

**GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2013**

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**SENATE BILL 734**

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

**Finance Committee Substitute Adopted 5/21/14**

**Fourth Edition Engrossed 5/29/14**

**PROPOSED HOUSE COMMITTEE SUBSTITUTE S734-CSRO-46 [v.9]**

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Short Title: Regulatory Reform Act of 2014.

(Public)

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Sponsors:

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Referred to:

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May 15, 2014

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4 REFORMS, BY ELIMINATING CERTAIN UNNECESSARY OR OUTDATED  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6 CUMBERSOME OR OUTDATED REGULATIONS, AND BY MAKING VARIOUS  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. ADMINISTRATIVE REFORMS**

11  
12 **ELIMINATE, AS OBSOLETE, THE SMALL BUSINESS CONTRACTOR**  
13 **AUTHORITY, THE COMMITTEE ON DROPOUT PREVENTION, THE STATE**  
14 **EDUCATION COMMITTEE, THE STATE EDUCATION COMMISSION, THE**  
15 **NATIONAL HERITAGE AREA DESIGNATION COMMISSION, THE GOVERNOR'S**  
16 **MANAGEMENT COUNCIL, THE BOARD OF DIRECTORS OF THE NORTH**  
17 **CAROLINA CENTER FOR NURSING, THE BOARD OF CORRECTIONS; AND TO**  
18 **ENCOURAGE THE CHIEF JUSTICE TO ABOLISH THE ACTUAL INNOCENCE**  
19 **COMMISSION**

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21 repealed.

22 **SECTION 1.1.(b)** Section 7.32(e) of S.L. 2007-323, as rewritten by Section  
23 7.14(a) of S.L. 2008-107 and Section 7.19(e) of S.L. 2010-31, reads as rewritten:

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

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

29 **"§ 116C-1. Education Cabinet created.**

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



(b) The Education Cabinet shall consist of the Governor, who shall serve as chair, the President of The University of North Carolina, the State Superintendent of Public Instruction, the Chairman of the State Board of Education, the President of the North Carolina Community Colleges System, the Secretary of Health and Human Services, and the President of the North Carolina Independent Colleges and Universities. The Education Cabinet may invite other representatives of education to participate in its deliberations as adjunct members.

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

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

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

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

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

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

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

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

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

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

**SECTION 1.1.(g)** Part 24 of Article 9 of Chapter 143B is repealed.

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

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

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

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

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

**SECTION 1.1.(k)** The North Carolina Actual Innocence Commission was established by the Chief Justice of the North Carolina Supreme Court. Its primary purpose was to make recommendations which would reduce or eliminate the possibility of the wrongful conviction of an innocent person. In 2006, the General Assembly enacted S.L. 2006-184, which established the North Carolina Innocence Inquiry Commission, as recommended by the North Carolina Actual Innocence Commission. Inasmuch as it appears that the work of the Actual Innocence Commission is complete, the Chief Justice of the North Carolina Supreme Court is encouraged to take appropriate action to formally abolish the Commission.

## **CLARIFY PROCESS FOR READOPTION OF EXISTING RULES**

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

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

(1) With regard to the review process, the Commission shall assign by assigning each Title of the Administrative Code a date by which the review required by this section must be completed. In establishing the schedule, the

Commission shall consider the scope and complexity of rules subject to this section and the resources required to conduct the review required by this section. The Commission shall have broad authority to modify the schedule and extend the time for review in appropriate circumstances. Except as provided in ~~subsection~~ subsections (e) and (f) of this section, if the agency fails to conduct the review by the date set by the Commission, the rules contained in that Title which have not been reviewed will expire. The Commission shall report to the Committee any agency that fails to conduct the review. The Commission may exempt rules that have been adopted or amended within the previous 10 years from the review required by this section. However, any rule exempted on this basis must be reviewed in accordance with this section no more than 10 years following the last time the rule was amended.

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

## **AUTHORIZE LICENSING BOARDS TO ADOPT RULES FOR PROFESSIONAL CORPORATIONS**

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

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

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

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

## **OCCUPATIONAL LICENSING BOARD REPORTING AMENDMENTS**

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

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

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

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

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

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

(3) The number who were refused examination.

(4) The number who took the examination.

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

(5a) The number who failed the examination.

