

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

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HOUSE BILL 274*
Senate Judiciary II Committee Substitute Adopted 8/6/09
Third Edition Engrossed 8/6/09

Short Title: Clarifying Changes to State Law.

(Public)

Sponsors:

Referred to:

February 25, 2009

1 A BILL TO BE ENTITLED
2 AN ACT TO MAKE VARIOUS CLARIFYING CHANGES TO THE GENERAL STATUTES
3 AND SESSION LAWS.

4 The General Assembly of North Carolina enacts:

5 **SECTION 1.** G.S. 15A-544.4(e) reads as rewritten:

6 "(e) ~~Notice under this section shall be mailed not later than the thirtieth day after the date~~
7 ~~on which the forfeiture is entered.~~ Notice under this section shall be mailed not later than the
8 30th day after the date on which the defendant fails to appear as required and a call and fail is
9 ordered. If notice under this section is not given within the prescribed time, the forfeiture shall
10 not become a final judgment and shall not be enforced or reported to the Department of
11 Insurance."

12 **SECTION 1.1.(a)** Section 10.15A(h1)(2) and (h1)(3) of S.L. 2008-107, as
13 amended by Section 3.13(a) of S.L. 2008-118, reads as rewritten:

14 "(2) Notice. – Except as otherwise provided by federal law or regulation, at least
15 ~~30~~10 days before the effective date of an adverse determination, the
16 Department shall notify the applicant or recipient, and the provider, if
17 applicable, in writing of the determination and of the applicant's or
18 recipient's right to appeal the determination. The notice shall be mailed on
19 the date indicated on the notice as the date of the determination. The notice
20 shall include:

- 21 a. An identification of the applicant or recipient whose services are
22 being affected by the adverse determination, including full name and
23 Medicaid identification number.
- 24 b. An explanation of what service is being denied, terminated,
25 suspended, or reduced and the reason for the determination.
- 26 c. The specific regulation, statute, or medical policy that supports or
27 requires the adverse determination.
- 28 d. The effective date of the adverse determination.
- 29 e. An explanation of the applicant's or recipient's right to appeal the
30 Department's adverse determination in an evidentiary hearing before
31 an administrative law judge.
- 32 f. An explanation of how the applicant or recipient can request a
33 hearing and a statement that the applicant or recipient may represent
34 himself or use legal counsel, a relative, or other spokesperson.



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- 1 g. A statement that the applicant or recipient will continue to receive
 2 Medicaid services at the level provided on the day immediately
 3 preceding the Department's adverse determination or the amount
 4 requested by the applicant or recipient, whichever is less, if the
 5 applicant or recipient requests a hearing before the effective date of
 6 the adverse determination. The services shall continue until the
 7 hearing is completed and a final decision is rendered.
- 8 h. The name and telephone number of a contact person at the
 9 Department to respond in a timely fashion to the applicant's or
 10 recipient's questions.
- 11 i. The telephone number by which the applicant or recipient may
 12 contact a Legal Aid/Legal Services office.
- 13 j. The appeal request form described in subdivision (4) of this
 14 subsection that the applicant or recipient may use to request a
 15 hearing.
- 16 (3) Appeals. – Except as provided by this subsection and subsection 10.15A(h2)
 17 of this act, a request for a hearing to appeal an adverse determination of the
 18 Department under this section is a contested case subject to the provisions of
 19 Article 3 of Chapter 150B of the General Statutes. The applicant or recipient
 20 must request a hearing within 30 days of the mailing of the notice required
 21 by subdivision (2) of this subsection by sending an appeal request form to
 22 the Office of Administrative Hearings and the Department. Where a request
 23 for hearing concerns the reduction, modification, or termination of Medicaid
 24 services, upon the receipt of a timely appeal, the Department shall reinstate
 25 the services to the level or manner prior to action by the Department as
 26 permitted by federal law or regulation. The Department shall immediately
 27 forward a copy of the notice to the Office of Administrative Hearings
 28 electronically. The information contained in the notice is confidential unless
 29 the recipient appeals. The Office of Administrative Hearings may dispose of
 30 the records after one year. The Department may not influence, limit, or
 31 interfere with the applicant's or recipient's decision to request a hearing."

