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(Public)

Sponsors:

Referred to:

March 1, 2001

A BILL TO BE ENTITLED

AN ACT TO MAKE TECHNICAL CORRECTIONS AND CONFORMING
CHANGES TO THE GENERAL STATUTES AS RECOMMENDED BY THE
GENERAL STATUTES COMMISSION; AND TO MAKE VARIOUS OTHER
CHANGES TO THE GENERAL STATUTES AND SESSION LAWS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 1-17 reads as rewritten:

"§ 1-17. **Disabilities.**

(a) A person entitled to commence an action who is under a disability at the time
the cause of action accrued ~~either~~

(1) ~~Within the age of 18 years; or~~

(2) ~~Insane; or~~

(3) ~~Incompetent as defined in G.S. 35A-1101(7) or (8)~~

may bring his or her action within the time ~~herein limited~~, limited in this Subchapter,
after the disability is removed, except in an action for the recovery of real property, or to
make an entry or defense founded on the title to real property, or to rents and services
out of the ~~same, when he~~ real property, when the person must commence his or her
action, or make ~~his~~ the entry, within three years next after the removal of the disability,
and at no time thereafter.

For the purpose of this section, a person is under a disability if the person meets one
or more of the following conditions:

(1) The person is within the age of 18 years.

(2) The person is insane.

(3) The person is incompetent as defined in G.S. 35A-1101(7) or (8).

(a1) For those persons under a disability on January 1, 1976, as a result of being
imprisoned on a criminal charge, or in execution under sentence for a criminal offense,

1 the statute of limitations shall commence to run and no longer be tolled from January 1,
2 1976.

3 (b) Notwithstanding the provisions of subsection (a) of this section, an action on
4 behalf of a minor for malpractice arising out of the performance of or failure to perform
5 professional services shall be commenced within the limitations of time specified in
6 ~~G.S. 1-15(c): Provided, that if said~~ G.S. 1-15(c), except that if those time limitations
7 expire before ~~such~~ the minor attains the full age of 19 years, the action may be brought
8 before ~~said~~ the minor attains the full age of 19 years."

9 **SECTION 2.** G.S. 7B-507(b)(4) reads as rewritten:

10 "(4) A court of competent jurisdiction has determined that: the parent has
11 committed murder or voluntary manslaughter of another child of the
12 parent; has aided, abetted, attempted, conspired, or solicited to commit
13 murder or ~~voluntarily~~ voluntary manslaughter of the child or another
14 child of the parent; or has committed a felony assault resulting in
15 serious bodily injury to the child or another child of the parent."

16 **SECTION 3.** G.S. 7B-1501 reads as rewritten:

17 **"§ 7B-1501. Definitions.**

18 In this Subchapter, unless the context clearly requires otherwise, the following
19 words have the listed ~~meanings;~~ meanings. The singular includes the plural, unless
20 otherwise specified.

- 21 (1) Chief court counselor. – The person responsible for administration and
22 supervision of juvenile intake, probation, and post-release supervision
23 in each judicial district, operating under the supervision of the
24 Department of Juvenile Justice and Delinquency Prevention.
- 25 (2) Clerk. – Any clerk of superior court, acting clerk, or assistant or
26 deputy clerk.
- 27 (3) Community-based program. – A program providing nonresidential or
28 residential treatment to a juvenile under the jurisdiction of the juvenile
29 court in the community where the juvenile's family lives. A
30 community-based program may include specialized foster care, family
31 counseling, shelter care, and other appropriate treatment.
- 32 (4) Court. – The district court division of the General Court of Justice.
- 33 (5) Court counselor. – A person responsible for probation and post-release
34 supervision to juveniles under the supervision of the chief court
35 counselor.
- 36 (6) Custodian. – The person or agency that has been awarded legal
37 custody of a juvenile by a court.
- 38 (7) Delinquent juvenile. – Any juvenile who, while less than 16 years of
39 age but at least 6 years of age, commits a crime or infraction under
40 State law or under an ordinance of local government, including
41 violation of the motor vehicle laws.

- 1 (7a) Department. – The Department of Juvenile Justice and Delinquency
2 Prevention created under Article 12 of Chapter 143B of the General
3 Statutes.
- 4 (8) Detention. – The secure confinement of a juvenile under a court order.
- 5 (9) Detention facility. – A facility approved to provide secure confinement
6 and care for juveniles. Detention facilities include both State and
7 locally administered detention homes, centers, and facilities.
- 8 (10) District. – Any district court district as established by G.S. 7A-133.
- 9 (11) Holdover facility. – A place in a jail which has been approved by the
10 Department of Health and Human Services as meeting the State
11 standards for detention as required in G.S. 153A-221 providing close
12 supervision where the juvenile cannot converse with, see, or be seen
13 by the adult population.
- 14 (12) House arrest. – A requirement that the juvenile remain at the juvenile's
15 residence unless the court or the juvenile court counselor authorizes
16 the juvenile to leave for specific purposes.
- 17 (13) Intake counselor. – A person who screens and evaluates a complaint
18 alleging that a juvenile is delinquent or undisciplined to determine
19 whether the complaint should be filed as a petition.
- 20 (14) Interstate Compact on Juveniles. – An agreement ratified by 50 states
21 and the District of Columbia providing a formal means of returning a
22 juvenile, who is an absconder, escapee, or runaway, to the juvenile's
23 home state, and codified in Article 28 of this Chapter.
- 24 (15) Judge. – Any district court judge.
- 25 (16) Judicial district. – Any district court district as established by G.S.
26 7A-133.
- 27 (17) Juvenile. – Except as provided in subdivisions (7) and (27) of this
28 section, any person who has not reached the person's eighteenth
29 birthday and is not married, emancipated, or a member of the armed
30 forces of the United States. Wherever the term "juvenile" is used with
31 reference to rights and privileges, that term encompasses the attorney
32 for the juvenile as well.
- 33 (18) Juvenile court. – Any district court exercising jurisdiction under this
34 Chapter.
- 35 (19) Repealed by Session Laws 2000, c. 137, s. 2.
- 36 (20) Petitioner. – The individual who initiates court action by the filing of a
37 petition or a motion for review alleging the matter for adjudication.
- 38 (21) Post-release supervision. – The supervision of a juvenile who has been
39 returned to the community after having been committed to the
40 Department for placement in a training school.
- 41 (22) Probation. – The status of a juvenile who has been adjudicated
42 delinquent, is subject to specified conditions under the supervision of a

- 1 court counselor, and may be returned to the court for violation of those
2 conditions during the period of probation.
- 3 (23) Prosecutor. – The district attorney or assistant district attorney
4 assigned by the district attorney to juvenile proceedings.
- 5 (24) Protective supervision. – The status of a juvenile who has been
6 adjudicated undisciplined and is under the supervision of a court
7 counselor.
- 8 (25) Teen court program. – A community resource for the diversion of
9 cases in which a juvenile has allegedly committed certain offenses for
10 hearing by a jury of the juvenile's peers, which may assign the juvenile
11 to counseling, restitution, curfews, community service, or other
12 rehabilitative measures.
- 13 (26) Training school. – A secure residential facility authorized to provide
14 long-term treatment, education, and rehabilitative services for
15 delinquent juveniles committed by the court to the Department.
- 16 (27) Undisciplined juvenile. –
- 17 a. A juvenile who, while less than 16 years of age but at least 6
18 years of age, is unlawfully absent from school; or is regularly
19 disobedient to and beyond the disciplinary control of the
20 juvenile's parent, guardian, or custodian; or is regularly found in
21 places where it is unlawful for a juvenile to be; or has run away
22 from home for a period of more than 24 hours; or
- 23 b. A juvenile who is 16 or 17 years of age and who is regularly
24 disobedient to and beyond the disciplinary control of the
25 juvenile's parent, guardian, or custodian; or is regularly found in
26 places where it is unlawful for a juvenile to be; or has run away
27 from home for a period of more than 24 hours.
- 28 (28) Wilderness program. – A rehabilitative residential treatment program
29 in a rural or outdoor setting.

30 ~~The singular includes the plural, unless otherwise specified."~~

31 **SECTION 4.** Effective July 1, 2001, G.S. 7B-1808(b)(2) reads as rewritten:

32 "(b) At the first appearance, the court shall:

33 ...

34 (2) Determine whether the juvenile has retained counsel or has been
35 assigned ~~counsel~~-counsel;".

36 **SECTION 5.** Effective June 30, 2001, G.S. 17C-3(a)(5) reads as rewritten:

37 "(5) Citizens and Others. – The President of The University of North
38 Carolina; the Director of the Institute of Government; and two citizens,
39 one of whom shall be selected by the Governor and one of whom shall
40 be selected by the Attorney General. The General Assembly shall
41 appoint two persons, one upon the recommendation of the Speaker of
42 the House of Representatives and one upon the recommendation of the
43 President Pro Tempore of the Senate. Appointments by the General

1 Assembly shall be made in accordance with G.S. 120-122.
2 Appointments by the General Assembly shall ~~serve~~be for two-year
3 terms to conclude on June 30th in odd-numbered years."

4 **SECTION 6.** G.S. 20-16.5(a)(4) reads as rewritten:

5 "(a) Definitions. – As used in this section the following words and phrases have
6 the following meanings:

7 ...

8 (4) Revocation Report. – A sworn statement by a charging officer and a
9 chemical analyst containing facts indicating that the conditions of
10 subsection (b) have been met, and whether the person has a pending
11 offense for which ~~their~~the person's license had been or is revoked
12 under this section. When one chemical analyst analyzes a person's
13 blood and another chemical analyst informs a person of his rights and
14 responsibilities under G.S. 20-16.2, the report must include the
15 statements of both analysts."

16 **SECTION 7.** G.S. 20-16.5(g) reads as rewritten:

17 "(g) Hearing before Magistrate or Judge if Person Contests Validity of
18 Revocation. – A person whose license is revoked under this section may request in
19 writing a hearing to contest the validity of the revocation. The request may be made at
20 the time of the person's initial appearance, or within 10 days of the effective date of the
21 revocation to the clerk or a magistrate designated by the clerk, and may specifically
22 request that the hearing be conducted by a district court judge. The Administrative
23 Office of the Courts must develop a hearing request form for any person requesting a
24 hearing. Unless a district court judge is requested, the hearing must be conducted within
25 the county by a magistrate assigned by the chief district court judge to conduct such
26 hearings. If the person requests that a district court judge hold the hearing, the hearing
27 must be conducted within the district court district as defined in G.S. 7A-133 by a
28 district court judge assigned to conduct such hearings. The revocation remains in effect
29 pending the hearing, but the hearing must be held within three working days following
30 the request if the hearing is before a magistrate or within five working days if the
31 hearing is before a district court judge. The request for the hearing must specify the
32 grounds upon which the validity of the revocation is challenged and the hearing must be
33 limited to the grounds specified in the request. A witness may submit his evidence by
34 affidavit unless he is subpoenaed to appear. Any person who appears and testifies is
35 subject to questioning by the judicial official conducting the hearing, and the judicial
36 official may adjourn the hearing to seek additional evidence if he is not satisfied with
37 the accuracy or completeness of evidence. The person contesting the validity of the
38 revocation may, but is not required to, testify in his own behalf. Unless contested by the
39 person requesting the hearing, the judicial official may accept as true any matter stated
40 in the revocation report. If any relevant condition under subsection (b) is contested, the
41 judicial official must find by the greater weight of the evidence that the condition was
42 met in order to sustain the revocation. At the conclusion of the hearing the judicial
43 official must enter an order sustaining or rescinding the revocation. The judicial

1 official's findings are without prejudice to the person contesting the revocation and to
2 any other potential party as to any other proceedings, civil or criminal, that may involve
3 facts bearing upon the conditions in subsection (b) considered by the judicial official.
4 The decision of the judicial official is final and may not be appealed in the General
5 Court of Justice. If the hearing is not held and completed within three working days of
6 the written request for a hearing before a magistrate or within five working days of the
7 written request for a hearing before a district court judge, the judicial official must enter
8 an order rescinding the revocation, unless the person contesting the revocation
9 contributed to the delay in completing the hearing. If the person requesting the hearing
10 fails to appear at the hearing or any rescheduling thereof after having been properly
11 notified, he forfeits his right to a hearing."

12 **SECTION 8.** G.S. 20-17.8(j)(2) reads as rewritten:

13 "(2) The person:

- 14 a. Was driving a vehicle that was not equipped with a functioning
15 ignition interlock system; or
- 16 b. Did not personally activate the ignition interlock system before
17 driving the vehicle; or
- 18 c. Drove the vehicle ~~with an alcohol concentration of 0.04 or~~
19 greater in violation of an applicable alcohol concentration
20 restriction prescribed by subdivision (b)(3) of this section."

21 **SECTION 9.** G.S. 20-28.3(m) reads as rewritten:

22 "(m) Trial Priority. – District court trials of impaired driving offenses involving
23 forfeitures of motor vehicles pursuant to G.S. 20-28.2 shall be scheduled on the
24 arresting officer's next court date or within 30 days of the offense, whichever comes
25 first.

26 Once scheduled, the case shall not be continued unless all of the following
27 conditions are met:

- 28 (1) A written motion for continuance is filed with notice given to the
29 opposing party prior to the motion being heard.
- 30 (2) The judge makes a finding of a "compelling reason" for the
31 continuance.
- 32 (3) The motion and finding are attached to the court case record.

33 Upon a determination of guilt, the issue of vehicle forfeiture shall be heard by the
34 judge immediately, or as soon thereafter as feasible, and the judge shall issue the
35 appropriate orders pursuant to G.S. 20-28.2(d).

36 Should a defendant appeal the conviction to superior court, any party who has not
37 previously been heard on a petition for pretrial release under ~~subsections~~ subsection (e1)
38 or (e3) of this section or any party whose motor vehicle has not been the subject of a
39 forfeiture hearing held pursuant to G.S. 20-28.2(d) may be heard on a petition for
40 pretrial release pursuant to ~~subsections~~ subsection (e1) or (e3) of this section. The
41 provisions of subsection (e) of this section shall also apply to seized motor vehicles
42 pending trial in superior court. Where a motor vehicle was released pursuant to
43 subsection (e) of this section pending trial in district court, the release of the motor

1 vehicle continues, and the terms and conditions of the original bond remain the same as
2 those required for the initial release of the motor vehicle under subsection (e) of this
3 section, pending the resolution of the underlying offense involving impaired driving in
4 superior court."

5 **SECTION 10.** G.S. 20-118(c)(14) reads as rewritten:

6 "(c) Exceptions. – The following exceptions apply to G.S. 20-118(b) and
7 20-118(e).

8 ...

9 (14) Subsections (b) and (e) of this section do not apply to a vehicle that
10 meets all of the ~~following conditions:~~conditions below, but all other
11 enforcement provisions of this Article remain applicable:

- 12 a. Is hauling aggregates from a distribution yard or a
13 State-permitted production site within a North Carolina county
14 contiguous to the North Carolina State border to a destination in
15 an adjacent state as verified by a weight ticket in the driver's
16 possession and available for inspection by enforcement
17 personnel.
- 18 b. Does not operate on an interstate highway or posted bridge.
- 19 c. Does not exceed 69,850 pounds gross vehicle weight and
20 53,850 pounds per axle grouping for tri-axle vehicles. For
21 purposes of this subsection, a tri-axle vehicle is a single unit
22 vehicle with a three consecutive axle group on which the
23 respective distance between any two consecutive axles of the
24 group, measured longitudinally center to center to the nearest
25 foot, does not exceed eight feet. For purposes of this subsection,
26 the tolerance provisions of subsection (h) of this section do not
27 apply.
- 28 ~~d. All other enforcement provisions of this Article remain~~
29 ~~applicable."~~

30 **SECTION 11.** G.S. 20-146(a) reads as rewritten:

31 "(a) Upon all ~~roadways~~highways of sufficient width a vehicle shall be driven
32 upon the right half of the highway except as follows:

- 33 (1) When overtaking and passing another vehicle proceeding in the same
34 direction under the rules governing such movement;
- 35 (2) When an obstruction exists making it necessary to drive to the left of
36 the center of the highway; provided, any person so doing shall yield
37 the right-of-way to all vehicles traveling in the proper direction upon
38 the unobstructed portion of the highway within such distance as to
39 constitute an immediate hazard;
- 40 (3) Upon a highway divided into three marked lanes for traffic under the
41 rules applicable thereon; or
- 42 (4) Upon a highway designated and signposted for one-way traffic."
43

1 **SECTION 12.** G.S. 20-294(2) reads as rewritten:

2 "(2) Willfully and intentionally failing to comply with this Article, Article
3 15 of this Chapter, or G.S. 20-52.1, 20-75, ~~20-82~~, 20-108, 20-109, or a
4 rule adopted by the Division under this Article."

5 **SECTION 13.** Effective July 1, 2001, G.S. 23-30.1 reads as rewritten:

6 "**§ 23-30.1. Provisional release.**

7 Every person who has filed a petition under the provisions of G.S. 23-30 shall be
8 brought before a judge within 72 hours after filing the petition and shall be provisionally
9 released from imprisonment unless a hearing shall be held and the creditor shall
10 establish that the prisoner has fraudulently concealed assets. If, at the time he is brought
11 before a judge, the prisoner makes a showing of indigency, counsel shall be appointed
12 for the prisoner in accordance with rules adopted by the Office of Indigent Defense
13 Services. A provisional release under this section shall not constitute a discharge of the
14 debtor, and the creditor may oppose the discharge by suggesting fraud even if he has
15 unsuccessfully attempted to oppose the provisional release on the basis of fraudulent
16 concealment. The debtor may be provisionally released even though actual service upon
17 the creditor has not been accomplished if 72 hours has passed since the debtor delivered
18 the notice to the sheriff for service upon the creditor."

19 **SECTION 14.(a)** G.S. 24-1.1E(a)(4) and (a)(6) read as rewritten:

20 "(a) Definitions. – The following definitions apply for the purposes of this section:

21 ...

22 (4) A "high-cost home loan" means a loan other than an open-end credit
23 plan or a reverse mortgage transaction in which:

- 24 a. The principal amount of the loan does not exceed the lesser of
25 (i) the conforming loan size limit for a single-family dwelling
26 as established from time to time by ~~the Federal National~~
27 ~~Mortgage Association, Fannie Mae,~~ or (ii) three hundred
28 thousand dollars (\$300,000);
29 b. The borrower is a natural person;
30 c. The debt is incurred by the borrower primarily for personal,
31 family, or household purposes;
32 d. The loan is secured by either (i) a security interest in a
33 manufactured home (as defined in G.S. 143-147(7)) which is or
34 will be occupied by the borrower as the borrower's principal
35 dwelling, or (ii) a mortgage or deed of trust on real estate upon
36 which there is located or there is to be located a structure or
37 structures designed principally for occupancy of from one to
38 four families which is or will be occupied by the borrower as
39 the borrower's principal dwelling; and
40 e. The terms of the loan exceed one or more of the thresholds as
41 defined in subdivision (6) of this section.

42 ...

43 (6) "Thresholds" means:

- 1 a. Without regard to whether the loan transaction is or may be a
2 "residential mortgage transaction" (as the term "residential
3 mortgage transaction" is defined in section 226.2(a)(24) of Title
4 12 of the Code of Federal Regulations, as amended from time to
5 time), the annual percentage rate of the loan at the time the loan
6 is consummated is such that the loan is considered a "mortgage"
7 under section 152 of the Home Ownership and Equity
8 Protection Act of 1994 (Pub. Law 103-25, [15 U.S.C. §
9 1602(aa)]), as the same may be amended from time to time, and
10 regulations adopted pursuant thereto by the Federal Reserve
11 Board, including section 226.32 of Title 12 of the Code of
12 Federal Regulations, as the same may be amended from time to
13 time;
- 14 b. The total points and fees payable by the borrower at or before
15 the loan closing exceed five percent (5%) of the total loan
16 amount if the total loan amount is twenty thousand dollars
17 (\$20,000) or more, or (ii) the lesser of eight percent (8%) of the
18 total loan amount or one thousand dollars (\$1,000), if the total
19 loan amount is less than twenty thousand dollars (\$20,000);
20 provided, the following discount points and prepayment fees
21 and penalties shall be excluded from the calculation of the total
22 points and fees payable by the borrower:
- 23 1. Up to and including two bona fide loan discount points
24 payable by the borrower in connection with the loan
25 transaction, but only if the interest rate from which the
26 loan's interest rate will be discounted does not exceed by
27 more than one percentage point (1%) the required net
28 yield for a 90-day standard mandatory delivery
29 commitment for a reasonably comparable loan from
30 either ~~the Federal National Mortgage Association~~ Fannie
31 Mae or the Federal Home Loan Mortgage Corporation,
32 whichever is greater;
 - 33 2. Up to and including one bona fide loan discount point
34 payable by the borrower in connection with the loan
35 transaction, but only if the interest rate from which the
36 loan's interest rate will be discounted does not exceed by
37 more than two percentage points (2%) the required net
38 yield for a 90-day standard mandatory delivery
39 commitment for a reasonably comparable loan from
40 either ~~the Federal National Mortgage Association~~ Fannie
41 Mae or the Federal Home Loan Mortgage Corporation,
42 whichever is greater;

1 **"§ 54B-187. ~~Federal National Mortgage Association~~ Fannie Mae obligations.**

2 A State association may invest in stock or other evidences of indebtedness or
3 obligations of ~~the Federal National Mortgage Association, Fannie Mae,~~ or any successor
4 thereto."

5 **SECTION 14.(e)** G.S. 54C-136 reads as rewritten:

6 **"§ 54C-136. Federal government-sponsored enterprise obligations.**

7 A savings bank may invest in stock or other evidences of indebtedness or obligations
8 of ~~the Federal National Mortgage Association, Fannie Mae,~~ the Federal Home Loan
9 Mortgage Corporation, or any other federal government sponsored enterprise, or any
10 successor thereto."

11 **SECTION 14.(f)** G.S. 58-3-140 reads as rewritten:

12 **"§ 58-3-140. Temporary contracts of insurance permitted.**

13 A lender engaged in making or servicing real estate mortgage or deed of trust loans
14 on one to four family residences shall accept as evidence of insurance a temporary
15 written contract of insurance meeting the requirements of G.S. 58-44-20(4) and issued
16 by any duly licensed insurance agent, broker, or insurance company.

17 Nothing herein prohibits the lender from refusing to accept a binder or from
18 disapproving such insurer or agent provided such refusal or disapproval is reasonable.

19 Such lender need not accept a binder unless such binder:

20 (1) Includes:

- 21 a. The name and address of the insured;
22 b. The name and address of the mortgagee;
23 c. A description of the insured collateral;
24 d. A provision that it may not be cancelled within a term of the
25 binder except upon 10 days' written notice to the mortgagee;
26 and
27 e. The amount of insurance bound.

28 (2) Is accompanied by a paid receipt for one year's premium, except in the
29 case of the renewal of a policy subsequent to the closing of a loan; and

30 (3) Includes an undertaking of agent to use his best efforts to have the
31 insurance company issue a policy.

32 The Department may require binders to contain any additional information to permit
33 the binders to comply with the reasonable requirements of ~~the Federal National~~
34 ~~Mortgage Association, Fannie Mae,~~ the Government National Mortgage Association, or
35 the Federal Home Loan Mortgage Corporation for purchase of mortgage loans."

36 **SECTION 14.(g)** G.S. 58-7-173(8) reads as rewritten:

37 "(8) Bonds, debentures, or other securities of the following agencies,
38 whether or not those obligations are guaranteed by the U.S.
39 Government:

- 40 a. ~~The Federal National Mortgage Association, Fannie Mae,~~ and
41 stock thereof when acquired in connection with the sale of
42 mortgage loans to the Association.

- 1 b. Any federal land bank, when the securities are issued under the
2 Farm Loan Act;
3 c. Any federal home loan bank, when the securities are issued
4 under the Home Loan Bank Act;
5 d. The Home Owners' Loan Corporation, created by the Home
6 Owners' Loan Act of 1933;
7 e. Any federal intermediate credit bank, created by the
8 Agricultural Credits Act;
9 f. The Central Bank for Cooperatives and regional banks for
10 cooperatives organized under the Farm Credit Act of 1933, or
11 by any of such banks; and any notes, bonds, debentures, or
12 other similar obligations, consolidated or otherwise, issued by
13 farm credit institutions under the Farm Credit Act of 1971;
14 g. Any other similar agency of the U.S. Government that is of
15 similar financial quality."

16 **SECTION 14.(h)** G.S. 115C-443(c)(6) reads as rewritten:

17 "(c) Moneys may be invested in the following classes of securities, and no others:

18 ...

- 19 (6) Obligations maturing no later than 18 months after the date of
20 purchase of the Federal Intermediate Credit Banks, the Federal Home
21 Loan Banks, ~~the Federal National Mortgage Association, Fannie Mae,~~
22 the Banks for Cooperatives, and the Federal Land Banks."

23 **SECTION 14.(i)** G.S. 122A-5.6(d) reads as rewritten:

24 "(d) The loans to mortgage lenders shall be general obligations of the respective
25 mortgage lenders owing them. The Agency shall require that such loans shall be
26 additionally secured as to payment of both principal and interest by a pledge and lien
27 upon collateral security. The collateral security itself shall be in such amount as the
28 Agency determines will assure the payment of the principal of and the interest on the
29 bonds as they become due. Collateral security shall be deemed to be sufficient if the
30 principal of and the interest on the collateral security, when due, will be sufficient to
31 pay the principal of and the interest on the bonds. The collateral security shall consist of
32 any of the following items: (i) direct obligations of, or obligations guaranteed by, the
33 State or the United States of America; (ii) bonds, debentures, notes or other evidences of
34 indebtedness, satisfactory to the Agency, issued by any of the following federal
35 agencies: Bank for Cooperatives, Federal Intermediate Credit Bank, Federal Home Loan
36 Bank System, Export-Import Bank of Washington, Federal Land Banks, ~~the Federal~~
37 ~~National Mortgage Association~~ Fannie Mae or the Government National Mortgage
38 Association; (iii) direct obligations of or obligations guaranteed by the State; (iv)
39 mortgages insured or guaranteed by the United States of America or an instrumentality
40 of it as to payment of principal and interest; (v) any other mortgages secured by real
41 estate on which there is located a residential structure, the collateral value of which shall
42 be determined by the regulations issued from time to time by the Agency; (vi)
43 obligations of Federal Home Loan Banks; (vii) certificates of deposit of banks or trust

1 companies, including the trustee, organized under the laws of the United States or any
2 state, which have a combined capital and surplus of at least fifteen million dollars
3 (\$15,000,000); (viii) Bankers Acceptances; and (ix) commercial paper that has been
4 classified for rating purposes by Dun & Bradstreet, Inc., as Prime-1 or by Standard &
5 Poor's Corp. as A-1."

6 **SECTION 14.(j)** G.S. 122A-11(3) and (4) read as rewritten:

7 "(3) In obligations which are collateralized by mortgage pass-through
8 securities guaranteed by the Government National Mortgage
9 Association, the Federal Home Loan Mortgage Corporation, or ~~the~~
10 ~~Federal National Mortgage Association;~~Fannie Mae;

11 (4) In a trust certificate or similar instrument evidencing an equity
12 investment in a trust or other similar arrangement which is formed for
13 the purpose of issuing obligations which are collateralized by
14 mortgage pass-through or participation certificates guaranteed by the
15 Government National Mortgage Association, the Federal Home Loan
16 Mortgage Corporation or the ~~Federal National Mortgage Association;~~
17 Fannie Mae; and".

18 **SECTION 14.(k)** G.S. 122D-16(b)(2) reads as rewritten:

19 "(b) All moneys of the Authority may be invested in the following:

20 ...

21 (2) Non-convertible debt securities of the following issuers:

22 a. The Federal Home Loan Bank Board;

23 b. ~~The Federal National Mortgage Association;~~Fannie Mae;

24 c. The Federal Farm Credit Bank; and

25 d. The Student Loan Marketing Association;".

26 **SECTION 14.(l)** G.S. 143B-472.8(7) reads as rewritten:

27 "(7) Obligations of the Federal Intermediate Credit Banks, the Federal
28 Home Loan Banks, ~~the Federal National Mortgage Association,~~Fannie
29 Mae, the Banks for Cooperatives, and the Federal Land Banks,
30 maturing no later than 18 months after the date of purchase."

31 **SECTION 14.(m)** G.S. 147-69.1(c)(2) reads as rewritten:

32 "(c) It shall be the duty of the State Treasurer to invest the cash of the funds
33 enumerated in subsection (b) of this section in excess of the amount required to meet the
34 current needs and demands on such funds, selecting from among the following:

35 ...

36 (2) Obligations of the Federal Financing Bank, the Federal Farm Credit
37 Bank, the Bank for Cooperatives, the Federal Intermediate Credit
38 Bank, the Federal Land Banks, the Federal Home Loan Banks, the
39 Federal Home Loan Mortgage Corporation, ~~the Federal National~~
40 ~~Mortgage Association,~~Fannie Mae, the Government National
41 Mortgage Association, the Federal Housing Administration, the
42 Farmers Home Administration, the United States Postal Service, the
43 Export-Import Bank, the International Bank for Reconstruction and

1 Development, the International Finance Corporation, the
2 Inter-American Development Bank, the Asian Development Bank, the
3 African Development Bank, and the Student Loan Marketing
4 Association."

5 **SECTION 14.(n)** G.S. 159B-18(b) reads as rewritten:

6 "(b) Any moneys received pursuant to the authority of this Chapter and any other
7 moneys available to a joint agency for investment may be invested:

8 (1) As provided in subsection (a) of this section;

9 (2) As provided in G.S. 159-30, except that:

10 a. A joint agency may also invest, in addition to the obligations
11 enumerated in G.S. 159-30(c)(2), in bonds, debentures, notes,
12 participation certificates, or other evidences of indebtedness
13 issued, or the principal of and the interest on which are
14 unconditionally guaranteed, whether directly or indirectly, by
15 any agency or instrumentality of, or corporation wholly owned
16 by, the United States of America.

17 b. For purposes of G.S. 159-30(c)(12), a joint agency may also
18 enter into repurchase agreements with respect to, in addition to
19 the obligations enumerated in G.S. 159-30(c)(12):

20 1. Obligations of the Federal Financing Bank, the Federal
21 Farm Credit Bank, the Bank for Cooperatives, the
22 Federal Intermediate Credit Bank, the Federal Land
23 Banks, the Federal Home Loan Banks, the Federal Home
24 Loan Mortgage Corporation, ~~the Federal National~~
25 ~~Mortgage Association, Fannie Mae,~~ the Government
26 National Mortgage Association, the Federal Housing
27 Administration, the Farmers Home Administration, and
28 the United States Postal Service;

29 2. Bonds, debentures, notes, participation certificates, or
30 other evidences of indebtedness issued, or the principal
31 of and the interest on which are unconditionally
32 guaranteed, whether directly or indirectly, by any agency
33 or instrumentality of, or corporation wholly owned by,
34 the United States of America;

35 3. Mortgage-backed pass-through securities guaranteed by
36 the Government National Mortgage Association, the
37 Federal Home Loan Mortgage Corporation, or ~~the~~
38 ~~Federal National Mortgage Association; Fannie Mae;~~

39 4. Direct or indirect obligations which are collateralized by
40 or represent beneficial ownership interests in
41 mortgage-backed pass-through securities guaranteed by
42 the Government National Mortgage Association, the
43 Federal Home Loan Mortgage Corporation, ~~or the~~

1 ~~Federal National Mortgage Association; Fannie Mae;~~
2 and

- 3 5. Direct or indirect obligations, trust certificates, or other
4 similar instruments which are both: (i) guaranteed by the
5 Government National Mortgage Association, the Federal
6 Home Loan Mortgage Corporation, or ~~the Federal~~
7 ~~National Mortgage Association; Fannie Mae;~~ (ii)
8 collateralized by or represent beneficial ownership
9 interests in mortgage-backed pass-through securities
10 which are guaranteed by the Government National
11 Mortgage Association, the Federal Home Loan Mortgage
12 Corporation, or ~~the Federal National Mortgage~~
13 ~~Association; Fannie Mae;~~ including, but not limited to,
14 Real Estate Mortgage Investment Conduit Certificates;
15 and (iii) for purposes of the second proviso of G.S.
16 159-30(c)(12)a., the financial institution serving either as
17 trustee or as fiscal agent for a joint agency holding the
18 obligations subject to the repurchase agreement may also
19 be the provider of the repurchase agreement if the
20 obligations that are subject to the repurchase agreement
21 are held in trust by the trustee or fiscal agent for the
22 benefit of the joint agency;

23 (3) In mortgage-backed pass-through securities guaranteed by the
24 Government National Mortgage Association, the Federal Home Loan
25 Mortgage Corporation, or ~~the Federal National Mortgage~~
26 ~~Association; Fannie Mae;~~

27 (4) In direct or indirect obligations which are collateralized by or represent
28 beneficial ownership interests in mortgage-backed pass-through
29 securities guaranteed by the Government National Mortgage
30 Association, the Federal Home Loan Mortgage Corporation, or ~~the~~
31 ~~Federal National Mortgage Association; Fannie Mae;~~ and

32 (5) In direct or indirect obligations, trust certificates, or other similar
33 instruments which are (i) guaranteed by the Government National
34 Mortgage Association, the Federal Home Loan Mortgage Corporation,
35 or ~~the Federal National Mortgage Association; Fannie Mae,~~ and (ii)
36 collateralized by or represent beneficial ownership interests in
37 mortgage-backed pass-through securities which are guaranteed by the
38 Government National Mortgage Association, the Federal Home Loan
39 Mortgage Corporation, or ~~the Federal National Mortgage~~
40 ~~Association; Fannie Mae,~~ including, but not limited to, Real Estate
41 Mortgage Investment Conduit Certificates."

42 **SECTION 14.(o)** G.S. 159-30(c)(2) reads as rewritten:

43 "(c) Moneys may be invested in the following classes of securities, and no others:

1 ...
2 (2) Obligations of the Federal Financing Bank, the Federal Farm Credit
3 Bank, the Bank for Cooperatives, the Federal Intermediate Credit
4 Bank, the Federal Land Banks, the Federal Home Loan Banks, the
5 Federal Home Loan Mortgage Corporation, ~~the Federal National~~
6 ~~Mortgage Association, Fannie Mae,~~ the Government National
7 Mortgage Association, the Federal Housing Administration, the
8 Farmers Home Administration, the United States Postal Service."

9 **SECTION 15.** Effective July 1, 2001, G.S. 25-9-705(c) reads as rewritten:

10 "(c) Pre-effective-date filing in jurisdiction formerly governing perfection. – This
11 act does not render ineffective an effective financing statement that, before July 1, 2001,
12 is filed and satisfies the applicable requirements for perfection under the law of the
13 jurisdiction governing perfection as provided in G.S. 25-9-103 of former Article 9.
14 However, except as otherwise provided in subsections (d) and (e) of this section and
15 G.S. 25-9-706, the financing statement ceases to be effective at the earlier of:

- 16 (1) The time the financing statement would have ceased to be effective
17 under the law of the jurisdiction in which it is filed; ~~and~~ or
18 (2) June 30, 2006."

19 **SECTION 16.** G.S. 30-3.2 reads as rewritten:

20 "**§ 30-3.2. Definitions.**

21 The following definitions apply in this Article:

- 22 ~~(a)~~(1) "Code" means the Internal Revenue Code in effect at the time of the
23 decedent's death.
24 ~~(b)~~(2) "Death taxes" means any estate, inheritance, succession, and similar
25 taxes imposed by any taxing authority, reduced by any applicable
26 credits against those taxes.
27 ~~(c)~~(3) "Nonadverse trustee" means a trustee who would be deemed
28 nonadverse under section 672 of the Code.
29 ~~(d)~~(4) "Total Net Assets" means, after the payment or provision for payment
30 of the decedent's funeral expenses, year's allowances to persons other
31 than to the surviving spouse, debts, claims, and administration
32 expenses, the sum of the following:
33 ~~(1)~~a. All property to which the decedent had legal and equitable title
34 immediately prior to death;
35 ~~(2)~~b. All property received by the decedent's personal representative
36 by reason of the decedent's death, other than wrongful death
37 proceeds;
38 ~~(3)~~c. One-half of the value of any property held by the decedent and
39 the surviving spouse as tenants by the entirety, or as joint
40 tenants with rights of survivorship;
41 ~~(4)~~d. The entire value of any interest in property held by the decedent
42 and another person, other than the surviving spouse, as joint

1 tenants with right of survivorship, except to the extent that
2 contribution can be proven by clear and convincing evidence;

3 (5)e. The value of any property which would be included in the
4 taxable estate of the decedent pursuant to sections 2033, 2035,
5 2036, 2037, 2038, 2039, or 2040 of the Code.

6 (6)f. Any donative transfers of property made by the decedent to
7 donees other than the surviving spouse within six months of the
8 decedent's death, excluding:

9 a.1. Any gifts within the annual exclusion provisions of
10 section 2503 of the Code;

11 b.2. Any gifts to which the surviving spouse consented. A
12 signing of a deed, or income or gift tax return reporting
13 such gift shall be considered consent; and

14 e.3. Any gifts made prior to marriage;

15 (7)g. Any proceeds of any individual retirement account, pension or
16 profit-sharing plan, or any private or governmental retirement
17 plan or annuity of which the decedent controlled the designation
18 of beneficiary, excluding any benefits under the federal social
19 security system;

20 (8)h. Any other Property Passing to Surviving Spouse under G.S.
21 30-3.3; and

22 (9)i. In case of overlapping application of the same property under
23 more than one provision, the property shall be included only
24 once under the provision yielding the greatest value."