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

- (7) The number who were granted licenses by reciprocity or comity.
- (7a) The number of official complaints received involving licensed and unlicensed activities.
- (7b) The number of disciplinary actions taken against licensees, or other actions taken against nonlicensees, including injunctive relief.
- (8) The number of licenses suspended or revoked.
- (9) The number of licenses terminated for any reason other than failure to pay the required renewal fee.
- (10) The substance of any anticipated request by the occupational licensing board to the General Assembly to amend statutes related to the occupational licensing board.
- (11) The substance of any anticipated change in rules adopted by the occupational licensing board or the substance of any anticipated adoption of new rules by the occupational licensing board.
- (b) No later than October 31 of each year, each occupational licensing board shall file electronically with the Secretary of State, the Attorney General, the Office of State Budget and Management, and the Joint ~~Regulatory Reform~~ Legislative Administrative Procedure Oversight Committee a financial report that includes the source and amount of all funds credited to the occupational licensing board and the purpose and amount of all funds disbursed by the occupational licensing board during the previous fiscal year.
- (c) The reports required by this section shall be open to public inspection.
- (d) The Joint Legislative Administrative Procedure Oversight Committee shall notify any board that fails to file the reports required by this section. Failure of a board to comply with the reporting requirements of this section by October 31 of each year shall result in a suspension of the board's authority to expend any funds until such time as the board files the required reports. Suspension of a board's authority to expend funds under this subsection shall not affect the board's duty to issue and renew licenses or the validity of any application or license for which fees have been tendered in accordance with law. Each board shall adopt rules establishing a procedure for implementing this subsection and shall maintain an escrow account into which any fees tendered during a board's period of suspension under this subsection shall be deposited."

### OAH ELECTRONIC FILING

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

**"§ 150B-23.3. Electronic filing.**

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

- (1) Electronic filing means the electronic transmission of the petition, notice of hearing, pleadings, or any other documents filed in a contested case with the Office of Administrative Hearings, as further defined by rules adopted by the Office of Administrative Hearings.
- (2) Electronic Filing Service Provider (EFSP) means the service provided by the Office of Administrative Hearings for e-filing and e-service of documents via the Internet.
- (3) Electronic service means the electronic transmission of the petition, notice of hearing, pleadings, or any other documents in a contested case, as further defined by rules adopted by the Office of Administrative Hearings."

**SECTION 1.5.(b)** This section is effective when it becomes law and applies to contested cases filed on or after that date.

**STREAMLINE RULE-MAKING PROCESS**

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

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

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

(a) State Funds. – Before an agency ~~adopts~~ publishes in the North Carolina Register the proposed text of a permanent rule change that would require the expenditure or distribution of funds subject to the State Budget Act, Chapter 143C of the General Statutes it must submit the text of the proposed rule change, an analysis of the proposed rule change, and a fiscal note on the proposed rule change to the Office of State Budget and Management and obtain certification from the Office of State Budget and Management that the funds that would be required by the proposed rule change are available. ~~The agency shall submit the text of the proposed rule change, an analysis of the proposed rule change, and a fiscal note on the proposed rule change to the Office at the same time as the agency submits the notice of text for publication pursuant to G.S. 150B-21.2.~~ The fiscal note must state the amount of funds that would be expended or distributed as a result of the proposed rule change and explain how the amount was computed. The Office of State Budget and Management must certify a proposed rule change if funds are available to cover the expenditure or distribution required by the proposed rule change.

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

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

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

time period, the agency proposing the rule change shall prepare a fiscal note. A fiscal note prepared in this circumstance does not require approval of the Office of State Budget and Management.

If an agency prepares the required fiscal note, the agency must submit the note to the Office of State Budget and Management for review. The Office of State Budget and Management shall review the fiscal note within 14 days after it is submitted and either approve the note or inform the agency in writing of the reasons why it does not approve the fiscal note. After addressing these reasons, the agency may submit the revised fiscal note to that Office for its review. If an agency is not sure whether a proposed rule change would have a substantial economic impact, the agency shall ask the Office of State Budget and Management to determine whether the proposed rule change has a substantial economic impact. Failure to prepare or obtain approval of the fiscal note as required by this subsection shall be a basis for objection to the rule under G.S. 150B-21.9(a)(4).

