) Willful misconduct or maladministration in office.

26 (3) Corruption.

27 (4) Extortion.

28 (5) Conviction of a felony.

29 (6) Sexual harassment or sexual misconduct.

30 (7) Creation of a hostile work environment within the office.

31 (e) Vacancy of Office. – If the board suspends or removes a register of deeds from office
32 pursuant to subsection (d) of this section, the board shall fill the vacant office as provided by
33 G.S. 161-5.

34 (f) Appeal. – A register of deeds may appeal any action taken by the board under
35 subsection (d) of this section to the judge of superior court resident in, or holding the courts of,
36 the county in which the register of deeds holds office. The county shall be listed as the respondent
37 in the register of deeds' appeal, and it shall be the duty of the county attorney to appear and defend
38 any action taken by the board under this section. An appeal under this subsection shall be
39 advanced and take precedence over all other causes upon the superior court calendar and shall be
40 heard at the next session after the appeal is filed, provided the appeal is filed in the court in time
41 for the appeal to be heard. If the final termination of the appeal is favorable to the accused register
42 of deeds, he or she shall be allowed the reasonable and necessary expense incurred in making his
43 or her defense, including a reasonable attorney fee, to be fixed by the judge, and that amount
44 shall be paid to the accused by the county.

45 (g) County without Manager; Clerk of Superior Court. – If, at the time a complaint is
46 filed as provided in subsection (b) of this section, the county has not adopted or does not operate
47 under the county-manager plan as provided in Part 3 of Article 5 of Chapter 153A of the General
48 Statutes, the board shall perform all duties imposed on the county manager under this section or
49 the board may designate the head of any county department to perform the duties. If, at the time
50 a complaint is filed as provided in subsection (b) of this section, the county has adopted the
51 county-manager plan under Part 2 Article 5 of Chapter 153A of the General Statutes and the

1 register of deeds serves as clerk to the board as authorized by G.S. 161-23, the complaint shall
2 be filed with the county manager, but the clerk of superior court of the county shall perform all
3 duties imposed on the board under this section."

4 **SECTION 2.** G.S. 153A-76 reads as rewritten:

5 **"§ 153A-76. Board of commissioners to organize county government.**

6 (a) The board of commissioners may create, change, abolish, and consolidate offices,
7 positions, departments, boards, commissions, and agencies of the county government, may
8 impose ex officio the duties of more than one office on a single officer, may change the
9 composition and manner of selection of boards, commissions, and agencies, and may generally
10 organize and reorganize the county government in order to promote orderly and efficient
11 administration of county affairs, subject to the following limitations:

12 ...

13 (b) Notwithstanding the provisions of subsection (a) of this section or any other provision
14 of law, the board of commissioners may sanction or remove a register of deeds as provided in
15 G.S. 161-11.7."

16 **SECTION 3.** G.S. 161-23 reads as rewritten:

17 **"§ 161-23. Clerk to board of commissioners.**

18 The register of deeds, or such other county officer or employee as the board of county
19 commissioners shall designate in accordance with the provisions of ~~G.S. 153-40~~, G.S. 153A-111,
20 shall be ex officio clerk of the board of county commissioners, and as such shall perform the
21 duties imposed by law or by order of said board."

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23 **PART II. SECURITY BREACH NOTIFICATIONS AND ASSOCIATED COSTS.**

24 **SECTION 4.** Article 2A of Chapter 75 of the General Statutes is amended by adding
25 a new section to read:

26 **"§ 75-67. Governmental entities; breach notification and associated legal fees.**

27 Where a security breach or unauthorized release, as defined in G.S. 75-61 or in any other
28 applicable State or federal regulation, results from the acts or omissions of a third-party vendor
29 or contractor, the third-party vendor or contractor shall pay for or reimburse a North Carolina
30 governmental entity for the full cost of the notifications required by G.S. 75-65 and any
31 associated legal fees. This payment shall be made either through the third party's cyber liability
32 insurance provider or through the third party's own entity funds."

33
34 **PART III. EFFECTIVE DATE.**

35 **SECTION 5.** Section 4 of this act is effective when it becomes law and applies to
36 acts and omissions occurring on or after that date. The remainder of this act is effective when it
37 becomes law.