25 **SECTION 17.** G.S. 40A-64(c) reads as rewritten:

26 "(c) If the owner is to be allowed to remove any timber, building or other
27 permanent ~~improvement of fixtures~~ improvement, or fixtures from the property, the
28 value thereof shall not be included in the compensation award, but the cost of removal
29 shall be considered as an element to be compensated."

30 **SECTION 18.** G.S. 58-5-15 reads as rewritten:

31 "**§ 58-5-15. Minimum deposit required upon admission.**

32 Upon admission to do business in the State of North Carolina every foreign or alien
33 fire, marine, or fire and marine, fidelity, surety or casualty company shall deposit with
34 the Commissioner securities in the amounts required under G.S. 58-5-5 and G.S.
35 58-5-10."

36 **SECTION 19.** G.S. 58-31-40(b) reads as rewritten:

37 "(b) No agency or other person authorized or directed by law to select a plan and
38 erect a building for the use of the State or any State institution shall receive and approve
39 of the plan until it is submitted to and approved by the Commissioner as to the safety of
40 the proposed building from fire, including the property's occupants or contents. No
41 agency or person authorized or directed by law to select a plan or erect a building
42 comprising 10,000 square feet ~~or~~ or more for the use of any county, city, or school
43 district shall receive and approve of the plan until it is submitted to and approved by the

1 Commissioner as to the safety of the proposed building from fire, including the
2 property's occupants or contents."

3 **SECTION 20.** The catch line of G.S. 59-31 reads as rewritten:

4 "**§ 59-31. ~~Name of Article.~~North Carolina Uniform Partnership Act.**"

5 **SECTION 21.(a)** G.S. 62A-22(a)(4) reads as rewritten:

6 "(4) ~~The Secretary of Commerce or the Secretary's~~State Chief
7 Information Officer or the Chief Information Officer's designee,
8 who shall serve as the chair."

9 **SECTION 21.(b)** G.S. 120-123(57) reads as rewritten:

10 "No member of the General Assembly may serve on any of the following boards or
11 commissions:

12 ...

13 (57) The Information Resource Management Commission, as established
14 by ~~G.S. 143B-426.21~~G.S. 147-33.78.

15"

16 **SECTION 21.(c)** Section 8 of S.L. 1997-148 is repealed.

17 **SECTION 21.(d)** G.S. 126-5(c1)(17) reads as rewritten:

18 "(c1) Except as to the provisions of Articles 6 and 7 of this Chapter, the provisions
19 of this Chapter shall not apply to:

20 ...

21 (17) The executive director of the independent staff of the Information
22 Resources Management Commission established under ~~G.S. 143B-~~
23 ~~472.41A~~G.S. 147-33.78.

24"

25 **SECTION 21.(e)** G.S. 143-52.1 reads as rewritten:

26 "**§ 143-52.1. Board of Awards.**

27 (a) There is created the Board of Awards. The Board shall consist of three
28 members at a time, appointed by the Chair of the Commission. Members of the Board
29 shall be appointed on a rotating basis from the membership of the Commission and the
30 Council of State. Two out of three members appointed for each meeting of the Board
31 shall constitute a quorum of the Board.

32 (b) The Board shall meet weekly as called by the Chair of the Commission,
33 except in weeks when no contracts have been submitted to the Board for review.

34 (c) When the dollar value of a contract exceeds the benchmark established either
35 pursuant to G.S. 143-53.1 or ~~G.S. 143B-472.63~~G.S. 147-33.101, the Board shall review
36 and make a recommendation on action to be taken by the Secretary of Administration
37 on contracts to be awarded under Article 3 of Chapter 143 of the General Statutes and
38 on contracts to be awarded by the ~~Secretary of Commerce~~Chief Information Officer
39 ~~under Part 16 of Article 10 of Chapter 143B~~Article 3D of Chapter 147 of the General
40 Statutes, prior to the awarding of the contract.

41 (d) The State Budget Officer shall designate a secretary for the Board. The
42 ~~Secretaries~~Secretary of Administration and ~~Commerce~~the State Chief Information
43 Officer shall each submit their matters for consideration to the secretary for inclusion on

1 the Board's agenda. Records shall be kept of each meeting and made public by the
2 ~~applicable~~ Secretary of Administration or ~~Commerce~~ State Chief Information Officer,
3 as applicable unless the ~~applicable~~ Secretary of Administration or State Chief
4 Information Officer, as applicable, determines a specific record of the meeting needs to
5 be confidential due to the nature of the contract. The ~~applicable~~ Secretary of
6 Administration or State Chief Information Officer, as applicable, may elect to proceed
7 with the award of a contract without a recommendation of the Board in cases of
8 emergencies or in the event that a Board is not available. In those cases, contracts
9 awarded without Board review shall be reported to the next meeting of the Board as a
10 matter of record.

11 (e) Reports on recommendations made by the Board on matters presented by the
12 ~~Secretary of Commerce~~ State Chief Information Officer to the Board shall be reported
13 monthly by the Board to the chairs of the Joint Select Committee on Information
14 Technology."

15 **SECTION 21.(f)** G.S. 143-56 reads as rewritten:

16 "**§ 143-56. Certain purchases excepted from provisions of Article.**

17 Unless as may otherwise be ordered by the Secretary of Administration, the
18 purchase of supplies, materials and equipment through the Secretary of Administration
19 shall be mandatory in the following cases:

- 20 (1) Published books, manuscripts, maps, pamphlets and periodicals.
- 21 (2) Perishable articles such as fresh vegetables, fresh fish, fresh meat,
22 eggs, and others as may be classified by the Secretary of
23 Administration.

24 Purchase through the Secretary of Administration shall not be mandatory for
25 information technology purchased in accordance with ~~Part 16 of Article 10 of Chapter~~
26 ~~143B~~ Article 3D of Chapter 147 of the General Statutes, for a purchase of supplies,
27 materials or equipment for the General Assembly if the total expenditures is less than
28 the expenditure benchmark established under the provisions of G.S. 143-53.1, for group
29 purchases made by hospitals through a competitive bidding purchasing program, as
30 defined in G.S. 143-129, by the University of North Carolina Health Care System
31 pursuant to G.S. 116-37(h), by the University of North Carolina Hospitals at Chapel Hill
32 pursuant to G.S. 116-37(a)(4), by the University of North Carolina at Chapel Hill on
33 behalf of the clinical patient care programs of the School of Medicine of the University
34 of North Carolina at Chapel Hill pursuant to G.S. 116-37(a)(4), or by East Carolina
35 University on behalf of the Medical Faculty Practice Plan pursuant to G.S. 116-40.6(c).

36 All purchases of the above articles made directly by the departments, institutions and
37 agencies of the State government shall, whenever possible, be based on competitive
38 bids. Whenever an order is placed or contract awarded for such articles by any of the
39 departments, institutions and agencies of the State government, a copy of such order or
40 contract shall be forwarded to the Secretary of Administration and a record of the
41 competitive bids upon which it was based shall be retained for inspection and review."

42 **SECTION 21.(g)** G.S. 150B-21.1(a4) reads as rewritten:

1 "(a4) Notwithstanding the provisions of subsection (a) of this section, the ~~Secretary~~
2 ~~of Commerce~~ ~~State Chief Information Officer~~ may adopt temporary rules to implement
3 the information technology procurement provisions of ~~Part 16 of Article 10 of Chapter~~
4 ~~143B~~ Article 3D of Chapter 147 of the General Statutes. After having the proposed
5 temporary rule published in the North Carolina Register and at least 30 days prior to
6 adopting a temporary rule pursuant to this subsection, the ~~Secretary-Officer~~ shall:

- 7 (1) Notify persons on its mailing list maintained pursuant to G.S.
8 150B-21.2(d) and any other interested parties of its intent to adopt a
9 temporary rule;
- 10 (2) Accept oral and written comments on the proposed temporary rule;
11 and
- 12 (3) Hold at least one public hearing on the proposed temporary rule.

13 When the ~~Secretary-Officer~~ adopts a temporary rule pursuant to this subsection, the
14 ~~Secretary-Officer~~ must submit a reference to this subsection as the ~~Secretary's~~Officer's
15 statement of need to the Codifier of Rules.

16 Notwithstanding any other provision of this Chapter, the Codifier of Rules shall
17 publish in the North Carolina Register a proposed temporary rule received from the
18 ~~Secretary-Officer~~ in accordance with this subsection."

19 **SECTION 21.(h)** G.S. 150B-38(a) reads as rewritten:

20 "(a) The provisions of this Article shall ~~apply to the following agencies:~~apply to:

- 21 (1) Occupational licensing agencies;
- 22 (2) The State Banking Commission, the Commissioner of Banks, the
23 Savings Institutions Division of the Department of Commerce, and the
24 Credit Union Division of the Department of Commerce; ~~and~~
- 25 (3) The Department of Insurance and the Commissioner of
26 Insurance; ~~Insurance~~; and
- 27 (4) The ~~Department of Commerce~~ State Chief Information Officer in the
28 administration of the provisions of ~~Part 16 of Article 10 of Chapter~~
29 ~~143B~~ Article 3D of Chapter 147 of the General Statutes."

30 **SECTION 22.** G.S. 90-88(d) reads as rewritten:

31 "(d) If any substance is designated, rescheduled or deleted as a controlled
32 substance under federal law, the Commission shall similarly control or cease control of,
33 the substance under this Article unless the Commission objects to such inclusion. The
34 Commission, at its next regularly scheduled meeting that takes place 30 days after
35 publication in the Federal Register of a final order scheduling a substance, shall
36 determine either to adopt a rule to similarly control the substance under this Article or to
37 object to such action. No rule-making notice or hearing as specified by Chapter 150B
38 ~~150B~~ of the General Statutes is required if the Commission makes a decision to
39 similarly control a substance. However, if the Commission makes a decision to object to
40 adoption of the federal action, it shall initiate rule-making procedures pursuant to
41 Chapter 150B of the General Statutes within 180 days of its decision to object."

42 **SECTION 23.(a)** G.S. 93A-2 reads as rewritten:

43 "**§ 93A-2. Definitions and exceptions.**

1 (a) A real estate broker within the meaning of this Chapter is any person,
2 partnership, corporation, limited liability company, association, or other business entity
3 who for a compensation or valuable consideration or promise thereof lists or offers to
4 list, sells or offers to sell, buys or offers to buy, auctions or offers to auction
5 (specifically not including a mere crier of sales), or negotiates the purchase or sale or
6 exchange of real estate, or who leases or offers to lease, or who sells or offers to sell
7 leases of whatever character, or rents or offers to rent any real estate or the improvement
8 thereon, for others.

9 (a1) The term broker-in-charge within the meaning of this Chapter ~~shall mean~~
10 means a real estate broker who has been designated as the broker having responsibility
11 for the supervision of real estate ~~salesperson~~ salespersons engaged in real estate
12 brokerage at a particular real estate office and for other administrative and supervisory
13 duties as the Commission shall prescribe by rule.

14 (b) The term real estate salesperson within the meaning of this Chapter shall
15 mean and include any person who under the supervision of a real estate broker
16 designated as broker-in-charge of a real estate office, for a compensation or valuable
17 consideration is associated with or engaged by or on behalf of a licensed real estate
18 broker to do, perform or deal in any act, acts or transactions set out or comprehended by
19 the foregoing definition of real estate broker.

20 (c) The provisions of this Chapter ~~shall do not apply to and shall do not include:~~

- 21 (1) Any person, partnership, corporation, limited liability company,
22 association, or other business entity who, as owner or lessor, shall
23 perform any of the acts aforesaid with reference to property owned or
24 leased by them, where the acts are performed in the regular course of
25 or as incident to the management of that property and the investment
26 therein.
- 27 (2) Any person acting as an attorney-in-fact under a duly executed power
28 of attorney from the owner authorizing the final consummation of
29 performance of any contract for the sale, lease or exchange of real
30 estate.
- 31 (3) The acts or services of an attorney-at-law.
- 32 (4) Any person, while acting as a receiver, trustee in bankruptcy, guardian,
33 administrator or executor or any person acting under order of any
34 court.
- 35 (5) Any person, while acting as a trustee under a trust agreement, deed of
36 trust or will, or ~~his that person's~~ regular salaried employees.
- 37 (6) Any salaried person employed by a licensed real estate broker, for and
38 on behalf of the owner of any real estate or the improvements thereon,
39 which the licensed broker has contracted to manage for the owner, if
40 the salaried ~~employee~~ employee's employment is limited ~~in his~~
41 ~~employment~~ to: exhibiting units on the real estate to prospective
42 tenants; providing the prospective tenants with information about the
43 lease of the units; accepting applications for lease of the units;

1 completing and executing preprinted form leases; and accepting
2 security deposits and rental payments for the units only when the
3 deposits and rental payments are made payable to the owner or the
4 broker employed by the owner. The salaried employee shall not
5 negotiate the amount of security deposits or rental payments and shall
6 not negotiate leases or any rental agreements on behalf of the owner or
7 broker.

8 (7) Any owner who personally leases or sells ~~his~~the owner's own
9 property.

10 (8) Any housing authority organized in accordance with the provisions of
11 Chapter 157 of the General Statutes and any regular salaried
12 employees of the housing authority when performing acts authorized
13 in this Chapter as to any property owned or leased by the housing
14 authority. This exception shall not apply to any person, partnership,
15 corporation, limited liability company, association, or other business
16 entity that contracts with a housing authority to sell or manage
17 property owned or leased by the housing authority."

18 **SECTION 23.(b)** G.S. 93A-6 reads as rewritten:

19 **"§ 93A-6. Disciplinary action by Commission.**

20 (a) The Commission ~~shall have~~has power to take disciplinary action. Upon its
21 own initiative, or on the complaint of any person, the Commission may investigate the
22 actions of any person or entity licensed under this Chapter, or any other person or entity
23 who shall assume to act in such capacity. If the Commission finds probable cause that a
24 licensee has violated any of the provisions of this Chapter, the Commission may hold a
25 hearing on the allegations of misconduct.

26 The Commission ~~shall have~~has power to suspend or revoke at any time a license
27 issued under the provisions of this Chapter, or to reprimand or censure any licensee, if,
28 following a hearing, the Commission adjudges the licensee to be guilty of:

- 29 (1) Making any willful or negligent misrepresentation or any willful or
30 negligent omission of material fact.
31 (2) Making any false promises of a character likely to influence, persuade,
32 or induce.
33 (3) Pursuing a course of misrepresentation or making of false promises
34 through agents, salespersons, advertising or otherwise.
35 (4) Acting for more than one party in a transaction without the knowledge
36 of all parties for whom he or she acts.
37 (5) Accepting a commission or valuable consideration as a real estate
38 salesperson for the performance of any of the acts specified in this
39 Article or Article 4 of this Chapter, from any person except his or her
40 broker-in-charge or licensed broker by whom he or she is employed.
41 (6) Representing or attempting to represent a real estate broker other than
42 the broker by whom he or she is engaged or associated, without the

- 1 express knowledge and consent of the broker with whom he or she is
2 associated.
- 3 (7) Failing, within a reasonable time, to account for or to remit any
4 ~~moneys~~ monies coming into his or her possession which belong to
5 others.
- 6 (8) Being unworthy or incompetent to act as a real estate broker or
7 salesperson in a manner as to endanger the interest of the public.
- 8 (9) Paying a commission or valuable consideration to any person for acts
9 or services performed in violation of this Chapter.
- 10 (10) Any other conduct which constitutes improper, fraudulent or dishonest
11 dealing.
- 12 (11) Performing or undertaking to perform any legal service, as set forth in
13 G.S. 84-2.1, or any other acts constituting the practice of law.
- 14 (12) Commingling the money or other property of his or her principals with
15 his or her own or failure to maintain and deposit in a trust or escrow
16 account in an insured bank or savings and loan association in North
17 Carolina all money received by him or her as a real estate licensee
18 acting in that capacity, or an escrow agent, or the temporary custodian
19 of the funds of others, in a real estate transaction; provided, these
20 accounts shall not bear interest unless the principals authorize in
21 writing the deposit be made in an interest bearing account and also
22 provide for the disbursement of the interest accrued.
- 23 (13) Failing to deliver, within a reasonable time, a completed copy of any
24 purchase agreement or offer to buy and sell real estate to the buyer and
25 to the seller.
- 26 (14) Failing, at the time the transaction is consummated, to deliver to the
27 seller in every real estate transaction, a complete detailed closing
28 statement showing all of the receipts and disbursements handled by
29 him or her for the seller or failing to deliver to the buyer a complete
30 statement showing all money received in the transaction from the
31 buyer and how and for what it was disbursed.
- 32 (15) Violating any rule or regulation promulgated by the Commission.
- 33 The Executive Director shall transmit a certified copy of all final orders of the
34 Commission suspending or revoking licenses issued under this Chapter to the clerk of
35 superior court of the county in which the licensee maintains his or her principal place of
36 business. The clerk shall enter these orders upon the judgment docket of the county.
- 37 (b) Following a hearing, the Commission shall also have power to suspend or
38 revoke any license issued under the provisions of this Chapter or to reprimand or
39 censure any licensee when:
- 40 (1) The licensee has obtained a license by false or fraudulent
41 representation;
- 42 (2) The licensee has been convicted or has entered a plea of guilty or no
43 contest upon which final judgment is entered by a court of competent

1 jurisdiction in this State, or any other state, of the criminal offenses of:
2 embezzlement, obtaining money under false pretense, fraud, forgery,
3 conspiracy to defraud, or any other offense involving moral turpitude
4 which would reasonably affect the licensee's performance in the real
5 estate business;

6 (3) The licensee has violated any of the provisions of G.S. 93A-6(a) when
7 selling, leasing, or buying ~~his~~the licensee's own property;

8 (4) The broker's unlicensed employee, who is exempt from the provisions
9 of this Chapter under G.S. 93A-2(c)(6), has committed, in the regular
10 course of business, any act which, if committed by the broker, would
11 constitute a violation of G.S. 93A-6(a) for which the broker could be
12 disciplined; or

13 (5) The licensee, who is also a State-licensed or State-certified real estate
14 appraiser pursuant to Chapter 93E of the General Statutes, has violated
15 any provisions of Chapter 93E of the General Statutes and has been
16 reprimanded or has had ~~his~~an appraiser license or certificate
17 suspended or revoked by the Appraisal Board.

18 (c) The Commission may appear in its own name in superior court in actions for
19 injunctive relief to prevent any person from violating the provisions of this Chapter or
20 rules promulgated by the Commission. The superior court shall have the power to grant
21 these injunctions even if criminal prosecution has been or may be instituted as a result
22 of the violations, or whether the person is a licensee of the Commission.

23 (d) Each broker shall maintain complete records showing the deposit,
24 maintenance, and withdrawal of money or other property owned by ~~his~~the broker's
25 principals or held in escrow or in trust for ~~his~~the broker's principals. The Commission
26 may inspect these records periodically, without prior notice and may also inspect these
27 records whenever the Commission determines that they are pertinent to an investigation
28 of any specific complaint against a licensee.

29 (e) When a person or entity licensed under this Chapter is accused of any act,
30 omission, or misconduct which would subject the licensee to disciplinary action, the
31 licensee, with the consent and approval of the Commission, may surrender ~~his or its~~the
32 license and all the rights and privileges pertaining to it for a period of time established
33 by the Commission. A person or entity who surrenders ~~his or its~~a license shall not
34 thereafter be eligible for or submit any application for licensure as a real estate broker or
35 salesperson during the period of license surrender."

36 **SECTION 23.(c)** G.S. 93A-16 reads as rewritten:

37 "**§ 93A-16. Real Estate Recovery Fund created; payment to fund; management.**

38 (a) There is hereby created a special fund to be known as the "Real Estate
39 Recovery Fund" which shall be set aside and maintained by the North Carolina Real
40 Estate Commission. ~~Said~~The fund shall be used in the manner provided under this
41 Article for the payment of unsatisfied judgments where the aggrieved person has
42 suffered a direct monetary loss by reason of certain acts committed by any real estate
43 broker or salesperson licensed under this Chapter.

1 (b) On September 1, 1979, the Commission shall transfer the sum of one hundred
2 thousand dollars (\$100,000) from its expense reserve fund to the Real Estate Recovery
3 Fund. Thereafter, the Commission may transfer to the Real Estate Recovery Fund
4 additional sums of money from whatever funds the Commission may have, provided
5 that, if on December 31 of any year the amount remaining in the fund is less than fifty
6 thousand dollars (\$50,000), the Commission may determine that each person or entity
7 licensed under this Chapter, when renewing ~~his or its~~ a license, shall pay in addition to
8 ~~his~~ the license renewal fee, a fee not to exceed ten dollars (\$10.00) per broker and five
9 dollars (\$5.00) per salesperson as shall be determined by the Commission for the
10 purpose of replenishing the fund.

11 (c) The Commission shall invest and reinvest the ~~moneys~~ monies in the Real
12 Estate Recovery Fund in the same manner as provided by law for the investment of
13 funds by the clerk of superior court. The proceeds from such investments shall be
14 deposited to the credit of the fund.

15 (d) The Commission shall have the authority to adopt reasonable rules and
16 procedures not inconsistent with the provisions of this Article, to provide for the
17 orderly, fair and efficient administration and payment of monies held in the Real Estate
18 Recovery Fund."

19 **SECTION 23.(d)** G.S. 93A-18 reads as rewritten:

20 "**§ 93A-18. Hearing; required showing.**

21 Upon ~~such~~ application by an aggrieved person, the Commission shall conduct a
22 hearing and the aggrieved person shall be required to ~~show~~ show that the aggrieved
23 person:

- 24 (1) ~~He is~~ Is not a spouse of the judgment debtor or a person representing
25 ~~such the~~ spouse; ~~and~~
- 26 (2) ~~He is~~ Is making application not more than one year after termination of
27 all judicial proceedings, including appeals, in connection with the
28 judgment;
- 29 (3) ~~He has~~ Has complied with all requirements of this Article;
- 30 (4) ~~He has~~ Has obtained a judgment as described in G.S. 93A-17, stating
31 the amount owing thereon at the date of application;
- 32 (5) ~~He has~~ Has made all reasonable searches and inquiries to ascertain
33 whether the judgment debtor is possessed of real or personal property
34 or other assets liable to be sold or applied in satisfaction of the
35 judgment;
- 36 (6) ~~That by such search he~~ After searching as described in subdivision (5)
37 of this section, has discovered no real or personal property or other
38 assets liable to be sold or applied, or that he has discovered certain of
39 them, describing them, but ~~that~~ the amount so realized was insufficient
40 to satisfy the judgment, stating the amount realized and the balance
41 remaining due on the judgment after application of the amount
42 realized; ~~and~~

1 (7) ~~He has~~ Has diligently pursued ~~his remedies including attempted the~~
2 aggrieved person's remedies, which include attempting execution on
3 the judgment against all the judgment debtors—debtors, which
4 execution has been returned unsatisfied. ~~In addition to that, he knows~~
5 Knows of no assets of the judgment debtor and ~~that he has~~ attempted
6 collection from all other persons who may be liable ~~to him in for the~~
7 transaction for which ~~he the~~ aggrieved person seeks payment from the
8 Real Estate Recovery Fund if there be any such other persons."

9 **SECTION 23.(e)** G.S. 93A-19 reads as rewritten:

10 **"§ 93A-19. Response and defense by Commission and judgment debtor; proof of**
11 **conversion.**

12 (a) Whenever the Commission proceeds upon an application as set forth in this
13 Article, counsel for the Commission may defend such action on behalf of the fund and
14 shall have recourse to all appropriate means of defense, including the examination of
15 witnesses. The judgment debtor may defend such action on his or her own behalf and
16 shall have recourse to all appropriate means of defense, including the examination of
17 witnesses. Counsel for the Commission and the judgment debtor may file responses to
18 the application, setting forth answers and defenses. Responses shall be filed with the
19 Commission and copies shall be served upon every party by the filing party. If at any
20 time it appears there are no triable issues of fact and the application for payment from
21 the fund is without merit, the Commission shall dismiss the application. A motion to
22 dismiss may be supported by affidavit of any person or persons having knowledge of
23 the facts and may be made on the basis that the application or the judgment referred to
24 therein do not form a basis for meritorious recovery within the purview of G.S. 93A-17,
25 that the applicant has not complied with the provisions of this Article, or that the
26 liability of the fund with regard to the particular licensee or transaction has been
27 exhausted; provided, however, notice of ~~such the~~ motion shall be given at least 10 days
28 prior to the time fixed for hearing. If the applicant or judgment debtor fails to appear at
29 the hearing after receiving notice of the hearing, the applicant or judgment debtor ~~shall~~
30 ~~waive his or her rights~~ waives the person's rights unless the absence is excused by the
31 Commission.

32 (b) Whenever the judgment obtained by an applicant is by default, stipulation, or
33 consent, or whenever the action against the licensee was defended by a trustee in
34 bankruptcy, the applicant, for purposes of this Article, shall have the burden of proving
35 ~~his the~~ cause of action for conversion of trust funds. Otherwise, the judgment shall
36 create a rebuttable presumption of the conversion of trust funds. This presumption is a
37 presumption affecting the burden of producing evidence."

38 **SECTION 23.(f)** G.S. 93A-22 reads as rewritten:

39 **"§ 93A-22. Repayment to fund; automatic suspension of license.**

40 Should the Commission pay from the Real Estate Recovery Fund any amount in
41 settlement of a claim or toward satisfaction of a judgment against a licensed real estate
42 broker or salesperson, the license of the broker or salesperson shall be automatically
43 suspended upon the effective date of the order authorizing payment from the fund. No

1 such broker or salesperson shall be granted a reinstatement until ~~he has the fund has~~
2 been repaid in full, ~~plus-including~~ interest at the legal rate as provided for in ~~G.S. 24-1,~~
3 the amount paid from the Real Estate Recovery Fund. G.S. 24-1."

4 **SECTION 23.(g)** G.S. 93A-23 reads as rewritten:

5 **"§ 93A-23. Subrogation of rights.**

6 When the Commission has paid from the Real Estate Recovery Fund any sum to the
7 judgment creditor, the Commission shall be subrogated to all of the rights of the
8 judgment creditor to the extent of the amount so paid and the judgment creditor shall
9 assign all ~~his~~ right, title, and interest in the judgment to the extent of the amount so paid
10 to the Commission and any amount and interest so recovered by the Commission on the
11 judgment shall be deposited in the Real Estate Recovery Fund."

12 **SECTION 23.(h)** G.S. 93A-25 reads as rewritten:

13 **"§ 93A-25. Persons ineligible to recover from fund.**

14 No real estate broker or real estate salesperson who suffers the loss of any
15 commission from any transaction in which he or she was acting in the capacity of a real
16 estate broker or real estate salesperson shall be entitled to make application for payment
17 from the Real Estate Recovery Fund for ~~such~~ the loss."

18 **SECTION 23.(i)** G.S. 93A-42 reads as rewritten:

19 **"§ 93A-42. Time shares deemed real estate.**

20 (a) A time share is deemed to be an interest in real estate, and shall be governed
21 by the law of this State relating to real estate.

22 (b) A purchaser of a time share may in accordance with G.S. 47-18 register the
23 time share instrument by which ~~he~~ the purchaser acquired ~~his~~ the interest and upon such
24 registration shall be entitled to the protection provided by Chapter 47 of the General
25 Statutes for the recordation of other real property instruments. A time share instrument
26 transferring or encumbering a time share shall not be rejected for recordation because of
27 the nature or duration of that estate, provided all other requirements necessary to make
28 an instrument recordable are complied with.

29 (c) The developer shall record or cause to be recorded a time share instrument:

30 (1) Not less than six days nor more than 45 days following the execution
31 of the contract of sale by the purchaser; or

32 (2) Not later than 180 days following the execution of the contract of sale
33 by the purchaser, provided that all payments made by the purchaser
34 shall be placed by the developer with an independent escrow agent
35 upon the expiration of the 10-day escrow period provided by G.S.
36 93A-45(c).

37 (d) The independent escrow agent provided by G.S. 93A-42(c)(2) shall deposit
38 and maintain the purchaser's payments in an insured trust or escrow account in a bank or
39 savings and loan association located in this State. The trust or escrow account may be
40 interest-bearing and the interest earned shall belong to the developer, if agreed upon in
41 writing by the purchaser; Provided, however, if the time share instrument is not
42 recorded within the time periods specified in this section, then the interest earned shall
43 belong to the purchaser. The independent escrow agent shall return all payments to the

1 purchaser at the expiration of 180 days following the execution of the contract of sale
2 by the purchaser, unless prior to that time the time share instrument has been recorded.
3 However, if prior to the expiration of 180 days following the execution of the contract
4 of sale, the developer and the purchaser provide their written consent to the independent
5 escrow agent, the developer's obligation to record the time share instrument and the
6 escrow period may be extended for an additional period of 120 days. Upon recordation
7 of the time share instrument, the independent escrow agent shall pay the purchaser's
8 funds to the developer. Upon request by the Commission, the independent escrow agent
9 shall promptly make available to the Commission inspection of records of money held
10 by ~~him~~the independent escrow agent.

11 (e) In no event shall the developer be required to record a time share instrument
12 if the purchaser is in default of ~~his~~the purchaser's obligations.

13 (f) Recordation under the provisions of this section of the time share instrument
14 shall constitute delivery of that instrument from the developer to the purchaser."

15 **SECTION 23.(j)** G.S. 93A-45(d) reads as rewritten:

16 "(d) If a developer fails to provide a purchaser to whom a time share is transferred
17 with the statement as required by subsection (a), the purchaser, in addition to any rights
18 to damages or other relief, is entitled to receive from the developer an amount equal to
19 ten percent (10%) of the sales price of the time share not to exceed three thousand
20 dollars (\$3,000). A receipt signed by the purchaser stating that ~~he~~the purchaser has
21 received the statement required by subsection (a) is prima facie evidence of delivery of
22 ~~such~~the statement."

23 **SECTION 23.(k)** G.S. 93A-48 reads as rewritten:

24 "**§ 93A-48. Exchange programs.**

25 (a) If a purchaser is offered the opportunity to subscribe to any exchange
26 program, the developer shall, except as provided in subsection (b), deliver to the
27 purchaser, prior to the execution of (i) any contract between the purchaser and the
28 exchange company, and (ii) the sales contract, at least the following information
29 regarding ~~such~~the exchange program:

- 30 (1) The name and address of the exchange company;
- 31 (2) The names of all officers, directors, and shareholders owning five
32 percent (5%) or more of the outstanding stock of the exchange
33 company;
- 34 (3) Whether the exchange company or any of its officers or directors has
35 any legal or beneficial interest in any developer or managing agent for
36 any time share project participating in the exchange program and, if so,
37 the name and location of the time share project and the nature of the
38 interest;
- 39 (4) Unless the exchange company is also the developer a statement that
40 the purchaser's contract with the exchange company is a contract
41 separate and distinct from the sales contract;

- 1 (5) Whether the purchaser's participation in the exchange program is
2 dependent upon the continued affiliation of the time share project with
3 the exchange program;
- 4 (6) Whether the purchaser's membership or participation, or both, in the
5 exchange program is voluntary or mandatory;
- 6 (7) A complete and accurate description of the terms and conditions of the
7 purchaser's contractual relationship with the exchange company and
8 the procedure by which changes thereto may be made;
- 9 (8) A complete and accurate description of the procedure to qualify for
10 and effectuate exchanges;
- 11 (9) A complete and accurate description of all limitations, restrictions, or
12 priorities employed in the operation of the exchange program,
13 including, but not limited to, limitations on exchanges based on
14 seasonality, unit size, or levels of occupancy, expressed in boldfaced
15 type, and, in the event that such limitations, restrictions, or priorities
16 are not uniformly applied by the exchange program, a clear description
17 of the manner in which they are applied;
- 18 (10) Whether exchanges are arranged on a space available basis and
19 whether any guarantees of fulfillment of specific requests for
20 exchanges are made by the exchange program;
- 21 (11) Whether and under what circumstances an owner, in dealing with the
22 exchange company, may lose the use and occupancy of ~~his~~the owner's
23 time share in any properly applied for exchange without ~~his~~ being
24 provided with substitute accommodations by the exchange company;
- 25 (12) The expenses, fees or range of fees for participation by owners in the
26 exchange program, a statement whether any such fees may be altered
27 by the exchange company, and the circumstances under which
28 alterations may be made;
- 29 (13) The name and address of the site of each time share project or other
30 property which is participating in the exchange program;
- 31 (14) The number of units in each project or other property participating in
32 the exchange program which are available for occupancy and which
33 qualify for participation in the exchange program, expressed within the
34 following numerical groupings, 1-5, 6-10, 11-20, 21-50 and 51, and
35 over;
- 36 (15) The number of owners with respect to each time share project or other
37 property which are eligible to participate in the exchange program
38 expressed within the following numerical groupings, 1-100, 101-249,
39 250-499, 500-999, and 1,000 and over, and a statement of the criteria
40 used to determine those owners who are currently eligible to
41 participate in the exchange program;
- 42 (16) The disposition made by the exchange company of time shares
43 deposited with the exchange program by owners eligible to participate

1 in the exchange program and not used by the exchange company in
2 effecting exchanges;

3 (17) The following information which, except as provided in subsection (b)
4 below, shall be independently audited by a certified public accountant
5 in accordance with the standards of the Accounting Standards Board of
6 the American Institute of Certified Public Accountants and reported
7 for each year no later than July 1, of the succeeding year:

8 a. The number of owners enrolled in the exchange program and
9 such numbers shall disclose the relationship between the
10 exchange company and owners as being either fee paying or
11 gratuitous in nature;

12 b. The number of time share projects or other properties eligible to
13 participate in the exchange program categorized by those
14 having a contractual relationship between the developer or the
15 association and the exchange company and those having solely
16 a contractual relationship between the exchange company and
17 owners directly;

18 c. The percentage of confirmed exchanges, which shall be the
19 number of exchanges confirmed by the exchange company
20 divided by the number of exchanges properly applied for,
21 together with a complete and accurate statement of the criteria
22 used to determine whether an exchange requested was properly
23 applied for;

24 d. The number of time shares or other intervals for which the
25 exchange company has an outstanding obligation to provide an
26 exchange to an owner who relinquished a time share or interval
27 during the year in exchange for a time share or interval in any
28 future year; and

29 e. The number of exchanges confirmed by the exchange company
30 during the year; and

31 (18) A statement in boldfaced type to the effect that the percentage
32 described in ~~subparagraph (17)e. of subsection (a) sub-subdivision c. of~~
33 subdivision (17) of this subsection is a summary of the exchange
34 requests entered with the exchange company in the period reported and
35 that the percentage does not indicate a purchaser's/owner's
36 probabilities of being confirmed to any specific choice or range of
37 choices, since availability at individual locations may vary.

38 The purchaser shall certify in writing to the receipt of the information required by
39 this subsection and any other information which the ~~Commissioners~~ Commission may
40 by rule require.

41 (b) The information required by subdivisions (a), (2), (3), (13), (14), (15), and
42 (17) shall be accurate as of December 31 of the year preceding the year in which the
43 information is delivered, except for information delivered within the first 180 days of

1 any calendar year which shall be accurate as of December 31 of the year two years
2 preceding the year in which the information is delivered to the purchaser. The remaining
3 information required by subsection (a) shall be accurate as of a date which is no more
4 than 30 days prior to the date on which the information is delivered to the purchaser.

5 (c) In the event an exchange company offers an exchange program directly to the
6 purchaser or owner, the exchange company shall deliver to each purchaser or owner,
7 concurrently with the offering and prior to the execution of any contract between the
8 purchaser or owner and the exchange company the information set forth in subsection
9 (a) above. The requirements of this paragraph shall not apply to any renewal of a
10 contract between an owner and an exchange company.

11 (d) All promotional brochures, pamphlets, advertisements, or other materials
12 disseminated by the exchange company to purchasers in this State which contain the
13 percentage of confirmed exchanges described in (a)(17)c. must include the statement set
14 forth in (a)(18)."

15 **SECTION 23.(I)** G.S. 93A-54 reads as rewritten:

16 "**§ 93A-54. Disciplinary action by Commission.**

17 (a) The Commission ~~shall have~~has power to take disciplinary action. Upon its
18 own motion, or on the verified complaint of any person, the Commission may
19 investigate the actions of any time share salesperson, developer, or project broker of a
20 time share project registered under this Article, or any other person or entity who shall
21 assume to act in such capacity. If the Commission finds probable cause that a time share
22 salesperson, developer, or project broker has violated any of the provisions of this
23 Article, the Commission may hold a hearing on the allegations of misconduct.