32 **SECTION 1.1.(b)** Section 10.15A(h2) of S.L. 2008-107, as amended by Section
 33 3.13(b) of S.L. 2008-118, reads as rewritten:

34 **"SECTION 10.15A.(h2)**

- 35 (1) Application. – This subsection applies only to contested Medicaid cases
 36 commenced by Medicaid applicants or recipients under subsection
 37 10.15A(h1) of this act. Except as otherwise provided by subsection
 38 10.15A(h1) and this subsection governing time lines and procedural steps, a
 39 contested Medicaid case commenced by a Medicaid applicant or recipient is
 40 subject to the provisions of Article 3 of Chapter 150B. To the extent any
 41 provision in this subsection or subsection 10.15A(h1) of this act conflicts
 42 with another provision in Article 3 of Chapter 150B, this subsection and
 43 subsection 10.15A(h1) controls.
- 44 (2) Simple Procedures. – Notwithstanding any other provision of Article 3 of
 45 Chapter 150B of the General Statutes, the chief administrative law judge
 46 may limit and simplify the procedures that apply to a contested Medicaid
 47 case involving a Medicaid applicant or recipient in order to complete the
 48 case as quickly as possible. To the extent possible, the ~~Hearings~~
 49 ~~Division~~Office of Administrative Hearings shall schedule and hear all
 50 contested Medicaid cases within ~~45-55~~ days of submission of a request for
 51 appeal. Hearings shall be conducted telephonically or by video technology,

1 however the recipient or applicant, or the recipient's or applicant's
2 representative may request that the hearing be conducted before the
3 administrative law judge in person. An in-person hearing shall be conducted
4 in Wake County, however for good cause shown, the in-person hearing may
5 be conducted in the county of residence of the recipient or applicant. Good
6 cause shall include but is not limited to the applicant's or recipient's
7 impairments limiting travel or the unavailability of the applicant's or
8 recipient's treating professional witnesses. The Department shall provide
9 written notice to the recipient or applicant of the use of telephonic hearings,
10 hearings by video conference, and in-person hearings before the
11 administrative law judge, and how to request a hearing in the recipient's or
12 applicant's county of residence. The simplified procedure may include
13 requiring that all prehearing motions be considered and ruled on by the
14 administrative law judge in the course of the hearing of the case on the
15 merits. An administrative law judge assigned to a contested Medicaid case
16 shall make reasonable efforts in a case involving a Medicaid applicant or
17 recipient who is not represented by an attorney to assure a fair hearing and to
18 maintain a complete record of the hearing. The administrative law judge may
19 allow brief extensions of the time limits contained in this section for good
20 cause and to ensure that the record is complete. Good cause includes delays
21 resulting from untimely receipt of documentation needed to render a
22 decision and other unavoidable and unforeseen circumstances. Continuances
23 shall only be granted in accordance with rules adopted by the Office of
24 Administrative Hearings, and shall not be granted on the day of the hearing,
25 except for good cause shown. If a petitioner fails to make an appearance at a
26 hearing that has been properly noticed via certified mail by the Office of
27 Administrative Hearings, the Office of Administrative Hearings shall
28 immediately dismiss the contested case provision.

- 29 (3) Mediation. – Upon receipt of an appeal request form as provided by
30 subdivision 10.15A(h1)(4) of this act or other clear request for a hearing by a
31 Medicaid applicant or recipient, the ~~chief administrative law judge~~ Office of
32 Administrative Hearings shall immediately notify the Mediation Network of
33 North Carolina which shall within five days contact the petitioner to offer
34 mediation in an attempt to resolve the dispute. If mediation is accepted, the
35 mediation must be completed within 25 days of submission of the request for
36 appeal. ~~If mediation is successful, the mediator shall inform the Hearings~~
37 ~~Division, which shall confirm with the agency that a settlement has been~~
38 ~~achieved, and the case shall be dismissed. If the petitioner rejects the offer of~~
39 ~~mediation or the mediation is unsuccessful, the mediator shall notify the~~
40 ~~Hearings Division that the case will proceed to hearing.~~ Upon completion of
41 the mediation, the mediator shall inform the Office of Administrative
42 Hearings and the Department within 24 hours of the resolution by facsimile
43 or electronic messaging. If the parties have resolved matters in the
44 mediation, the case shall be dismissed by the Office of Administrative
45 Hearings. The Office of Administrative Hearings shall not conduct any
46 contested Medicaid cases hearings until it has received notice from the
47 mediator assigned that either: (i) the mediation was unsuccessful, or (ii) the
48 petitioner has rejected the offer of mediation, or (iii) the petitioner has failed
49 to appear at a scheduled mediation. Nothing in this subdivision shall restrict
50 the right to a contested case hearing.

1 (4) Burden of Proof. – The petitioner has the burden of proof to show
2 entitlement to a requested benefit or the propriety of requested agency action
3 when the agency has denied the benefit or refused to take the particular
4 action. The agency has the burden of proof when the appeal is from an
5 agency determination to impose a penalty or reduce, terminate, or suspend a
6 benefit previously granted. The party with the burden of proof on any issue
7 has the burden of going forward, and the administrative law judge shall not
8 make any ruling on the preponderance of evidence until the close of all
9 evidence.