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

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

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

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

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

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

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

## **PART II. BUSINESS REGULATION**

**PROHIBIT CERTAIN HEADLIGHTS**

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

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

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

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

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

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

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

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

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

**BAIL BOND SHIELD AMENDMENT**

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

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

- (1) Be an exact duplicate in size, shape, color, and design of the shield approved under G.S. 74C-5(12) and pictured in 12 NCAC 07D. 0405 on ~~May 1, 2013~~ May 1, 2013, except that the design may be altered by stamping,

inlaying, embossing, enameling, or engraving to accommodate the license number.

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

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

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

## REPEAL OUTDATED PUBLIC UTILITIES STATUTES OR REPORTS

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

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

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

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

"

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

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

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

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

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

**SECTION 2.4.(e)** Section 6.1 of S.L. 1995-27 is repealed.

## MERCHANT EXEMPTION FROM LOCKSMITH LICENSING

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

### "§ 74F-16. Exemptions.

The provisions of this Chapter do not apply to:

...

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

...."

## CLARIFY PROFESSIONAL ENGINEER EXEMPTION

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

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

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



- (1) ~~The practice of architecture, architecture as defined in Chapter 83A of the General Statutes, landscape architecture, landscape architecture as defined in Chapter 89A of the General Statutes, or contracting or any other legally recognized profession or trade, contracting as defined in Articles 1, 2, 4, and 5 of Chapter 87 of the General Statutes.~~
- (2) Repealed by Session Laws 2011-304, s. 7, effective June 26, 2011.
- (3) Repealed by Session Laws 2011-304, s. 7, effective June 26, 2011.
- (4) Engaging in engineering or land surveying as an employee or assistant under the responsible charge of a professional engineer or professional land surveyor or as an employee or assistant of a nonresident professional engineer or a nonresident professional land surveyor provided for in subdivisions (2) and (3) of this section, provided that the work as an employee may not include responsible charge of design or supervision. surveyor.
- (5) The practice of professional engineering or land surveying by any person not a resident of, and having no established place of business in this State, as a consulting associate of a professional engineer or professional land surveyor licensed under the provisions of this Chapter; provided, the nonresident is qualified for performing the professional service in the person's own state or country.
- (6) Practice by members of the Armed Forces of the United States; employees of the government of the United States while engaged in the practice of engineering or land surveying solely for the government on government-owned works and projects; or practice by those employees of the Natural Resources Conservation Service, county employees, or employees of the Soil and Water Conservation Districts who have federal engineering job approval authority that involves the planning, designing, or implementation of best management practices on agricultural lands.
- (7) ~~The internal engineering or surveying activities of a person, firm or corporation engaged in manufacturing, processing, or producing a product, including the activities of public service corporations, public utility companies, authorities, State agencies, railroads, or membership cooperatives, or the installation and servicing of their product in the field; or research and development in connection with the manufacture of that product or their service; or of their research affiliates; or their employees in the course of their employment in connection with the manufacture, installation, or servicing of their product or service in the field, or on the premises maintenance of machinery, equipment, or apparatus incidental to the manufacture or installation of the product or service of a firm by the employees of the firm upon property owned, leased or used by the firm; inspection, maintenance and service work done by employees of the State of North Carolina, any political subdivision of the State, or any municipality including construction, installation, servicing, maintenance by regular full-time employees of streets, street lighting, traffic control signals, police and fire alarm systems, waterworks, steam, electric and sewage treatment and disposal plants; the services of superintendents, inspectors or foremen regularly employed by the State of North Carolina or any political subdivision of the State or a municipal corporation; provided, however, that the internal engineering or surveying activity is not a holding out to or an offer to the public of engineering or any service thereof as prohibited by this Chapter. Engineering work, not related to the foregoing exemptions, where~~

~~the safety of the public is directly involved shall be under the responsible charge of a licensed professional engineer, or in accordance with standards prepared or approved by a licensed professional engineer.~~

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

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

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

(8) The (i) preparation of fire sprinkler planning and design drawings by a fire sprinkler contractor licensed under Article 2 of Chapter 87 of the General Statutes, or (ii) the performance of internal engineering or survey work by a manufacturing or communications common carrier company, or by a research and development company, or by employees of those corporations provided that the work is in connection with, or incidental to products of, or nonengineering services rendered by those corporations or their affiliates.

(9) The routine maintenance or servicing of machinery, equipment, facilities or structures, the work of mechanics in the performance of their established functions, or the inspection or supervision of construction by a foreman, superintendent, or agent of the architect or professional engineer, or services of an operational nature performed by an employee of a laboratory, a manufacturing plant, a public service corporation, or governmental operation.