24 The Commission ~~shall have~~has the power to suspend or revoke at any time a real
25 estate license issued to a time share salesperson or project broker, or a certificate of
26 registration of a time share project issued to a developer; or to reprimand or censure
27 such salesperson, developer, or project broker; or to fine such developer in the amount
28 of five hundred dollars (\$500.00) for each violation of this Article, if, after a hearing,
29 the Commission adjudges either the salesperson, developer, or project broker to be
30 guilty of:

- 31 (1) Making any willful or negligent misrepresentation or any willful or
32 negligent omission of material fact about any time share or time share
33 project;
- 34 (2) Making any false promises of a character likely to influence, persuade,
35 or induce;
- 36 (3) Pursuing a course of misrepresentation or making of false promises
37 through agents, salesperson, advertising or otherwise;
- 38 (4) Failing, within a reasonable time, to account for all money received
39 from others in a time share transaction, and failing to remit such
40 monies as may be required in G.S. 93A-45 of this Article;
- 41 (5) Acting as a time share salesperson or time share developer in a manner
42 as to endanger the interest of the public;

- 1 (6) Paying a commission, salary, or other valuable consideration to any
- 2 person for acts or services performed in violation of this Article;
- 3 (7) Any other conduct which constitutes improper, fraudulent, or
- 4 dishonest dealing;
- 5 (8) Performing or undertaking to perform any legal service as set forth in
- 6 G.S. 84-2.1, or any other acts not specifically set forth in that section;
- 7 (9) Failing to deposit and maintain in a trust or escrow account in an
- 8 insured bank or savings and loan association in North Carolina all
- 9 money received from others in a time share transaction as may be
- 10 required in G.S. 93A-45 of this Article or failing to place with an
- 11 independent escrow agent the funds of a time share purchaser when
- 12 required by G.S. 93A-42(c);
- 13 (10) Failing to deliver to a purchaser a public offering statement containing
- 14 the information required by G.S. 93A-44 and any other disclosures that
- 15 the Commission may by regulation require;
- 16 (11) Failing to comply with the provisions of Chapter 75 of the General
- 17 Statutes in the advertising or promotion of time shares for sale, or
- 18 failing to assure such compliance by persons engaged on behalf of a
- 19 developer;
- 20 (12) Failing to comply with the provisions of G.S. 93A-48 in furnishing
- 21 complete and accurate information to purchasers concerning any
- 22 exchange program which may be offered to such purchaser;
- 23 (13) Making any false or fraudulent representation on an application for
- 24 registration;
- 25 (14) Violating any rule or regulation promulgated by the Commission;
- 26 (15) Failing to record or cause to be recorded a time share instrument as
- 27 required by G.S. 93A-42(c), or failing to provide a purchaser the
- 28 protection against liens required by G.S. 93A-57(a); or
- 29 (16) Failing as a time share project broker to exercise reasonable and
- 30 adequate supervision of the conduct of sales at ~~his~~ a project or location
- 31 by the brokers and salespersons under ~~his~~ the time share project
- 32 broker's control.

33 (a1) The clear proceeds of fines collected pursuant to subsection (a) of this section
34 shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S.
35 115C-457.2.

36 (b) Following a hearing, the Commission shall also have power to suspend or
37 revoke any certificate of registration issued under the provisions of this Article or to
38 reprimand or censure any developer when the registrant has been convicted or has
39 entered a plea of guilty or no contest upon which final judgment is entered by a court of
40 competent jurisdiction in this State, or any other state, of the criminal offenses of:
41 embezzlement, obtaining money under false pretense, fraud, forgery, conspiracy to
42 defraud, or any other offense involving moral turpitude which would reasonably affect
43 the developer's performance in the time share business.

1 (c) The Commission may appear in its own name in superior court in actions for
2 injunctive relief to prevent any person or entity from violating the provisions of this
3 Article or rules promulgated by the Commission. The superior court shall have the
4 power to grant these injunctions even if criminal prosecution has been or may be
5 instituted as a result of the violations, or regardless of whether the person or entity has
6 been registered by the Commission.

7 (d) Each developer shall maintain or cause to be maintained complete records of
8 every time share transaction including records pertaining to the deposit, maintenance,
9 and withdrawal of money required to be held in a trust or escrow account, or as
10 otherwise required by the Commission, under G.S. 93A-45 of this Article. The
11 Commission may inspect these records periodically without prior notice and may also
12 inspect these records whenever the Commission determines that they are pertinent to an
13 investigation of any specific complaint against a registrant.

14 (e) When a licensee is accused of any act, omission, or misconduct under this
15 Article which would subject the licensee to disciplinary action, the licensee may, with
16 the consent and approval of the Commission, surrender ~~his or its~~ the licensee's license
17 and all the rights and privileges pertaining to it for a period of time to be established by
18 the Commission. A licensee who surrenders ~~his or its~~ a license shall not be eligible for,
19 or submit any application for, licensure as a real estate broker or salesperson or
20 registration of a time share project during the period of license surrender. For the
21 purposes of this section, the term licensee shall include a time share developer."

22 **SECTION 23.(m)** G.S. 93A-58 reads as rewritten:

23 "**§ 93A-58. Registrar required; criminal penalties; project broker.**

24 (a) Every developer of a registered project shall, by affidavit filed with the
25 Commission, designate a natural person to serve as time share registrar for its registered
26 projects. The registrar shall be responsible for the recordation of time share instruments
27 and the release of liens required by G.S. 93A-42(c) and G.S. 93A-57(a). A developer
28 may, from time to time, change the designated time share registrar by proper filing with
29 the Commission and by otherwise complying with this subsection. No sales or offers to
30 sell shall be made until the registrar is designated for a time share project.

31 The registrar has the duty to ensure that the provisions of this Article are complied
32 with in a time share project for which ~~he~~ the person is registrar. No registrar shall record
33 a time share instrument except as provided by this Article.

34 (b) A time share registrar ~~shall be~~ is guilty of a Class I felony if he or she
35 knowingly or recklessly fails to record or cause to be recorded a time share instrument
36 as required by this Article.

37 A person responsible as general partner, corporate officer, joint venturer or sole
38 proprietor of the developer of a time share project ~~shall be~~ is guilty of a Class I felony if
39 ~~he~~ the person intentionally allows the offering for sale or the sale of time share to
40 purchasers without first designating a time share registrar.

41 (c) The developer shall designate for each project and other locations where time
42 shares are sold or offered for sale a project broker. The project broker shall act as
43 supervising broker for all persons licensed as salespersons at the project or other

1 location and shall directly, personally, and actively supervise all persons licensed as
2 brokers or salespersons at the project or other location in a manner to reasonably ensure
3 that the sale of time shares will be conducted in accordance with the provisions of this
4 Chapter."

5 **SECTION 24.** G.S. 96-35(b) reads as rewritten:

6 "(b) The Office of State Budget, Planning, and Management shall report ~~to~~ to the
7 Governor and to the General Assembly upon the convening of each biennial session, its
8 evaluation of and recommendations regarding job training, education, and placement
9 programs for which data was provided to the CFS."

10 **SECTION 25.** G.S. 105-357(b)(2) reads as rewritten:

11 "(2) Penalty. – In addition to interest for nonpayment of taxes provided by
12 G.S. 105-360 and in addition to any criminal penalties provided by law
13 for the giving of worthless checks, the penalty for giving in payment of
14 taxes a check that is returned because of insufficient funds or
15 nonexistence of an account of the drawer is ten percent (10%) of the
16 amount of the check, subject to a minimum of one dollar (\$1.00) and a
17 maximum of one thousand dollars (\$1,000). This penalty does not
18 apply if the tax collector finds that, when the check was presented for
19 payment, the drawer of the check had sufficient funds in an account at
20 a financial institution in this State to pay the check and, by
21 ~~inadvertance, inadvertence,~~ the drawer of the check failed to draw the
22 check on the account that had sufficient funds. This penalty shall be
23 added to and collected in the same manner as the taxes for which the
24 check was given."

25 **SECTION 26.** G.S. 116D-4(b) reads as rewritten:

26 "(b) ~~Participation in providing professional services.~~ Participation in Providing
27 Professional Services. – The Department of State Treasurer shall provide contracting
28 opportunities for historically underutilized businesses in providing professional services
29 in connection with the issuance of bonds and notes authorized by this section. As used
30 in this subsection, the term 'historically underutilized business' means a business
31 described in G.S. 143-48. The Department of State Treasurer shall strive to increase the
32 amount of legal, financial, and other professional services acquired by it from
33 historically underutilized businesses. With the assistance of the Office for Historically
34 Underutilized Businesses in the Department of Administration, the Department of State
35 Treasurer shall set objectives for contracting with these businesses, identify and
36 eliminate barriers or constraints that may restrict these businesses from contracting with
37 the Department, and develop a plan for meeting its objectives. The Department of State
38 Treasurer shall report quarterly to the Office for Historically Underutilized Businesses
39 on its progress in carrying out the requirements of this subsection."

40 **SECTION 27.** G.S. 116D-11(g) reads as rewritten:

41 "(g) University Improvement Bonds Fund. – The proceeds of university
42 improvement general obligation bonds and notes, including premium thereon, if any,
43 except the proceeds of bonds the issuance of which has been anticipated by bond

1 anticipation notes or the proceeds of refunding bonds or notes, shall be placed by the
2 State Treasurer in a special fund to be designated 'University Improvement Bonds
3 Fund'. Moneys in the University Improvement Bonds Fund shall be used for the
4 purposes set forth in this Article.

5 Any additional moneys that may be received by means of a grant or grants from the
6 United States of America or any agency or department thereof or from any other source
7 to aid in financing the cost of any university improvements authorized by this Article
8 may be placed by the State Treasurer in the University Improvement Bonds Fund or in a
9 separate account or fund and shall be disbursed, to the extent permitted by the terms of
10 the grant or grants, without regard to any limitations imposed by this ~~aet.~~ Article.

11 The proceeds of university improvement general obligation bonds and notes may be
12 used with any other moneys made available by the General Assembly for the making of
13 university improvements, including the proceeds of any other State bond issues,
14 whether previously made available or which may be made available after the effective
15 date of this Article. The proceeds of university improvement bonds and notes shall be
16 expended and disbursed under the direction and supervision of the Director of the
17 Budget. The funds provided by this Article for university improvements shall be
18 disbursed for the purposes provided in this Article upon warrants drawn on the State
19 Treasurer by the State Controller, which warrants shall not be drawn until requisition
20 has been approved by the Director of the Budget and which requisition shall be
21 approved only after full compliance with the Executive Budget Act, Article 1 of Chapter
22 143 of the General Statutes."

23 **SECTION 28.** G.S. 116D-46(g) reads as rewritten:

24 "(g) Community College Bonds Fund. – The proceeds of community college
25 general obligation bonds and notes, including premium thereon, if any, except the
26 proceeds of bonds the issuance of which has been anticipated by bond anticipation notes
27 or the proceeds of refunding bonds or notes, shall be placed by the State Treasurer in a
28 special fund to be designated 'Community College Bonds Fund'. Moneys in the
29 Community College Bonds Fund shall be used for the purposes set forth in this Article.

30 Any additional moneys that may be received by means of a grant or grants from the
31 United States of America or any agency or department thereof or from any other source
32 to aid in financing the cost of any community college capital facilities authorized by this
33 Article may be placed by the State Treasurer in the Community College Bonds Fund or
34 in a separate account or fund and shall be disbursed, to the extent permitted by the terms
35 of the grant or grants, without regard to any limitations imposed by this ~~aet.~~ Article.

36 The proceeds of community college general obligation bonds and notes may be used
37 with any other moneys made available by the General Assembly for the making of
38 grants to community colleges for capital facilities, including the proceeds of any other
39 State bond issues, whether previously made available or which may be made available
40 after the effective date of this Article. The proceeds of community college bonds and
41 notes shall be expended and disbursed under the direction and supervision of the
42 Director of the Budget. The funds provided by this Article for grants to community
43 colleges shall be disbursed for the purposes provided in this Article upon warrants

1 drawn on the State Treasurer by the State Controller, which warrants shall not be drawn
2 until requisition has been approved by the Director of the Budget and which requisition
3 shall be approved only after full compliance with the Executive Budget Act, Article 1 of
4 Chapter 143 of the General Statutes."

5 **SECTION 29.** Effective July 1, 2001, G.S. 122C-269(b) reads as rewritten:

6 "(b) An official of the facility shall immediately notify the clerk of superior court
7 of the county in which the facility is located of a determination to hold the respondent
8 pending hearing. That clerk shall request transmittal of all documents pertinent to the
9 proceedings from the clerk of superior court where the proceedings were initiated. The
10 requesting clerk shall assume all duties set forth in G.S. 122C-264. The counsel for
11 ~~indigent respondents~~ ~~the counsel~~ provided for in G.S. 122C-268(d) shall be appointed in
12 accordance with rules adopted by the Office of Indigent Defense Services."

13 **SECTION 30.(a)** G.S. 126-5(a)(2) reads as rewritten:

14 "(2) ~~To all~~ All employees of the following local entities:

- 15 a. Area mental health, developmental disabilities, and substance
16 abuse authorities.
- 17 b. Local social services departments.
- 18 c. Local public health departments.
- 19 d. Local emergency management agencies that receive federal
20 grant-in-aid funds.

21 An employee of a consolidated county human services agency created
22 pursuant to G.S. 153A-77(b) is not considered an employee of an
23 entity listed in this subdivision."

24 **SECTION 30.(b)** G.S. 126-5(c1) reads as rewritten:

25 "(c1) Except as to the provisions of Articles 6 and 7 of this Chapter, the provisions
26 of this Chapter shall not apply to:

- 27 (1) Constitutional officers of the State.
- 28 (2) Officers and employees of the Judicial Department.
- 29 (3) Officers and employees of the General Assembly.
- 30 (4) Members of boards, committees, commissions, councils, and advisory
31 councils compensated on a per diem basis.
- 32 (5) Officials or employees whose salaries are fixed by the General
33 Assembly, or by the Governor, or by the Governor and Council of
34 State, or by the Governor subject to the approval of the Council of
35 State.
- 36 (6) Employees of the Office of the Governor that the Governor, at any
37 time, in ~~his~~ the Governor's discretion, exempts from the application of
38 the provisions of this Chapter by means of a letter to the State
39 Personnel Director designating these employees.
- 40 (7) Employees of the Office of the Lieutenant Governor, that the
41 Lieutenant Governor, at any time, in ~~his~~ the Lieutenant Governor's
42 discretion, exempts from the application of the provisions of this

- 1 Chapter by means of a letter to the State Personnel Director
2 designating these employees.
- 3 (8) Instructional and research staff, physicians, and dentists of The
4 University of North Carolina.
- 5 (9) Employees whose salaries are fixed under the authority vested in the
6 Board of Governors of The University of North Carolina by the
7 provisions of G.S. 116-11(4), 116-11(5), and 116-14.
- 8 (10) Repealed by Session Laws 1991, c. 84, s. 1.
- 9 (11) North Carolina School of Science and Mathematics' employees whose
10 salaries are fixed in accordance with the provisions of G.S.
11 116-235(c)(1) and G.S. 116-235(c)(2).
- 12 (12) Employees of the North Carolina Low-Level Radioactive Waste
13 Management Authority whose salaries are fixed pursuant to G.S.
14 104G-5(g)(1) and G.S. 104G-5(g)(2).
- 15 (13) Employees of the North Carolina Hazardous Waste Management
16 Commission whose salaries are fixed pursuant to G.S. 130B-6(g)(1)
17 and G.S. 130B-6(g)(2).
- 18 (14) Employees of the North Carolina State Ports Authority.
- 19 (15) Employees of the North Carolina Global TransPark Authority.
- 20 (16) The executive director and one associate director of the North Carolina
21 Center for Nursing established under Article 9F of Chapter 90 of the
22 General Statutes.
- 23 (17) The executive director of the independent staff of the Information
24 Resources Management Commission established under G.S.
25 143B-472.41A.
- 26 (18) Employees of the Tobacco Trust Fund Commission established in
27 Article 75 of Chapter 143 of the General Statutes.
- 28 (19) Employees of the Health and Wellness Trust Fund Commission
29 established in Article 21 of Chapter 130A of the General Statutes.
- 30 (20) Employees of the North Carolina Rural Redevelopment Authority
31 created in Part 2D of Article 10 of Chapter 143B of the General
32 Statutes."

33 **SECTION 31.** G.S. 131D-2(b)(1) reads as rewritten:

34 "(b) Licensure; inspections. –

- 35 (1) The Department of Health and Human Services shall inspect and
36 license, under rules adopted by the Medical Care Commission, all
37 adult care homes for persons who are aged or mentally or physically
38 disabled except those exempt in subsection (c) of this section. Licenses
39 issued under the authority of this section shall be valid for one year
40 from the date of issuance unless revoked earlier by the Secretary for
41 failure to comply with any part of this section or any rules adopted
42 ~~hereunder adult care.~~ hereunder. Licenses shall be renewed annually
43 upon filing and the Department's approval of the renewal application.

1 A license shall not be renewed if outstanding fines and penalties
2 imposed by the State against the home have not been paid. Fines and
3 penalties for which an appeal is pending are exempt from
4 consideration. The renewal application shall contain all necessary and
5 reasonable information that the Department may by rule require.
6 Except as otherwise provided in this subdivision, the Department may
7 amend a license by reducing it from a full license to a provisional
8 license for a period of not more than 90 days whenever the Department
9 finds that:

- 10 a. The licensee has substantially failed to comply with the
11 provisions of Articles 1 and 3 of Chapter 131D of the General
12 Statutes and the rules adopted pursuant to these Articles;
13 b. There is a reasonable probability that the licensee can remedy
14 the licensure deficiencies within a reasonable length of time;
15 and
16 c. There is a reasonable probability that the licensee will be able
17 thereafter to remain in compliance with the licensure rules for
18 the foreseeable future.

19 The Department may extend a provisional license for not more than
20 one additional 90-day period upon finding that the licensee has made
21 substantial progress toward remedying the licensure deficiencies that
22 caused the license to be reduced to provisional status.

23 The Department may revoke a license whenever:

- 24 a. The Department finds that:
25 1. The licensee has substantially failed to comply with the
26 provisions of Articles 1 and 3 of Chapter 131D of the
27 General Statutes and the rules adopted pursuant to these
28 Articles; and
29 2. It is not reasonably probable that the licensee can remedy
30 the licensure deficiencies within a reasonable length of
31 time; or
32 b. The Department finds that:
33 1. The licensee has substantially failed to comply with the
34 provisions of Articles 1 and 3 of Chapter 131D of the
35 General Statutes and the rules adopted pursuant to these
36 Articles; and
37 2. Although the licensee may be able to remedy the
38 deficiencies within a reasonable time, it is not reasonably
39 probable that the licensee will be able to remain in
40 compliance with licensure rules for the foreseeable
41 future; or
42 c. The Department finds that the licensee has failed to comply
43 with the provisions of Articles 1 and 3 of Chapter 131D of the

1 General Statutes and the rules adopted pursuant to these
2 Articles, and the failure to comply endangered the health,
3 safety, or welfare of the patients in the facility.

4 The Department may also issue a provisional license to a facility,
5 pursuant to rules adopted by the Medical Care Commission, for
6 substantial failure to comply with the provisions of this section or rules
7 adopted pursuant to this section. Any facility wishing to contest the
8 issuance of a provisional license shall be entitled to an administrative
9 hearing as provided in the Administrative Procedure Act, Chapter
10 150B of the General Statutes. A petition for a contested case shall be
11 filed within 30 days after the Department mails written notice of the
12 issuance of the provisional license."

13 **SECTION 32.** G.S. 143B-434(b) reads as rewritten:

14 "(b) Membership. – The Economic Development Board shall consist of 36
15 members. The Secretary of Commerce shall serve ex officio as a member and as the
16 secretary of the Economic Development Board. Four members of the House of
17 Representatives appointed by the Speaker of the House of Representatives, four
18 members of the Senate appointed by the President Pro Tempore of the Senate, the
19 President of The University of North Carolina, or designee, the President of the North
20 Carolina Community College System, or designee, the Secretary of State, and the
21 President of the Senate (or the designee of the President of the Senate), shall serve as
22 members of the Board. The Governor shall appoint the remaining 23 members of the
23 ~~Board, provided that effective~~ Board. Effective with the terms beginning July 1, 1997,
24 one of ~~those~~ the Governor's appointees shall be a representative of a nonprofit
25 organization involved in economic development and two of ~~those~~ the Governor's
26 appointees shall be county economic development representatives. The Governor shall
27 designate a chair and a vice-chair from among the members of the Board. Appointments
28 to the Board made by the Governor for terms beginning July 1, 1997, and appointments
29 to the Board made by the Speaker of the House of Representatives and the President Pro
30 Tempore of the Senate for terms beginning July 9, 1993, should reflect the ethnic and
31 gender diversity of the State as nearly as practical.

32 The initial appointments to the Board shall be for terms beginning on July 9, 1993.
33 Of the initial appointments made by the Governor, the terms shall expire July 1, 1997.
34 Of the initial appointments made by the Speaker of the House of Representatives and by
35 the President Pro Tempore of the Senate two appointments of each shall be designated
36 to expire on July 1, 1995; the remaining terms shall expire July 1, 1997. Thereafter, all
37 appointments shall be for a term of four years.

38 The appointing officer shall make a replacement appointment to serve for the
39 unexpired term in the case of a vacancy.

40 The members of the Economic Development Board shall receive per diem and
41 necessary travel and subsistence expenses payable to members of State Boards and
42 agencies generally pursuant to G.S. 138-5 and ~~{G.S.}~~ G.S. 138-6, as the case may be.
43 The members of the Economic Development Board who are members of the General

1 Assembly shall not receive per diem but shall receive necessary travel and subsistence
2 expenses at rates prescribed by G.S. 120-3.1."

3 **SECTION 33.** G.S. 143B-456.1(e) reads as rewritten:

4 "(e) Notwithstanding any other provision of law, the Authority may agree that all
5 contracts relating to the acquisition, construction, installation and equipping of the
6 special user project shall be solicited, negotiated, awarded and executed by the private
7 party or parties for which the Authority is financing the special user project or their
8 agents subject only to such approvals by the Authority as the Authority may require.
9 The Authority may, out of the proceeds of bonds or notes, make advances to or
10 reimburse such private parties or such agents for all or a portion of the costs incurred in
11 connection with such contracts. The provisions of ~~Section G.S.~~ 143B-463 of this Part
12 shall have no application to funds and moneys derived pursuant to this section."

13 **SECTION 34.** G.S. 147-33.85(b) reads as rewritten:

14 "(b) The Office shall coordinate with the Office of State Budget, Planning, and
15 Management ~~and the Office of State Budget, Planning, and Management~~ to integrate
16 agency strategic and business planning, technology planning and budgeting, and project
17 expenditure processes into the Office's information technology portfolio-based
18 management. The Office shall provide recommendations for agency annual budget
19 requests for information technology investments, projects, and initiatives to the Office
20 of State Budget, Planning, and Management."

21 **SECTION 35.** Effective July 1, 2001, G.S. 159D-23 reads as rewritten:

22 "**§ 159D-23. Application of Article 9 of Chapter 25.**

23 Article 9 of Chapter 25 of the General Statutes applies to transactions under this
24 Chapter.

25 ~~G.S. Article as if G.S."~~

26 **SECTION 36.** G.S. 160A-37(f1) and (f2) read as rewritten:

27 "(f1) Property Subject to Present-Use Value Appraisal. – If an area described in an
28 annexation ordinance includes agricultural land, horticultural land, or forestland that
29 meets either of the conditions listed below on the effective date of annexation is:
30 annexation, then the annexation becomes effective as to that property pursuant to
31 subsection (f2) of this section:

32 (1) The land is being taxed at present-use value pursuant to G.S. ~~405-~~
33 ~~277.4; or 105-277.4.~~

34 (2) The land meets both of the following conditions:

35 a. ~~Was on~~ On the date of the resolution of intent for annexation it
36 was being used for actual production and is eligible for
37 present-use value taxation under G.S. 105-277.4, but had not
38 been in use for actual production for the required time under
39 G.S. ~~405-277.3; and 105-277.3.~~

40 b. The assessor for the county where the land subject to
41 annexation is located has certified to the city that the land meets
42 the requirements of this ~~subdivision~~ subdivision.

1 ~~the annexation becomes effective as to that property pursuant to subsection (f2) of this~~
2 ~~section.~~

3 (f2) Effective Date of Annexation for Certain Property. – Annexation of property
4 subject to annexation under subsection (f1) of this section ~~shall become effective:~~
5 becomes effective as provided in this subsection.

6 (1) Upon the effective date of the annexation ordinance, the property is
7 considered part of the city only (i) for the purpose of establishing city
8 boundaries for additional annexations pursuant to this Article and (ii)
9 for the exercise of city authority pursuant to Article 19 of this Chapter.

10 (2) For all other purposes, the annexation becomes effective as to each
11 tract of the property or part thereof on the last day of the month in
12 which that tract or part thereof becomes ineligible for classification
13 pursuant to G.S. ~~105-227.4~~105-277.4 or no longer meets the
14 requirements of subdivision (f1)(2) of this section. Until annexation of
15 a tract or a part of a tract becomes effective pursuant to this
16 subdivision, the tract or part of a tract is not subject to taxation by the
17 city under Article 12 of Chapter 105 of the General Statutes nor is the
18 tract or part of a tract entitled to services provided by the city."

19 **SECTION 37.** G.S. 160A-300.1(d) reads as rewritten:

20 "(d) This act applies to the Cities of Charlotte, Fayetteville, Greensboro, ~~High~~
21 ~~Point, Rocky Mount, Wilmington, Greenville, and Lumberton, Greenville, High Point,~~
22 Lumberton, Rocky Mount, and Wilmington and the Towns of Chapel Hill, Cornelius,
23 Huntersville, Matthews, and Pineville only."

24 **SECTION 38.(a)** G.S. 1-209.1 reads as rewritten:

25 "**§ 1-209.1. Petitioner who abandons condemnation proceeding taxed with fee for**
26 **respondent's attorney.**

27 In all condemnation proceedings authorized by ~~G.S. 40-2~~G.S. 40A-3 or by any
28 other statute, the clerks of the superior courts are authorized to fix and tax the petitioner
29 with a reasonable fee for respondent's attorney in cases in which the petitioner takes or
30 submits to a voluntary nonsuit or otherwise abandons the proceeding."

31 **SECTION 38.(b)** G.S. 1-209.2 reads as rewritten:

32 "**§ 1-209.2. Voluntary nonsuit by petitioner in condemnation proceeding.**

33 The petitioner in all condemnation proceedings authorized by ~~G.S. 40-2~~G.S. 40A-3
34 or by any other statute is authorized and allowed to take a voluntary nonsuit."

35 **SECTION 38.(c)** G.S. 54-166(c) reads as rewritten:

36 "(c) If within the 30-day period mentioned in subsection (b) of this section the
37 member and the association do not agree as to the fair market value of ~~such~~the stock or
38 other property rights or interests, the member may, within 60 days after the expiration of
39 the 30-day period, file a petition in the superior court of the county in which the
40 association has its registered office or principal place of business asking for the
41 appointment by the clerk of the superior court of that county of three qualified and
42 disinterested appraisers to appraise the fair market value of ~~such~~the stock or other
43 property rights or interests. A summons as in other cases of special proceedings,

1 together with a copy of the petition, shall be served on the association at least 10 days
2 prior to the hearing of the petition by the court. The award of the appraisers, or a
3 majority of them, if no exceptions ~~be~~are filed thereto within 10 days after the award
4 ~~shall have been~~is filed in court, shall be confirmed by the court, and when confirmed
5 shall be final and ~~conclusive, and the~~conclusive. The member, upon depositing with the
6 court the proper stock certificates or other evidence of ~~such~~ property rights or interests,
7 shall be entitled to judgment against the association for the appraised value thereof as of
8 the day prior to the date on which the vote was taken, together with interest thereon to
9 the date of ~~such~~the confirmation. If either party files exceptions to ~~such~~the award
10 within 10 days after the award ~~shall have been~~is filed in court, the case shall be
11 transferred to the civil issue docket of the superior court for trial during term and shall
12 be there tried in the same manner, as near as may be practicable, as is provided in
13 Chapter ~~40~~40A of the General Statutes for the trial of cases under the eminent domain
14 law of this State, and with the same right of appeal to the appellate division as is
15 permitted in that Chapter. The court shall assess the cost of the proceedings as it shall
16 deem equitable. Upon payment of the ~~judgment~~judgment, the owner of ~~such~~the stock
17 or other property rights or interests shall cease to have any interest in the association
18 and the association shall be entitled to have ~~said~~the stock certificates or other evidence
19 of ~~such~~the property rights or interests surrendered to the association by the clerk of
20 court. Unless the member ~~shall file such~~files a petition within the time herein
21 prescribed, ~~he~~the member and all persons claiming under ~~him~~the member shall have
22 no right of payment hereunder, but in that event nothing herein shall impair ~~his~~the
23 member's status as a member."

24 **SECTION 38.(d)** G.S. 104-20 reads as rewritten:

25 **"§ 104-20. Utilities Commission to secure right-of-way; condemnation by United**
26 **States.**

27 If the title to any part of the lands required by the United States government for the
28 construction of ~~such~~an inland waterway from Beaufort Inlet to the Cape Fear River
29 ~~shall be in any~~is owned by a private person, company or corporation, railroad company,
30 street railway company, telephone or telegraph company, or other public service
31 corporation, or ~~shall have~~has been donated or condemned for any public use by any
32 political subdivision of the State or if it may be necessary, for the purpose of obtaining
33 the proper title to any lands, the title to which has heretofore been vested in the State
34 Board of Education, then the Utilities ~~Commission~~Commission, in the name of the
35 State of North Carolina, ~~is hereby authorized and empowered, acting for and in behalf~~
36 ~~of the State of North Carolina, to may~~ secure a right-of-way 1,000 feet wide for ~~said~~the
37 inland waterway across and through ~~such~~the lands or any part thereof, if possible by
38 purchase, donation or otherwise, through agreement with the owner or owners, and
39 when any ~~such~~ property is thus acquired, the Governor and Secretary of State shall
40 execute a deed for the same to the United States; and if for any reason the ~~said~~
41 Commission ~~shall be~~is unable to secure ~~such~~a right-of-way across ~~any~~such~~the~~
42 property by voluntary agreement with the owner or owners as aforesaid, the ~~said~~
43 Commission acting for and in behalf of the State of North Carolina, is hereby vested

1 with the power to condemn the same, and in so doing, the ways, means, methods and
2 procedure of Chapter ~~40~~40A of the General Statutes of North Carolina, entitled
3 "Eminent Domain," shall be used by it as near as the same is suitable for the purposes of
4 this law, and in all instances, the general and the special benefits to the owner thereof
5 shall be assessed as offsets against the damages to ~~such~~the property or lands.

6 As ~~such~~ condemnation proceedings might result in delay in the acquiring of title to
7 all parts of the right-of-way and in the construction of the ~~said~~ inland waterway by the
8 United States, ~~said~~the Utilities Commission is authorized to enter any of ~~said~~the lands
9 and property and take possession of the same at the time hereinafter provided as needed
10 for this use in behalf of the State or the United States government for the purposes
11 herein set out prior to the bringing of the proceeding for condemnation and prior to the
12 payment of the money for ~~such~~the land or property under any judgment in
13 condemnation. In the event the owner or owners shall appeal from the report of the
14 commissioners appointed in the condemnation proceeding it shall not be necessary for
15 ~~said~~Commissionthe Commission, acting in behalf of the State of North Carolina, the
16 State of North Carolina, or the United States government, to deposit the money assessed
17 by ~~said~~the commissioners with the clerk.

18 Whenever proceedings in condemnation are instituted ~~in pursuance of~~under the
19 provisions of this section, the ~~said~~ Commission upon the filing of the petition or
20 petitions in ~~such~~the proceedings, ~~shall have the right to~~may take immediate possession
21 on behalf of the State of ~~such~~the lands or property to the extent of the interest to be
22 acquired and the Governor and Secretary of State shall thereupon execute a deed to the
23 United States and ~~said~~the lands or property may then be appropriated and used by the
24 United States for the purposes ~~aforsaid~~described in this section. Provided, that in
25 every case the proceedings in condemnation shall be diligently prosecuted to final
26 judgment in order that the just compensation to which the owners of the property are
27 entitled may be ascertained and when so ascertained and determined ~~such~~the
28 compensation shall be promptly paid as hereinafter in this law provided.

29 If the United States government shall so determine, it is hereby authorized to
30 condemn and use all lands and property ~~which~~that may be needed for the purposes
31 herein set out and which is specifically described and set out in the preceding
32 paragraphs, under the authority of ~~said~~the United States government, and according to
33 the provisions existing in the federal statutes for condemning lands and property for the
34 use of the United States government. In case the United States government shall so
35 condemn ~~said~~the land and property, the ~~said~~ Utilities Commission is hereby authorized
36 to pay all expenses of the condemnation proceedings and any award that may be made
37 thereunder, out of the money ~~which~~that may be appropriated for ~~said~~these purposes."

38 **SECTION 38.(e)** G.S. 113-34 reads as rewritten:

39 **"§ 113-34. Power to acquire lands as State forests, parks, etc.; donations or leases**
40 **by United States; leases for recreational purposes; rules governing public**
41 **use.**

42 (a) The Governor of the State is authorized upon recommendation of the
43 Department to accept gifts of land to the State, the same to be held, protected, and

1 administered by ~~said~~ the Department as State forests, and to be used so as to
2 demonstrate the practical utility of timber culture and water conservation, and as refuges
3 for game. ~~Such gifts~~ The gifts of land must be absolute except in ~~such~~ cases as where
4 the mineral interest on the land has previously been sold. The Department shall have the
5 power to purchase lands in the name of the State, suitable chiefly for the production of
6 timber, as State forests, for experimental, demonstration, educational, park, and
7 protection purposes, using for such purposes any special appropriations or funds
8 available. The Department shall also have the power to acquire by condemnation under
9 the provisions of Chapter 40, ~~such~~ 40A of the General Statutes, areas of land in different
10 sections of the State as may in the opinion of the Department be necessary for the
11 purpose of establishing ~~and/or developing or developing, or both,~~ State forests, State
12 parks and other areas and developments essential to the effective operation of the State
13 forestry and State park activities with which the Department has been or may be
14 entrusted. ~~Such condemnation~~ Condemnation proceedings shall be instituted and
15 prosecuted in the name of the State of North Carolina, and any property so acquired
16 shall be administered, developed and used for experiment and demonstration in forest
17 management, for public recreation and for ~~such~~ other purposes authorized or required
18 by law: Provided, that before any action or proceeding under this section can be
19 exercised, the approval of the Governor and Council of State shall be obtained and filed
20 with the clerk of the superior court in the county or counties where ~~such~~ the property
21 may be ~~situate,~~ situated, and until ~~such~~ approval is obtained, the rights and powers
22 conferred by this section shall not be exercised. The Attorney General of the State is
23 directed to see that all deeds to the State for land mentioned in this section are properly
24 executed before the gift is accepted or payment of the purchase money is made.

25 (b) The Department is ~~further authorized and empowered to~~ may accept as gifts
26 to the State of North Carolina ~~such~~ any forest and submarginal farmland acquired by
27 ~~said~~ the federal government as may be suitable for the purpose of creating and
28 maintaining State-controlled forests, game refuges, public shooting grounds, State
29 parks, State lakes, and other recreational areas, or to enter into longtime leases with the
30 federal government for such areas and administer them with ~~such~~ funds as may be
31 secured from their administration in the best interest of longtime public use,
32 supplemented by ~~such~~ any necessary appropriations as may be made by the General
33 Assembly. The Department is ~~further empowered to~~ may segregate State hunting and
34 fishing licenses, use permits, and concessions and other proper revenue secured through
35 the administration of such forests, game refuges, public shooting grounds, State parks,
36 State lakes, and other recreational areas to be deposited in the State treasury to the credit
37 of the Department to be used for the administration of these areas.

38 (c) The Department, with the approval of the Governor and Council of State, is
39 ~~further authorized and empowered to~~ may enter into leases of lands and waters for State
40 parks, State lakes and recreational purposes; and the Department may construct, ~~operate~~
41 operate, and maintain on ~~said~~ the lands and waters suitable public service facilities and
42 conveniences and may charge and collect reasonable fees for each of the following:

1 (1) The erection, maintenance and use of docks, piers and ~~such~~ other
2 structures as may be permitted in or on ~~said~~ the waters under its own
3 ~~rules;~~ rules.

4 (2) Fishing privileges in ~~said~~ the waters, provided that ~~such~~ the privileges
5 shall be extended only to holders of bona fide North Carolina fishing
6 licenses, and provided further that all State fishing laws and rules are
7 complied with.

8 (d) The Department may make reasonable rules for the operation and use of boats
9 or other craft on the surface of the ~~said~~ waters but shall not ~~be authorized to charge or~~
10 collect fees for ~~such~~ the operation or ~~use~~ use of boats or other craft.

11 (e) The Department may make reasonable rules for the regulation of the ~~use by~~
12 ~~the public of said~~ public use of the lands and waters and of public service facilities and
13 conveniences constructed thereon, and ~~said~~ the rules shall have the force and effect of
14 law and any violation of ~~such~~ the rules shall constitute a Class 3 misdemeanor.

15 (f) The authority herein granted is in addition to other authority now held and
16 exercised by the Department."

17 **SECTION 38.(f)** G.S. 117-18(6) reads as rewritten:

18 "(6) The right to apply to the North Carolina Rural Electrification
19 Authority for permission to construct or place any parts of its system
20 or lines in and along any State highway or over any lands ~~which~~ that
21 are now, or may be, the property of this State, or any political
22 subdivision thereof. In all questions involving the right-of-way, or the
23 right of eminent domain, the rulings of the North Carolina Rural
24 Electrification Authority ~~shall be~~ are final. Notwithstanding the
25 foregoing sentence and notwithstanding subdivision (7) of G.S. 117-2,
26 electric membership corporations ~~are hereby empowered, may,~~ without
27 necessity of the Authority's rulings or participation, ~~to~~ exercise the
28 right of eminent domain for the purposes of constructing, operating
29 and maintaining electric generating, transmission, distribution and
30 related facilities, individually and solely in their own names, pursuant
31 to the provisions of Chapter ~~40~~ 40A of the General Statutes; provided,
32 that notwithstanding G.S. 117-30, the foregoing grant of the power of
33 eminent domain to electric membership corporations shall not apply to
34 telephone membership corporations; and, provided further, that ~~such~~
35 the grant of the power shall be of eminent domain is supplementary to
36 the power of eminent domain already devolved upon the Authority."