10 (4a) New Evidence. – The petitioner shall be permitted to submit evidence
11 regardless of whether obtained prior to or subsequent to the Department's
12 actions and regardless of whether the Department had an opportunity to
13 consider the evidence in making its determination to deny, reduce, terminate
14 or suspend a benefit. When such evidence is received, at the request of the
15 Department, the administrative law judge shall continue the hearing for a
16 minimum of 15 days and a maximum of 30 days to allow for the
17 Department's review of the evidence. Subsequent to review of the evidence,
18 if the Department reverses its original decision, it shall immediately inform
19 the administrative law judge.

20 (4b) Issue for Hearing. – For each penalty imposed or benefit reduced,
21 terminated, or suspended, the hearing shall determine whether the
22 Department substantially prejudiced the rights of the petitioner and if the
23 Department, based upon evidence at the hearing:

24 a. Exceeded its authority or jurisdiction;

25 b. Acted erroneously;

26 c. Failed to use proper procedure;

27 d. Acted arbitrarily or capriciously; or

28 e. Failed to act as required by law or rule.

29 (5) Decision. – The administrative law judge assigned to a contested Medicaid
30 case shall hear and decide the case without unnecessary delay. The ~~Hearings~~
31 ~~Division~~ Office of Administrative Hearings shall send a copy of the
32 audiotape or diskette of the hearing to the agency within five days of
33 completion of the hearing. The judge shall prepare a written decision and
34 send it to the parties. The decision must be sent together with the record to
35 the agency within 20 days of the conclusion of the hearing."

36 **SECTION 1.1.(c)** Section 10.15A(e2) of S.L. 2008-107 reads as rewritten:

37 **"SECTION 10.15A.(e2)** The community support provider appeals process shall be
38 developed and implemented as follows:

39 (1) A hearing under this section shall be commenced by filing a petition with
40 the chief hearings clerk of the Department within 30 days of the mailing of
41 the notice by the Department of the action giving rise to the contested case.
42 The petition shall identify the petitioner, be signed by the party or
43 representative of the party, and shall describe the agency action giving rise
44 to the contested case. As used in this section, "file or filing" means to place
45 the paper or item to be filed into the care and custody of the chief hearings
46 clerk of the Department and acceptance thereof by the chief hearings clerk,
47 except that the hearing officer may permit the papers to be filed with the
48 hearing officer, in which event the hearing officer shall note thereon the
49 filing date. The Department shall supply forms for use in these contested
50 cases.

- 1 (2) If there is a timely request for an appeal, the Department shall promptly
2 designate a hearing officer who shall hold an evidentiary hearing. The
3 hearing officer shall conduct the hearing according to applicable federal law
4 and regulations and shall ensure that:
- 5 a. Notice of the hearing is given not less than 15 days before the
6 hearing. The notice shall state the date, hour, and place of the hearing
7 and shall be deemed to have been given on the date that a copy of the
8 notice is mailed, via certified mail, to the address provided by the
9 petitioner in the petition for hearing.
- 10 b. The hearing is held in Wake County, except that the hearing officer
11 may, ~~after consideration of the numbers, locations, and convenience~~
12 ~~of witnesses and in order to promote the ends of justice, hold the~~
13 ~~hearing~~ take testimony and receive evidence by telephone or other
14 electronic means or ~~hold the hearing in a county in which the~~
15 ~~petitioner resides.~~ means. The petitioner and the petitioner's legal
16 representative may appear before the hearing officer in Wake
17 County.
- 18 c. Discovery is no more extensive or formal than that required by
19 federal law and regulations applicable to the hearings. Prior to and
20 during the hearing, a provider representative shall have adequate
21 opportunity to examine the provider's own case file. No later than
22 five days before the date of the hearing, each party to a contested
23 case shall ~~provide to each other party a copy of any documentary~~
24 ~~evidence that the party intends to introduce at the hearing and shall~~
25 identify each witness that the party intends to call.
- 26 (3) The hearing officer shall have the power to administer oaths and
27 ~~affirmations, subpoena the attendance of witnesses, rule on prehearing~~
28 ~~motions, affirmations~~ and regulate the conduct of the hearing. The following
29 shall apply to hearings held pursuant to this section:
- 30 a. At the hearing, the parties may present such sworn evidence, law,
31 and regulations as are relevant to the issues in the case.
- 32 b. The petitioner and the respondent agency each have a right to be
33 represented by a person of his choice, including an attorney obtained
34 at the party's own expense.
- 35 c. The petitioner and the respondent agency shall each have the right to
36 cross-examine witnesses as well as make a closing argument
37 summarizing his view of the case and the law.
- 38 d. The appeal hearing shall be recorded. If a petition for judicial review
39 is filed ~~pursuant to subsection (f) of this section, a transcript will be~~
40 ~~prepared and made~~ the Department shall include a copy of the
41 recording of the hearing as part of the official report and shall be
42 prepared at no cost to the appellant. In the absence of the filing of a
43 petition for a judicial review, no transcript will be prepared unless
44 requested by a party, in which case each party shall bear the cost of
45 the transcript or part thereof or copy of the transcript or part thereof
46 requested by the party. record. The recording of the appeal hearing
47 may be erased or otherwise destroyed 180 days after the final
48 decision is mailed as provided in G.S. 108A-79(i)(5).
- 49 (4) The hearing officer shall decide the case based upon a preponderance of the
50 evidence, giving deference to the demonstrated knowledge and expertise of
51 the agency as provided in G.S. 150B-34(a). The hearing officer shall prepare