(10) The design of land application irrigation systems for an animal waste management plan, required by G.S. 143-215.10C, by a designer who exhibits, by at least three years of relevant experience, proficiency in soil science and basic hydraulics, and who is thereby listed as an Irrigation Design Technical Specialist by the North Carolina Soil and Water Conservation Commission."

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

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

This State and its political subdivisions such as counties, cities, towns, or other political entities or legally constituted boards, commissions, public utility companies, or authorities, or

officials, or employees of these entities shall not engage in the practice of engineering or land surveying involving either public or private property where the safety of the public is directly involved without the project being under the direct supervision of a professional engineer for ~~the preparations of plans and specifications for~~ engineering projects, or a professional land surveyor for land surveying projects, as provided for the practice of the respective professions by this Chapter.

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

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

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

## STUDY SERVICE OF PROCESS IN SUMMARY EJECTMENT

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

## CLARIFY EFFECTIVE DATE OF DEFINITION OF DISCHARGE OF WASTE

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

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

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

## STUDY MEMBERSHIP UNDER INSURANCE GUARANTY ASSOCIATION ACT

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

## SPECIALTY MARKETS

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

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

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

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

#### ADA REQUIREMENTS FOR PRIVATE POOLS

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

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

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

### PART III. STATE AND LOCAL GOVERNMENT REGULATION

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

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

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

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

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

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

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

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

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

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

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

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

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

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

### **"§ 136-119. Costs and appeal.**

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

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

- (1) The final judgment is that the Department of Transportation cannot acquire real property by ~~condemnation~~; or (ii) the ~~condemnation~~.
- (2) The proceeding is abandoned by the Department of Transportation.
- (3) The final judgment exceeds the amount of the initial deposit by thirty-five percent (35%) or more. Attorney's fees awarded pursuant to this subdivision shall not exceed one-third of the difference between the verdict, plus interest, and the initial deposit, nor shall such fees exceed the prevailing hourly rate in the county where the land is located.

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

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

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

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

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

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

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

**NOTICE TO CHRONIC VIOLATORS**

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

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

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

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

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

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

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

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

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

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

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

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

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

- (1) The ordinance shall permit a fraternity or sorority suspended or not recognized at least two years to reestablish approval or recognition.
- (2) The ordinance shall permit a fraternity or sorority seeking approval or recognition at least three years to establish approval or recognition.
- (3) The ordinance shall require that a property may not be occupied successively by a fraternity or sorority seeking to reestablish approval or recognition and

1 a fraternity or sorority seeking approval or recognition, and vice versa,  
2 unless the property is occupied by a fraternity or sorority approved or  
3 recognized for at least 12 successive months between the two."  
4

## 5 **REPEAL PROTEST PETITIONS**

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

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

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

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

23 **SECTION 3.5.(d)** This section also repeals any local act authority for submission,  
24 review, or action by any municipality upon any zoning protest petition, whether or not enacted  
25 as a provision in a municipal charter.  
26

## 27 **REPEAL OBSOLETE DEPARTMENT OF INSURANCE STATUTES**

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

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

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

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

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

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

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

39 **SECTION 3.6.(g)** G.S. 58-50-95 is repealed.  
40

## 41 **STUDY POST-ARREST PHOTOGRAPHIC IMAGES NOT PUBLIC**

42 **SECTION 3.7.** The Administrative Office of the Courts and the Department of  
43 Public Safety shall study whether or not photographs of individuals charged with a crime  
44 should be a public record, including the admissibility of such photographs, posting on the  
45 internet of such photographs prior to conviction, and any other matters related to the use of  
46 photographs of charged individuals. The Administrative Office of the Courts and the  
47 Department of Public Safety shall report, with recommendations, to the Joint Legislative  
48 Oversight Committee on Justice and Public Safety on or before December 31, 2014.  
49

## 50 **COMPLIANCE WITH BUILDING CODE INSPECTION REQUIREMENTS**

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



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

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

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

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

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

**STUDY ETHICS REQUIREMENTS FOR CERTAIN CITY OFFICIALS**

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

**BUILDING CODE STUDY**

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

**BRAC RELATED AMENDMENTS**

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

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

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

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

**"§ 143-151.71. Definitions.**

Within the meaning of this Article:

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

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

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

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

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

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

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

(a) No person shall undertake construction of a tall building or structure in any area surrounding a major military installation in this State without either first obtaining the endorsement from the ~~Building Code Council~~State Construction Office or proof of the ~~Council's~~State Construction Office's failure to act within the time allowed.