37 **SECTION 38.(g)** G.S. 121-16 reads as rewritten:

38 "§ 121-16. **Acquiring lands by purchase or condemnation.**

39 The Department of Cultural Resources, within the limits and amounts appropriated
40 by the General Assembly and ~~such any funds as may be~~ available from donations or
41 otherwise, when the conditions set forth in G.S. 121-15 of this Article have been met, is
42 hereby granted the power and authority to purchase sufficient lands for the restoration

1 of ~~said~~ the Palace, and the ~~said~~ Department is hereby authorized to accept title to ~~said~~
2 lands in the name of the State of North Carolina.

3 The Department of Cultural Resources shall also have the authority to acquire, by
4 condemnation, under the provisions of Chapter ~~40-40A~~ of the General Statutes of North
5 Carolina, including the provisions of the Public Works Eminent Domain Law, which is
6 hereby made applicable to such proceedings, ~~such any~~ areas of land in New Bern, North
7 Carolina, as it may find ~~to be~~ necessary for the restoration of ~~said~~ the Palace."

8 **SECTION 38.(h)** G.S. 156-138.1 reads as rewritten:

9 **"§ 156-138.1. Acquisition and disposition of lands; lease to or from federal or State**
10 **government or agency thereof.**

11 The district may acquire ~~such any~~ lands as ~~may be~~ necessary or convenient to enable
12 it to accomplish the purposes for which the district was established. If the lands cannot
13 be acquired by agreement as to the purchase price, then ~~and in such event~~, the power of
14 eminent domain is hereby conferred and the ~~same lands~~ may be condemned by the
15 procedure set out in G.S. 156-67 and ~~Article 2~~, Chapter ~~40-40A~~ of the General Statutes.
16 The land so acquired may be used in ~~such a~~ manner and for ~~such the~~ purposes as the
17 commissioners of the district ~~may~~ deem best. If, in the opinion of the drainage
18 commission of the district ~~such the~~ lands should be sold, leased or rented, the board may
19 do so, subject to the approval of the clerk of the superior court.

20 The commissioners of the district ~~are hereby authorized and empowered, may, in~~
21 their discretion, ~~to~~ convey or lease to the State or federal governments, or any of their
22 agencies, with or without consideration, any properties, real or personal, belonging to
23 ~~said the~~ district, if in their opinion ~~such it~~ is necessary to enable the district to receive
24 State or federal funds available to ~~it the~~ district. The terms of ~~such a~~ conveyance or
25 lease shall be subject to the approval of the clerk of the superior court of the county in
26 which the district was established.

27 The commissioners of the district ~~are authorized and empowered to may~~ lease from
28 the State or federal governments ~~such any~~ real or personal property as ~~may be~~ needed
29 by the district to enable it to efficiently operate and maintain the district for the purposes
30 for which it was established. The terms of ~~such a~~ lease shall be subject to the approval
31 of the clerk of the superior court of the county in which the district was established."

32 **SECTION 38.(i)** G.S. 160A-349.10 reads as rewritten:

33 **"§ 160A-349.10. Power to condemn land; procedure for condemnation; board**
34 **incorporated.**

35 If it becomes necessary to acquire additional lands for cemetery purposes and the
36 ~~said~~ board cannot agree with the owners upon the price thereof, the ~~said~~ board shall
37 have the power to condemn the ~~said~~ lands for cemetery purposes, and in so doing the
38 provisions of Chapter ~~40-40A~~ of the General Statutes shall be followed as nearly as
39 possible, and to that end, and for that purpose, the board of trustees of any cemetery
40 acquired under this Article shall be deemed and considered a corporation and a body
41 politic."

42 **SECTION 39.** G.S. 7A-38.4A(j), as enacted by Section 2 of S.L. 2001-320,
43 reads as rewritten:

1 (j) Evidence of statements made and conduct occurring in a settlement
2 proceeding conducted under this section shall not be subject to discovery and shall be
3 inadmissible in any proceeding in the action or other actions on the same claim, except
4 in proceedings for sanctions or proceedings to enforce a settlement of the action. No
5 settlement ~~proceeding~~ agreement reached at a settlement conference or settlement
6 proceeding conducted under this section shall be enforceable unless it has been reduced
7 to writing and signed by the parties and in all other respects complies with the
8 requirements of Chapter 50 of the General Statutes. No evidence otherwise discoverable
9 shall be inadmissible merely because it is presented or discussed in a settlement
10 proceeding.

11 No mediator, or other neutral conducting a settlement procedure under this section,
12 shall be compelled to testify or produce evidence concerning statements made and
13 conduct occurring in a mediated settlement conference or other settlement procedure in
14 any civil proceeding for any purpose, including proceedings to enforce a settlement of
15 the action, except to attest to the signing of any of these agreements, and except
16 proceedings for sanctions under this section, disciplinary hearings before the State Bar
17 or any agency established to enforce standards of conduct for mediators, and
18 proceedings to enforce laws concerning juvenile or elder abuse."

19 **SECTION 40.(a)** G.S. 8-53.5 reads as rewritten:

20 "**§ 8-53.5. Communications between licensed marriage and family therapist and**
21 **client(s).**

22 No person, duly ~~authorized~~ licensed as a ~~certified marital~~ licensed marriage and
23 family therapist, nor any of ~~his~~ the person's employees or associates, shall be required to
24 disclose any information which ~~he~~ the person may have acquired in rendering
25 professional ~~marital~~ marriage and family therapy services, and which information was
26 necessary to enable ~~him~~ the person to render professional ~~marital~~ marriage and family
27 therapy services. Any resident or presiding judge in the district in which the action is
28 pending may, subject to G.S. 8-53.6, compel disclosure, either at the trial or prior
29 thereto, if in ~~his~~ the court's opinion disclosure is necessary to a proper administration of
30 justice. If the case is in district court the judge shall be a district court judge, and if the
31 case is in superior court the judge shall be a superior court judge."

32 **SECTION 40.(b)** G.S. 8-53.7, as amended by Section 2 of S.L. 2001-152,
33 reads as rewritten:

34 "**§ 8-53.7. Social worker privilege.**

35 No person engaged in delivery of private social work services, duly licensed or
36 certified pursuant to Chapter 90B of the General Statutes shall be required to disclose
37 any information ~~which~~ that he or she may have acquired in rendering professional social
38 services, and which information was necessary to enable him or her to render
39 professional social services: provided, that the presiding judge of a superior or district
40 court may compel such disclosure, if in the court's opinion the same is necessary to a
41 proper administration of justice and such disclosure is not prohibited by G.S. 8-53.6 or
42 any other statute or regulation."

43 **SECTION 40.(c)** G.S. 48-10-103(a)(3) reads as rewritten:

1 "(3) Counseling services for a parent or the adoptee that are directly related
2 to the adoption and are provided by a licensed psychiatrist, licensed
3 psychologist, ~~marital-licensed marriage~~ and family therapist, ~~registered~~
4 ~~practicing-licensed professional~~ counselor, licensed or certified social
5 worker, fee-based practicing pastoral counselor or other licensed
6 professional counselor, or an employee of an agency;"

7 **SECTION 40.(d)** G.S. 55B-2(6) reads as rewritten:

8 "(6) The term "professional service" means any type of personal or
9 professional service of the public which requires as a condition
10 precedent to the rendering of such service the obtaining of a license
11 from a licensing board as herein defined, and pursuant to the following
12 provisions of the General Statutes: Chapter 83A, "Architects"; Chapter
13 84, "Attorneys-at-Law"; Chapter 93, "Public Accountants"; and Article
14 1, "Practice of Medicine," Article 2, "Dentistry," Article 6,
15 "Optometry," Article 7, "Osteopathy," Article 8, "Chiropractic,"
16 Article 9A, "Nursing Practice Act," with regard to registered nurses,
17 Article 11, "Veterinarians," Article 12A, "Podiatrists," Article 18A,
18 "Practicing Psychologists," Article 18D, "Occupational Therapy," and
19 Article 24, "Licensed Professional Counselors," of Chapter 90;
20 Chapter 89C, "Engineering and Land Surveying"; Chapter 89A,
21 "Landscape Architects"; Chapter 90B, "Social Worker Certification
22 and Licensure Act" with regard to Licensed Clinical Social Workers as
23 defined by G.S. 90B-3; Chapter 89E, "Geologists"; Chapter 89B,
24 "Foresters"; and Chapter 89F, "North Carolina Soil Scientist Licensing
25 Act."

26 **SECTION 40.(e)** G.S. 55B-14(c)(4) reads as rewritten:

27 "(4) A physician, or a licensed psychologist, or both, and a certified clinical
28 specialist in psychiatric and mental health nursing, a ~~certified-licensed~~
29 clinical social worker, a licensed professional counselor, or each of
30 them, to render psychotherapeutic and related services that the
31 respective stockholders are licensed, certified, or otherwise approved
32 to provide."

33 **SECTION 40.(f)** G.S. 58-39-15(17) reads as rewritten:

34 "(17) "Medical professional" means any person licensed or certified to
35 provide health care services to natural persons, including but not
36 limited to, a physician, dentist, nurse, chiropractor, optometrist,
37 physical or occupational therapist, ~~certified-licensed~~ clinical social
38 worker, clinical dietitian, clinical psychologist, pharmacist, or speech
39 therapist."

40 **SECTION 40.(g)** G.S. 58-50-30(a) through (c), as amended by Section 1 of
41 S.L. 2001-297 and by Section 1.7 of S.L. 2001-446, reads as rewritten:

42 "**§ 58-50-30. Right to choose services of optometrist, podiatrist, ~~certified-licensed~~**
43 **clinical social worker, certified substance abuse professional, licensed**

1 professional counselor, dentist, chiropractor, psychologist, pharmacist,
2 certified fee-based practicing pastoral counselor, advanced practice
3 nurse, or physician assistant.

4 (a1) Whenever any health benefit plan, subscriber contract, or policy of insurance
5 issued by a health maintenance organization, hospital or medical service corporation, or
6 insurer governed by Articles 1 through 67 of this Chapter provides for coverage for,
7 payment of, or reimbursement for any service rendered in connection with a condition
8 or complaint that is within the scope of practice of a duly licensed optometrist, a duly
9 licensed podiatrist, a duly licensed dentist, a duly licensed chiropractor, a duly ~~certified~~
10 licensed clinical social worker, a duly certified substance abuse professional, a duly
11 licensed professional counselor, a duly licensed psychologist, a duly licensed
12 pharmacist, a duly certified fee-based practicing pastoral counselor, a duly licensed
13 physician assistant, or an advanced practice registered nurse, the insured or other
14 persons entitled to benefits under the policy shall be entitled to coverage of, payment of,
15 or reimbursement for the services, whether the services be performed by a duly licensed
16 physician, or a provider listed in this subsection, notwithstanding any provision
17 contained in the plan or policy limiting access to the providers. The policyholder,
18 insured, or beneficiary shall have the right to choose the provider of services
19 notwithstanding any provision to the contrary in any other statute, subject to the
20 utilization review, referral, and prior approval requirements of the plan that apply to all
21 providers for that service; provided that:

22 (1) In the case of plans that require the use of network providers as a
23 condition of obtaining benefits under the plan or policy, the
24 policyholder, insured, or beneficiary must choose a provider of the
25 services within the network; and

26 (2) In the case of plans that require the use of network providers as a
27 condition of obtaining a higher level of benefits under the plan or
28 policy, the policyholder, insured, or beneficiary must choose a
29 provider of the services within the network in order to obtain the
30 higher level of benefits.

31 (a2) Whenever any policy of insurance governed by Articles 1 through 65 of this
32 Chapter provides for certification of disability that is within the scope of practice of a
33 duly licensed physician, a duly licensed physician assistant, a duly licensed optometrist,
34 a duly licensed podiatrist, a duly licensed dentist, a duly licensed chiropractor, a duly
35 ~~certified~~ licensed clinical social worker, a duly certified substance abuse professional, a
36 duly licensed professional counselor, a duly licensed psychologist, a duly certified
37 fee-based practicing pastoral counselor, or an advanced practice registered nurse, the
38 insured or other persons entitled to benefits under the policy shall be entitled to payment
39 of or reimbursement for the disability whether the disability be certified by a duly
40 licensed physician, or a provider listed in this subsection, notwithstanding any
41 provisions contained in the policy. The policyholder, insured, or beneficiary shall have
42 the right to choose the provider of the services notwithstanding any provision to the
43 contrary in any other statute; provided that for plans that require the use of network

1 providers either as a condition of obtaining benefits under the plan or policy or to access
2 a higher level of benefits under the plan or policy, the policyholder, insured, or
3 beneficiary must choose a provider of the services within the network, subject to the
4 requirements of the plan or policy.

5 (a3) Whenever any health benefit plan, subscriber contract, or policy of insurance
6 issued by a health maintenance organization, hospital or medical service corporation, or
7 insurer governed by Articles 1 through 67 of this Chapter provides coverage for
8 medically necessary treatment, the insurer shall not impose any limitation on treatment
9 or levels of coverage if performed by a duly licensed chiropractor acting within the
10 scope of the chiropractor's practice as defined in G.S. 90-151 unless a comparable
11 limitation is imposed on the medically necessary treatment if performed or authorized
12 by any other duly licensed physician.

13 (b) For the purposes of this section, a "duly licensed psychologist" is a licensed
14 psychologist who holds permanent licensure and certification as a health services
15 provider psychologist issued by the North Carolina Psychology Board.

16 (c) For the purposes of this section, a "~~duly certified-licensed~~ clinical social
17 worker" is a "~~certified-licensed~~ clinical social worker" as defined in G.S. 90B-3(2) and
18 licensed by the North Carolina Social Work Certification and Licensure Board ~~for~~
19 ~~Social Work~~ pursuant to Chapter 90B of the General Statutes.

20"

21 **SECTION 40.(h)** G.S. 58-65-1(a) and (c) read as rewritten:

22 **"§ 58-65-1. Regulation and definitions; application of other laws; profit and**
23 **foreign corporations prohibited.**

24 (a) Any corporation heretofore or hereafter organized under the general
25 corporation laws of the State of North Carolina for the purpose of maintaining and
26 operating a nonprofit hospital and/or medical and/or dental service plan whereby
27 hospital care and/or medical and/or dental service may be provided in whole or in part
28 by said corporation or by hospitals and/or physicians and/or dentists participating in
29 such plan, or plans, shall be governed by this Article and Article 66 of this Chapter and
30 shall be exempt from all other provisions of the insurance laws of this State, heretofore
31 enacted, unless specifically designated herein, and no laws hereafter enacted shall apply
32 to them unless they be expressly designated therein.

33 The term "hospital service plan" as used in this Article and Article 66 of this Chapter
34 includes the contracting for certain fees for, or furnishing of, hospital care, laboratory
35 facilities, X-ray facilities, drugs, appliances, anesthesia, nursing care, operating and
36 obstetrical equipment, accommodations and/or any and all other services authorized or
37 permitted to be furnished by a hospital under the laws of the State of North Carolina and
38 approved by the North Carolina Hospital Association and/or the American Medical
39 Association.

40 The term "medical service plan" as used in this Article and Article 66 of this Chapter
41 includes the contracting for the payment of fees toward, or furnishing of, medical,
42 obstetrical, surgical and/or any other professional services authorized or permitted to be
43 furnished by a duly licensed physician, except that in any plan in any policy of

1 insurance governed by this Article and Article 66 of this Chapter that includes services
2 which are within the scope of practice of a duly licensed optometrist, a duly licensed
3 chiropractor, a duly licensed psychologist, a duly licensed pharmacist, an advanced
4 practice registered nurse, a duly ~~certified~~-licensed clinical social worker, a duly certified
5 substance abuse professional, a duly certified fee-based practicing pastoral counselor, a
6 duly licensed physician assistant, and a duly licensed physician, then the insured or
7 beneficiary shall have the right to choose the provider of the care or service, and shall
8 be entitled to payment of or reimbursement for such care or service, whether the
9 provider be a duly licensed optometrist, a duly licensed chiropractor, a duly licensed
10 psychologist, a duly licensed pharmacist, an advanced practice registered nurse, a duly
11 licensed clinical social worker, a duly certified substance abuse professional, a duly
12 certified fee-based practicing pastoral counselor, a duly licensed physician assistant, or
13 a duly licensed physician notwithstanding any provision to the contrary contained in
14 such policy. The term "medical services plan" also includes the contracting for the
15 payment of fees toward, or furnishing of, professional medical services authorized or
16 permitted to be furnished by a duly licensed provider of health services licensed under
17 Chapter 90 of the General Statutes.

18 ...

19 (c) For purposes of this section, an "advanced practice registered nurse" means
20 only a registered nurse who is duly licensed or certified as a nurse practitioner, clinical
21 specialist in psychiatric and mental health nursing, or nurse midwife.

22 For the purposes of this section, a "duly ~~certified~~-licensed clinical social worker" is a
23 "~~certified~~-licensed clinical social worker" as defined in G.S. 90B-3(2) and ~~certified~~
24 licensed by the North Carolina Social Work Certification and Licensure Board ~~for~~
25 ~~Social Work~~ pursuant to Chapter 90B of the General Statutes.

26 For purposes of this section, a "duly certified fee-based practicing pastoral
27 counselor" shall be defined only to include fee-based practicing pastoral counselors
28 certified by the North Carolina State Board of Examiners of Fee-Based Practicing
29 Pastoral Counselors pursuant to Article 26 of Chapter 90 of the General Statutes.

30 For the purposes of this section, a "duly licensed psychologist" shall be defined only
31 to include a psychologist who is duly licensed in the State of North Carolina and has a
32 doctorate degree in psychology and at least two years clinical experience in a
33 recognized health setting, or has met the standards of the National Register of Health
34 Providers in Psychology. After January 1, 1995, a duly licensed psychologist shall be
35 defined as a licensed psychologist who holds permanent licensure and certification as a
36 health services provider psychologist issued by the North Carolina Psychology Board.

37 For purposes of this section, a "duly certified substance abuse professional" is a
38 person certified by the North Carolina Substance Abuse Professional Certification
39 Board pursuant to Article 5C of Chapter 90 of the General Statutes.

40 The term "dental service plan" as used in this Article and Article 66 of this Chapter
41 includes contracting for the payment of fees toward, or furnishing of dental and/or any
42 other professional services authorized or permitted to be furnished by a duly licensed
43 dentist.

1 The insured or beneficiary of every "medical service plan" and of every "dental
2 service plan," as those terms are used in this Article and Article 66 of this Chapter, or of
3 any policy of insurance issued thereunder, that includes services which are within the
4 scope of practice of both a duly licensed physician and a duly licensed dentist shall have
5 the right to choose the provider of such care or service, and shall be entitled to payment
6 of or reimbursement for such care or service, whether the provider be a duly licensed
7 physician or a duly licensed dentist notwithstanding any provision to the contrary
8 contained in any such plan or policy.

9 The term "hospital service corporation" as used in this Article and Article 66 of this
10 Chapter is intended to mean any nonprofit corporation operating a hospital and/or
11 medical and/or dental service plan, as herein defined. Any corporation heretofore or
12 hereafter organized and coming within the provisions of this Article and Article 66 of
13 this Chapter, the certificate of incorporation of which authorizes the operation of either
14 a hospital or medical and/or dental service plan, or any or all of them, may, with the
15 approval of the Commissioner of Insurance, issue subscribers' contracts or certificates
16 approved by the Commissioner of Insurance, for the payment of either hospital or
17 medical and/or dental fees, or the furnishing of such services, or any or all of them, and
18 may enter into contracts with hospitals for physicians and/or dentists, or any or all of
19 them, for the furnishing of fees or services respectively under a hospital or medical
20 and/or dental service plan, or any or all of them.

21 The term "preferred provider" as used in this Article and Article 66 of this Chapter
22 with respect to contracts, organizations, policies or otherwise means a health care
23 service provider who has agreed to accept, from a corporation organized for the
24 purposes authorized by this Article and Article 66 of this Chapter or other applicable
25 law, special reimbursement terms in exchange for providing services to beneficiaries of
26 a plan administered pursuant to this Article and Article 66 of this Chapter. Except to the
27 extent prohibited either by G.S. 58-65-140 or by regulations promulgated by the
28 Department of Insurance not inconsistent with this Article and Article 66 of this
29 Chapter, the contractual terms and conditions for special reimbursement shall be those
30 which the corporation and preferred provider find to be mutually agreeable.

31 ..."

32 **SECTION 40.(i)** G.S. 90-270.48A(a) reads as rewritten:

33 "(a) This Article does not prevent members of the clergy or licensed, certified, or
34 registered members of professional groups recognized by the Board from advertising or
35 performing services consistent with their own profession. Members of the clergy
36 include, but are not limited to, persons who are ordained, consecrated, commissioned, or
37 endorsed by a recognized denomination, church, faith group, or synagogue. Professional
38 groups the Board shall recognize include, but are not limited to, licensed or certified
39 social workers, licensed professional counselors, fee-based pastoral counselors, licensed
40 practicing psychologists, psychological associates, physicians, and attorneys-at-law.
41 However, in no event may a person use the title "Licensed Marriage and Family
42 Therapist," use the letters "LMFT," or in any way imply that the person is a licensed
43 marriage and family therapist unless the person is licensed as such under this Article."

1 **SECTION 40.(j)** G.S. 90-330(c) reads as rewritten:

2 "(c) Practice of Marriage and Family Therapy, Psychology, or Social Work. – No
3 person licensed as a licensed professional counselor under the provisions of this Article
4 shall be allowed to hold himself or herself out to the public as a ~~certified-licensed~~
5 marriage and family therapist, licensed practicing psychologist, psychological associate,
6 or ~~certified-licensed~~ clinical social worker unless specifically authorized by other
7 provisions of law."

8 **SECTION 40.(k)** The statutory catch line for G.S. 90-331 reads as rewritten:

9 "**§ 90-331. Unlawful use of title "licensed professional counselor". Prohibitions.**"

10 **SECTION 40.(l)** G.S. 90-332.1(a)(8) reads as rewritten:

11 "(8) Any person performing counseling solely as an employee of an area
12 facility, as defined in G.S. 122C-3(14)a., if both of the following
13 apply:

14 a. The services are provided by (i) a qualified professional as
15 defined in G.S. 122C-3(31) and subject to the rules adopted by
16 the Commission for Mental Health, Developmental Disabilities,
17 and Substance Abuse Services, or (ii) an employee supervised
18 by a qualified professional as defined in G.S. 122C-3(31);

19 b. The area facility has obtained written verification from the
20 following boards that the employee has not had his or her
21 license, registration, or certification revoked, rescinded, or
22 suspended: the North Carolina Board of Licensed Professional
23 Counselors, the North Carolina State Board of Examiners of
24 Practicing Psychologists, the North Carolina Social Work
25 Board for Social Work, and Licensure Board, and
26 the North Carolina ~~Marital~~-Marriage and Family Therapy
27 ~~Certification~~-Licensure Board;"

28 **SECTION 40.(m)** G.S. 135-40.1(17a) reads as rewritten:

29 "(17a) Skilled Care. – Medically necessary services that can only be rendered
30 under State law or regulation by licensed health professionals such as a
31 medical doctor, physician's assistant, physical therapist, occupational
32 therapist, speech therapist, ~~certified-licensed~~ clinical social worker,
33 certified nurse midwife, licensed practical nurse, or registered nurse."

34 **SECTION 40.(n)** G.S. 135-40.7B(c) and (c1), as amended by Section 1 of
35 S.L. 2001-258, read as rewritten:

36 "**§ 135-40.7B. Special provisions for chemical dependency and mental health**
37 **benefits.**

38 ...

39 (c) Notwithstanding any other provisions of this Part, the following providers
40 and no others may provide necessary care and treatment for mental health under this
41 section:

42 (1) Psychiatrists who have completed a residency in psychiatry approved
43 by the American Council for Graduate Medical Education and who are

- 1 licensed as medical doctors or doctors of osteopathy in the state in
2 which they perform and services covered by the Plan;
- 3 (2) Licensed or certified doctors of psychology;
- 4 (3) ~~Certified~~-Licensed clinical social workers;
- 5 (3a) Licensed professional counselors;
- 6 (4) Certified clinical specialists in psychiatric and mental health nursing;
- 7 (4a) Nurses working under the employment and direct supervision of such
8 physicians, psychologists, or psychiatrists;
- 9 (5) Repealed by Session Laws 1997-512, s. 14.
- 10 (6) Psychological associates with a masters degree in psychology under
11 the direct employment and supervision of a licensed psychiatrist or
12 licensed or certified doctor of psychology;
- 13 (7), (8) Repealed by Session Laws 1997-512, s. 14.
- 14 (9) Certified fee-based practicing pastoral counselors;
- 15 (10) Licensed physician assistants under the supervision of a licensed
16 psychiatrist and acting pursuant to G.S. 90-18.1 or the applicable laws
17 and rules of the area in which the physician assistant is licensed or
18 certified; and
- 19 (11) Licensed marriage and family therapists.
- 20 (c1) Notwithstanding any other provisions of this Part, the following providers
21 and no others may provide necessary care and treatment for chemical dependency under
22 this section:
- 23 (1) The following providers with appropriate substance abuse training and
24 experience in the field of alcohol and other drug abuse as determined
25 by the mental health case manager, in facilities described in
26 subdivision (b)(2) of this section, in day/night programs or outpatient
27 treatment facilities licensed after July 1, 1984, under Article 2 of
28 Chapter 122C of the General Statutes or in North Carolina area
29 programs in substance abuse services are authorized to provide
30 treatment for chemical dependency under this section:
- 31 a. Licensed physicians including, but not limited to, physicians
32 who are certified in substance abuse by the American Society of
33 Addiction Medicine (ASAM);
- 34 b. Licensed or certified psychologists;
- 35 c. Psychiatrists;
- 36 d. Certified substance abuse counselors working under the direct
37 supervision of such physicians, psychologists, or psychiatrists;
- 38 e. Psychological associates with a masters degree in psychology
39 working under the direct supervision of such physicians,
40 psychologists, or psychiatrists;
- 41 f. Nurses working under the direct supervision of such physicians,
42 psychologists, or psychiatrists;
- 43 g. ~~Certified~~-Licensed clinical social workers;

- 1 h. Certified clinical specialists in psychiatric and mental health
- 2 nursing;
- 3 i. Licensed professional counselors;
- 4 j. Certified fee-based practicing pastoral counselors;
- 5 k. Substance abuse professionals certified under Article 5C of
- 6 Chapter 90 of the General Statutes; and
- 7 l. Licensed marriage and family therapists.
- 8 (2) The following providers with appropriate substance abuse training and
- 9 experience in the field of alcohol and other drug abuse as determined
- 10 by the mental health case manager are authorized to provide treatment
- 11 for chemical dependency in outpatient practice settings:
- 12 a. Licensed physicians who are certified in substance abuse by the
- 13 American Society of Addiction Medicine (ASAM);
- 14 b. Licensed or certified psychologists;
- 15 c. Psychiatrists;
- 16 d. Certified substance abuse counselors working under the
- 17 employment and direct supervision of such physicians,
- 18 psychologists, or psychiatrists;
- 19 e. Psychological associates with a masters degree in psychology
- 20 working under the employment and direct supervision of such
- 21 physicians, psychologists, or psychiatrists;
- 22 f. Nurses working under the employment and direct supervision
- 23 of such physicians, psychologists, or psychiatrists;
- 24 g. ~~Certified~~ Licensed clinical social workers;
- 25 h. Certified clinical specialists in psychiatric and mental health
- 26 nursing;
- 27 i. Licensed professional counselors;
- 28 j. Certified fee-based practicing pastoral counselors;
- 29 1. Substance abuse professionals certified under Article 5C
- 30 of Chapter 90 of the General Statutes;
- 31 j1. Licensed marriage and family therapists; and
- 32 k. In the absence of meeting one of the criteria above, the Mental
- 33 Health Case Manager could consider, on a case-by-case basis, a
- 34 provider who supplies:
- 35 1. Evidence of graduate education in the diagnosis and
- 36 treatment of chemical dependency, and
- 37 2. Supervised work experience in the diagnosis and
- 38 treatment of chemical dependency (with supervision by
- 39 an appropriately credentialed provider), and
- 40 3. Substantive past and current continuing education in the
- 41 diagnosis and treatment of chemical dependency
- 42 commensurate with one's profession.

1 Provided, however, that nothing in this subsection shall prohibit the Plan from
2 requiring the most cost-effective treatment setting to be utilized by the person
3 undergoing necessary care and treatment for chemical dependency.

4"

5 **SECTION 41.** The catch line for G.S. 14-34.7 reads as rewritten:

6 "**§ 14-34.7. Assault inflicting serious injury on a law enforcement, probation, or**
7 **parole officer or on a person employed at a State or local detention facility.**"

8 **SECTION 42.(a)** G.S. 14-100.1, as enacted by Section 1 of S.L. 2001-461,
9 reads as rewritten:

10 "**§ 14-100.1. Possession or manufacture of certain fraudulent forms of**
11 **identification.**

12 (a) Except as otherwise made unlawful by G.S. 20-30, it shall be unlawful for
13 any person to knowingly possess or manufacture a false or fraudulent form of
14 identification as defined in this section for the purpose of deception, fraud, or other
15 criminal conduct.

16 (b) Except as otherwise made unlawful by G.S. 20-30, it shall be unlawful for
17 any person to knowingly obtain a form of identification by the use of false, fictitious, or
18 fraudulent information.

19 (c) Possession of a form of identification obtained in violation of subsection (b)
20 of this section shall constitute a violation of subsection (a) of this section.

21 (d) For purposes of this section, a "form of identification" means any of the
22 following or any replica thereof:

23 (1) An identification card containing a picture, issued by any
24 department, agency, or subdivision of the State of North Carolina,
25 the federal government, or any other state.

26 (2) A military identification card containing a picture.

27 (3) A passport.

28 (4) An alien registration card containing a picture.

29 ~~(e)~~(e) A violation of this section shall be punished as a Class 1 misdemeanor."

30 **SECTION 42.(b)** G.S. 18B-302(f), as rewritten by Section 3 of S.L.
31 2001-461, reads as rewritten:

32 "(f) **Allowing Use of Identification.** – It shall be unlawful for any person to permit
33 the use of the person's drivers license or any other form of identification of any kind
34 issued or given to the ~~person,~~person by any other person who violates or attempts to
35 violate subsection (b) of this section."

36 **SECTION 42.(c)** G.S. 20-37.01, as enacted by Section 4 of S.L. 2001-461,
37 reads as rewritten:

38 "**§ 20-37.01. Drivers ~~license technology fund.~~License Technology Fund.**

39 The Drivers License Technology Fund is established in the Department of
40 Transportation as a nonreverting, interest-bearing special revenue account. The revenue
41 in the Fund at the end of a fiscal year does not revert, and earnings on the Fund shall be
42 credited to the Fund annually. All money collected by the Commissioner pursuant to
43 G.S. 20-37.02 shall be remitted to the State Treasurer and held in the Fund. Money held

1 in the Fund shall be used to supplement funds otherwise available to the Division for
2 information technology and office automation needs. The Commissioner shall report by
3 February 1 and August 1 of each year to the Joint Legislative Commission on
4 Governmental Operations, the chairs of the Senate and House of Representatives
5 Appropriation Committees, and the chairs of the Senate and House of Representatives
6 Appropriations ~~Subcommittee~~ Subcommittees on Transportation on all money collected
7 and deposited in the Fund and on the proposed expenditure of funds collected during the
8 preceding six months."

9 **SECTION 43.(a)** Effective December 1, 2001, G.S. 14-129, as amended by
10 Section 1 of S.L. 2001-93, reads as rewritten:

11 "**§ 14-129. Taking, etc., of certain wild plants from land of another.**

12 No person, firm or corporation shall dig up, pull up or take from the land of another
13 or from any public domain, the whole or any part of any Venus flytrap (*Dionaea*
14 *muscipula*), trailing arbutus, Aaron's Rod (*Thermopsis caroliniana*), Bird-foot Violet
15 (*Viola pedata*), Bloodroot (*Sanguinaria canadensis*), Blue Dogbane (*Amsonia*
16 *tabernaemontana*), Cardinal-flower (*Lobelia cardinalis*), Columbine (*Aquilegia*
17 *canadensis*), Dutchman's Breeches (*Dicentra cucullaria*), Maidenhair Fern (*Adiantum*
18 *pedatum*), Walking Fern (*Camptosorus rhizophyllus*), Gentians (*Gentiana*), ~~Ginseng~~
19 (~~*Panax quinquefolium*~~), Ground Cedar, Running Cedar, Hepatica (*Hepatica americana*
20 and *acutiloba*), Jack-in-the-Pulpit (*Arisaema triphyllum*), Lily (*Lilium*), Lupine
21 (*Lupinus*), Monkshood (*Aconitum uncinatum* and *reclinatum*), May Apple
22 (*Podophyllum peltatum*), Orchids (all species), Pitcher Plant (*Sarracenia*), Shooting Star
23 (*Dodecatheon meadia*), Oconee Bells (*Shortia galacifolia*), Solomon's Seal
24 (*Polygonatum*), Trailing Christmas (*Greens-Lycopodium*), Trillium (*Trillium*), Virginia
25 Bluebells (*Mertensia virginica*), and Fringe Tree (*Chionanthus virginicus*), American
26 holly, white pine, red cedar, hemlock or other coniferous trees, or any flowering
27 dogwood, any mountain laurel, any rhododendron, or any ground pine, or any Christmas
28 greens, or any Judas tree, or any leucothea, or any azalea, without having in his
29 possession a permit to dig up, pull up or take such plants, signed by the owner of such
30 land, or by his duly authorized agent. Any person convicted of violating the provisions
31 of this section shall be guilty of a Class 3 misdemeanor only punished by a fine of not
32 less than ten dollars (\$10.00) nor more than fifty dollars (\$50.00) for each offense. The
33 provisions of this section shall not apply to the Counties of Cabarrus, Carteret, Catawba,
34 Cherokee, Chowan, Cumberland, Currituck, Dare, Duplin, Edgecombe, Franklin,
35 Gaston, Granville, Hertford, McDowell, Pamlico, Pender, Person, Richmond,
36 Rockingham, Rowan and Swain."

37 **SECTION 43.(b)** G.S. 106-202.19(a) reads as rewritten:

38 "(a) ~~It~~ Unless the conduct is covered under some other provision of law providing
39 greater punishment, it is unlawful:

- 40 (1) To uproot, dig, take or otherwise disturb or remove for any purpose
41 from the lands of another, any plant on a protected plant list without a
42 written permit from the owner which is dated and valid for no more
43 than 180 days and which indicates the species or higher taxon of plants

1 for which permission is granted; except that the incidental disturbance
2 of protected plants during agricultural, forestry or development
3 operations is not illegal so long as the plants are not collected for sale
4 or commercial use;

5 (2) To sell, barter, trade, exchange, export, offer for sale, barter, trade,
6 exchange or export or give away for any purpose including advertising
7 or other promotional purpose any plant on a protected plant list, except
8 as authorized according to the rules and regulations of the Board;

9 (3) To violate any rule of the Board promulgated under this Article;

10 (4) To dig ginseng on another person's land, except for the purpose of
11 replanting, between the first day of April and the first day of
12 September;

13 (5) To buy ginseng outside of a buying season as provided by the Board
14 without obtaining the required documents from the person selling the
15 ginseng;

16 (6) To buy ginseng for the purpose of resale or trade without holding a
17 currently valid permit as a ginseng dealer;

18 (7) To fail to keep records as required under this Article, to refuse to make
19 records available for inspection by the Board or its agent, or to use
20 forms other than those provided for the current year or harvest season
21 by the Department of Agriculture and Consumer Services;

22 (8) To provide false information on any record or form required under this
23 Article;

24 (9) To make false statements or provide false information in connection
25 with any investigation conducted under this Article;

26 (10) To possess any protected plant, or part thereof, which was obtained in
27 violation of this Article or any rule adopted hereunder; or

28 (11) To violate a stop sale order issued by the Board or its agent."

29 **SECTION 44.(a)** Effective April 1, 2002, G.S. 14-234(d1), as rewritten by
30 Section 1 of S.L. 2001-409, reads as rewritten:

31 "(d1) ~~Subdivision (a)(1) of this section does~~ The first sentence of subsection (a)
32 shall not apply to (i) any elected official or person appointed to fill an elective office of
33 a village, town, or city having a population of no more than 15,000 according to the
34 most recent official federal census, (ii) any elected official or person appointed to fill an
35 elective office of a county within which there is located no village, town, or city with a
36 population of more than 15,000 according to the most recent official federal census, (iii)
37 any elected official or person appointed to fill an elective office on a city board of
38 education in a city having a population of no more than 15,000 according to the most
39 recent official federal census, (iv) any elected official or person appointed to fill an
40 elective office as a member of a county board of education in a county within which
41 there is located no village, town or city with a population of more than 15,000 according
42 to the most recent official federal census, (v) any physician, pharmacist, dentist,
43 optometrist, veterinarian, or nurse appointed to a county social services board, local

1 health board, or area mental health, developmental disabilities, and substance abuse
2 board serving one or more counties within which there is located no village, town, or
3 city with a population of more than 15,000 according to the most recent official federal
4 census, and (vi) any member of the board of directors of a public hospital if all of the
5 following apply:".