- 1 a proposal for the decision, citing relevant law, regulations, and evidence,
2 which shall be served upon the petitioner or the petitioner's representative by
3 certified mail, with a copy furnished to the respondent agency.
- 4 (5) The petitioner and the respondent agency shall have 15 days from the date of
5 the mailing of the proposal for decision to present written arguments in
6 opposition to or in support of the proposal for decision to the designated
7 official of the Department who will make the final decision. If neither
8 written arguments are presented, nor extension of time granted by the final
9 agency decision maker for good cause, within 15 days of the date of the
10 mailing of the proposal for decision, the proposal for decision becomes final.
11 If written arguments are presented, such arguments shall be considered and
12 the final decision shall be rendered. The final decision shall be rendered not
13 more than ~~90-180~~ days from the date of the filing of the petition. This time
14 limit may be extended by agreement of the parties or by final agency
15 decision maker, for good cause ~~shown, for an additional period of up to 30~~
16 ~~days, shown.~~ The final decision shall be served upon the petitioner or the
17 petitioner's representative by certified mail, with a copy furnished to the
18 respondent agency. In the absence of a petition for judicial review filed
19 pursuant to subsection (f) of this section, the final decision shall be binding
20 upon the petitioner and the Department.
- 21 (6) A petitioner who is dissatisfied with the final decision of the Department
22 may file, within 30 days of the service of the decision, a petition for judicial
23 review in the Superior Court of Wake County or of the county from which
24 the case arose. The judicial review shall be conducted according to Article 4
25 of Chapter 150B of the General Statutes.
- 26 (7) In the event of a conflict between federal law or regulations and State law or
27 regulations, federal law or regulations shall control. This section applies to
28 all petitions that are filed by a Medicaid community support services
29 provider on or after July 1, 2008, and for all Medicaid community support
30 services provider petitions that have been filed at the Office of
31 Administrative Hearings previous to July 1, 2008, but for which a hearing on
32 the merits has not been commenced prior to that date. The requirement that
33 the agency decision must be rendered not more than ~~90-180~~ days from the
34 date of the filing of the petition for hearing shall not apply to (i) community
35 support services provider petitions that were filed at the Office of
36 Administrative Hearings or (ii) requests for a hearing under the Department's
37 informal settlement process prior to the effective date of this act. The Office
38 of Administrative Hearings shall transfer all cases affected by this section to
39 the Department of Health and Human Services within 30 days of the
40 effective date of this section. This act preempts the existing informal appeal
41 process and reconsideration review process at the Department of Health and
42 Human Services and the existing appeal process at the Office of
43 Administrative Hearings with regard to all appeals filed by Medicaid
44 community support services providers under the Medical Assistance
45 program."

46 **SECTION 2.(a)** G.S. 20-71.4 is amended by adding a new subsection to read:

47 "(e) The provisions of this section shall not apply to a State agency that assists the
48 United States Department of Defense with purchasing, transferring, or titling a vehicle to
49 another State agency, a unit of local government, a volunteer fire department, or a volunteer
50 rescue squad."

51 **SECTION 2.(b)** G.S. 20-73(b)(2), as enacted by S.L. 2009-81, reads as rewritten:

1 "(2) A State agency that assists the United States Department of Defense ~~in~~
2 ~~purchasing or transferring~~with purchasing, transferring, or titling a vehicle to
3 another State agency, a unit of local government, a volunteer fire
4 department, or a volunteer rescue squad."