(b) A person seeking endorsement for a proposed tall building or structure in any area surrounding a major military installation in this State shall provide written notice of the intent to seek endorsement to the base commander of the major military installation that is located

1 within five miles of the proposed tall building or structure and shall provide all of the following  
2 to the ~~Building Code Council~~State Construction Office:

- 3 (1) Identification of the major military installation and the base commander of  
4 the installation that is located within five miles of the proposed tall building  
5 or structure.
- 6 (2) A copy of the written notice sent to the base commander of the installation  
7 identified in subdivision (1) of this subsection that is located within five  
8 miles of the proposed tall building or structure.
- 9 (3) A written "Determination of No Hazard to Air Navigation" issued by the  
10 Federal Aviation Administration pursuant to Subpart D of Part 77 of Title 14  
11 of the Code of Federal Regulations (January 1, 2012, Edition) for the  
12 proposed tall building or structure.

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

- 19 (1) A determination whether the location of the proposed tall building or  
20 structure is within a protected area that surrounds the installation.
- 21 (2) A determination whether any activities of the installation may be adversely  
22 affected by the proposed tall building or structure. A detailed description of  
23 the potential adverse effects, including frequency disturbances and physical  
24 obstructions, shall accompany the determination required by this  
25 subdivision.

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

- 28 (1) The proposed tall building or structure would encroach upon or otherwise  
29 interfere with the mission, training, or operations of any major military  
30 installation in North Carolina and result in a detriment to continued military  
31 presence in the State. In its evaluation, the ~~Building Code Council~~State  
32 Construction Office may consider whether the proposed tall building or  
33 structure would cause interference with air navigation routes, air traffic  
34 control areas, military training routes, or radar based on the written  
35 statement received from a base commander as provided in subsection (c) of  
36 this section and written comments received by members of affected  
37 communities. Provided, however, if the ~~Building Code Council~~State  
38 Construction Office does not receive a written statement requested pursuant  
39 to subsection (c) of this section within 45 days of issuance of the request to  
40 the base commander, the ~~Building Code Council~~State Construction Office  
41 shall deem the tall building or structure as endorsed by the base commander.
- 42 (2) The ~~Council~~State Construction Office is not in receipt of the written  
43 "Determination of No Hazard to Air Navigation" issued to the person by the  
44 Federal Aviation Administration required pursuant to subdivision (3) of  
45 subsection (b) of this section.

46 (e) The ~~Building Code Council~~State Construction Office shall make a final decision on  
47 the request for endorsement of a tall building or structure within 90 days from the date on  
48 which the ~~Council~~State Construction Office requested the written statement from the base  
49 commander of the major military installation identified in subdivision (1) of subsection (b) of  
50 this section. If the ~~Council~~State Construction Office determines that a request for a tall building  
51 or structure fails to meet the requirements for endorsement under this section, the ~~Council~~State

Construction Office shall deny the request. The ~~Council~~State Construction Office shall notify the person of the denial, and the notice shall include a written statement of the reasons for the denial. If the ~~Council~~State Construction Office fails to act within any time period set forth in this section, the person may treat the failure to act as a decision to endorse the tall building or structure.

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

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

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

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

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

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

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

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

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

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

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

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

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

**ABC PERMITS/SCHOOLS AND COLLEGES**

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

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

- (1) A regional facility as defined by G.S. 160A-480.2 operated by a facility authority under Part 4 of Article 20 of Chapter 160A of the General Statutes, unless the permit is for a public school or public college or university function.
- (2) Property owned by a local board of education and leased for 99 years or more to a nonprofit auditorium authority created prior to 1991 whose governing board is appointed by a city board of aldermen, a county board of commissioners, or a local school board.
- (3) A hotel.
- (4) A nonprofit alumni organization.
- (5) Restaurants, eating establishments, food businesses, or retail businesses on the property defined by G.S. 116-198.33(4).
- (6) Any golf courses owned or leased by the public college or university and open to the public for use.
- (7) The sale of malt beverages, unfortified wine, or fortified wine at:
  - a. Performing arts centers located on property owned or leased by the public college or university.
  - b. Any stadiums that support a NASCAR-sanctioned one-fourth mile asphalt flat oval short track, that are owned or leased by the public college or university, and that only sell malt beverages, unfortified wine, or fortified wine at events that are not sponsored or funded by the public college or university.
- (8) Special one-time permits as described in G.S. 18B-1002(a)(5) for the Loudermilk Center for Excellence facility at the University of North Carolina at Chapel Hill."