6 **SECTION 44.(b)** Effective July 1, 2002, G.S. 14-234(d1), as rewritten by
7 Section 1 of S.L. 2001-409 and by Section 44(a) of this act, reads as rewritten:

8 "(d1) ~~The first sentence of subsection (a) shall~~ Subdivision (a)(1) of this section
9 does not apply to (i) any elected official or person appointed to fill an elective office of
10 a village, town, or city having a population of no more than 15,000 according to the
11 most recent official federal census, (ii) any elected official or person appointed to fill an
12 elective office of a county within which there is located no village, town, or city with a
13 population of more than 15,000 according to the most recent official federal census, (iii)
14 any elected official or person appointed to fill an elective office on a city board of
15 education in a city having a population of no more than 15,000 according to the most
16 recent official federal census, (iv) any elected official or person appointed to fill an
17 elective office as a member of a county board of education in a county within which
18 there is located no village, town or city with a population of more than 15,000 according
19 to the most recent official federal census, (v) any physician, pharmacist, dentist,
20 optometrist, veterinarian, or nurse appointed to a county social services board, local
21 health board, or area mental health, developmental disabilities, and substance abuse
22 board serving one or more counties within which there is located no village, town, or
23 city with a population of more than 15,000 according to the most recent official federal
24 census, and (vi) any member of the board of directors of a public hospital if all of the
25 following apply:".

26 **SECTION 45.** G.S. 14-234(f), as enacted by Section 1 of S.L. 2001-409,
27 reads as rewritten:

28 "(f) A contract entered into in violation of this section is void. A contract that is
29 void under this section may continue in effect until an alternative can be arranged when;
30 (i) immediate termination would result in harm to the public health or welfare, and (ii)
31 the continuation is approved as provided in this subsection. A public agency that is a
32 party to the contract may request approval to continue contracts under this subsection as
33 follows:

- 34 (1) Local governments, as defined in G.S. 159-7(15), public authorities, as
35 defined in G.S. 159-7(10), local school administrative units, and
36 community colleges may request approval from the ~~chairman~~ chair
37 of the Local Government Commission.
- 38 (2) All other public agencies may request approval from the State Director
39 of the Budget.

40 Approval of continuation of contracts under this subsection shall be given for the
41 minimum period necessary to protect the public health or welfare."

42 **SECTION 46.** G.S. 15A-266.4(b) reads as rewritten:

43 "(b) Crimes covered by this Article include:

- 1 G.S. 14-17 - Murder in the first and second degree.
 2 G.S. 14-27.2 - First degree rape.
 3 G.S. 14-27.3 - Second degree rape.
 4 G.S. 14-27.4 - First degree sexual offense.
 5 G.S. 14-27.5 - Second degree sexual offense.
 6 G.S. 14-28 - Malicious castration.
 7 G.S. 14-29 - Castration or other maiming.
 8 G.S. 14-30 - Malicious maiming.
 9 G.S. 14-30.1 - Malicious throwing of corrosive acid or alkali.
 10 G.S. 14-31 - Malicious assault in secret manner.
 11 G.S. 14-32 - Felonious assault with deadly weapon with
 12 intent to kill.
 13 G.S. 14-32.1 - Assaults on handicapped persons.
 14 G.S. 14-34.1 - Discharging barreled weapon or firearm into
 15 occupied property.
 16 G.S. 14-34.2 - Assault with firearm or other deadly weapon
 17 upon law enforcement officer, fireman, or EMS
 18 personnel.
 19 G.S. 14-39(a)(3) - Kidnapping for the purpose of doing serious
 20 bodily harm to the person.
 21 G.S. 14-49 - Malicious use of explosive or incendiary.
 22 G.S. 14-58.2 - Burning of mobile home, manufactured-type
 23 house, or recreational trailer home.
 24 G.S. 14-202.1 - Taking indecent liberties with children.
 25 G.S. 14-87 - Robbery with a dangerous weapon.
 26 G.S. 14-277.3 - Stalking.
 27 G.S. 14-87.1 - Common law robbery.
 28 G.S. 14-58 - First degree arson."

29 **SECTION 47.(a)** G.S. 15A-837 reads as rewritten:

30 "**§ 15A-837. Responsibilities of Division of ~~Adult Probation and~~**
 31 **Parole, Community Corrections.**

32 (a) The Division of ~~Adult Probation and Parole~~ Community Corrections shall
 33 notify the victim of:

- 34 (1) The defendant's regular conditions of probation or post-release
 35 supervision, special or added conditions, supervision requirements,
 36 and any subsequent changes.
 37 (2) The date of a hearing to determine whether the defendant's supervision
 38 should be revoked, continued, modified, or terminated.
 39 (3) The final disposition of any hearing referred to in subdivision (2) of
 40 this ~~section~~ subsection.
 41 (4) Any restitution modification.
 42 (5) The defendant's movement into or out of any intermediate sanction as
 43 defined in G.S. 15A-1340.11(6).

- 1 (6) The defendant's absconding supervision, within 72 hours.
2 (7) The capture of a defendant described in subdivision (6) of this
3 ~~section~~, subsection, within 72 hours.
4 (8) The date when the defendant is terminated or discharged.
5 (9) The defendant's death.

6 (b) Notifications required in this section shall be provided within 30 days of the
7 event requiring notification, or as otherwise specified in subsection (a) of this section."

8 **SECTION 47.(b)** G.S. 15A-1343.2 reads as rewritten:

9 **"§ 15A-1343.2. Special probation rules for persons sentenced under Article 81B.**

10 (a) Applicability. – This section applies only to persons sentenced under Article
11 81B of this Chapter.

12 (b) Purposes of Probation for Community and Intermediate Punishments. – The
13 Department of Correction shall develop a plan to handle offenders sentenced to
14 community and intermediate punishments. The probation program designed to handle
15 these offenders shall have the following principal purposes: to hold offenders
16 accountable for making restitution, to ensure compliance with the court's judgment, to
17 effectively rehabilitate offenders by directing them to specialized treatment or education
18 programs, and to protect the public safety.

19 (c) Probation Caseload Goals. – It is the goal of the General Assembly that,
20 subject to the availability of funds, caseloads for probation officers supervising persons
21 sentenced to community punishment should not exceed an average of 90 offenders per
22 officer, and caseloads for offenders sentenced to intermediate punishments should not
23 exceed an average of 60 offenders per officer by July 1, 1998.

24 (d) Lengths of Probation Terms Under Structured Sentencing. – Unless the court
25 makes specific findings that longer or shorter periods of probation are necessary, the
26 length of the original period of probation for offenders sentenced under Article 81B
27 shall be as follows:

- 28 (1) For misdemeanants sentenced to community punishment, not less than
29 six nor more than 18 months;
30 (2) For misdemeanants sentenced to intermediate punishment, not less
31 than 12 nor more than 24 months;
32 (3) For felons sentenced to community punishment, not less than 12 nor
33 more than 30 months; and
34 (4) For felons sentenced to intermediate punishment, not less than 18 nor
35 more than 36 months.

36 If the court finds at the time of sentencing that a longer period of probation is
37 necessary, that period may not exceed a maximum of five years, as specified in G.S.
38 15A-1342 and G.S. 15A-1351.

39 Extension. – The court may with the consent of the offender extend the original
40 period of the probation if necessary to complete a program of restitution or to complete
41 medical or psychiatric treatment ordered as a condition of probation. This extension
42 may be for no more than three years, and may only be ordered in the last six months of
43 the original period of probation.

1 (e) Delegation to Probation Officer in Community Punishment. – Unless the
2 presiding judge specifically finds in the judgment of the court that delegation is not
3 appropriate, the Division of ~~Adult Probation and Parole~~ Community Corrections in the
4 Department of Correction may require an offender sentenced to community punishment
5 to:

- 6 (1) Perform up to 20 hours of community service, and pay the fee
7 prescribed by law for this supervision;
- 8 (2) Report to the offender's probation officer on a frequency to be
9 determined by the officer; or
- 10 (3) Submit to substance abuse assessment, monitoring or treatment.

11 If the Division imposes any of the above requirements, then it may subsequently reduce
12 or remove those same requirements.

13 If the probation officer exercises authority delegated by the court pursuant to this
14 subsection, the offender may file a motion with the court to review the action taken by
15 the probation officer. The offender shall be given notice of the right to seek such a court
16 review. The Division may exercise any authority delegated to it under this subsection
17 only if it first determines that the offender has failed to comply with one or more of the
18 conditions of probation imposed by the court.

19 (f) Delegation to Probation Officer in Intermediate Punishments. – Unless the
20 presiding judge specifically finds in the judgment of the court that delegation is not
21 appropriate, the Division of ~~Adult Probation and Parole~~ Community Corrections in the
22 Department of Correction may require an offender sentenced to intermediate
23 punishment to:

- 24 (1) Perform up to 50 hours of community service, and pay the fee
25 prescribed by law for this supervision;
- 26 (2) Submit to a curfew which requires the offender to remain in a
27 specified place for a specified period each day and wear a device that
28 permits the offender's compliance with the condition to be monitored
29 electronically;
- 30 (3) Submit to substance abuse assessment, monitoring or treatment; or
- 31 (4) Participate in an educational or vocational skills development program.

32 If the Division imposes any of the above requirements, then it may subsequently reduce
33 or remove those same requirements.

34 If the probation officer exercises authority delegated to him or her by the court
35 pursuant to this subsection, the offender may file a motion with the court to review the
36 action taken by the probation officer. The offender shall be given notice of the right to
37 seek such a court review. The Division may exercise any authority delegated to it under
38 this subsection only if it first determines that the offender has failed to comply with one
39 or more of the conditions of probation imposed by the court.

40 (g) Repealed by Session Laws 1993 (Reg. Sess., 1994), c. 19, s. 3.

41 (h) Definitions. – For purposes of this section, the definitions in G.S.
42 15A-1340.11 apply."

43 **SECTION 47.(c)** G.S. 15A-1368.4(c) reads as rewritten:

1 "(c) Discretionary Conditions. – The Commission, in consultation with the
2 Division of ~~Adult Probation and Parole~~, Community Corrections, may impose conditions
3 on a supervisee it believes reasonably necessary to ensure that the supervisee will lead a
4 law-abiding life or to assist the supervisee to do so."

5 **SECTION 47.(d)** G.S. 105-259(b)(15) reads as rewritten:

6 "(15) To exchange information concerning a tax imposed by Articles 2A,
7 2C, or 2D of this Chapter with one of the following agencies when the
8 information is needed to fulfill a duty imposed on the Department or
9 the agency:

- 10 a. The North Carolina Alcoholic Beverage Control Commission.
- 11 b. The Division of Alcohol Law Enforcement of the Department
12 of Crime Control and Public Safety.
- 13 c. The Bureau of Alcohol, Tobacco, and Firearms of the United
14 States Treasury Department.
- 15 d. Law enforcement agencies.
- 16 e. The Division of ~~Adult Probation and Parole~~ Community
17 Corrections of the Department of Correction."

18 **SECTION 47.(e)** G.S. 115D-5(b) reads as rewritten:

19 "(b) In order to make instruction as accessible as possible to all citizens, the
20 teaching of curricular courses and of noncurricular extension courses at convenient
21 locations away from institution campuses as well as on campuses is authorized and shall
22 be encouraged. A pro rata portion of the established regular tuition rate charged a
23 full-time student shall be charged a part-time student taking any curriculum course. In
24 lieu of any tuition charge, the State Board of Community Colleges shall establish a
25 uniform registration fee, or a schedule of uniform registration fees, to be charged
26 students enrolling in extension courses for which instruction is financed primarily from
27 State funds; provided, however, that the State Board of Community Colleges may
28 provide by general and uniform regulations for waiver of tuition and registration fees
29 for persons not enrolled in elementary or secondary schools taking courses leading to a
30 high school diploma or equivalent certificate, for training courses for volunteer firemen,
31 local fire department personnel, volunteer rescue and lifesaving department personnel,
32 local rescue and lifesaving department personnel, Radio Emergency Associated Citizens
33 Team (REACT) members when the REACT team is under contract to a county as an
34 emergency response agency, local law-enforcement officers, patients in State alcoholic
35 rehabilitation centers, all full-time custodial employees of the Department of Correction,
36 employees of the Department's Division of ~~Adult Probation and Parole~~ Community
37 Corrections and employees of the Department of Juvenile Justice and Delinquency
38 Prevention required to be certified under Chapter 17C of the General Statutes and the
39 rules of the Criminal Justice and Training Standards Commission, trainees enrolled in
40 courses conducted under the New and Expanding Industry Program, clients of sheltered
41 workshops, clients of adult developmental activity programs, students in Health and
42 Human Services Development Programs, juveniles of any age committed to the
43 Department of Juvenile Justice and Delinquency Prevention by a court of competent

1 jurisdiction, prison inmates, and members of the North Carolina State Defense Militia as
2 defined in G.S. 127A-5 and as administered under Article 5 of Chapter 127A of the
3 General Statutes. Provided further, tuition shall be waived for senior citizens attending
4 institutions operating under this Chapter as set forth in Chapter 115B of the General
5 Statutes, Tuition Waiver for Senior Citizens. Provided further, tuition shall also be
6 waived for all courses taken by high school students at community colleges in
7 accordance with G.S. 115D-20(4) and this section."

8 **SECTION 47.(f)** G.S. 143B-262(c) reads as rewritten:

9 "(c) The Department shall establish within the Division of ~~Adult Probation and~~
10 ~~Parole-Community Corrections~~ a program of Intensive Supervision. This program shall
11 provide intensive supervision for probationers, post-release supervisees, and parolees
12 who require close supervision in order to remain in the community pursuant to a
13 community penalties plan, community work plan, community restitution plan, or other
14 plan of rehabilitation. The intensive supervision program shall be available to both
15 felons and misdemeanants. Each offender shall be required to comply with the rules
16 adopted for the Program as well as the requirements specified in G.S. 15A-1340.11(5)."

17 **SECTION 47.(g)** G.S. 143B-478, as rewritten by Section 6 of S.L. 2001-95,
18 reads as rewritten:

19 "**§ 143B-478. Governor's Crime Commission – creation; composition; terms;**
20 **meetings, etc.**

21 (a) There is hereby created the Governor's Crime Commission of the Department
22 of Crime Control and Public Safety. The Commission shall consist of 36 voting
23 members and six nonvoting members. The composition of the Commission shall be as
24 follows:

25 (1) The voting members shall be:

- 26 a. The Governor, the Chief Justice of the Supreme Court of North
27 Carolina (or his alternate), the Attorney General, the Director of
28 the Administrative Office of the Courts, the Secretary of the
29 Department of Health and Human Services, the Secretary of the
30 Department of Correction, the Secretary of the Department of
31 Juvenile Justice and Delinquency Prevention, and the
32 Superintendent of Public Instruction;
- 33 b. A judge of superior court, a judge of district court specializing
34 in juvenile matters, a chief district court judge, a clerk of
35 superior court, and a district attorney;
- 36 c. A defense attorney, three sheriffs (one of whom shall be from a
37 "high crime area"), three police executives (one of whom shall
38 be from a "high crime area"), six citizens (two with knowledge
39 of juvenile delinquency and the public school system, two of
40 whom shall be under the age of 21 at the time of their
41 appointment, one representative of a "private juvenile
42 delinquency program," and one in the discretion of the

- 1 Governor), three county commissioners or county officials, and
2 three mayors or municipal officials;
- 3 d. Two members of the North Carolina House of Representatives
4 and two members of the North Carolina Senate.
- 5 (2) The nonvoting members shall be the Director of the State Bureau of
6 Investigation, the Secretary of the Department of Crime Control and
7 Public Safety, the Assistant Secretary of Intervention/Prevention of the
8 Department of Juvenile Justice and Delinquency Prevention, the
9 Assistant Secretary of Youth Development of the Department of
10 Juvenile Justice and Delinquency Prevention, the Director of the
11 Division of Prisons and the Director of the Division of ~~Adult Probation~~
12 ~~and Paroles~~. Community Corrections.
- 13 (b) The membership of the Commission shall be selected as follows:
- 14 (1) The following members shall serve by virtue of their office: the
15 Governor, the Chief Justice of the Supreme Court, the Attorney
16 General, the Director of the Administrative Office of the Courts, the
17 Secretary of the Department of Health and Human Services, the
18 Secretary of the Department of Correction, the Director of the State
19 Bureau of Investigation, the Secretary of the Department of Crime
20 Control and Public Safety, the Director of the Division of Prisons, the
21 Director of the Division of ~~Adult Probation and Parole~~, Community
22 Corrections, the Secretary of the Department of Juvenile Justice and
23 Delinquency Prevention, the Assistant Secretary of
24 Intervention/Prevention of the Department of Juvenile Justice and
25 Delinquency Prevention, the Assistant Secretary of Youth
26 Development of the Department of Juvenile Justice and Delinquency
27 Prevention, and the Superintendent of Public Instruction. Should the
28 Chief Justice of the Supreme Court choose not to serve, his alternate
29 shall be selected by the Governor from a list submitted by the Chief
30 Justice which list must contain no less than three nominees from the
31 membership of the Supreme Court.
- 32 (2) The following members shall be appointed by the Governor: the
33 district attorney, the defense attorney, the three sheriffs, the three
34 police executives, the six citizens, the three county commissioners or
35 county officials, the three mayors or municipal officials.
- 36 (3) The following members shall be appointed by the Governor from a list
37 submitted by the Chief Justice of the Supreme Court, which list shall
38 contain no less than three nominees for each position and which list
39 must be submitted within 30 days after the occurrence of any vacancy
40 in the judicial membership: the judge of superior court, the clerk of
41 superior court, the judge of district court specializing in juvenile
42 matters, and the chief district court judge.

1 (4) The two members of the House of Representatives provided by
2 subdivision (a)(1)d. of this section shall be appointed by the Speaker
3 of the House of Representatives and the two members of the Senate
4 provided by subdivision (a)(1)d. of this section shall be appointed by
5 the President Pro Tempore of the Senate. These members shall
6 perform the advisory review of the State plan for the General
7 Assembly as permitted by section 206 of the Crime Control Act of
8 1976 (Public Law 94-503).

9 (5) The Governor may serve as chairman, designating a vice-chairman to
10 serve at his pleasure, or he may designate a chairman and
11 vice-chairman both of whom shall serve at his pleasure.

12 (c) The initial members of the Commission shall be those appointed under
13 subsection (b) above, which appointments shall be made by March 1, 1977. The terms
14 of the present members of the Governor's Commission on Law and Order shall expire
15 on February 28, 1977. Effective March 1, 1977, the Governor shall appoint members,
16 other than those serving by virtue of their office, to serve staggered terms; seven shall
17 be appointed for one-year terms, seven for two-year terms, and seven for three-year
18 terms. At the end of their respective terms of office their successors shall be appointed
19 for terms of three years and until their successors are appointed and qualified. The
20 Commission members from the House and Senate shall serve two-year terms effective
21 March 1, of each odd-numbered year; and they shall not be disqualified from
22 Commission membership because of failure to seek or attain reelection to the General
23 Assembly, but resignation or removal from office as a member of the General Assembly
24 shall constitute resignation or removal from the Commission. Any other Commission
25 member no longer serving in the office from which he qualified for appointment shall
26 be disqualified from membership on the Commission. Any appointment to fill a
27 vacancy on the Commission created by the resignation, dismissal, death, disability, or
28 disqualification of a member shall be for the balance of the unexpired term.

29 (d) The Governor shall have the power to remove any member from the
30 Commission for misfeasance, malfeasance or nonfeasance.

31 (e) The Commission shall meet quarterly and at other times at the call of the
32 chairman or upon written request of at least eight of the members. A majority of the
33 voting members shall constitute a quorum for the transaction of business."

34 **SECTION 48.** G.S. 18B-901(c) reads as rewritten:

35 "(c) Factors in Issuing Permit. – Before issuing a permit, the Commission shall be
36 satisfied that the applicant is a suitable person to hold an ABC permit and that the
37 location is a suitable place to hold the permit for which he has applied. To be a suitable
38 place, the establishment shall comply with all applicable building and fire codes. Other
39 factors the Commission shall consider in determining whether the applicant and the
40 business location are suitable are:

- 41 (1) The reputation, character, and criminal record of the applicant;
- 42 (2) The number of places already holding ABC permits within the
43 neighborhood;

- 1 (3) Parking facilities and traffic conditions in the neighborhood;
2 (4) Kinds of businesses already in the neighborhood;
3 (5) Whether any principal entrance of the establishment is located within
4 50 feet as measured from any principal entrance of a ~~church or church~~,
5 public school or church school;
6 (6) Zoning laws;
7 (7) The recommendations of the local governing body; and
8 (8) Any other evidence that would tend to show whether the applicant
9 would comply with the ABC laws and whether operation of his
10 business at that location would be detrimental to the neighborhood."

11 **SECTION 49.(a)** G.S. 18B-1001(15), as enacted by Section 1 of S.L.
12 2001-262, reads as rewritten:

13 "(15) Wine-Tasting Permit. – A wine-tasting permit authorizes wine
14 tastings on the premises conducted and supervised by the
15 permittee. A wine tasting consists of the offering of a sample of
16 one or more unfortified wine products, in amounts of no more than
17 one ounce for each sample, without charge, to customers of the
18 business. Representatives of the winery, which produced the wine,
19 or the ~~grape-wine~~ grower may assist with the tastings in a manner
20 consistent with existing law. The Commission shall adopt rules to
21 assure that the tastings are limited to samplings and not a
22 subterfuge for the unlawful sale or distribution of wine, and that the
23 tastings are not used by industry members for unlawful
24 inducements to retail permit holders, and do not violate existing
25 rules. Except for purposes of this subsection, the holder of a
26 wine-tasting permit shall not be construed to hold a permit for the
27 on-premises sale or consumption of alcoholic beverages. Any food
28 business is eligible for a wine-tasting permit."

29 **SECTION 49.(b)** G.S. 18B-1101(2a), as enacted by Section 2 of S.L.
30 2001-262, reads as rewritten:

31 "(2a) Receive, in closed containers, unfortified wine produced outside
32 North Carolina under the winery's label from ~~grapes—grapes,~~
33 berries, or other fruits owned by the winery, and sell, deliver, and
34 ship that wine to wholesalers, exporters, and nonresident
35 wholesalers in the same manner as its wine manufactured in North
36 Carolina. This provision may be used only by a winery during its
37 first three years of operation or when there is substantial damage to
38 its ~~grapes—grapes,~~ berries, or other fruits from catastrophic ~~grape~~
39 crop loss. This provision may be used only three years out of every
40 10 years and notice must be given to the Commission each time
41 this provision is used;".

42 **SECTION 49.(c)** G.S. 18B-1114.3, as enacted by Section 4 of S.L.
43 2001-262, reads as rewritten:

1 "§ 18B-1114.3. Authorization of wine grower permit.

2 (a) Authorization. – The holder of a wine grower permit may:

- 3 (1) Ship ~~grapes-grapes, berries, or other fruits~~ grown on land owned by it
4 in North Carolina to a winery, inside or outside the State, for the
5 manufacture and bottling of unfortified wine from those grapes and
6 may receive that wine back in closed containers.
- 7 (2) Sell, deliver, and ship the unfortified wine manufactured from its
8 ~~grapes-grapes, berries, or other fruits~~ in closed containers to
9 wholesalers and retailers licensed under this Chapter as authorized by
10 the ABC laws and also sell to exporters and nonresident wholesalers
11 when the purchase is not for resale in this State.
- 12 (3) Regardless of the results of any local wine election, sell the wine
13 manufactured from its ~~grapes-grapes, berries, or other fruits~~ for on- or
14 off-premise consumption upon obtaining the appropriate permit under
15 G.S. 18B-1001.

16 (b) Limitation on Sales. – The holder of a wine grower permit may not sell, in
17 total, annually, more than 20,000 gallons of wine manufactured off its premises from
18 ~~grapes-grapes, berries, or other fruits~~ it has grown."

19 **SECTION 49.(d)** G.S. 18B-1000(10), as enacted by Section 7 of S.L.
20 2001-262, reads as rewritten:

21 "(10) Wine grower. – A farming establishment of at least five acres
22 committed to the production of ~~grapes-grapes, berries, or other fruits~~
23 for the manufacture of unfortified wine."

24 **SECTION 50.(a)** G.S. 20-4.01(12b), as amended by Section 1 of S.L.
25 2001-356, reads as rewritten:

26 "(12b) Gross Vehicle Weight Rating (GVWR). – The value specified by the
27 manufacturer as the maximum loaded weight ~~of a vehicle. a vehicle is~~
28 capable of safely hauling. The GVWR of a combination vehicle is the
29 GVWR of the power unit plus the GVWR of the towed unit or units.
30 When a vehicle is determined by an enforcement officer to be
31 structurally altered in any way from the manufacturer's original ~~design,~~
32 design in an attempt to increase the hauling capacity of the vehicle, the
33 GVWR of that vehicle shall be deemed to be the greater of the license
34 weight or the total weight of the vehicle or combination of vehicles
35 ~~may be deemed as the GVWR~~ for the purpose of enforcing this
36 Chapter."

37 **SECTION 50.(b)** G.S. 20-30(6) reads as rewritten:

38 "(6) ~~To photostat or otherwise reproduce a driver's license or learner's~~
39 ~~permit or to possess a driver's license or learner's permit which has~~
40 ~~been photostated or otherwise reproduced, unless such photostat or~~
41 ~~other reproduction was authorized by the Commissioner. To make a~~
42 color photocopy or otherwise make a color reproduction of a drivers
43 license, learner's permit, or special identification card which has been

1 color-photocopied or otherwise reproduced in color, unless such color
2 photocopy or other color reproduction was authorized by the
3 Commissioner. It shall be lawful to make a black and white photocopy
4 of a drivers license, learner's permit, or special identification card or
5 otherwise make a black and white reproduction of a drivers license,
6 learner's permit, or special identification card."

7 **SECTION 50.(c)** G.S. 20-63(b) reads as rewritten:

8 "(b) Every license plate shall have displayed upon it the registration number
9 assigned to the vehicle for which it is issued, the name of the State of North Carolina,
10 which may be abbreviated, and the year number for which it is issued or the date of
11 expiration. A plate issued for a commercial vehicle, as defined in G.S. 20-4.2(1), and
12 weighing 26,001 pounds or more, must bear the word "commercial," unless the plate is
13 a special registration plate authorized in G.S. 20-79.4 or the commercial vehicle is a
14 trailer or is licensed for 6,000 pounds or less. The plate issued for vehicles licensed for
15 7,000 pounds through 26,000 pounds must bear the word "weighted".

16 A registration plate issued by the Division for a private passenger vehicle or for a
17 private hauler vehicle licensed for 6,000 pounds or less, other than a Friends of the
18 Great Smoky Mountains National Park special registration plate, shall be a "First in
19 Flight" plate. A "First in Flight" plate shall have the words "First in Flight" printed at
20 the top of the plate above all other letters and numerals. The background of the plate
21 shall depict the Wright Brothers biplane flying over Kitty Hawk Beach, with the plane
22 flying slightly upward and to the right."

23 **SECTION 50.(d)** G.S. 20-101 reads as rewritten:

24 "**§ 20-101. Certain business vehicles to be marked.**

25 A motor vehicle that is subject to 49 C.F.R. Part 390, the federal motor carrier safety
26 regulations, shall be marked as required by that Part.

27 A motor vehicle that is not subject to those regulations, has a gross vehicle weight
28 rating of more than 10,000 pounds, but less than 26,001 pounds, and is used in intrastate
29 commerce, and is not a farm vehicle, as further described in G.S. 20-118 (c)(4), (c)(5),
30 or (c)(12), shall have the name of the owner printed on the side of the vehicle in letters
31 not less than three inches in height.

32 A motor vehicle that is subject to regulation by the North Carolina Utilities
33 Commission shall be marked as required by that Commission and as otherwise required
34 by this section."

35 **SECTION 50.(e)** G.S. 20-118(c)(14) reads as rewritten:

36 "(14) Subsections (b) and (e) of this section do not apply to a vehicle that
37 meets all of the following conditions:

- 38 a. Is hauling aggregates from a distribution yard or a
39 State-permitted production site within a North Carolina county
40 contiguous to the North Carolina State border to a destination in
41 an adjacent state another state adjacent to that county as verified
42 by a weight ticket in the driver's possession and available for
43 inspection by enforcement personnel.

- 1 b. Does not operate on an interstate highway or posted bridge.
2 c. Does not exceed 69,850 pounds gross vehicle weight and
3 53,850 pounds per axle grouping for tri-axle vehicles. For
4 purposes of this subsection, a tri-axle vehicle is a single power
5 unit vehicle with a three consecutive axle group on which the
6 respective distance between any two consecutive axles of the
7 group, measured longitudinally center to center to the nearest
8 foot, does not exceed eight feet. For purposes of this subsection,
9 the tolerance provisions of subsection (h) of this section do not
10 ~~apply.~~ apply, and vehicles must be licensed in accordance with
11 G.S. 20-88.
12 d. All other enforcement provisions of this Article remain
13 applicable."

14 **SECTION 50.(f)** G.S. 20-118.1 reads as rewritten:

15 **"§ 20-118.1. Officers may weigh vehicles and require overloads to be removed.**

16 A law enforcement officer may stop and weigh a vehicle to determine if the vehicle's
17 weight is in compliance with the vehicle's declared gross weight and the weight limits
18 set in this Part. The officer may require the driver of the vehicle to drive to a scale
19 located within five miles of where the officer stopped the vehicle.

20 Any person operating a vehicle or a combination of vehicles having a GVWR of
21 10,001 pounds or more or any vehicle transporting hazardous materials that is required
22 to be placarded under 49 C.F.R. § 171-180 must enter a permanent weigh station or
23 temporary inspection or weigh site as directed by duly erected signs or an electronic
24 transponder for the purpose of being electronically screened for compliance, or
25 weighed, or inspected.

26 If the vehicle's weight exceeds the amount allowable, the officer may detain the
27 vehicle until the overload has been removed. Any property removed from a vehicle
28 because the vehicle was overloaded is the responsibility of the owner or operator of the
29 vehicle. The State is not liable for damage to or loss of the removed property.

30 Failure to permit a vehicle to be weighed or to remove an overload is a misdemeanor
31 of the Class set in G.S. 20-176. An officer must weigh a vehicle with a scale that has
32 been approved by the Department of Agriculture and Consumer Services."

33 **SECTION 50.(g)** G.S. 20-142.3 reads as rewritten:

34 **"§ 20-142.3. Certain vehicles must stop at railroad grade crossing; ~~placarding~~**
35 **~~certain vehicles.~~ crossing.**

36 (a) Before crossing at grade any track or tracks of a railroad, the driver of any
37 school bus, any activity bus, any motor vehicle carrying passengers for compensation,
38 ~~any property hauling motor vehicle carrying hazardous materials,~~ any commercial
39 motor vehicle listed in 49 C.F.R. § 392.10, and any motor vehicle with a capacity of 16
40 or more persons shall stop the vehicle within 50 feet but not less than 15 feet from the
41 nearest rail of the railroad. While stopped, the driver shall listen and look in both
42 directions along the track for any approaching train and shall not proceed until ~~he~~ the
43 driver can do so safely. Upon proceeding, the driver of the vehicle shall cross the track

1 in a gear that allows the driver to cross the track without changing gears and the driver
2 shall not change gears while crossing the track or tracks.

3 (b) Except for school buses and activity buses, the provisions of this section shall
4 not require the driver of a vehicle to stop:

5 (1) At railroad tracks used exclusively for industrial switching purposes
6 within a business district.

7 (2) At a railroad grade crossing which a police officer or crossing flagman
8 directs traffic to proceed.

9 (3) At a railroad grade crossing protected by a gate or flashing signal
10 designed to stop traffic upon the approach of a train, when the gate or
11 flashing signal does not indicate the approach of a train.

12 (4) At an abandoned railroad grade crossing which is marked with a sign
13 indicating that the rail line is abandoned.

14 (5) At an industrial or spur line railroad grade crossing marked with a sign
15 reading "Exempt" erected by or with the consent of the appropriate
16 State or local authority.

17 (c) ~~It shall be unlawful to transport by motor vehicle upon the highways of this~~
18 ~~State any hazardous material without conspicuously marking or placarding the motor~~
19 ~~vehicle on each side and on the rear with the word "DANGEROUS" or the common or~~
20 ~~generic name of the article transported or its principal hazard. Additionally, the rear of~~
21 ~~any such vehicle shall be conspicuously marked with the words "THIS VEHICLE~~
22 ~~STOPS AT RAILROAD CROSSINGS" or "WE STOP AT RR CROSSINGS."~~ A
23 person violating the provisions of this ~~subsection~~ section shall be guilty of an infraction
24 and punished in accordance with G.S. 20-176. Violation of this section shall not
25 constitute negligence per se.

26 (d) ~~"Hazardous materials," for purposes of this section only, means any~~
27 ~~hazardous material required to be placarded under 49 C.F.R. § 171-180.~~

28 (e) ~~The provisions of this section shall not apply to vehicles subject to Federal~~
29 ~~Motor Carrier Safety rules adopted by the Division of Motor Vehicles."~~

30 **SECTION 51.** G.S. 20-4.01(49) reads as rewritten:

31 "(49) Vehicle. – Every device in, upon, or by which any person or property
32 is or may be transported or drawn upon a highway, excepting devices
33 moved by human power or used exclusively upon fixed rails or tracks;
34 provided, that for the purposes of this Chapter bicycles shall be
35 deemed vehicles and every rider of a bicycle upon a highway shall be
36 subject to the provisions of this Chapter applicable to the driver of a
37 vehicle except those which by their nature can have no application.
38 This term shall not include a device which is designed for and intended
39 to be used as a means of transportation for a person with a mobility
40 impairment, or who uses the device for mobility enhancement, is
41 suitable for use both inside and outside a building, including on
42 sidewalks, and whose maximum speed does not exceed 12 is limited
43 by design to 15 miles per hour when the device is being operated by a

1 person with a mobility ~~impairment~~.impairment, or who uses the device
2 for mobility enhancement."

3 **SECTION 52.** G.S. 20-17(a)(15) reads as rewritten:

4 "(15) A conviction of malicious use of an explosive or incendiary device to
5 damage property (G.S. 14-49(b) and (b1)); ~~conspiracy to injure or~~
6 ~~damage by use of an explosive or incendiary device (G.S. 14-50);~~
7 making a false report concerning a destructive device in a public
8 building (G.S. 14-69.1(c)); perpetrating a hoax concerning a
9 destructive device in a public building (G.S. 14-69.2(c)); possessing or
10 carrying a dynamite cartridge, bomb, grenade, mine, or powerful
11 explosive on educational property (G.S. 14-269.2(b1)); or causing,
12 encouraging, or aiding a minor to possess or carry a dynamite
13 cartridge, bomb, grenade, mine, or powerful explosive on educational
14 property (G.S. 14-269.2(c1))."

15 **SECTION 53.** G.S. 20-39.1(e), as enacted by Section 6.14(a) of S.L.
16 2001-424, reads as rewritten:

17 "(e) Upon approval and request of the Director of the State Bureau of
18 Investigation, the Commissioner shall issue confidential license plates to local, State, or
19 federal law enforcement ~~agencies~~agencies, the Department of Crime Control and Public
20 Safety, and agents of the Internal Revenue Service in accordance with the provisions of
21 this subsection. Applicants in these categories shall provide satisfactory evidence to the
22 Director of the State Bureau of Investigation of the following:

- 23 (1) The confidential license plate requested is to be used on a publicly
24 owned or leased vehicle that is primarily used for transporting,
25 apprehending, or arresting persons charged with violations of the laws
26 of the United States or the State of North Carolina;
- 27 (2) The use of a confidential license plate is necessary to protect the
28 personal safety of an officer or for placement on a vehicle used
29 primarily for surveillance or undercover operations; and
- 30 (3) The application contains an original signature of the head of the
31 requesting agency or department or, in the case of a federal agency, the
32 signature of the senior ranking officer for that agency in this State.

33 Confidential license plates issued under this subsection shall be issued on an annual
34 basis and the Division shall maintain a separate registration file for vehicles bearing
35 confidential license plates. That file shall be confidential for the use of the Division and
36 is not a public record within the meaning of Chapter 132 of the General Statutes. Upon
37 the annual renewal of the registration of a vehicle for which a confidential status has
38 been established under this section, the registration shall lose its confidential status
39 unless the agency or department supplies the Director of the State Bureau of
40 Investigation with information demonstrating that an officer's personal safety remains at
41 risk or that the vehicle is still primarily used for surveillance or undercover operations at
42 the time of renewal."

1 **SECTION 54.** G.S. 20-39.1(i), as enacted by Section 6.14 of S.L. 2001-424,
2 reads as rewritten:

3 "(i) The Commissioner shall administer the issuance of private plates for ~~State-~~
4 ~~owned~~ publicly owned vehicles under the provisions of this section to ensure strict
5 compliance with those provisions. The Division shall report to the Joint Legislative
6 Commission on Governmental Operations by January 1 and July 1 of each year on the
7 total number of private plates issued to each agency, and the total number of fictitious
8 licenses and plates issued by the Division."

9 **SECTION 55.** G.S. 20-179.3(e) reads as rewritten:

10 "(e) Limited Basis for and Effect of Privilege. – A limited driving privilege issued
11 under this section authorizes a person to drive if his license is revoked solely under ~~G.S.~~
12 ~~20-17(2)~~ G.S. 20-17(a)(2) or as a result of a conviction in another jurisdiction
13 substantially similar to impaired driving under G.S. 20-138.1; if the person's license is
14 revoked under any other statute, the limited privilege is invalid."