5 **SECTION 2.(c)** G.S. 20-305.1 is amended by adding a new subsection to read:

6 "(f2) The provisions of subsections (d) and (e) of this section shall not apply to a State
7 agency that assists the United States Department of Defense with purchasing, transferring, or
8 titling a vehicle to another State agency, a unit of local government, a volunteer fire
9 department, or a volunteer rescue squad."

10 **SECTION 2.(d)** G.S. 20-347(d) reads as rewritten:

11 "(d) The provisions of this disclosure statement section shall not apply to the following
12 transfers:

- 13 (1) A vehicle having a gross vehicle weight rating of more than 16,000
14 ~~pounds;pounds.~~
- 15 (2) A vehicle that is not ~~self-propelled;self-propelled.~~
- 16 (2a) A vehicle sold directly by the manufacturer to any agency of the United
17 States in conformity with contractual ~~specifications;specifications.~~
- 18 (3) A vehicle that is 10 years old or ~~older; orolder.~~
- 19 (4) A new vehicle prior to its first transfer for purposes other than resale.
- 20 (5) A vehicle that is transferred by a State agency that assists the United States
21 Department of Defense with purchasing, transferring, or titling a vehicle to
22 another State agency, a unit of local government, a volunteer fire
23 department, or a volunteer rescue squad."

24 **SECTION 2.(e)** G.S. 105-187.3 is amended by adding a new subsection to read:

25 "(b1) Retail Value of Transferred Department of Defense Vehicles. – The retail value of a
26 vehicle for which a certificate of title is issued because of a transfer by a State agency that
27 assists the United States Department of Defense with purchasing, transferring, or titling a
28 vehicle to another State agency, a unit of local government, a volunteer fire department, or a
29 volunteer rescue squad is the sales price paid by the State agency, unit of local government,
30 volunteer fire department, or volunteer rescue squad."

31 **SECTION 3.** G.S. 20-130.1 is amended by adding a new subsection to read:

32 "(c1) The provisions of subsection (c) of this section do not apply to the possession and
33 installation of an inoperable blue light on a vehicle that is inspected by and registered with the
34 Department of Motor Vehicles as a specially constructed vehicle and that is used primarily for
35 participation in shows, exhibitions, parades, or holiday/weekend activities, and not for general
36 daily transportation. For purposes of this subsection, 'inoperable blue light' means a
37 blue-colored lamp housing or cover that does not contain a lamp or other mechanism having
38 the ability to produce or emit illumination."

39 **SECTION 3.1.** G.S. 20-183.8G(b) reads as rewritten:

40 "(b) Hearing After Statement of Charges. – When a license holder receives a statement
41 of charges of a violation that could result in the suspension or revocation of the person's
42 license, the person can obtain a hearing by making a request for a hearing. The person must
43 make the request to the Division within 10 days after receiving the statement of the charges. A
44 person who does not request a hearing within this time limit waives the right to a hearing.

45 The Division must hold a hearing requested under this subsection within ~~three business~~10
46 business days after receiving the request ~~unless the person requesting the hearing asks for~~
47 additional time to prepare for the hearing request. A person may ask for no more than seven
48 additional business days to prepare. ~~If the additional time requested is within this limit, the~~
49 Division must grant a person the additional time requested. The hearing must be held at the
50 location designated by the Division. Suspension or revocation of the license is stayed until a
51 decision is made following the hearing.

1 If a person does not request a hearing within the time allowed for making the request, the
2 proposed suspension or revocation becomes effective the day after the time for making the
3 request ends. If a person requests a hearing but does not attend the hearing, the proposed
4 suspension or revocation becomes effective the day after the date set for the hearing."

5 **SECTION 3.2.** G.S. 20-218 reads as rewritten:

6 "**§ 20-218. Standard qualifications for school bus drivers; speed limit for school buses and**
7 **school activity buses.**

8 (a) Qualifications. – No person shall drive a school bus over the highways or public
9 vehicular areas of North Carolina while it is occupied by ~~children one or more child passengers~~
10 unless the person furnishes to the superintendent of the schools of the county in which the bus
11 shall be operated a certificate from any representative duly designated by the Commissioner
12 and from the Director of Transportation or a designee of the Director in charge of school buses
13 in the county showing that the person has been examined by them and is fit and competent to
14 drive a school bus over the highways and public vehicular areas of the State. The driver of a
15 school bus must be at least 18 years of age and hold a Class A, B, or C commercial drivers
16 license and a school bus driver's certificate. The driver of a school activity bus must meet the
17 same qualifications as a school bus driver or must have a license appropriate for the class of
18 vehicle being driven.