## **EXTEND DEADLINE FOR ADOPTION OF DIVISION OF EMPLOYMENT SECURITY RULES**

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

**"SECTION 1.10.(c)** The Department of Commerce, Division of Employment Security, shall adopt all existing rules and regulations in accordance with Article 2A of Chapter 150B of

the General Statutes. Any existing rule that has not been readopted by ~~December 31, 2012,~~  
December 31, 2014, shall expire."

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

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

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

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

- (1) Study the unemployment insurance laws of North Carolina and the administration of those laws.
- (2) Review the State's unemployment insurance laws to determine which laws need clarification, technical amendment, repeal, or other change to make the laws concise, intelligible, and easy to administer.
- (3) Monitor the payment of the debt owed by the Unemployment Trust Fund to the federal government.
- (4) Review and determine the adequacy of the balances in the Unemployment Trust Fund and the Unemployment Insurance Reserve Fund.
- (5) Study the workforce development programs and reemployment assistance efforts of the Division of Workforce Solutions of the Department of Commerce.
- (6) Call upon the Department of Commerce to cooperate with it in the study of the unemployment insurance laws and the workforce development efforts of the State.
- (7) Review rules adopted by the Division of Employment Security of the Department of Commerce and recommend statutory policies and procedures, if necessary, to ensure the Division is operating in conformity with the provisions of Chapter 96 of the General Statutes and in compliance with federal laws and regulations and written guidance promulgated and issued by the U.S. Department of Labor.
- (b) The Committee may report its findings and recommendations to any regular session of the General Assembly. A report to the General Assembly may contain any legislation needed to implement a recommendation of the Committee."

#### **BUILDING CODE ALTERNATE APPROVAL METHODS STUDY**

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

1. Required content for initial applications and supporting information to initiate and complete the approval process, and to include specific project applications for the specific installation in question.
2. Timelines for the full application process, including initial application submissions, Council review of applications and supporting information, and final Council approval or denial of submitted applications. Timelines shall allow for final determinations to be rendered on completed applications within 30 days of the date of submission of a completed application.

3. Procedures for appeal of Council denials of applications.

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

#### CLARIFY OFFICIAL MISCONDUCT FOR CODE OFFICIALS

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

"§ 143-151.8. Definitions.

...

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

(1) The enforcement of a Code requirement applicable to a certain area or set of circumstances in other areas or circumstances not specified in the requirement.

(2) For an alternative design or construction method that has been appealed under G.S. 143-140.1 and found by the Department of Insurance to comply with the Code, to refuse to accept the decision by the Department to allow that alternative design or construction method under the conditions or circumstances set forth in the Department's decision for that appeal.

(3) For an alternative construction method currently included in the Building Code, to refuse to allow the alternative method under the conditions or circumstances set forth in the Code for that alternative method.

(4) The enforcement of a requirement that is more stringent than or otherwise exceeds the Code requirement."

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

#### ENFORCE MUNICIPAL FLOODPLAIN ORDINANCE IN ETJ

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

"(k) As used in this subsection, "bona fide farm purposes" is as described in G.S. 153A-340. As used in this subsection, "property" means a single tract of property or an identifiable portion of a single tract. Property that is located in the geographic area of a municipality's extraterritorial jurisdiction and that is used for bona fide farm purposes is exempt from exercise of the municipality's extraterritorial jurisdiction under this Article. Property that is located in the geographic area of a municipality's extraterritorial jurisdiction and that ceases to be used for bona fide farm purposes shall become subject to exercise of the municipality's extraterritorial jurisdiction under this Article. For purposes of complying with 44 C.F.R. Part 60, Subpart A, property that is exempt from the exercise of extraterritorial jurisdiction pursuant to this subsection shall be subject to the county's floodplain ordinance or all floodplain regulation provisions of the county's unified development ordinance."

#### PART IV. SEVERABILITY CLAUSE AND EFFECTIVE DATE

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

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