15 **SECTION 56.** Effective July 1, 2002, G.S. 24-1.1A(a1), as enacted by
16 Section 1 of S.L. 2001-340, reads as rewritten:

17 "(a1) Subject to federal requirements, ~~at the time a~~ when a natural person applies
18 ~~with a lender~~ for a home loan, loan primarily for personal, family, or household
19 purposes, the lender shall comply with the provisions of this subsection.

20 (1) Not later than the date of the home loan closing or three business days
21 after the lender receives an application for a home loan, whichever is
22 earlier, the lender shall ~~provide~~ deliver or mail to the applicant with
23 information and examples of amortization of home loans reflecting
24 various terms in a form made available by the Commissioner of Banks
25 Banks. and, for fixed rate home loans only, shall provide the person an
26 amortization schedule for the person's home loan at closing. The
27 Commissioner of Banks shall develop and make available to home
28 loan lenders materials necessary to satisfy the provisions of this
29 subsection.

30 (2) Not later than three business days after the home loan closing, the
31 lender shall deliver or mail to the borrower an amortization schedule
32 for the borrower's home loan. Provided, however, that a lender shall
33 not be required to provide an amortization schedule unless the loan is a
34 fixed rate home loan that requires the borrower to make regularly
35 scheduled periodic amortizing payments of principal and interest; and
36 provided further that, with respect to a construction/permanent home
37 loan, the amortization schedule must be provided only with respect to
38 the permanent portion of the home loan during which amortization
39 occurs.

40 (3) If the home loan transaction involves more than one natural person, the
41 lender may deliver or mail the materials required by this subsection to
42 any one or more of such persons.

1 (4) This subsection does not apply if the home loan applicant is not a
2 natural person or if the home loan is for a purpose other than a
3 personal, family, or household purpose."

4 **SECTION 57.** G.S. 25-9-310(b), as rewritten by Section 3 of S.L. 2001-218,
5 reads as rewritten:

6 "(b) Exceptions: filing not necessary. – The filing of a financing statement is not
7 necessary to perfect a security interest:

8 (1) That is perfected under G.S. 25-9-308(d), (e), or (g);

9 (2) That is perfected under G.S. 25-9-309 when it attaches;

10 (3) In property subject to a statute, regulation, or treaty described in
11 G.S. 25-9-311(a);

12 (4) In goods in possession of a bailee which is perfected under G.S.
13 25-9-312(d)(1) or (2);

14 (5) In certificated securities, documents, goods, or instruments which
15 is perfected without filing or possession under G.S. 25-9-312(e),
16 (f), or (g);

17 (6) In collateral in the secured party's possession under G.S. 25-9-313;

18 (7) In a certificated security which is perfected by delivery of the
19 security certificate to the secured party under G.S. 25-9-313;

20 (8) In deposit accounts, electronic chattel paper, investment property,
21 or letter-of-credit rights which is perfected by control under G.S.
22 25-9-314;

23 (9) In proceeds which is perfected under G.S. 25-9-315; or

24 (10) That is perfected under ~~G.S. 25-9-316; or~~ G.S. 25-9-316."

25 **SECTION 58.** G.S. 40A-3(c) reads as rewritten:

26 "(c) Other Public Condemnors. – For the public use or benefit, the following
27 political entities shall possess the power of eminent domain and may acquire property
28 by purchase, gift, or condemnation for the stated purposes.

29 ...

30 (8) An authority created under the provisions of Article 1 of Chapter
31 162A for the purposes of that ~~Article, provided, however the~~
32 ~~provisions of G.S. 162A-7 shall continue to apply.~~ Article.

33 ...

34 (13) A regional public transportation authority established under Article
35 26 of Chapter 160A of the General Statutes for the purposes of that
36 Article."

37 **SECTION 59.** Effective October 1, 2001, G.S. 44-49, as rewritten by
38 Section 1 of S.L. 2001-377, reads as rewritten:

39 "**§ 44-49. Lien created; applicable to persons non sui juris.**

40 (a) From and after March 26, 1935, there is hereby created a lien upon any sums
41 recovered as damages for personal injury in any civil action in this State. This lien is in
42 favor of any person, corporation, State entity, municipal corporation or county to whom
43 the person so recovering, or the person in whose behalf the recovery has been made,

1 may be indebted for any drugs, medical supplies, ambulance services, services rendered
2 by any physician, dentist, nurse, or hospital, or hospital attention or services rendered in
3 connection with the injury in compensation for which the damages have been recovered.
4 Where damages are recovered for and in behalf of minors or persons non compos
5 mentis, the liens shall attach to the sum recovered as fully as if the person were sui juris.

6 (b) Notwithstanding subsection (a) of this section, no lien provided for under
7 subsection (a) of this section is valid with respect to any claims whatsoever unless the
8 physician, dentist, nurse, hospital, corporation, or other person entitled to the lien
9 furnishes, without charge to the attorney as a condition precedent to the creation of the
10 lien, upon request to the attorney representing the person in whose behalf the claim for
11 personal injury is made, an itemized statement, hospital record, or medical report for the
12 use of the attorney in the negotiation, settlement, or trial of the claim arising by reason
13 of the personal injury, and a written notice to the attorney of the lien claimed.

14 (c) No action shall lie against any clerk of court or any surety on any clerk's bond
15 to recover any claims based upon any lien or liens created under subsection (a) of this
16 section when recovery has been had by the person injured, and no claims against the
17 recovery were filed with the clerk by any person or corporation, and the clerk has
18 otherwise disbursed according to law the money recovered in the action for personal
19 injuries."

20 **SECTION 60.** G.S. 51-2(a1), as enacted by Section 2 of S.L. 2001-62, reads
21 as rewritten:

22 "(a1) Persons over 16 years of age and under 18 years of age may marry, and the
23 register of deeds may issue a license for the marriage, only after there shall have been
24 filed with the register of deeds a written consent to the marriage, said consent having
25 been signed by the appropriate person as follows:

26 (1) By a parent having full or joint legal custody of the underage party; or

27 (2) By a person, agency, or institution having legal custody or serving as a
28 guardian of the underage party.

29 ~~The written consent required by this subsection shall be either acknowledged before a~~
30 ~~notary public or signed in the presence of the register of deeds.~~ Such written consent
31 shall not be required for an emancipated minor if a certificate of emancipation issued
32 pursuant to Article 35 of Chapter 7B of the General Statutes or a certified copy of a
33 final decree or certificate of emancipation from this or any other jurisdiction is filed
34 with the register of deeds."

35 **SECTION 61.(a)** G.S. 54-109.57(a), as rewritten by Section 2 of S.L.
36 2001-267, reads as rewritten:

37 "(a) Shares may be issued to and deposits received from any person or persons
38 establishing an account who shall execute a written agreement with the credit union
39 containing a statement that it is executed pursuant to the provisions of this section and
40 providing for the account to be held in the name of the person or persons as owner or
41 owners for one or more persons designated as beneficiaries, the account and any
42 balance thereof shall be held as a Payable on Death account, with the following
43 incidents:

- 1 (1) Any owner during the owner's lifetime may change any designated
2 beneficiary by a written direction to the credit union.
- 3 (1a) If there are two or more owners of a Payable on Death account, the
4 owners shall own the account as joint tenants with right of
5 survivorship and, except as otherwise provided in this section, the
6 account shall have the incidents set forth in G.S. 54-109.58.
- 7 (2) Any owner may withdraw funds by writing checks or otherwise, as set
8 forth in the account contract, and receive payment in cash or check
9 payable to the owner's personal order.
- 10 (3) If only one beneficiary is living and of legal age at the death of the
11 last surviving trustee, the beneficiary shall be the holder of the
12 account, and payment by the credit union to the holder shall be a total
13 discharge of the credit union's obligation as to the amount paid. If two
14 or more beneficiaries are living at the death of the last surviving
15 owner, they shall be owners of the account as joint tenants with right
16 of survivorship as provided in G.S. 54-109.58, and payment by the
17 credit union to the owners or to any of the owners shall be a total
18 discharge of the credit union's obligation as to the amount paid.
- 19 (4) If one or more owners survive the last surviving beneficiary, the
20 account shall become an individual account of the owner, or a joint
21 account with right of survivorship of the owners and shall have the
22 legal incidents of an individual account in the case of a single owner
23 or a joint account with right of survivorship, as provided in G.S.
24 54-109.58, in the case of multiple owners.
- 25 (5) If only one beneficiary is living and that beneficiary is not of legal age
26 at the death of the last surviving owner, the credit union shall transfer
27 the funds in the account to the general guardian or guardian of the
28 estate, if any, of the minor beneficiary. If no guardian of the minor
29 beneficiary has been appointed, the credit union shall hold the funds in
30 a similar interest bearing account in the name of the minor until the
31 minor reaches the age of majority or until a duly appointed guardian
32 withdraws the funds.
- 33 (6) Prior to the death of the last surviving owner, no beneficiary shall have
34 any ownership interest in a Payable on Death account. Funds in a
35 Payable on Death account established pursuant to this subsection shall
36 belong to the beneficiary or beneficiaries upon the death of the last
37 surviving owner and the funds shall be subject only to the personal
38 representative's right of collection as set forth in G.S. 28A-15-10(a)(1).
39 Payment by the credit union of funds in the Payable on Death account
40 to the beneficiary shall terminate the personal representative's
41 authority under G.S. 28A-15-10(a)(1) to collect against the credit
42 union for the funds so paid, but the personal representative's authority

1 to collect such funds from the beneficiary or beneficiaries is not
2 terminated.

3 The person or persons establishing an account under this subsection shall sign a
4 statement containing language set forth in a conspicuous manner and substantially
5 similar to the following:

6 "CREDIT UNION (OR NAME OF INSTITUTION)
7 PAYABLE ON DEATH ACCOUNT
8 G.S. 54-109.57

9 I (or we) understand that by establishing a Payable on Death account under the
10 provisions of North Carolina General Statute 54-109.57 that:

- 11 1. During my (or our) lifetime I (or ~~we~~-we), individually or jointly, may
12 withdraw the money in the account; and
- 13 2. By written direction to the credit union (or name of institution) I (or
14 we), individually or jointly, may change the beneficiary or
15 beneficiaries; and
- 16 3. Upon my (or our) death the money remaining in the account will
17 belong to the beneficiary or beneficiaries, and the money will not be
18 inherited by my (or our) heirs or be controlled by will.

19
20 -----"

21 **SECTION 61.(b)** G.S. 54C-166(a), as rewritten by Section 4 of S.L.
22 2001-267, reads as rewritten:

23 "(a) If a person or persons establishing a withdrawable account executes a written
24 agreement with the savings bank containing a statement that it is executed under this
25 section and providing for the account to be held in the name of the person or persons as
26 owner or owners for one or more persons designated as beneficiaries, the account and
27 any balance of the account is held as a Payable on Death account with the following
28 incidents:

- 29 (1) Any owner during the owner's lifetime may change any designated
30 beneficiary by a written direction to the savings bank.
- 31 (1a) If there are two or more owners of a Payable on Death account, the
32 owners shall own the account as joint tenants with right of
33 survivorship and, except as otherwise provided in this section, the
34 account shall have the incidents set forth in G.S. 54C-165.
- 35 (2) Any owner may withdraw funds by writing checks or otherwise, as set
36 forth in the account contract, and receive payment in cash or check
37 payable to the owner's personal order.
- 38 (3) If only one beneficiary is living and of legal age at the death of the
39 last surviving owner, the beneficiary is the holder of the account, and
40 payment by the savings bank to the holder is a total discharge of the
41 savings bank's obligation as to the amount paid. If two or more
42 beneficiaries are living at the death of the last surviving owner, they
43 shall be owners of the account as joint tenants with right of

1 survivorship as provided in G.S. 54C-165, and payment by the savings
2 bank to the owners or to any of the owners shall be a total discharge of
3 the savings bank's obligation as to the amount paid.

4 (4) If one or more owners survive the last surviving beneficiary, the
5 account shall become an individual account of the owner, or a joint
6 account with right of survivorship of the owners, and shall have the
7 legal incidents of an individual account in the case of a single owner
8 or a joint account with right of survivorship, as provided in G.S.
9 54C-165, in the case of multiple owners.

10 (5) If only one beneficiary is living and that beneficiary is not of legal age
11 at the death of the last surviving owner, the savings bank shall transfer
12 the funds in the account to the general guardian or guardian of the
13 estate, if any, of the minor beneficiary. If no guardian of the minor
14 beneficiary has been appointed, the savings bank shall hold the funds
15 in a similar interest-bearing account in the name of the minor until the
16 minor reaches the age of majority or until a duly appointed guardian
17 withdraws the funds.

18 (6) Prior to the death of the last surviving owner, no beneficiary shall have
19 any ownership interest in a Payable on Death account. Funds in a
20 Payable on Death account established under this subsection shall
21 belong to the beneficiary or beneficiaries upon the death of the last
22 surviving owner and the funds shall be subject only to the personal
23 representative's right of collection as set forth in G.S. 28A-15-10(a)(1).
24 Payment by the savings bank of funds in the Payable on Death
25 account to the beneficiary or beneficiaries shall terminate the personal
26 representative's authority under G.S. 28A-15-10(a)(1) to collect
27 against the savings bank for the funds so paid, but the personal
28 representative's authority to collect the funds from the beneficiary or
29 beneficiaries is not terminated.

30 The person or persons establishing an account under this subsection shall sign a
31 statement containing language set forth in a conspicuous manner and substantially
32 similar to the following:

33 "SAVINGS BANK (OR NAME OF INSTITUTION) PAYABLE ON DEATH
34 ACCOUNT
35 G.S. 54C-166(A)

36 I (or we) understand that by establishing a Payable on Death account under G.S.
37 54C-166(a) that:

- 38 1. During my (or our) lifetime, I (~~or we~~ we), individually or jointly,
39 may withdraw the money in the account; and
40 2. By written direction to the savings bank (or name of institution) I (or
41 we), individually or jointly, may change the beneficiary; and

3. Upon my (or our) death the money remaining in the account will belong to the beneficiary or beneficiaries and the money will not be inherited by my (or our) heirs or be controlled by will.

SECTION 62.(a) G.S. 55-1-40(2a), as enacted by Section 3 of S.L. 2001-387, reads as rewritten:

"(2a) 'Business entity,' as used in G.S. 55-11-10 and Article 11A of this Chapter, means a domestic corporation (including a professional corporation as defined in G.S. 55B-2), a foreign corporation, a domestic or foreign nonprofit corporation, a domestic or foreign limited liability company, a domestic or foreign limited partnership as defined in G.S. 59-102, partnership, a registered limited liability partnership or foreign limited liability partnership as defined in G.S. 59-32, or any other partnership as defined in G.S. 59-36 whether or not formed under the laws of this State."

SECTION 62.(b) G.S. 55-7-04(a1)(2), as enacted by Section 11 of S.L. 2001-387, reads as rewritten:

"(2) If cumulative voting is authorized, the election of directors and the removal of a director unless the entire board of directors is to be removed, and if G.S. 55-7-28(e) applies to the corporation, an amendment to the articles of incorporation to deny or limit the right of shareholders to vote cumulatively and an amendment to the articles of incorporation or bylaws to decrease the number of directors."

SECTION 62.(c) G.S. 55-7-04(b), as amended by Section 11 of S.L. 2001-387, reads as rewritten:

"(b) A shareholder's written consent to action to be taken without a meeting shall cease to be effective on the sixty-first day after the date of signature appearing on the consent unless prior to the sixty-first day the corporation has received written consents sufficient under subsection (a) of this section to take the action without meeting. If not otherwise fixed under G.S. 55-7-03 or G.S. 55-7-07, the record date for determining shareholders entitled to take action without a meeting is the earliest date the first shareholder signs the consent under subsection (a) of signature appearing on any consent that is to be counted in satisfying the requirements of subsection (a) of this section. ~~No written consent shall be effective to evidence the action referred to therein unless, within 60 days after the earliest date appearing on a written consent delivered to the corporation in the manner required by this section, the corporation receives written consents signed by shareholders sufficient to take the action without a meeting."~~

SECTION 62.(d) G.S. 55-11A-12, as enacted by Section 17 of S.L. 2001-387, reads as rewritten:

"§ 55-11A-12. **Articles of conversion.**

1 (a) After a plan of conversion has been approved by the converting domestic
2 corporation as provided in G.S. 55-11A-11, the converting domestic corporation shall
3 deliver articles of conversion to the Secretary of State for filing. The articles of
4 conversion shall state:

5 (1) The name of the converting domestic corporation;

6 (2) The name of the resulting business entity, its type of business entity,
7 the state or country whose laws govern its organization and internal
8 affairs, and, if the resulting business entity is not authorized to transact
9 business or conduct affairs in this State, a designation of its mailing
10 address and a commitment to file with the Secretary of State a
11 statement of any subsequent change in its mailing address; and

12 (3) That a plan of conversion has been approved by the domestic
13 corporation as required by law.

14 (b) If the domestic corporation is converting to a business entity whose formation
15 or whose status as a registered limited liability partnership, as defined in G.S. 59-32, or
16 limited liability limited partnership, as defined in G.S. 59-102, requires the filing of a
17 document with the Secretary of State, then notwithstanding subsection (a) of this
18 section, the articles of conversion shall be included as part of that document instead of
19 separately filing the articles of conversion and shall contain the information required by
20 the laws governing the organization and internal affairs of the resulting business entity.

21 (c) If the plan of conversion is abandoned after the articles of conversion have
22 been filed with the Secretary of State but before the articles of conversion become
23 effective, the converting domestic corporation shall deliver to the Secretary of State for
24 filing prior to the time the articles of conversion become effective an amendment to the
25 articles of conversion withdrawing the articles of conversion.

26 ~~(b)~~(d) The conversion takes effect when the articles of conversion become effective.

27 ~~(e)~~(e) Certificates of conversion shall also be registered as provided in G.S.
28 47-18.1."

29 **SECTION 62.(e)** G.S. 55A-1-40(20), as amended by Section 33 of S.L.
30 2001-387, reads as rewritten:

31 "(20) 'Principal office' means the office (in or out of this State) ~~so designated~~
32 ~~in the articles of incorporation, the Designation of Principal Office~~
33 ~~Address form, or in any subsequent Corporation's Statement of Change~~
34 ~~of Principal Office Address form filed with the Secretary of State~~
35 where the principal offices of a domestic or foreign corporation are
36 located, as most recently designated by the domestic or foreign
37 corporation in its articles of incorporation, a Designation of Principal
38 Office Address form, a Corporation's Statement of Change of Principal
39 Office Address form, or in the case of a foreign corporation, its
40 application for a certificate of authority."

41 **SECTION 62.(f)** G.S. 55A-11-09(c) reads as rewritten:

42 "(c) Each merging domestic nonprofit corporation and each other merging
43 business entity shall approve a written plan of merger containing:

- 1 (1) For each merging business entity, its name, type of business entity, and
2 the state or country whose laws govern its organization and internal
3 affairs;
- 4 (2) The name of the merging business entity that shall survive the merger;
- 5 (3) The terms and conditions of the merger;
- 6 (4) The manner and basis for converting the interests in each merging
7 business entity into interests, obligations, or securities of the surviving
8 business entity or into cash or other property in whole or in part; and
- 9 (5) If the surviving business entity is a domestic nonprofit corporation,
10 any amendments to its articles of incorporation that are to be made in
11 connection with the merger.

12 The plan of merger may contain other provisions relating to the merger.

13 In the case of a merging domestic nonprofit corporation, approval of the plan of
14 merger requires that the plan of merger be adopted as provided in G.S. 55A-11-03. If
15 any member of a merging domestic nonprofit corporation has or will have personal
16 liability for any existing or future obligation of the surviving business entity solely as a
17 result of holding an interest in the surviving business entity, then in addition to the
18 requirements of G.S. 55A-11-03, approval of the plan of merger by the domestic
19 nonprofit corporation shall require the affirmative vote or written consent of the
20 member. In the case of each other merging business entity, the plan of merger must be
21 approved in accordance with the laws of the state or country governing the organization
22 and internal affairs of such merging business entity.

23 After a plan of merger has been approved by a domestic nonprofit corporation but
24 before the articles of merger become effective, the plan of merger (i) may be amended
25 as provided in the plan of merger, or (ii) may be abandoned (subject to any contractual
26 rights) as provided in the plan of merger or, if there is no such provision, as determined
27 by the board of directors."

28 **SECTION 62.(g)** G.S. 55A-15-21(a), as amended by Section 46 of S.L.
29 2001-387, reads as rewritten:

30 "(a) Whenever a foreign corporation authorized to conduct affairs in this State
31 ceases its separate existence as a result of a statutory merger or consolidation permitted
32 by the laws of the state or country under which it was incorporated, or converts into
33 another entity as permitted by those laws, the surviving or resulting entity shall apply
34 for a certificate of withdrawal for the foreign corporation by delivering to the Secretary
35 of State for filing a copy of the articles of merger, consolidation, or conversion or a
36 certificate reciting the facts of the merger, consolidation, or conversion duly
37 authenticated by the secretary of state or other official having custody of corporate
38 records in the state or country under the laws of which the foreign corporation was
39 incorporated. If the surviving or resulting entity is not authorized to conduct affairs or
40 transact business in this State, the articles or certificate shall be accompanied by an
41 application which must set forth:

- 42 (1) The name of the foreign corporation authorized to conduct affairs in
43 this State, the type of entity and the name of the surviving or resulting

1 entity, and a statement that the surviving or resulting entity is not
2 authorized to conduct affairs or transact business in this State;

3 (2) A statement that the surviving or resulting entity consents that service
4 of process based upon any cause of action arising in this State, or
5 arising out of affairs conducted in this State, during the time the
6 foreign corporation was authorized to conduct affairs in this State may
7 thereafter be made by service thereof on the Secretary of State;

8 (3) A mailing address to which the Secretary of State may mail a copy of
9 any process served on the Secretary of State under subdivision (a)(2)
10 of this section; and

11 (4) A commitment to file with the Secretary of State a statement of any
12 subsequent change in its mailing address."

13 **SECTION 62.(h)** G.S. 55D-21(d), as amended by Section 163 of S.L.
14 2001-387, reads as rewritten:

15 "(d) Except as otherwise provided in this subsection, the name of a corporation
16 dissolved under Article 14 of Chapter 55 of the General Statutes, of a nonprofit
17 corporation dissolved under Article 14 of Chapter 55A of the General Statutes, of a
18 limited liability company dissolved under Article 6 of Chapter 57C of the General
19 Statutes, of a limited partnership dissolved under Part 8 of Article 5 of Chapter 59 of the
20 General Statutes, or of a limited liability partnership whose registration as a limited
21 liability partnership has been cancelled under G.S. 59-84.2 or revoked under G.S.
22 59-84.4, may not be used by another entity until:

23 (1) In the case of a nonjudicial dissolution other than an administrative
24 dissolution or cancellation of registration as a limited liability
25 partnership, 120 days after the effective date of the dissolution or
26 cancellation.

27 (2) In the case of an administrative dissolution or revocation of
28 registration as a limited liability partnership, the expiration of the
29 period within which the entity or its registration may be reinstated.

30 (3) In the case of a judicial dissolution, 120 days after the later of the date
31 the judgment has become final or the effective date of the dissolution.
32 The person applying for the name must certify to the Secretary of State
33 that no appeal or other judicial review of the judgment directing
34 dissolution is pending.

35 The name of a dissolved entity may be used at any time if the entity changes its
36 name to a name that is distinguishable upon the records of the Secretary of State from
37 the names of other domestic corporations, nonprofit corporations, limited liability
38 companies, limited partnerships, or registered limited liability partnerships or foreign
39 corporations, foreign nonprofit corporations, foreign limited liability companies, or
40 foreign limited partnerships authorized to transact business or conduct affairs in this
41 State, or foreign limited liability partnerships maintaining a statement of foreign
42 ~~registration,~~registration in this State."

1 **SECTION 62.(i)** G.S. 57C-3-04(e), as amended by Section 66 of S.L.
2 2001-387, reads as rewritten:

3 "(e) The managers ~~or directors~~ shall have the right to keep confidential from
4 members who are not ~~managers or directors~~, managers, for such period of time as the
5 managers ~~or directors~~ deem reasonable, any information which the managers ~~or~~
6 ~~directors~~ reasonably believe to be in the nature of trade secrets or other information the
7 disclosure of which the managers ~~or directors~~ in good faith believe is not in the best
8 interest of the limited liability company. The authority authorized in this subsection may
9 be vested in directors instead of managers to the extent provided in the articles of
10 organization or a written operating agreement."

11 **SECTION 62.(j)** G.S. 57C-3-21(3) reads as rewritten:

12 "(3) Upon designation as manager ~~in a written operating agreement~~ and the
13 person's consent to such designation, the designated person shall serve
14 as manager until the earliest to occur of (i) the person's resignation, (ii)
15 any event described in G.S. 57C-3-02 with respect to the manager, (iii)
16 any event specified in the articles of organization or written operating
17 agreement that results in a manager ceasing to be a manager, or (iv) in
18 the case of a person designated as a manager in a written operating
19 agreement, the amendment of the written operating agreement
20 removing the person's designation as a manager."

21 **SECTION 62.(k)** G.S. 57C-7-12(a), as amended by Section 88 of S.L.
22 2001-387, reads as rewritten:

23 "(a) Whenever a foreign limited liability company authorized to transact business
24 in this State ceases its separate existence as a result of a statutory merger, consolidation,
25 or conversion permitted by the laws of the state or country under which it was formed,
26 or converts into another type of entity as permitted by those laws, the surviving or
27 resulting entity shall apply for a certificate of withdrawal for the foreign limited liability
28 company by delivering to the Secretary of State for filing a copy of the articles of
29 merger, consolidation, or conversion or a certificate reciting the facts of the merger,
30 consolidation, or conversion, duly authenticated by the Secretary of State or other
31 official having custody of limited liability company records in the state or country under
32 the laws of which the foreign limited liability company was formed. If the surviving or
33 resulting entity is not authorized to transact business or conduct affairs in this State, the
34 articles or certificate must be accompanied by an application which must set forth:

35 (1) The name of the foreign limited liability company authorized to
36 transact business in this State, the type of entity and name of the
37 surviving or resulting entity, and a statement that the surviving or
38 resulting entity is not authorized to transact business or conduct affairs
39 in this State;

40 (2) A statement that the surviving or resulting entity consents that service
41 of process based upon any cause of action arising in this State, or
42 arising out of business transacted in this State, during the time the
43 foreign limited liability company was authorized to transact business

1 in this State, may thereafter be made by service thereof on the
2 Secretary of State;

3 (3) A mailing address to which the Secretary of State may mail a copy of
4 any process served on the Secretary of State under subdivision (a)(2)
5 of this section; and

6 (4) A commitment to file with the Secretary of State a statement of any
7 subsequent change in its mailing address."

8 **SECTION 62.(l)** G.S. 57C-3-23 reads as rewritten:

9 **"§ 57C-3-23. Agency power of managers.**

10 Every manager is an agent of the limited liability company for the purpose of its
11 business, and the act of every manager, including execution in the name of the limited
12 liability company of any instrument, for apparently carrying on in the usual way the
13 business of the limited liability company of which he is a manager, binds the limited
14 liability company, unless the manager so acting has in fact no authority to act for the
15 limited liability company in the particular matter and the person with whom the
16 manager is dealing has knowledge of the fact that the manager has no authority. An act
17 of a manager that is not apparently for carrying on the usual course of the business of
18 the limited liability company does not bind the limited liability company unless
19 authorized in fact or ratified by ~~the managers of the~~ limited liability company."

20 **SECTION 62.(m)** G.S. 57C-3-25(b) reads as rewritten:

21 "(b) The documents, if any, constituting the operating agreement of a limited
22 liability company or a foreign limited liability company authorized to transact business
23 in this State, and records of the actions of its ~~members or~~ members, managers, directors,
24 or executives may be authenticated by any manager of the domestic or foreign limited
25 liability company. Any person dealing with the domestic or foreign limited liability
26 company may rely conclusively upon the certificate or written statement of a manager
27 authenticating the documents and records except to the extent the person has actual
28 knowledge that the certificate or written statement is false."

29 **SECTION 62.(n)** G.S. 57C-9A-11(c), as enacted by Section 96 of S.L.
30 2001-387, reads as rewritten:

31 "(c) After a plan of conversion has been approved by a domestic limited liability
32 company but before the articles of conversion become effective, the plan of conversion
33 (i) may be amended as provided in the plan of ~~conversion~~ conversion, or (ii) may be
34 abandoned, subject to any contractual rights, as provided in the plan of conversion,
35 articles of organization, or written operating agreement or, if not so provided, as
36 determined by the managers or directors of the domestic limited liability company in
37 accordance with G.S. 57C-3-20(b)."

38 **SECTION 62.(o)** G.S. 57C-9A-12, as enacted by Section 96 of S.L.
39 2001-387, reads as rewritten:

40 **"§ 57C-9A-12. Articles of conversion.**

41 (a) After a plan of conversion has been approved by the converting domestic
42 limited liability company as provided in G.S. 57C-9A-11, the converting domestic

1 limited liability company shall deliver articles of conversion to the Secretary of State for
2 filing. The articles of conversion shall state:

3 (1) The name of the converting domestic limited liability company;

4 (2) The name of the resulting business entity, its type of business entity,
5 the state or country whose laws govern its organization and internal
6 affairs, and, if the resulting business entity is not authorized to transact
7 business or conduct affairs in this State, a designation of its mailing
8 address and a commitment to file with the Secretary of State a
9 statement of any subsequent change in its mailing address; and

10 (3) That a plan of conversion has been approved by the domestic limited
11 liability company as required by law.

12 (b) If the domestic limited liability company is converting to a business entity
13 whose formation or whose status as a registered limited liability partnership, as defined
14 in G.S. 59-32, or limited liability limited partnership, as defined in G.S. 59-102, requires
15 the filing of a document with the Secretary of State, then notwithstanding subsection (a)
16 of this section the articles of conversion shall be included as part of that document
17 instead of separately filing the articles of conversion and shall contain information
18 required by the laws governing the organization and internal affairs of the resulting
19 business entity.

20 (c) If the plan of conversion is abandoned after the articles of conversion have
21 been filed with the Secretary of State but before the articles of conversion become
22 effective, the converting domestic limited liability company shall deliver to the
23 Secretary of State for filing prior to the time the articles of conversion become effective
24 an amendment of the articles of conversion withdrawing the articles of conversion.

25 ~~(b)~~(d) The conversion takes effect when the articles of conversion become effective.

26 ~~(e)~~(e) Certificates of conversion shall also be registered as provided in G.S.
27 47-18.1."

28 **SECTION 62.(p)** G.S. 57C-9A-21(b), as amended by Section 97 of S.L.
29 2001-387, reads as rewritten:

30 "(b) In the case of a merging domestic limited liability company, the plan of
31 merger must be approved in the manner provided in its articles of organization or a
32 written operating agreement for approval of a merger with the type of business entity
33 contemplated in the plan of merger, or, if there is no provision, by the unanimous
34 consent of its members. If any member of a merging domestic limited liability company
35 has or will have personal liability for any existing or future obligation of the surviving
36 business entity solely as a result of holding an interest in the surviving business entity,
37 then in addition to the requirements of the preceding sentence, approval of the plan of
38 merger by the domestic limited liability company shall require the consent of each such
39 member. In the case of each other merging business entity, the plan of merger must be
40 approved in accordance with the laws of the state or country governing the organization
41 and internal affairs of the merging business entity."

42 **SECTION 62.(q)** G.S. 59-35.2(b), as enacted in Section 170(b) of S.L.
43 2001-387, reads as rewritten:

1 "(b) Whenever the Secretary of State is deemed appointed as a ~~resisted~~ registered
2 agent under this act or under Chapter 55D of the General Statutes, the Secretary of State
3 shall collect a fee of ten dollars (\$10.00) each time process is served on the Secretary of
4 State under this act. The party to the proceeding causing service of process is entitled to
5 recover this fee as costs if the party prevails in the proceeding."

6 **SECTION 62.(r)** G.S. 59-73.11(c), as enacted by Section 108 of S.L.
7 2001-387, reads as rewritten:

8 "(c) After a plan of conversion has been approved as provided in subsection (b) of
9 this section but before the articles of conversion to ~~domestic partnership~~ become
10 effective, the plan of conversion may be amended or abandoned to the extent permitted
11 by the laws that govern the organization and internal affairs of the converting business
12 entity."

13 **SECTION 62.(s)** G.S. 59-73.12(a), as enacted by Section 108 of S.L.
14 2001-387, reads as rewritten:

15 "(a) After a plan of conversion has been approved by the converting business
16 entity as provided in G.S. 59-73.11, the converting business entity shall deliver articles
17 of conversion to the Secretary of State for filing. The articles of conversion shall state:

- 18 (1) That the domestic partnership is being formed pursuant to a conversion
19 of another business entity;
- 20 (2) The name of the resulting domestic partnership, a designation of its
21 mailing address, and a commitment to file with the Secretary of State a
22 statement of any subsequent change in its mailing address;
- 23 (3) The name of the converting business entity, its type of business entity,
24 and the state or country whose laws govern its organization and
25 internal affairs; and
- 26 (4) That a plan of conversion has been approved by the converting
27 business entity as required by law.

28 If the resulting domestic partnership is to be a registered limited liability partnership
29 when the conversion takes effect, then instead of separately filing the articles of
30 conversion, the articles of conversion shall be included as part of the application for
31 registration filed pursuant to G.S. 59-84.2 in addition to the matters otherwise required
32 or permitted by law.

33 If the plan of conversion is abandoned after the articles of conversion have been
34 filed with the Secretary of State but before the articles of conversion become effective,
35 the converting business entity shall deliver to the Secretary of State for filing prior to
36 the time the articles of conversion become effective an amendment to the articles of
37 conversion withdrawing the articles of ~~conversion to domestic partnership~~ conversion."

38 **SECTION 62.(t)** G.S. 59-73.21(c), as enacted by Section 111 of S.L.
39 2001-387, reads as rewritten:

40 "(c) After a plan of conversion has been approved by a domestic partnership but
41 before the articles of conversion become effective, the plan of conversion (i) may be
42 amended as provided in the plan of ~~conversion~~ conversion, or (ii) may be abandoned,
43 subject to any contractual rights, as provided in the plan of conversion or written

1 partnership agreement or, if not so provided, as determined in the manner necessary for
2 approval of the plan of conversion."

3 **SECTION 62.(u)** G.S. 59-73.22, as enacted by Section 111 of S.L.
4 2001-387, reads as rewritten:

5 "**§ 59-73.22. Articles of conversion.**

6 (a) After a plan of conversion has been approved by the converting domestic
7 partnership as provided in G.S. 59-73.21, the converting domestic partnership shall
8 deliver articles of conversion to the Secretary of State for filing. The articles of
9 conversion shall state:

10 (1) The name of the converting domestic partnership;

11 (2) The name of the resulting business entity, its type of business entity,
12 the state or country whose laws govern its organization and internal
13 affairs, and, if the resulting business entity is not authorized to transact
14 business or conduct affairs in this State, a designation of its mailing
15 address and a commitment to file with the Secretary of State a
16 statement of any subsequent change in its mailing address; and

17 (3) That a plan of conversion has been approved by the domestic
18 partnership as required by law.

19 (b) If the domestic partnership is converting to a business entity whose formation
20 or whose status as a limited liability limited partnership, as defined in G.S. 59-102,
21 requires the filing of a document with the Secretary of State, then the articles of
22 conversion shall be included as part of that document instead of separately filing the
23 articles of conversion.

24 (c) If the plan of conversion is abandoned after the articles of conversion have
25 been filed with the Secretary of State but before the articles of conversion become
26 effective, the converting domestic partnership shall deliver to the Secretary of State for
27 filing prior to the time the articles of conversion become effective an amendment of the
28 articles of conversion withdrawing the articles of conversion.

29 ~~(b)~~(d) The conversion takes effect when the articles of conversion become effective.

30 ~~(e)~~(e) Certificates of conversion shall also be registered as provided in G.S.
31 47-18.1."

32 **SECTION 62.(v)** G.S. 59-73.23(b)(2), as enacted by Section 111 of S.L.
33 2001-387, reads as rewritten:

34 "(2) To have appointed the Secretary of State as its agent for service of
35 process in any such proceeding. Service on the Secretary of State of
36 any such process shall be made by delivering to and leaving with the
37 Secretary of State, or with any clerk authorized by the Secretary of
38 State to accept service of process, duplicate copies of the process and
39 the fee required by G.S. 59-35.1(f). Upon receipt of service of process
40 on behalf of a resulting business entity in the manner provided for in
41 this section, the Secretary of State shall immediately mail a copy of the
42 process by registered or certified mail, return receipt requested, to the
43 resulting business entity. If the resulting business entity is authorized

1 to transact business or conduct affairs in this State, the address for
2 mailing shall be its principal office designated in the latest document
3 filed with the Secretary of State that is authorized by law to designate
4 the principal office or, if there is no principal office on file, its
5 registered office. If the resulting business entity is not authorized to
6 transact business or conduct affairs in this State, the address for
7 mailing shall be the mailing address designated pursuant to ~~G.S. 59-~~
8 ~~73.12(a)(2)~~-G.S. 59-73.22(a)(2)."

9 **SECTION 62.(w)** G.S. 59-102(12), as amended by Section 121 of S.L.
10 2001-387, reads as rewritten:

11 "(12) "Person" means a natural person, domestic or foreign partnership,
12 domestic or foreign limited partnership, domestic or foreign limited
13 liability company, trust, estate, unincorporated association, domestic
14 or foreign corporation, domestic or foreign nonprofit corporation, or
15 another entity."