19 (b) Speed Limits. – It is unlawful to drive a school bus ~~loaded with children occupied~~
20 by one or more child passengers over the highways or public vehicular areas of the State at a
21 greater rate of speed than 45 miles per hour. It is unlawful to drive a school activity bus ~~loaded~~
22 with children occupied by one or more child passengers over the highways or public vehicular
23 areas of North Carolina at a greater rate of speed than 55 miles per hour.

24 (c) Punishment. – A person who violates this section commits a Class 3 misdemeanor."

25 **SECTION 4.** G.S. 20-309(a) reads as rewritten:

26 "(a) No motor vehicle shall be registered in this State unless the owner at the time of
27 registration ~~has provides proof of~~ provides proof of financial responsibility for the operation of such motor
28 vehicle, as provided in this Article. The owner of each motor vehicle registered in this State
29 shall maintain financial responsibility continuously throughout the period of registration."

30 **SECTION 4.1.** If Senate Bill 509, 2009 Regular Session, becomes law, then G.S.
31 105-164.14(b)(1) reads as rewritten:

32 "(1) Hospitals not operated for profit, including hospitals and medical
33 accommodations operated by an authority ~~created under the Hospital~~
34 Authorities Law, or other public hospital described in Article 2 of Chapter
35 131E of the General Statutes."

36 **SECTION 5.** G.S. 75-63(g1), as enacted by S.L. 2009-355, reads as rewritten:

37 "(g1) A consumer reporting agency need not meet the time requirements provided in this
38 section, only for such time as the occurrences prevent compliance, if any of the following
39 occurrences apply:

- 40 (1) The consumer fails to meet the requirements of subsection (d) or (j) of this
41 section.
- 42 (2) The consumer reporting agency's ability to remove, place, temporarily lift, or
43 lift with respect to a specific party the security freeze is prevented by any of
44 the following:
 - 45 a. An act of God, including fire, earthquakes, hurricanes, storms, or
46 similar natural disaster or phenomena.
 - 47 b. Unauthorized or illegal acts by a third party, including terrorism,
48 sabotage, riot, vandalism, labor strikes or disputes disrupting
49 operations, or similar occurrences.

- 1 c. Operational interruption, including electrical failure, unanticipated
2 delay in equipment or replacement part delivery, computer hardware
3 or software failures inhibiting response time, or similar disruption.
4 d. Governmental action, including emergency orders or regulations,
5 judicial or law enforcement action, or similar directives.
6 e. Regularly scheduled maintenance, during other than normal business
7 hours, of, or updates to, the consumer reporting agency's systems.
8 f. Commercially reasonable maintenance of, or repair to, the consumer
9 reporting agency's systems that is unexpected or unscheduled.
10 g. Receipt of a ~~removal~~ request outside of normal business hours."

11 **SECTION 5.1.** G.S. 105-40(7a) reads as rewritten:

12 "(7a) All exhibitions, performances, and entertainments promoted and managed by
13 'a nonprofit arts organization.' This exemption does not apply to athletic
14 events. A 'nonprofit arts organization' is an organization that meets both of
15 the following requirements:

- 16 a. It is exempt from income tax under G.S. 105-130.11(a)(3).
17 b. Its primary purpose is to ~~offer choral and theatrical~~
18 performances. create, produce, present, or support music, dance,
19 theatre, literature, or visual arts."

20 **SECTION 5.2.** S.L. 2009-406 is amended by adding a new section to read:

21 "SECTION 5.1. If developmental approvals that expired during the period beginning
22 January 1, 2008 and the effective date of this act are revived by operation of this act, and (i) in
23 reliance upon such expiration the water or sewer capacity was reallocated to other development
24 projects prior to the effective date of this act, and (ii) there is no longer sufficient supply or
25 treatment capacity to accommodate the project that is the subject of the revived development
26 approval, the act shall not be construed to revive any vested right to the water or sewer
27 allocation associated with the revived development approval, but the holder of the revived
28 development approval may request new capacity and shall be given first priority if additional
29 supply or treatment capacity becomes available."

30 **SECTION 6.(a)** G.S. 130A-492(8e), as enacted by S.L. 2009-27, reads as
31 rewritten:

32 "(8e) "Restaurant" – A food ~~and~~ or lodging establishment that prepares and serves
33 drink or food as regulated by the Commission pursuant to Part 6 of Article 8
34 of this Chapter."

35 **SECTION 6.(b)** Section 3 of S.L. 2009-27 reads as rewritten:

36 **"SECTION 3.** This act is effective when it becomes law. The Commission for Public
37 Health may adopt rules to implement Parts 1A, 1B, and 1C of Article 23 of Chapter 130A of
38 the General Statutes, as enacted by this act, on and after the date this act becomes law, provided
39 that such rules shall not become effective before January 2, 2010."