16 **SECTION 62.(x)** G.S. 59-102(12a), as enacted by Section 121 of S.L.
17 2001-387, reads as rewritten:

18 "(12a) "Principal office" means the office (in or out of this State) where the
19 principal executive offices of a limited liability limited partnership or
20 foreign limited partnership are located, in the case of a limited liability
21 limited partnership as designated in its most recent annual report filed
22 with the Secretary of State or, if no annual report has yet been filed, in
23 its application for registration as a limited liability limited
24 partnership.partnership, or in the case of a foreign limited partnership
25 as most recently designated in its application for registration as a
26 foreign limited partnership or a certificate filed pursuant to G.S. 59-
27 905."

28 **SECTION 62.(y)** G.S. 59-902, as amended by Section 159.(b) of S.L.
29 2001-387, reads as rewritten:

30 "(a) Before transacting business in this State, a foreign limited partnership shall
31 procure a certificate of authority to transact business in this State from the Secretary of
32 State. No foreign limited partnership shall be entitled to transact in this State any
33 business which a limited partnership organized under this Article is not permitted to
34 transact. In order to register, a foreign limited partnership shall deliver to the Secretary
35 of State an application for registration as a foreign limited partnership, signed by a
36 general partner and setting forth:

- 37 (1) The name of the foreign limited partnership and, if different, the name
38 under which it proposes to register and transact business in this State;
- 39 (2) The jurisdiction and date of its formation;
- 40 (3) The date of formation and the period of duration;
- 41 (4) The street ~~address~~-address, and the mailing address if different from
42 the street address, of the principal office of the foreign limited

1 ~~partnership~~; partnership, and the county in which the principal office is
2 located;

3 (5) The street address, and the mailing address if different from the street
4 address, of the registered office of the foreign limited partnership in
5 this State, the county in which the registered office is located, and the
6 name of its proposed registered agent in this State;

7 (6) If the certificate of limited partnership filed in the foreign limited
8 partnership's state of organization is not required to include the names
9 and addresses of the partners, a list of the names and addresses or, at
10 the election of the foreign limited partnership, a list of the names and
11 addresses of the general partners and the address, including county and
12 city or town, and street and number, of the office at which is kept a list
13 of the names and addresses of the limited partners and their capital
14 contributions, together with an undertaking by the foreign limited
15 partnership to keep such records until such foreign limited
16 partnership's registration in this State is cancelled;

17 (7) A statement that in consideration of the issuance of a certificate of
18 authority to transact business in this State, the foreign limited
19 partnership appoints the Secretary of State of North Carolina as the
20 agent to receive service of process, notice, or demand, whenever the
21 foreign limited partnership fails to appoint or maintain a registered
22 agent in this State or whenever any such registered agent cannot with
23 reasonable diligence be found at the registered office;

24 (8) The names and addresses including county and city or town, and street
25 and number, if any, of all of the general partners; ~~and~~

26 (8a) Whether the foreign limited partnership is a foreign limited liability
27 partnership; and

28 (9) The effective date and time of the registration if it is not to be effective
29 at the time of filing of the application."

30 **SECTION 62.(z)** G.S. 59-909(a), as amended by Section 136 of S.L.
31 2001-387, reads as rewritten:

32 "(a) Whenever a foreign limited partnership authorized to transact business in this
33 State ceases its separate existence as a result of a statutory merger or consolidation
34 permitted by the laws of the state or country under which it was organized, or converts
35 into another type of entity as permitted by those laws, the surviving or resulting entity
36 shall apply for a certificate of withdrawal for the foreign limited partnership by
37 delivering to the Secretary of State for filing a copy of the articles of merger,
38 consolidation, or conversion or a certificate reciting the facts of the merger,
39 consolidation, or conversion, duly authenticated by the Secretary of State or other
40 official having custody of limited partnership records in the state or country under the
41 laws of which the foreign limited partnership was organized. If the surviving or
42 resulting entity is not authorized to transact business or conduct affairs in this State, the
43 articles or certificate must be accompanied by an application which must set forth:

- 1 (1) The name of the foreign limited partnership authorized to transact
2 business in this State, the type of entity and name of the surviving or
3 resulting entity, and a statement that the surviving or resulting entity is
4 not authorized to transact business or conduct affairs in this State;
5 (2) A statement that the surviving or resulting entity consents that service
6 of process based on any cause of action arising in this State, or arising
7 out of business transacted in this State, during the time the foreign
8 limited partnership was authorized to transact business in this State,
9 may thereafter be made by service thereof on the Secretary of State;
10 (3) A mailing address to which the Secretary of State may mail a copy of
11 any process served upon the Secretary under subdivision (a)(2) of this
12 section; and
13 (4) A commitment to file with the Secretary of State a statement of any
14 subsequent change in its mailing address."

15 **SECTION 62.(aa)** G.S. 59-1061(b), as enacted by Section 142 of S.L.
16 2001-387, reads as rewritten:

17 "(b) The plan of conversion shall be approved by the domestic limited partnership
18 in the manner provided for the approval of the conversion in a written partnership
19 agreement or, if there is no provision, by the unanimous consent of its partners. If any
20 partner of the converting domestic limited partnership has or will have personal liability
21 for any existing or future obligation of the resulting business entity solely as a result of
22 holding an interest in the resulting business entity, then in addition to the requirements
23 of the preceding sentence, approval of the plan of conversion by the domestic limited
24 partnership shall require the consent of each such partner. The converting domestic
25 limited partnership shall provide a copy of the plan of conversion to each partner of the
26 converting domestic limited partnership at the time provided in a written partnership
27 agreement or, if there is no such provision, prior to its approval of the plan of
28 conversion."

29 **SECTION 62.(bb)** G.S. 59-1062, as enacted by Section 142 of S.L.
30 2001-387, reads as rewritten:

31 "**§ 59-1062. Articles of conversion.**

32 (a) After a plan of conversion has been approved by the converting domestic
33 limited partnership as provided in G.S. 59-1061, the converting domestic limited
34 partnership shall deliver articles of conversion to the Secretary of State for filing. The
35 articles of conversion shall state:

- 36 (1) The name of the converting domestic limited partnership;
37 (2) The name of the resulting business entity, its type of business entity,
38 the state or country whose laws govern its organization and internal
39 affairs, and, if the resulting business entity is not authorized to transact
40 business or conduct affairs in this State, a designation of its mailing
41 address and a commitment to file with the Secretary of State a
42 statement of any subsequent change in its mailing address; and

1 (3) That a plan of conversion has been approved by the domestic limited
2 partnership as required by law.

3 (b) If the domestic limited partnership is converting to a business entity whose
4 formation or whose status as a registered limited liability partnership, as defined in G.S.
5 59-32, requires the filing of a document with the Secretary of State, ~~then~~ then,
6 notwithstanding subsection (a) of this section, the articles of conversion shall be
7 included as part of that document ~~instead of separately filing the articles of~~
8 ~~conversion and shall contain the information required by the laws governing the~~
9 organization and internal affairs of the resulting business entity.

10 (c) If the plan of conversion is abandoned after the articles of conversion have
11 been filed with the Secretary of State but before the articles of conversion become
12 effective, the converting domestic limited partnership shall deliver to the Secretary of
13 State for filing prior to the time the articles of conversion become effective an
14 amendment of the articles of conversion withdrawing the articles of conversion.

15 (b)(d) The conversion takes effect when the articles of conversion become effective.

16 (e)(e) Certificates of conversion shall also be registered as provided in G.S.
17 47-18.1."

18 **SECTION 62.(cc)** G.S. 59-1072(a), as amended by Section 146 of S.L.
19 2001-387, reads as rewritten:

20 "(a) After a plan of merger has been approved by each merging domestic limited
21 partnership and each other merging business entity as provided in G.S. 59-1071, the
22 surviving business entity shall deliver articles of merger to the Secretary of State for
23 filing. The articles of merger shall set forth:

24 (1) The plan of merger;

25 (2) For each merging business entity, its name, type of business entity, and
26 the state or country whose laws govern its organization and internal
27 affairs;

28 (3) The name of the surviving business entity and, if the surviving
29 business entity is not authorized to transact business or conduct affairs
30 in this State, a designation of its mailing address and a commitment to
31 file with the Secretary of State a statement of any subsequent change
32 in its mailing address;

33 (4) A statement that the plan of merger has been approved by each
34 merging business entity in the manner required by law; and

35 (5) The effective date and time of the merger if it is not to be effective at
36 the time of filing of the articles of merger.

37 If the plan of merger is amended or abandoned after the articles of merger have been
38 filed but before the articles of merger become effective, the surviving business entity
39 promptly shall deliver to the Secretary of State for filing prior to the time the articles of
40 merger become effective an amendment to the articles of merger reflecting the
41 amendment or abandonment of the plan of merger."

42 **SECTION 62.(dd)** G.S. 105-232(a), as amended by Section 153 of S.L.
43 2001-387, reads as rewritten:

1 (a) Any corporation or limited liability company whose articles of incorporation,
2 articles of organization, or certificate of authority to do business in this State has been
3 suspended by the Secretary of State under G.S. 105-230, that complies with all the
4 requirements of this Subchapter and pays all State taxes, fees, or penalties due from it
5 (which total amount due may be computed, for years prior and subsequent to the
6 suspension, in the same manner as if the suspension had not taken place), and pays to
7 the Secretary of Revenue a fee of twenty-five dollars (\$25.00) to cover the cost of
8 reinstatement, is entitled to exercise again its rights, privileges, and franchises in this
9 State. The Secretary of Revenue shall notify the Secretary of State of this compliance
10 and the Secretary of State shall reinstate the corporation or limited liability company by
11 appropriate entry upon the records of the office of the Secretary of State. Upon entry of
12 reinstatement, it relates back to and takes effect as of the date of the suspension by the
13 Secretary of ~~State, State~~ and the corporation or limited liability company resumes
14 carrying on its business as if the suspension had never occurred, subject to the rights of
15 any person who reasonably ~~relied~~ relied, on to that person's ~~prejudice~~ prejudice, on upon
16 the suspension. The Secretary of State shall immediately notify by mail the corporation
17 or limited liability company of the reinstatement."

18 **SECTION 62.(ee)** Section 74 of S.L. 2001-387 is repealed.

19 **SECTION 62.(ff)** Section 175(b) of S.L. 2001-387, reads as rewritten:

20 **"SECTION 175.(b)** The amendment to G.S. 105-232 set forth in Section 153 of
21 this act is intended to be retroactive. Accordingly, any act performed or attempted to be
22 performed during the period of suspension of any corporation or limited liability
23 company reinstated pursuant to G.S. 105-232(a) prior to January 1, 2002, shall not be
24 deemed to be invalid and of no effect under G.S. 105-230, subject to the rights of any
25 person who reasonably ~~relied~~ relied, on to that person's ~~prejudice~~ prejudice, on the
26 suspension."

27 **SECTION 62.(gg)** This section becomes effective January 1, 2002.

28 **SECTION 63.** Effective January 1, 2002, G.S. 58-21-40(a)(4), as amended
29 by Section 28 of S.L. 2001-203 and by Section 2.2 of S.L. 2001-451, reads as rewritten:

30 (4) Countersign nonresident produced surplus lines coverages and remit
31 premium taxes for those coverages under G.S. 58-21-70 by means
32 satisfactory to the Commissioner; and charge the nonresident surplus
33 lines licensee a fee for the certification and countersignature as
34 approved by the Commissioner."

35 **SECTION 64.(a)** G.S. 74C-3(4) reads as rewritten:

36 (4) "Courier service profession" means any person, firm, association, or
37 corporation which transports or offers to transport from one place or
38 point to another place or point documents, papers, maps, stocks, bonds,
39 checks, or other small items of value which require expeditious service
40 for a fee or other valuable consideration. ~~This definition does not~~
41 ~~include a person operating a courier service pursuant to a motor carrier~~
42 ~~certificate or permit issued by the North Carolina Utilities Commission~~
43 ~~which grants operating rights for such service; however, armed~~ Armed

1 courier service guards shall be subject to the provisions of G.S.
2 74C-13."

3 **SECTION 64.(b)** G.S. 74C-6 reads as rewritten:

4 **"§ 74C-6. Position of ~~Administrator~~Director created.**

5 The position of ~~Administrator~~Director of the Private Protective Services Board is
6 hereby created within the Department of Justice. The Attorney General shall appoint a
7 person to fill this full-time position. The ~~Administrator's~~Director's duties shall be to
8 administer the directives contained in this Chapter and the rules promulgated by the
9 Board to implement this Chapter and to carry out the administrative duties incident to
10 the functioning of the Board in order to actively police the private protective services
11 industry to ensure compliance with the law in all aspects."

12 **SECTION 64.(c)** G.S. 74C-8 reads as rewritten:

13 **"§ 74C-8. Applications for an issuance of license.**

14 (a) Any person, firm, association, or corporation desiring to carry on or engage in
15 the private protective services profession in this State shall make a verified application
16 in writing to the Board.

17 (b) The application shall include:

- 18 (1) Full name, home address, post office box, and the actual street address
19 of the business of the applicant;
- 20 (2) The name under which the applicant intends to do business;
- 21 (3) A statement as to the general nature of the business in which the
22 applicant intends to engage;
- 23 (4) The full name and address of any partners in the business and the
24 principal officers, directors and business manager, if any;
- 25 (5) The names of not less than three unrelated and disinterested persons as
26 references of whom inquiry can be made as to the character, standing,
27 and reputation of the persons making the application;
- 28 (6) Such other information, evidence, statements, or documents as may be
29 required by the Board; and
- 30 (7) Accompanying trainee permit applications only, a notarized statement
31 signed by the applicant and his employer stating that the trainee
32 applicant will at all times work with and under the direct supervision
33 of a licensed private detective.

34 (c) (1) A business entity other than a sole proprietorship shall not do business
35 under this Chapter unless the business entity has in its employ a
36 designated resident qualifying agent who meets the requirements for a
37 license issued under this Chapter and who is, in fact, licensed under
38 the provisions of this Chapter, unless otherwise approved by the
39 Board. Provided however, that this approval shall not be given unless
40 the business entity has and continuously maintains in this State a
41 registered agent who shall be an individual resident in this State.
42 Service upon the registered agent appointed by the business entity of
43 any process, notice, or demand required by or permitted to be served

- 1 upon the business entity by the Private Protective Services Board shall
2 be binding upon the business entity and the licensee. Nothing herein
3 contained shall limit or affect the right to serve any process, notice, or
4 demand required or permitted by law to be served upon a business
5 entity in any other manner now or hereafter permitted by law.
- 6 (2) For the purposes of the Chapter a qualifying agent means an individual
7 in a management position who is licensed under this Chapter and
8 whose name and address have been registered with the
9 ~~Administrator~~Director.
- 10 (3) In the event that the qualifying agent upon whom the business entity
11 relies in order to do business ceases to perform his duties as qualifying
12 agent, the business entity shall notify the ~~Administrator~~Director
13 within 10 working days. The business entity must obtain a substitute
14 qualifying agent within 30 days after the original qualifying agent
15 ceases to serve as qualifying agent unless the Board, in its discretion,
16 extends this period, for good cause, for a period of time not to exceed
17 three months.
- 18 (4) The certificate authorizing the business entity to engage in a private
19 protective services profession shall list the name of at least one
20 designated qualifying agent. No licensee shall serve as the qualifying
21 agent for more than one business entity without prior approval of the
22 ~~Administrator~~Director, subject to the approval of the Board.
- 23 (d) Upon receipt of an application, the Board shall conduct a background
24 investigation during the course of which the applicant shall be required to show that he
25 meets all the following requirements and qualifications hereby made prerequisite to
26 obtaining a license:
- 27 (1) That he is at least 18 years of age;
- 28 (2) That he is of good moral character and temperate habits. The following
29 shall be prima facie evidence that the applicant does not have good
30 moral character or temperate habits: conviction by any local, State,
31 federal, or military court of any crime involving the illegal use,
32 carrying, or possession of a firearm; conviction of any crime involving
33 the illegal use, possession, sale, manufacture, distribution, or
34 transportation of a controlled substance, drug, narcotic, or alcoholic
35 beverage; conviction of a crime involving felonious assault or an act of
36 violence; conviction of a crime involving unlawful breaking or
37 entering, burglary, larceny, or any offense involving moral turpitude;
38 or a history of addiction to alcohol or a narcotic drug; provided that,
39 for purposes of this subsection, "conviction" means and includes the
40 entry of a plea of guilty or no contest or a verdict rendered in open
41 court by a judge or jury;
- 42 (3) Repealed by Session Laws 1989, c. 759, s. 6.

1 (4) That he has the necessary training, qualifications, and experience in
2 order to determine the applicant's competency and fitness as the Board
3 may determine by rule for all licenses to be issued by the Board.

4 (e) The Board may require the applicant to demonstrate his qualifications by oral
5 or written examination or by successful completion of a Board-approved training
6 program, or all three.

7 (f) Upon a finding that the application is in proper form, the completion of the
8 background investigation, and the completion of an examination required by the Board,
9 the ~~Administrator~~Director shall submit to the Board the application and his
10 recommendations. Upon completion of the background investigation, the Director may
11 in his discretion issue a temporary license pending approval of the application by the
12 Board at the next regularly scheduled meeting. The Board shall determine whether to
13 approve or deny the application for a license. Upon approval by the Board, a license
14 will be issued to the applicant upon payment by the applicant of the initial license fee
15 and the required contribution to the Private Protective Services Recovery Fund, and
16 certificate of liability insurance.

17 (1) through (5) Repealed by Session Laws 1989, c. 759, s. 6.

18 (g) Except for purposes of administering the provisions of this section and for
19 law enforcement purposes, the home address or telephone number of an applicant,
20 licensee, or the spouse, children, or parents of an applicant or licensee is confidential
21 under G.S. 132-1.2, and the Board shall not disclose this information unless the
22 applicant or licensee consents to such disclosure. The provisions of this subsection shall
23 not apply when a licensee's home address or telephone number is also his or her
24 business address and telephone number. Violation of this subsection shall constitute a
25 Class 3 misdemeanor."

26 **SECTION 64.(d)** G.S. 74C-9 reads as rewritten:

27 "**§ 74C-9. Form of license; term; renewal; posting; branch offices; not assignable;**
28 **late renewal fee.**

29 (a) The license when issued shall be in such form as may be determined by the
30 Board and shall state:

- 31 (1) The name of the licensee,
32 (2) The name under which the licensee is to operate, and
33 (3) The number and expiration date of the license.

34 (b) The license shall be issued for a term of one year. A trainee permit shall be
35 issued for a term of one year. All licenses must be renewed prior to the expiration of the
36 term of the license. Following issuance, the license shall at all times be posted in a
37 conspicuous place in the licensee's principal place of business, in North Carolina, unless
38 for good cause exempted by the ~~Administrator~~Director. A license issued under this
39 Chapter is not assignable.

40 (c) Repealed by Session Laws 1989, c. 759, s. 7.

41 (d) The operator or manager of any branch office shall be properly licensed or
42 registered. The license shall be posted at all times in a conspicuous place in the branch
43 office. This license shall be issued for a term of one year. Every business covered under

1 the provisions of this Chapter shall file in writing with the Board the addresses of each
2 of its branch offices, if any, within 10 working days after the establishment, closing, or
3 changing of the location of any branch office. The ~~Administrator~~ Director may, upon
4 the successful completion of an investigation of the application, issue a temporary
5 branch office license pending approval of the application by the Board.

6 (e) The Board is authorized to charge reasonable application and license fees as
7 follows:

- 8 (1) A nonrefundable initial application fee in an amount not to exceed one
9 hundred fifty dollars (\$150.00);
- 10 (2) A new or renewal license fee in an amount not to exceed two hundred
11 fifty dollars (\$250.00);
- 12 (3) A new or renewal trainee permit fee in an amount not to exceed two
13 hundred fifty dollars (\$250.00);
- 14 (4) A new or renewal fee for each license or duplicate license in addition
15 to the basic license referred to in subsection (2) in an amount not to
16 exceed fifty dollars (\$50.00);
- 17 (5) A late renewal fee to be paid in addition to the renewal fee due in an
18 amount not to exceed one hundred dollars (\$100.00), if the license has
19 not been renewed on or before the expiration date of the licensee;
- 20 (6) A new, renewal, replacement or reissuance fee for an unarmed
21 registration identification card in an amount not to exceed thirty
22 dollars (\$30.00);
- 23 (7) An application fee for an armed security guard firearm registration
24 permit not to exceed fifty dollars (\$50.00);
- 25 (8) A new, renewal, replacement, or reissuance fee for an armed security
26 guard firearm registration permit not to exceed thirty dollars (\$30.00);
- 27 (9) An application fee for certification as a certified trainer not to exceed
28 fifty dollars (\$50.00);
- 29 (10) A renewal or replacement fee for certified trainer certification not to
30 exceed twenty-five dollars (\$25.00);
- 31 (11) A new nonresident temporary permit fee not to exceed one hundred
32 dollars (\$100.00);
- 33 (12) An unarmed registration transfer fee not to exceed fifteen dollars
34 (\$15.00);
- 35 (13) A branch office license fee not to exceed fifty dollars (\$50.00); and
- 36 (14) A special limited guard and patrol license fee not to exceed one
37 hundred dollars (\$100.00).

38 Except as provided in G.S. 74C-13(k), all fees collected pursuant to this section shall be
39 expended, under the direction of the Board, for the purpose of defraying the expenses of
40 administering this Chapter.

41 (f) A license or trainee permit granted under the provisions of this Chapter may
42 be renewed by the Private Protective Services Board upon notification by the licensee or
43 permit holder to the ~~Administrator~~ Director of intended renewal, the payment of the

1 proper fee, and evidence of a policy of liability insurance as prescribed in G.S.
2 74C-10(e).

3 The renewal shall be finalized before the expiration date of the license. In no event
4 will renewal be granted more than three months after the date of expiration of a license
5 or trainee permit.

6 (g) Upon notification of approval of his application by the Board, an applicant
7 must furnish evidence that he has obtained the necessary liability insurance required by
8 G.S. 74C-10 and obtain the license applied for or his application shall lapse.

9 (h) Trainee permits shall not be issued to applicants that qualify for a private
10 detective license. A licensed private detective may supervise no more than five trainees
11 at any given time."

12 **SECTION 64.(e)** G.S. 74C-10(h) reads as rewritten:

13 "(h) Every licensee shall at all times maintain on file with the Board the certificate
14 of insurance required by this Chapter in full force and effect and upon failure to do so,
15 the license of such licensee shall be automatically suspended and shall not be reinstated
16 until an application therefor, in the form prescribed by the Board, is filed together with a
17 proper insurance certificate.

18 No cancellation or refusal to renew by an insurer of a licensee under this Chapter
19 shall be effective unless the insurer has given the insured licensee notice of the
20 cancellation or refusal to renew. Upon termination of insurance coverage for said
21 licensee, the insurer shall give notice to the ~~Administrator~~Director of the Board."

22 **SECTION 64.(f)** G.S. 74C-11 reads as rewritten:

23 "**§ 74C-11. Registration of permanent and temporary employees; unarmed**
24 **security guard required to have registration card.**

25 (a) All licensees shall register their employees who will be engaged in providing
26 private protective services covered by this Chapter with the Board within 20 days after
27 the employment begins, unless the ~~Administrator~~Director, in his discretion, extends the
28 time period, for good cause. To register an employee, a licensee must give the Board the
29 following:

30 (1) Set(s) of classifiable fingerprints on standard F.B.I. applicant cards;
31 recent photograph(s) of acceptable quality for identification; and
32 (2) Statements of any criminal records obtained from the appropriate
33 authority in each area where the employee has resided within the
34 immediately preceding 48 months.

35 (b) A security guard and patrol company may not employ an unarmed security
36 guard unless the guard has a registration card issued under subsection (d) of this section.
37 A person engaged in a private protective services profession may not employ an armed
38 security guard unless the guard has a firearm registration permit issued under G.S.
39 74C-13.

40 (c) The ~~Administrator~~Director shall be notified in writing of the termination of
41 any employee registered under subsection (a) within 10 days after said termination.

42 (d) An unarmed security guard shall make application to the ~~Administrator~~
43 Director for an unarmed registration card which the ~~Administrator~~Director shall issue

1 to said applicant after receipt of the information required to be submitted by his
2 employer pursuant to subsection (a), and after meeting any additional requirements
3 which the Board, in its discretion, deems to be necessary. The unarmed security guard
4 registration card shall be in the form of a pocket card designed by the Board, shall be
5 issued in the name of the applicant, and may have the applicant's photograph affixed
6 thereto. The unarmed security guard registration card shall expire one year after its date
7 of issuance and shall be renewed every year. If an unarmed registered security guard is
8 terminated by a licensee and changes employment to another security guard and patrol
9 company, the security guard's registration card shall remain valid, provided the security
10 guard pays the unarmed guard registration transfer fee to the Board and a new unarmed
11 security guard registration card is issued. An unarmed security guard whose transfer
12 registration application and transfer fee have been sent to the Board may work with a
13 copy of the transfer application until the registration card is issued.

14 (e) Notwithstanding the provisions of this section, a licensee may employ a
15 person properly registered or licensed as an unarmed security guard in another state for
16 a period not to exceed 10 days in any given month; provided the licensee, prior to
17 employing the unarmed security guard, submits to the ~~Administrator~~Director the name,
18 address, and social security number of the unarmed guard and the name of the state of
19 current registration or licensing, and the ~~Administrator~~Director approves the
20 employment of the unarmed guard in this State.

21 (f) Notwithstanding the provisions of this section, a licensee may employ a
22 person as an unarmed security guard for a period not to exceed 30 days in any given
23 calendar year without registering that employee in accordance with this section;
24 provided that the licensee submits to the ~~Administrator~~Director a quarterly report,
25 within 30 days after the end of the quarter in which the temporary employee worked,
26 which provides the ~~Administrator~~Director with the name, address, social security
27 number, and dates of employment of such employee."

28 **SECTION 64.(g)** G.S. 74C-12 reads as rewritten:

29 **"§ 74C-12. Denial, suspension, or revocation of license, registration, or permit.**

30 (a) The Board may, after compliance with Chapter 150B of the General Statutes,
31 deny, suspend or revoke a license, registration, or permit issued under this Chapter if it
32 is determined that the applicant, licensee, registrant, or permit holder has:

- 33 (1) Made any false statement or given any false information in connection
34 with any application for a license, registration, or permit or for the
35 renewal or reinstatement of a license, registration, or permit;
- 36 (2) Violated any provision of this Chapter;
- 37 (3) Violated any rule promulgated by the Board pursuant to the authority
38 contained in this Chapter;
- 39 (4) Repealed by Session Laws 1989, c. 759, s. 10.
- 40 (5) Impersonated or permitted or aided and abetted any other person to
41 impersonate a law enforcement officer of the United States, this State,
42 any other state, or any political subdivision of a state;

- 1 (6) Engaged in or permitted any employee to engage in a private
2 protective services profession when not lawfully in possession of a
3 valid license issued under the provisions of this Chapter;
- 4 (7) Willfully failed or refused to render to a client service as agreed
5 between the parties and for which compensation has been paid or
6 tendered in accordance with the agreement of the parties;
- 7 (8) Knowingly made any false report to the employer or client for whom
8 information is being obtained;
- 9 (9) Committed an unlawful breaking or entering, assault, battery, or
10 kidnapping;
- 11 (10) Knowingly violated or advised, encouraged, or assisted the violation of
12 any court order or injunction in the course of business as a licensee;
- 13 (11) Repealed by Session Laws 1989, c. 759, s. 10.
- 14 (12) Undertaken to give legal advice or counsel or to in any way falsely
15 represent that he is representing any attorney or he is appearing or will
16 appear as an attorney in any legal proceeding;
- 17 (13) Issued, delivered, or uttered any simulation of process of any nature
18 which might lead a person or persons to believe that such simulation –
19 written, printed, or typed – may be a summons, warrant, writ or court
20 process, or any pleading in any court proceeding;
- 21 (14) Failed to make the required contribution to the Private Protective
22 Services Recovery Fund or failed to maintain the certificate of liability
23 insurance required by this Chapter;
- 24 (15) Violated the firearm provisions set forth in this Chapter;
- 25 (16) Repealed by Session Laws 1989, c. 759, s. 10.
- 26 (17) Failed to notify the ~~Administrator~~Director by a business entity other
27 than a sole proprietorship licensed pursuant to this Chapter of the
28 cessation of employment of the business entity's qualifying agent
29 within the time set forth in this Chapter;
- 30 (18) Failed to obtain a substitute qualifying agent by a business entity
31 within 30 days after its qualifying agent has ceased to serve as the
32 business entity's qualifying agent;
- 33 (19) Been judged incompetent by a court having jurisdiction under Chapter
34 35A or former Chapter 35 of the General Statutes or committed to a
35 mental health facility for treatment of mental illness, as defined in G.S.
36 122C-3, by a court under G.S. 122C-271;
- 37 (20) Failed or refused to offer a report to a client within 30 days of the
38 client's written request;
- 39 (21) Been previously denied a license, registration, or permit under this
40 Chapter or previously had a license, registration, or permit revoked for
41 cause;

- 1 (22) Engaged in a private protective services profession under a name other
2 than the name under which the license was obtained under the
3 provisions of this Chapter;
- 4 (23) Divulged to any person, except as required by law, any information
5 acquired by him except at the direction of the employer or client for
6 whom the information was obtained. A licensee may divulge to any
7 law enforcement officer or district attorney or his representative any
8 information the law enforcement officer may require to investigate a
9 criminal offense with the prior approval and consent of the client;
- 10 (24) Fraudulently held himself out as employed by or licensed by the State
11 Bureau of Investigation or any other governmental authority;
- 12 (25) Intemperate habits or lacks good moral character. The acts that are
13 prima facie evidence of intemperate habits or lack of good moral
14 character under G.S. 74C-8(d)(2) are prima facie evidence of the same
15 under this subdivision;
- 16 (26) Advertised or solicited business using a name other than that in which
17 the license was issued;
- 18 (27) Worn, carried, or accepted any badge or shield purporting to indicate
19 that the person is a private detective or private investigator while
20 licensed under the provisions of this Chapter as a private investigator.
- 21 (b) The denial, revocation, or suspension of a license, registration, or permit by
22 the Board shall be in writing, be signed by the ~~Administrator~~ Director of the Board, and
23 state the grounds upon which the Board decision is based. The aggrieved person shall
24 have the right to appeal from this decision as provided in Chapter 150B of the General
25 Statutes.
- 26 (c) The following persons may not be issued a license, registration, or permit
27 under this Chapter:
- 28 (1) A sworn court official.
- 29 (2) A holder of a company police commission under Chapter 74E of the
30 General Statutes."

31 **SECTION 64.(h)** G.S. 74C-13 reads as rewritten:

32 **"§ 74C-13. Armed security guard required to have firearm registration permit;
33 security guard training.**

34 (a) It shall be unlawful for any person performing the duties of an armed security
35 guard to carry a firearm in the performance of those duties without first having met the
36 qualifications as set forth in this section and having been issued a firearm registration
37 permit by the Board. For the purposes of this section, the following terms are defined:

- 38 (1) "Armed security guard" means an individual employed by a contract
39 security company or a proprietary security organization whose
40 principal duty is that of an armed security watchman; armed armored
41 car service guard; armed alarm system company responder; private
42 detective; or armed courier service guard who at any time wears,
43 carries, or possesses a firearm in the performance of duty.

- 1 (2) "Contract security company" means any person, firm, association, or
2 corporation engaging in a private protective services profession that
3 provides services on a contractual basis for a fee or other valuable
4 consideration to any other person, firm, association, or corporation.
- 5 (3) "Proprietary security organization" means any person, firm,
6 association, or corporation or department thereof which employs
7 security guards, alarm responders, armored car personnel, or couriers
8 who are employed regularly and exclusively as an employee by an
9 employer in connection with the business affairs of such employer.
- 10 (b) It shall be unlawful for any person, firm, association, or corporation and its
11 agents and employees to employ an armed security guard and knowingly authorize or
12 permit him to carry a firearm during the course of performing his duties as an armed
13 security guard if the Board has not issued him a firearm registration permit under this
14 section or if the person, firm, association, or corporation permits an armed security
15 guard to carry a firearm during the course of performing his duties whose firearm
16 registration permit has been suspended, revoked, or has otherwise expired:
- 17 (1) An armed security guard firearm registration permit grants authority to
18 the armed security guard, while in the performance of his duties or
19 ~~travelling~~ traveling directly to and from work, to carry a standard .38
20 caliber or .32 caliber revolver or any other firearm approved by the
21 Board and not otherwise prohibited by law. The use of any firearm not
22 approved by the Board is prohibited.
- 23 (2) All firearms carried by authorized armed security guards in the
24 performance of their duties shall be owned or leased by the employer.
25 Personally owned firearms shall not be carried by an armed security
26 guard in the performance of his duties.
- 27 (c) The applicant for an armed security guard firearm registration permit shall
28 submit an application to the Board on a form provided by the Board.
- 29 (d) Each armed security guard firearm registration permit issued under this
30 section shall be in the form of a pocket card designed by the Board and shall identify the
31 contract security company or proprietary security organization by whom the holder of
32 the firearm registration permit is employed. An armed security guard firearm
33 registration permit expires one year after the date of its issuance and must be renewed
34 annually unless the permit holder's employment terminates before the expiration of the
35 permit.
- 36 (e) If the holder of an armed security guard firearm registration permit terminates
37 his employment with the contract security company or proprietary security organization,
38 the firearm registration permit expires and must be returned to the Board within 15
39 working days of the date of termination of the employee.
- 40 (f) A contract security company or proprietary security organization shall be
41 allowed to employ an individual for 30 days as an armed security guard pending
42 completion of the firearms training required by this Chapter, if the contract security
43 company or proprietary security organization obtains prior approval from the

1 ~~Administrator~~Director. The Board and the Attorney General shall provide by rule the
2 procedure by which a contract security company or a proprietary security organization
3 applicant may be issued a temporary firearm registration permit by the ~~Administrator~~
4 Director of the Board pending a determination by the Board of whether to grant or deny
5 an applicant a firearm registration permit.

6 (g) The Board may suspend, revoke, or deny an armed security guard firearm
7 registration permit if the holder or applicant has been convicted of any crime involving
8 moral turpitude or any crime involving the illegal use, carrying, or possession of a
9 deadly weapon or for violation of this section or rules promulgated by the Board to
10 implement this section. The ~~Administrator~~Director may summarily suspend an armed
11 security guard firearm registration permit pending resolution of charges involving the
12 illegal use, carrying, or possession of a firearm lodged against the holder of the permit.

13 (h) The Board and the Attorney General shall establish a training program for
14 armed security guards to be conducted by agencies and institutions approved by the
15 Board and the Attorney General. The Board and the Attorney General may approve
16 training programs conducted by a contract security company and the security
17 department of a proprietary security organization, if the contract security company or
18 security department of a proprietary security organization offers the courses listed in
19 subdivision (1) of this subsection and if the instructors of the training program are
20 certified trainers approved by the Board and the Attorney General:

- 21 (1) The basic training course approved by the Board and the Attorney
22 General shall consist of a minimum of four hours of classroom training
23 which shall include:
 - 24 a. Legal limitations on the use of hand guns and on the powers
25 and authority of an armed security guard,
 - 26 b. Familiarity with this section,
 - 27 c. Range firing and procedure and hand gun safety and
28 maintenance, and
 - 29 d. Any other topics of armed security guard training curriculum
30 which the Board deems necessary.
- 31 (2) An applicant for an armed security guard firearm registration permit
32 must fire a minimum qualifying score to be determined by the Board
33 and the Attorney General on any approved target course approved by
34 the Board and the Attorney General.
- 35 (3) An armed security guard must complete a refresher course and shall
36 requalify on the prescribed target course prior to the renewal of his
37 firearm registration permit.
- 38 (4) The Board and the Attorney General shall have the authority to
39 promulgate all rules necessary to administer the provisions of this
40 section concerning the training requirements of this section.

41 (i) The Board may not issue an armed security guard firearm registration permit
42 to an applicant until the applicant's employer submits evidence satisfactory to the Board
43 that the applicant:

- 1 (1) Has satisfactorily completed an approved training course.
2 (2) Meets all the qualifications established by this section and by the rules
3 promulgated to implement this section.
4 (3) Is mentally and physically capable of handling a firearm within the
5 guidelines set forth by the Board and the Attorney General.

6 (j) The Board and the Attorney General are authorized to prescribe reasonable
7 rules to implement this section, including rules for periodic requalification with the
8 firearm and for the maintenance of records relating to persons issued an armed security
9 guard firearm registration permit by the Board.

10 (k) All fees collected pursuant to G.S. 74C-9(e)(7) and (8) shall be expended, under
11 the direction of the Board, for the purpose of defraying the expense of administering the
12 firearms provisions of this Chapter.

13 (l) The Board and the Attorney General shall establish a training program for
14 certified trainers to be conducted by agencies and institutions approved by the Board
15 and the Attorney General. The Board or the Attorney General shall have the authority to
16 promulgate all rules necessary to administer the provisions of this subsection.

17 (1) The Board and the Attorney General shall also establish renewal
18 requirements for certified trainers.

19 (2) No certified trainer shall certify an armed security guard unless the
20 armed security guard has successfully completed the training
21 requirements set out above in subsection (h) of this section.

22 (m) The Board and the Attorney General shall establish a training program for
23 unarmed security guards to be conducted by agencies and institutions approved by the
24 Board and the Attorney General. The Board and the Attorney General shall have the
25 authority to promulgate all rules necessary to administer the provisions of this
26 subsection."