40 **SECTION 7.** G.S. 143B-434.1(c)(6) reads as rewritten:

41 "(6) The Chairperson of the Travel and Tourism ~~Coalition~~. Coalition or the
42 Chairperson's designee."

43 **SECTION 8.(a)** G.S. 164-14 reads as rewritten:

44 **"§ 164-14. Membership; appointments; terms; vacancies.**

- 45 (a) The Commission shall consist of ~~12~~ 14 members, who shall be appointed as follows:
46 (1) One member, by the president of the North Carolina State Bar;
47 (2) One member, by the General Statutes Commission;
48 (3) One member, by the dean of the school of law of the University of North
49 Carolina;
50 (4) One member, by the dean of the school of law of Duke University;
51 (5) One member, by the dean of the school of law of Wake Forest University;

- 1 (6) One member, by the Speaker of the House of Representatives of each
2 General Assembly from the membership of the House;
- 3 (7) One member, by the President Pro Tempore of the Senate of each General
4 Assembly from the membership of the Senate;
- 5 (8) Two members, by the Governor;
- 6 (9) One member, by the dean of the school of law of North Carolina Central
7 University;
- 8 (10) One member by the president of the North Carolina Bar Association;
- 9 (11) One member, by the dean of the school of law of Campbell University.
- 10 (12) One member, by the dean of the school of law of Elon University.
- 11 (13) One member, by the dean of the Charlotte School of Law (NC), Inc.

12 (b) Appointments of original members of the Commission made by the president of the
13 North Carolina State Bar, the president of the North Carolina Bar Association, and the deans of
14 the schools of law of Duke University, the University of North Carolina, and Wake Forest
15 University shall be for one year. Appointments of original members of the Commission made
16 by the Speaker of the House of Representatives, the President of the Senate, and the Governor
17 shall be for two years.

18 (c) After the appointment of the original members of the Commission, appointments by
19 the president of the North Carolina State Bar, the General Statutes Commission, and the deans
20 of the schools of law of North Carolina Central University, Duke University, Elon University,
21 the University of North Carolina, and Wake Forest University shall be made in the
22 even-numbered years, and appointments made by the Speaker of the House of Representatives,
23 the President Pro Tempore of the Senate, president of the North Carolina Bar Association, the
24 ~~dean~~ deans of the School of Law of Campbell University and the Charlotte School of Law
25 (NC), Inc., and the Governor shall be made in the odd-numbered years. Such appointments
26 shall be made for two-year terms beginning June first of the year when such appointments are
27 to become effective and expiring May 31 two years thereafter. All such appointments shall be
28 made not later than May 31 of the year when such appointments are to become effective.

29 (d) If any appointment provided for by this section is not made prior to June first of the
30 year when it should become effective, a vacancy shall exist with respect thereto, and the
31 vacancy shall then be filled by appointment by the Governor. If any member of the
32 Commission dies or resigns during the term for which he was appointed, his successor for the
33 unexpired term shall be appointed by the person who made the original appointment, as
34 provided in G.S. 164-14, or by the successor of such person; and if such vacancy is not filled
35 within 30 days after the vacancy occurs, it shall then be filled by appointment by the Governor.
36 In any case where an appointment authorized to be made by G.S. 164-14(c) has not been made
37 on or before July 31 of the year in which it was due to be made, a vacancy shall exist with
38 respect to that appointment and the General Statutes Commission at its next meeting shall by
39 majority vote fill the vacancy by appointment.

40 (e) All appointments shall be reported to the secretary of the Commission.

41 (f) Notwithstanding the expiration of the term of the appointment, the terms of
42 members of the General Statutes Commission shall continue until the appointment of a
43 successor has been made and reported to the secretary of the Commission."

44 **SECTION 8.(b)** The initial appointment by the dean of the school of law for Elon
45 University shall be for the term ending May 31, 2010. The initial appointment by the dean of
46 the Charlotte School of Law (NC), Inc., shall be for the term ending May 31, 2011.

47 **SECTION 9.** Section 5 of S.L. 2007-532 reads as rewritten:

48 "SECTION 5. Notwithstanding G.S. 143C-9-3(b) and G.S. 147-86.30, of the funds
49 credited to the Health Trust Account from the Master Settlement Agreement pursuant to
50 ~~Section 6(2) of S.L. 1992~~ Section 6(3) of S.L. 1999-2 during the 2008-2009 fiscal year, the sum
51 of five million dollars (\$5,000,000) for the 2008-2009 fiscal year shall be transferred from the

1 Department of State Treasurer, Budget Code 23460 (Health and Wellness Trust Fund) to the
2 State Controller to be deposited in Nontax Budget Code 19978 (Intra State transfers) to support
3 General Fund appropriations by the 2007 General Assembly, Regular Session 2008, for
4 operations and claims of the North Carolina Health Insurance Risk Pool, as enacted by this
5 act."

6 **SECTION 10.(a)** Section 16.6 of S.L. 2007-550, as amended by Section 7 of S.L.
7 2008-208, as amended by Section 11.4 of S.L. 2008-198, reads as rewritten:

8 "**SECTION 16.6.(a)** Part 2E of Article 9 of Chapter 130A of the General Statutes, as
9 enacted by Section 16.1(a) of this act, becomes effective as follows:

- 10 (1) G.S. 130A-309.90 becomes effective ~~1 January~~ July 1, 2010.
- 11 (2) G.S. 130A-309.91 becomes effective ~~1 January~~ July 1, 2010.
- 12 (3) G.S. 130A-309.92 becomes effective ~~1 January~~ July 1, 2010.
- 13 (4) G.S. 130A-309.93(a) becomes effective ~~1 January~~ July 1, 2010.
- 14 (5) G.S. 130A-309.93(b) becomes effective ~~1 January~~ July 1, 2010.
- 15 (6) G.S. 130A-309.93(c) becomes effective ~~1 January~~ July 1, 2010.
- 16 (7) G.S. 130A-309.93(d) becomes effective ~~1 January~~ July 1, 2010.
- 17 (8) G.S. 130A-309.93(e) becomes effective ~~1 January~~ July 1, 2010.
- 18 (9) G.S. 130A-309.93(f) becomes effective ~~1 January~~ July 1, 2010.
- 19 (10) G.S. 130A-309.93(g) becomes effective ~~1 February~~ February 1, 2011.
- 20 (10a) G.S. 130A-309.93A(a) through (f) become effective ~~1 January~~ July 1, 2010.
- 21 (10b) G.S. 130A-309.93A(g) becomes effective ~~1 October~~ October 1, 2011.
- 22 (10c) G.S. 130A-309.93B becomes effective ~~1 January~~ July 1, 2010.
- 23 (11) G.S. 130A-309.94 becomes effective ~~1 January~~ July 1, 2010.
- 24 (12) G.S. 130A-309.95(1) becomes effective ~~1 January~~ July 1, 2010.
- 25 (13) G.S. 130A-309.95(2) becomes effective ~~1 January~~ July 1, 2010.
- 26 (14) G.S. 130A-309.95(3) becomes effective ~~1 January~~ July 1, 2010.
- 27 (14a) G.S. 130A-309.95(4) becomes effective July 1, 2010.
- 28 (15) G.S. 130A-309.96 becomes effective ~~1 January~~ July 1, 2010.
- 29 (16) G.S. 130A-309.97 becomes effective ~~1 January~~ July 1, 2010.
- 30 (17) G.S. 130A-309.98 becomes effective ~~15 January~~ January 15, 2011.

31 "**SECTION 16.6.(b)** Section 16.2 of this act becomes effective ~~1 January~~ July 1, 2010.
32 Sections 16.3 and 16.4 of this act become effective ~~1 January~~ January 1, 2011. Section 16.5 of
33 this act becomes effective ~~1 July~~ July 1, 2010. Subsection (b) of Section 16.1 of this act,
34 Section 16.6 of this act, and any other provision of Section 16 of this act for which an effective
35 date is not specified become effective ~~1 January~~ July 1, 2010."

36 **SECTION 10.(b)** Section 8 of S.L. 2008-208 reads as rewritten:

37 "**SECTION 8.** Sections ~~3, 4, and 5~~ 3 and 4 of this act become effective ~~1 January~~ January 1,
38 2011. The remainder of this act becomes effective July 1, 2010. ~~The remainder of this act is~~
39 ~~effective when it becomes law."~~

40 **SECTION 10.1.** Section 5 of S.L. 2009-374 is amended by adding the following
41 new subdivision:

42 "(6) Nothing in this act shall adversely affect the Commissioner of Banks' ability
43 to bring and maintain any action or pursue any remedy that the
44 Commissioner could have brought under Article 19A of Chapter 53 of the
45 General Statutes, as repealed by Section 1 of this act, against any person for
46 any acts or omissions in violation of Article 19A occurring on or before July
47 30, 2009."

48 **SECTION 11.** If House Bill 908, 2009 Regular Session, becomes law,
49 G.S. 163-85(c)(10) as enacted by that bill reads as rewritten:

50 "(10) That the person ~~presenting himself to vote~~ is not who he or she represents
51 himself or herself to be."

1 **SECTION 12.** Except as otherwise provided, this act is effective when it becomes
2 law.