27 **SECTION 64.(i)** G.S. 74C-15(a) reads as rewritten:

28 "(a) Upon the issuance of a license or trainee permit, a pocket identification card
29 of design, size, and content approved by the Board shall be issued by the Board without
30 charge to each licensee or trainee. The holder must have this card in his possession at all
31 times when he is on duty and working within the scope of his employment. When a
32 licensee or trainee to whom a card has been issued terminates his position as a licensee
33 or trainee, the card must be surrendered to the ~~Administrator~~Director of the Board
34 within 10 working days thereafter."

35 **SECTION 64.(j)** G.S. 74C-18(b) reads as rewritten:

36 "(b) The ~~Administrator~~Director, in his discretion and subject to the approval of
37 the Board, may issue a temporary permit to a nonresident who has complied with the
38 provisions of G.S. 74C-10 and who is validly licensed in another state to engage in a
39 private protective service activity incidental to a specific case originating in another
40 state. A temporary permit may be issued for a period of no more than 30 days and may
41 be renewed. A temporary permit may contain such restrictions which the Board, in its
42 discretion, deems appropriate."

43 **SECTION 65.(a)** G.S. 74D-5.1 reads as rewritten:

1 **"§ 74D-5.1. Position of ~~Administrator~~ Director created.**

2 The position of ~~Administrator~~ Director of the Alarm Systems Licensing Board is
3 hereby created within the Department of Justice. The Attorney General shall appoint a
4 person to fill this full-time position. The ~~Administrator's~~ Director's duties shall be to
5 administer the directives contained in this Chapter and the rules promulgated by the
6 Board to implement this Chapter and to carry out the administrative duties incident to
7 the functioning of the Board in order to actively police the alarm systems industry to
8 insure compliance with the law in all aspects. The ~~Administrator~~ Director may issue a
9 temporary grant or denial of a request for registration subject to final action by the
10 Board at its next regularly scheduled meeting."

11 **SECTION 65.(b)** G.S. 74D-7(d) reads as rewritten:

12 "(d) Any branch office of an alarm systems business shall obtain a branch office
13 certificate. A separate certificate stating the location and licensed qualifying agent shall
14 be posted at all times in a conspicuous place in each branch office. Every business
15 covered under the provisions of this Chapter shall file in writing with the Board the
16 addresses of each of its branch offices. All licensees of a branch office shall notify the
17 Board in writing, within 10 working days after the establishment, closing, or changing
18 of the location of any branch office. A licensed qualifying agent may be responsible for
19 more than one branch office of an alarm systems business with the prior approval of the
20 Board. Temporary approval may be granted by the ~~Administrator~~ Director, upon
21 application of the qualifying agent, for a period of time not to exceed 10 working days
22 after the adjournment of the next regularly scheduled meeting of the Board unless the
23 Board determines that the application should be denied."

24 **SECTION 65.(c)** G.S. 74D-8 reads as rewritten:

25 **"§ 74D-8. Registration of persons employed.**

26 (a) (1) All licensees of an alarm systems business shall register with the
27 Board within 20 days after the employment begins, all of the licensee's
28 employees that are within the State, unless in the discretion of the
29 ~~Administrator~~ Director, the time period is extended for good cause. To
30 register an employee, a licensee shall submit to the Board as to the
31 employee: set(s) of classifiable fingerprints on standard F.B.I.
32 applicant cards; recent color photograph(s) of acceptable quality for
33 identification; and statements of any criminal records obtained from
34 the appropriate authority in each area where the employee has resided
35 within the immediately preceding 48 months.

36 (2) Except during the period allowed for registration in subdivision (a)(1)
37 of this section, no alarm systems business may employ any employee
38 unless the employee's registration has been approved by the Board as
39 set forth in this section.

40 (b) The ~~Administrator~~ Director shall be notified in writing of the termination of
41 any employee registered under this Chapter within 20 days after the termination.

42 (c) The Board shall issue a registration card to each employee of a licensee who
43 is registered under this Chapter. The registration card shall expire two years after its

1 date of issuance and shall be renewed before the expiration of the term of the
2 registration. If a registered person changes employment to another licensee, the
3 registration card may remain valid; however, persons changing employment must pay
4 the fee authorized by G.S. 74D-7(e)(5).

5 (d) If all required documents, properly completed, have been submitted to the
6 Board no later than 20 days after an employee begins employment, the employer of
7 each applicant for registration shall give the applicant a copy of the complete
8 application which the employee can use until a registration card issued by the Board is
9 received."

10 **SECTION 66.(a)** G.S. 95-230 reads as rewritten:

11 "**§ 95-230. Purpose.**

12 The General Assembly finds that individuals should be protected from unreliable
13 and inadequate examinations and screening for controlled substances. The General
14 Assembly also finds that employers who test employees for controlled substances
15 should use reliable and minimally invasive examinations and screenings and be afforded
16 the opportunity to select from a range of cost-effective and advanced drug testing
17 technologies. The purpose of this Article is to establish procedural and other
18 requirements for the administration of controlled substance examinations."

19 **SECTION 66.(b)** The Commissioner of Labor shall adopt, within 30 days of
20 the effective date of this act, temporary rules allowing employers who are subject to
21 Article 20 of Chapter 95 of the General Statutes to collect the oral fluids of examinees
22 as samples in connection with examinations and screenings for controlled substances.

23 **SECTION 67.(a)** G.S. 105-164.4B, as enacted by Section 6 of S.L.
24 2001-430, is recodified as G.S. 105-164.4C.

25 **SECTION 67.(b)** G.S. 105-164.4(a)(4c), as rewritten by Section 4 of S.L.
26 2001-430, reads as rewritten:

27 "(4c) The rate of four and one-half percent (4.5%) applies to the gross
28 receipts derived from providing telecommunications service. A person
29 who provides telecommunications service is considered a retailer
30 under this Article. Telecommunications service is taxed in accordance
31 with ~~G.S. 105-164.4B~~. G.S. 105-164.4C."

32 **SECTION 67.(c)** G.S. 105-164.4C(f), as enacted by S.L. 2001-430 and
33 recodified by Section 67.(a) of this act, reads as rewritten:

34 "(f) Call Center Cap. – The gross receipts tax on interstate telecommunications
35 service that originates outside this State, terminates in this State, and is provided to a
36 call center that has a direct pay ~~certificate-permit~~ issued by the Department under G.S.
37 105-164.27A may not exceed fifty thousand dollars (\$50,000) a calendar year. This cap
38 applies separately to each legal entity."

39 **SECTION 67.(d)** G.S. 105-164.44F, as enacted by S.L. 2001-430, is
40 amended by renumbering subsection (d) as subsection (e) and by adding a new
41 subsection to read:

42 "(d) Share of Cities Served by a Telephone Membership Corporation. – The share
43 of a city served by a telephone membership corporation, as described in Chapter 117 of

1 the General Statutes, is computed as if the city was incorporated on or after January 1,
2 2001, under subsection (b) of this section. If a city is served by a telephone membership
3 corporation and another provider, then its per capita share under this subsection applies
4 only to the population of the area served by the telephone membership corporation."

5 **SECTION 67.(e)** The introductory language to Section 13 of S.L. 2001-430
6 reads as rewritten:

7 "**SECTION 13.** ~~G.S. 105-467~~ G.S. 105-467(a), as amended by S.L. 2001-347, is
8 amended by adding a new subdivision to read:"

9 **SECTION 67.(f)** This section becomes effective January 1, 2002.

10 **SECTION 68.** G.S. 105-187.6(a), as amended by Section 34.24 of S.L.
11 2001-424, reads as rewritten:

12 "(a) Full Exemptions. – The tax imposed by this Article does not apply when a
13 certificate of title is issued as the result of a transfer of a motor vehicle:

14 (1) To the insurer of the motor vehicle under G.S. 20-109.1 because the
15 vehicle is a salvage vehicle.

16 (2) To either a manufacturer, as defined in G.S. 20-286, or a motor vehicle
17 retailer for the purpose of resale.

18 (3) To the same owner to reflect a change or correction in the owner's
19 name.

20 (3a) To one or more of the same co-owners to reflect the removal of one or
21 more other co-owners, when there is no consideration for the transfer.

22 (4) By will or intestacy.

23 (5) By a gift between a husband and wife, a parent and child, or a
24 stepparent and a stepchild.

25 (6) By a distribution of marital or divisible property incident to a marital
26 separation or divorce.

27 (7) To a handicapped person from the Department of Health and Human
28 Services after the vehicle has been equipped by the Department for use
29 by the handicapped.

30 (8) To a local board of education for use in the driver education program
31 of a public school when the motor vehicle is transferred:

32 a. By a retailer and is to be transferred back to the retailer within
33 300 days after the transfer to the local board.

34 b. By a local board of education.

35 (9) To a volunteer fire department or volunteer rescue squad that is not
36 part of a unit of local government, has no more than two paid
37 employees, and is exempt from State income tax under G.S.
38 105-130.11, when the motor vehicle is one of the following:

39 a. A fire truck, a pump truck, a tanker truck, or a ladder truck used
40 to suppress fire.

41 b. A four-wheel drive vehicle intended to be mounted with a water
42 tank and hose and used for forest fire fighting.

43 c. An emergency services vehicle."

1 **SECTION 69.(a)** G.S. 105-228.5(e), as amended by Section 34.22(a) of S.L.
2 2001-424, reads as rewritten:

3 "(e) Report and Payment. – Each taxpayer doing business in this State shall,
4 within the first 15 days of March, file with the Secretary of Revenue a full and accurate
5 report of the total gross premiums as defined in this section, the payroll and other
6 information required by the Secretary in the case of a self-insurer, or the total gross
7 collections from membership dues exclusive of receipts from cost plus plans collected
8 in this State during the preceding calendar year. ~~The report shall be verified by the oath~~
9 ~~of the official or other representative responsible for transmitting it; the~~The taxes
10 imposed by this section shall be remitted to the Secretary with the report."

11 **SECTION 69.(b)** G.S. 105-164.4B(c), as enacted by S.L. 2001-430, and as
12 recodified as G.S. 105-164.4C(c), is amended by adding a new subdivision to read:

13 "(16) Charges to a State agency or to a local unit of government for the
14 North Carolina Information Highway and other data networks owned
15 or leased by the State or unit of local government."

16 **SECTION 69.(c)** This section becomes effective January 1, 2002.

17 **SECTION 70.** G.S. 105-311, as rewritten by Section 3 of S.L. 2001-279,
18 reads as rewritten:

19 "(b) Any abstract submitted by mail may be accepted or rejected by the assessor in
20 ~~his~~the assessor's discretion. However, the board of county commissioners, with the
21 approval of the Department of Revenue, may by resolution provide for the general
22 acceptance of completed abstracts submitted by mail or submitted electronically. In no
23 event shall an abstract submitted by mail be accepted unless the affirmation on the
24 abstract is signed by the individual prescribed in subsection (a) of this section. An
25 electronic listing may be signed electronically in accordance with the Electronic
26 Commerce Act, Article 11A of Chapter 66 of the General Statutes.

27 For the purpose of this Subchapter, abstracts submitted by mail are considered filed
28 as of the date shown on the postmark affixed by the United States Postal Service. If no
29 date is shown on the postmark, or if the postmark is not affixed by the United States
30 Postal Service, the abstract is considered filed when received in the office of the
31 assessor. Abstracts submitted by electronic listing are considered filed when received in
32 the office of the assessor. In any dispute arising under this Subchapter, the burden of
33 proof is on the taxpayer to show that the abstract was timely filed."

34 **SECTION 71.** G.S. 106-503.1(b) reads as rewritten:

35 "(b) Contracts and Leases; Pledge of Gate Receipts, etc. – For the further purpose
36 of acquiring, constructing, operating and financing said properties and facilities on the
37 North Carolina State fairgrounds, the Board of Agriculture may enter into such
38 agreements, contracts and leases as may be necessary for the purpose of this section,
39 and may pledge, appropriate, and pay such sums out of the gate receipts or other
40 revenues coming to the State Board of Agriculture from the operation of any facilities of
41 the State fair as may be required to secure, repay, or meet the principal and interest
42 charges on the loan herein authorized. Prior to execution, the Board of Agriculture shall

1 consult with the Joint Legislative Commission on Governmental Operations on all
2 agreements, contracts, and leases authorized under this subsection."

3 **SECTION 72.** G.S. 110-136.5(d) reads as rewritten:

4 "(d) Notice to payor and obligor. If an order for income withholding is entered, a
5 notice of obligation to withhold shall be served on the payor as required by G.S. 1A-1,
6 ~~Rule 4,~~ Rule 5, Rules of Civil Procedure. Copies of such notice shall be filed with the
7 clerk of court and served upon the obligor by first class mail."

8 **SECTION 73.** G.S. 113-44.15(b), as amended by Section 1 of S.L.
9 2001-114, reads as rewritten:

10 "(b) Funds in the Trust Fund are annually appropriated to the North Carolina
11 Parks and Recreation Authority and, unless otherwise specified by the General
12 Assembly or the terms or conditions of a gift or grant, shall be allocated and used as
13 follows:

- 14 (1) Sixty-five percent (65%) for the State Parks System for capital
15 projects, repairs and renovations of park facilities, and land
16 acquisition.
- 17 (2) Thirty percent (30%) to provide matching funds to local governmental
18 units or public authorities as defined in G.S. 159-7 on a
19 dollar-for-dollar basis for local park and recreation purposes. The
20 ~~approved~~ appraised value of land that is donated to a local government
21 unit or public authority may be applied to the matching requirement of
22 this subdivision. These funds shall be allocated by the North Carolina
23 Parks and Recreation Authority based on criteria patterned after the
24 Open Project Selection Process established for the Land and Water
25 Conservation Fund administered by the National Park Service of the
26 United States Department of the Interior.
- 27 (3) Five percent (5%) for the Coastal and Estuarine Water Beach Access
28 Program.

29 In allocating funds in the Trust Fund under this subsection, the North Carolina Parks
30 and Recreation Authority shall consider geographic distribution across the State to the
31 extent practicable. Of the funds appropriated to the North Carolina Parks and Recreation
32 Authority from the Trust Fund each year, no more than three percent (3%) may be used
33 by the Department for operating expenses associated with managing capital
34 improvements projects, acquiring land, and administration of local grants programs."

35 **SECTION 74.(a)** G.S. 115C-290.6, as rewritten by Section 28.25(e) of S.L.
36 2001-424, reads as rewritten:

37 "**§ 115C-290.6. Application to the State Board of Education.**

38 An individual who seeks ~~to be recommended by the Standards Board for~~
39 certification by the State Board of ~~Education,~~ Education shall file a written application
40 on a form provided by the State Board of Education. The application shall be
41 accompanied by the required application and exam fees and shall include any
42 information required by the Board."

1 **SECTION 74.(b)** G.S. 115C-290.8(c), as rewritten by Section 28.25(g) of
2 S.L. 2001-424, reads as rewritten:

3 "(c) A person who is exempt from the requirements of this Article but applies for
4 certification under this Article shall be subject to the Article."

5 **SECTION 74.(c)** G.S. 115C-325(a)(5a), as enacted by Section 28.24(b) of
6 S.L. 1998-212 and rewritten by Section 67.1(a) of S.L. 1998-217 and by Section
7 32.25(b) of S.L. 2001-424, reads as rewritten:

8 "(a) Definition of Terms. – As used in this section unless the context requires
9 otherwise:

10 ...

11 (5a) **(Effective until June 30, 2003)** "Retired teacher" means a beneficiary
12 of the Teachers' and State Employees' Retirement System of North
13 Carolina who has been retired at least six months, has not been
14 employed in any capacity, other than as a substitute ~~teacher~~, teacher or
15 a part-time tutor, with a local board of education for at least six
16 months, immediately preceding the effective date of reemployment, is
17 determined by a local board of education to have had satisfactory
18 performance during the last year of employment by a local board of
19 education, and who is employed to teach as provided in G.S.
20 135-3(8)c. A retired teacher shall be treated the same as a probationary
21 teacher except that a retired teacher is not eligible for career status."

22 **SECTION 75.** G.S. 115C-391(d3) reads as rewritten:

23 "(d3) A local board of education or superintendent shall suspend for 365 calendar
24 days any student who, by any means of communication to any person or group of
25 persons, makes a report, knowing or having reason to know the report is false, that there
26 is located on educational property or at a school-sponsored curricular or extracurricular
27 activity off educational property any device designed to destroy or damage property by
28 explosion, blasting, or burning, or who, with intent to perpetrate a hoax, conceals,
29 places, or displays any device, machine, instrument, or artifact on educational property
30 or at a school-sponsored curricular or extracurricular activity off educational property,
31 so as to cause any person reasonably to believe the same to be a bomb or other device
32 capable of causing injury to persons or property. The local board upon recommendation
33 by the superintendent may modify either suspension requirement on a case-by-case
34 basis that includes, but is not limited to, the procedures established for the discipline of
35 students with disabilities and may also provide, or contract for the provision of,
36 educational services to any student suspended under this subsection in an alternative
37 school setting or in another setting that provides educational and other services. For
38 purposes of this subsection and subsection (d1) of this section, the term "educational
39 property" has the same definition as in G.S. 14-269.2(a)(1)."

40 **SECTION 76.** G.S. 115D-1.1(a)(2)a., as enacted by Section 2 of S.L.
41 2001-312, reads as rewritten:

1 "a. The local board of education, or the board's designee, for the
2 ~~public-local~~ school administrative unit in which the student is
3 enrolled."

4 **SECTION 77.** G.S. 120-2(d), as rewritten by S.L. 2001-459, reads as
5 rewritten:

6 "(d) If any precinct boundary is changed, that change shall not change the
7 boundary of a ~~senatorial-house~~ district, which shall remain the same."

8 **SECTION 78.** G.S. 120-20.1(a) reads as rewritten:

9 "(a) Whenever in any act:

10 (1) It is stated ~~that a~~ that:

11 a. A law "reads as rewritten:"; or

12 b. Laws "read as rewritten:"; and

13 (2) The law is set out showing material struck through or underlined, or
14 both

15 the material struck through is being deleted from the existing law, and the material
16 underlined is being added to the existing law."

17 **SECTION 79.** G.S. 120-36.8 is transferred to a new Article 7B of Chapter
18 120 of the General Statutes and reads as rewritten:

19 "Article 7B.

20 "Research Division.

21 **"§ 120-36.8. Certification of legislation required by federal law.**

22 (a) Every bill and resolution introduced in the General Assembly proposing any
23 change in the law which purports to implement federal law or to be required or
24 necessary for compliance with federal law, or on which is conditioned the receipt of
25 federal funds shall have attached to it at the time of its consideration by the General
26 Assembly a certification prepared by the ~~Fiscal~~-Research Division, in consultation with
27 the Bill Drafting and Fiscal Research Divisions, identifying the federal law requiring
28 passage of the bill or resolution. The certification shall contain a statement setting forth
29 the reasons why the bill or resolution is required by federal law. If the bill or resolution
30 is not required by federal law or exceeds the requirements of federal law, then the
31 certification shall state the reasons for that opinion. No comment or opinion shall be
32 included in the certification with regard to the merits of the measure for which the
33 certification is prepared. However, technical and mechanical defects may be noted.

34 (b) The sponsor of each bill or resolution to which this section applies shall
35 present a copy of the bill or resolution with the request for certification to the ~~Fiscal~~
36 Research Division. Upon receipt of the request and the copy of the bill or resolution, the
37 ~~Fiscal~~-Research Division shall consult with the Bill Drafting and Fiscal Research
38 Divisions, and may consult with the Office of State Budget, Planning, and Management
39 or any State agency on preparation of the certification as promptly as possible. The
40 ~~Fiscal~~-Research Division shall prepare the certification and transmit it to the sponsor
41 within two weeks after the request is made, unless the sponsor agrees to an extension of
42 time.

1 (c) This certification shall be attached to the original of each proposed bill or
2 resolution that is reported favorably by any committee of the General Assembly, but
3 shall be separate from the bill or resolution and shall be clearly designated as a
4 certification. A certification attached to a bill or resolution pursuant to this section is not
5 a part of the bill or resolution and is not an expression of legislative intent proposed by
6 the bill or resolution.

7 (d) If a committee of the General Assembly reports favorably a proposed bill or
8 resolution with an amendment proposing any change in the law which purports to
9 implement federal law or to be required or necessary for compliance with federal law,
10 the chair of the committee shall obtain from the ~~Fiscal~~-Research Division and attach to
11 the amended bill or resolution a certification as provided in this section."

12 **SECTION 80.(a)** G.S. 122C-181(c), as enacted by Section 1.19 of S.L.
13 2001-437, reads as rewritten:

14 "(c) Closure of a State facility under subsection (b) of this section becomes
15 effective on the earlier of the 31st legislative day or the day of adjournment of the next
16 regular session of the General Assembly that begins at least 10 days after the date the
17 closure is approved, unless a different effective date applies under this subsection. If a
18 bill that specifically disapproves the State facility closure is introduced in either house
19 of the General Assembly before the thirty-first legislative day of that session, the
20 closure becomes effective on the earlier of either the day an unfavorable final action is
21 taken on the bill or the day that session of the General Assembly adjourns without
22 ratifying a bill that specifically disapproves the State facility closure. If the Secretary
23 specifies a later effective date for closure than the date that would otherwise apply under
24 this subsection, the later date applies. Closure of a State facility does not become
25 effective if the closure is specifically disapproved by a bill ~~ratified by the General~~
26 ~~Assembly enacted into law~~ before it becomes effective. Notwithstanding any rule of
27 either house of the General Assembly, any member of the General Assembly may
28 introduce a bill during the first 30 legislative days of any regular session to disapprove
29 closure of a facility that has been approved by the Governor and Council of State as
30 provided in subsection (b) of this section. Nothing in this subsection shall be construed
31 to impair the Secretary's power or duty otherwise imposed by law to close a State
32 facility temporarily for the protection of health and safety."

33 **SECTION 80.(b)** G.S. 150B-21.3 reads as rewritten:

34 **"§ 150B-21.3. Effective date of rules.**

35 (a) Temporary Rule. – A temporary rule becomes effective on the date the
36 Codifier of Rules enters the rule in the North Carolina Administrative Code.

37 (b) Permanent Rule. – A permanent rule approved by the Commission becomes
38 effective on the earlier of the thirty-first legislative day or the day of adjournment of the
39 next regular session of the General Assembly that begins at least 25 days after the date
40 the Commission approved the rule, unless a different effective date applies under this
41 section. If a bill that specifically disapproves the rule is introduced in either house of the
42 General Assembly before the thirty-first legislative day of that session, the rule becomes
43 effective on the earlier of either the day an unfavorable final action is taken on the bill

1 or the day that session of the General Assembly adjourns without ratifying a bill that
2 specifically disapproves the rule. If the agency adopting the rule specifies a later
3 effective date than the date that would otherwise apply under this subsection, the later
4 date applies. A permanent rule that is not approved by the Commission or that is
5 specifically disapproved by a bill ~~ratified by the General Assembly~~ enacted into law
6 before it becomes effective does not become effective.

7 A bill specifically disapproves a rule if it contains a provision that refers to the rule
8 by appropriate North Carolina Administrative Code citation and states that the rule is
9 disapproved. Notwithstanding any rule of either house of the General Assembly, any
10 member of the General Assembly may introduce a bill during the first 30 legislative
11 days of any regular session to disapprove a rule that has been approved by the
12 Commission and that either has not become effective or has become effective by
13 executive order under subsection (c) of this section.

14 (c) Executive Order Exception. – The Governor may, by executive order, make
15 effective a permanent rule that has been approved by the Commission and has not
16 become effective under subsection (b) of this section upon finding that it is necessary
17 that the rule become effective in order to protect public health, safety, or welfare. A rule
18 made effective by executive order becomes effective on the date the order is issued or at
19 a later date specified in the order. When the Codifier of Rules enters in the North
20 Carolina Administrative Code a rule made effective by executive order, the entry must
21 reflect this action.

22 A rule that is made effective by executive order remains in effect unless it is
23 specifically disapproved by the General Assembly in a bill ~~ratified~~ enacted into law on
24 or before the day of adjournment of the regular session of the General Assembly that
25 begins at least 25 days after the date the executive order is issued. A rule that is made
26 effective by executive order and that is specifically disapproved by a bill ~~ratified by the~~
27 ~~General Assembly~~ enacted into law is repealed as of the date specified in the bill. If a
28 rule that is made effective by executive order is not specifically disapproved by a bill
29 ~~ratified by the General Assembly~~ enacted into law within the time set by this subsection,
30 the Codifier of Rules must note this in the North Carolina Administrative Code.

31 (d) Legislative Day and Day of Adjournment. – As used in this section:

- 32 (1) A "legislative day" is a day on which either house of the General
33 Assembly convenes in regular session.
- 34 (2) The "day of adjournment" of a regular session held in an
35 odd-numbered year is the day the General Assembly adjourns by joint
36 resolution for more than 10 days.
- 37 (3) The "day of adjournment" of a regular session held in an
38 even-numbered year is the day the General Assembly adjourns sine
39 die.

40 (e) OSHA Standard. – A permanent rule concerning an occupational safety and
41 health standard that is adopted by the Occupational Safety and Health Division of the
42 Department of Labor and is identical to a federal regulation promulgated by the
43 Secretary of the United States Department of Labor becomes effective on the date the

1 Division delivers the rule to the Codifier of Rules, unless the Division specifies a later
2 effective date. If the Division specifies a later effective date, the rule becomes effective
3 on that date.

4 (f) Technical Change. – A permanent rule for which no notice or hearing is
5 required under G.S. 150B-21.5(a)(1) through (a)(5) or G.S. 150B-21.5(b) becomes
6 effective on the first day of the month following the month the rule is approved by the
7 Rules Review Commission."

8 **SECTION 81.** G.S. 126-5(c1) reads as rewritten:

9 "(c1) Except as to the provisions of Articles 6 and 7 of this Chapter, the provisions
10 of this Chapter shall not apply to:

- 11 (1) Constitutional officers of the State.
- 12 (2) Officers and employees of the Judicial Department.
- 13 (3) Officers and employees of the General Assembly.
- 14 (4) Members of boards, committees, commissions, councils, and advisory
15 councils compensated on a per diem basis.
- 16 (5) Officials or employees whose salaries are fixed by the General
17 Assembly, or by the Governor, or by the Governor and Council of
18 State, or by the Governor subject to the approval of the Council of
19 State.
- 20 (6) Employees of the Office of the Governor that the Governor, at any
21 time, in his discretion, exempts from the application of the provisions
22 of this Chapter by means of a letter to the State Personnel Director
23 designating these employees.
- 24 (7) Employees of the Office of the Lieutenant Governor, that the
25 Lieutenant Governor, at any time, in his discretion, exempts from the
26 application of the provisions of this Chapter by means of a letter to the
27 State Personnel Director designating these employees.
- 28 (8) Instructional and research staff, physicians, and dentists of The
29 University of North Carolina.
- 30 (9) Employees whose salaries are fixed under the authority vested in the
31 Board of Governors of The University of North Carolina by the
32 provisions of G.S. 116-11(4), 116-11(5), and 116-14.
- 33 (10) Repealed by Session Laws 1991, c. 84, s. 1.
- 34 (11) North Carolina School of Science and Mathematics' employees whose
35 salaries are fixed in accordance with the provisions of G.S.
36 116-235(c)(1) and G.S. 116-235(c)(2).
- 37 (12) Employees of the North Carolina Low-Level Radioactive Waste
38 Management Authority whose salaries are fixed pursuant to G.S.
39 104G-5(g)(1) and G.S. 104G-5(g)(2).
- 40 (13) Employees of the North Carolina Hazardous Waste Management
41 Commission whose salaries are fixed pursuant to G.S. 130B-6(g)(1)
42 and G.S. 130B-6(g)(2).
- 43 (14) Employees of the North Carolina State Ports Authority.

- 1 (15) Employees of the North Carolina Global TransPark Authority.
2 (16) The executive director and one associate director of the North Carolina
3 Center for Nursing established under Article 9F of Chapter 90 of the
4 General Statutes.
5 (17) The executive director of the independent staff of the Information
6 Resources Management Commission established under G.S.
7 143B-472.41A.
8 (18) Employees of the Tobacco Trust Fund Commission established in
9 Article 75 of Chapter 143 of the General Statutes.
10 (19) Employees of the Health and Wellness Trust Fund Commission
11 established in Article 21 of Chapter 130A of the General Statutes.
12 (20) Employees of the North Carolina Rural Redevelopment Authority
13 created in Part 2D of Article 10 of Chapter 143B of the General
14 Statutes.
15 (21) Employees of the Teachers' and State Employees' Comprehensive
16 Major Medical Plan."

17 **SECTION 82.** Effective January 1, 2002, G.S. 128-26(e) reads as rewritten:

18 "(e) Creditable service at retirement on which the retirement allowance of a
19 member shall be based shall consist of the membership service rendered by him since he
20 last became a member, and also if he has a prior service certificate which is in full force
21 and effect, the amount of the service certified on his prior service certificate; and if he
22 has sick leave standing to his credit upon retirement on or after July 1, 1971, one month
23 of credit for each 20 days or portion thereof ~~not to exceed 12 days of credit for each~~
24 ~~year of prior and membership service or fraction thereof~~, but sick leave shall not be
25 counted in computing creditable service for the purpose of determining eligibility for
26 disability retirement or for a vested deferred allowance.

27 On and after July 1, 1971, a member whose account was closed on account of
28 absence from service under the provisions of G.S. 128-24(1a) and who subsequently
29 returns to service for a period of five years, may thereafter repay the amount withdrawn
30 plus regular interest thereon from the date of withdrawal through the year of repayment
31 and thereby increase his creditable service by the amount of creditable service lost when
32 this account was closed.

33 On and after July 1, 1973, a member whose account in the Teachers' and State
34 Employees' Retirement System was closed on account of absence from service under
35 the provisions of G.S. 135-3(3) and who subsequently became or becomes a member of
36 this System with credit for five years of service, may thereafter repay in a lump sum the
37 amount withdrawn from the Teachers' and State Employees' Retirement System plus
38 regular interest thereon from the date of withdrawal through the year of repayment and
39 thereby increase his creditable service in this System by the amount of creditable
40 service lost when his account was closed.

41 Notwithstanding any other provision of this Chapter, any member who entered
42 service or was restored to service prior to July 1, 1982, and was excluded from
43 membership service solely on account of having attained the age of 62 years, in

1 accordance with former G.S. 128-24(3a), may purchase membership service credits for
2 such excluded service by making a lump-sum payment equal to the contributions that
3 would have been deducted pursuant to G.S. 128-30(b) had he been a member of the
4 Retirement System, increased by interest calculated at a rate of seven percent (7%) per
5 annum. Creditable service for unused sick leave shall be allowed only for sick leave
6 accrued monthly during employment under a duly adopted sick leave policy and for
7 which the member may be able to take credits and be paid for sick leave without
8 restriction.

9 On and after January 1, 1986, the creditable service of a member who was a member
10 of the Law Enforcement Officers' Retirement System at the time of the transfer of law
11 enforcement officers employed by participating employers from that System to this
12 Retirement System and whose accumulated contributions are transferred from that
13 System to this Retirement System, includes service that was creditable in the Law
14 Enforcement Officers' Retirement System; and membership service with that System is
15 membership service with this Retirement System; provided, notwithstanding any
16 provisions of this Article to the contrary, any inchoate or accrued rights of such a
17 member to purchase creditable service for military service, withdrawn service and prior
18 service under the rules and regulations of the Law Enforcement Officers' Retirement
19 System may not be diminished and may be purchased as creditable service with this
20 Retirement System under the same conditions that would have otherwise applied."

21 **SECTION 83.** G.S. 130A-110(a), as amended by Section 15 of S.L.
22 2001-62, reads as rewritten:

23 "(a) On or before the fifteenth day of the month, the register of deeds shall
24 transmit to the State Registrar a record of each marriage ceremony performed ~~in the~~
25 ~~county~~ during the preceding calendar month-month for which a license was issued by
26 the register of deeds. The State Registrar shall prescribe a form containing the
27 information required by G.S. 51-16 and additional information to conform with the
28 requirements of the federal agency responsible for national vital statistics. The form
29 shall be the official form of a marriage license, certificate of marriage and application
30 for marriage license."

31 **SECTION 84.(a)** G.S. 130A-235(a), as amended by S.L. 2001-109, reads as
32 rewritten:

33 "(a) For protection of the public health, the Commission shall adopt rules to
34 establish sanitation requirements for all institutions and facilities at which individuals
35 are provided room or board and for which a license to operate is required to be obtained
36 or a certificate for payment is obtained from the Department. The rules shall also apply
37 to facilities that provide room and board to individuals but are exempt from licensure
38 under G.S. 131D-10.4(1). No other State agency may adopt rules to establish sanitation
39 requirements for these institutions and facilities. The Department shall issue a license to
40 operate or a certificate for payment to such an institution or facility only upon
41 compliance with all applicable sanitation rules of the Commission, and the Department
42 may suspend or revoke a license or a certificate for payment for violation of these rules.
43 In adopting rules pursuant to this section, the Commission shall define categories of

1 standards to which such institutions and facilities shall be subject and shall establish
2 criteria for the placement of any such institution or facility into one of the categories.
3 This section shall not apply to State institutions and facilities subject to inspection under
4 G.S. 130A-5(10). This section shall not apply to a single-family dwelling that is used
5 for a family foster home or a therapeutic foster home, as those terms are defined in ~~G.S.~~
6 ~~131D-10.2, or a therapeutic home. For purposes of this section, "therapeutic home"~~
7 ~~means a 24 hour residential facility located in a private residence that provides~~
8 ~~professionally trained parent substitutes who work intensively with children and~~
9 ~~adolescents who are emotionally disturbed or who have a substance abuse problem.~~ G.S.
10 131D-10.2."

11 **SECTION 84.(b)** G.S. 131D-10.2 is amended by adding a new subdivision
12 to read:

13 "(14) "Therapeutic Foster Home" means a family foster home where, in
14 addition to the provision of foster care, foster parents who receive
15 appropriate training provide a child with behavioral health treatment
16 services under the supervision of a county department of social
17 services, an area mental health program, or a licensed private agency
18 and in compliance with licensing rules adopted by the Commission."

19 **SECTION 85.(a)** G.S. 131D-4.3(a)(5), as amended by Section 1 of S.L.
20 2001-85, reads as rewritten:

21 "(5) Adult care homes shall comply with all of the following staffing
22 requirements:

- 23 a. First shift (morning): 0.4 hours of aide duty for each resident
24 (licensed capacity or resident census), or 8.0 hours of aide
25 duty per each 20 residents (licensed capacity or resident
26 census) plus 3.0 hours for all other residents, whichever is
27 greater;
- 28 b. Second shift (afternoon): 0.4 hours of aid duty for each
29 resident (licensed capacity or resident census), or 8.0 hours
30 of aide duty per each 20 residents plus 3.0 hours for all other
31 residents (licensed capacity or resident census), whichever is
32 greater;
- 33 c. Third shift (evening): 8.0 hours of aide duty per 30 or fewer
34 residents (licensed capacity or resident census).

35 In addition to these requirements, the facility shall provide staff to
36 meet the needs of the facility's heavy care residents equal to the
37 amount of time reimbursed by Medicaid. As used in this
38 subdivision, the term "heavy care resident" means an individual
39 residing in an adult care home who is defined "heavy care" by
40 Medicaid and for which the facility is receiving enhanced Medicaid
41 payments for such needs. Each facility shall post in a conspicuous
42 place information about required staffing that enables residents and
43 their families to ascertain each day the number of direct care staff

1 and supervisors that are required by law to be on duty for each shift
2 for that day."

3 **SECTION 85.(b)** G.S. 131E-114.1, as enacted by Section 2 of S.L. 2001-85,
4 reads as rewritten:

5 **"§ 131E-114.1. Posting of information indicating number of staff on duty.**

6 Every nursing home subject to licensure under this Part shall post in a conspicuous
7 place in the nursing home information about required staffing that enables residents and
8 their families to readily ascertain each day the number of direct care staff and
9 supervisors that are required by law to be on duty ~~for each shift~~ for that day."

10 **SECTION 86.(a)** G.S. 135-40.2(b)(12) reads as rewritten:

11 "(12) Notwithstanding the provisions of G.S. 135-40.11, former employees
12 covered by the provisions of G.S. 135-40.2(a)(6), and their spouses
13 and eligible dependent children who were covered by the Plan at the
14 time of the former employees' separation from service pursuant to G.S.
15 135-40.2(a)(6), following expiration of the former employees'
16 coverage provided by G.S. 135-40.2(a)(6). Election of coverage under
17 this subdivision shall be made within 90 days after the termination of
18 coverage provided under G.S. 135-40.2(a)(6)."

19 **SECTION 86.(b)** G.S. 135-40.6(8)b. reads as rewritten:

20 "b. Private Duty Nursing: Services of licensed nurses (not
21 immediate relatives or members of the participant's household
22 or private duty nursing used in lieu of or as a substitute for
23 hospital staff nurses) ordered by the attending doctor for a
24 condition requiring skilled nursing services. Private Duty
25 Nursing ordered must be approved in advance by the Claims
26 Processor as medically necessary. Allowances for Private Duty
27 Nursing shall not exceed the lesser of the Plan's usual,
28 customary and reasonable allowances or ninety percent (90%)
29 of the daily semiprivate rate at skilled nursing facilities as
30 determined by the Plan."

31 **SECTION 87.** G.S. 143-64.60, as enacted by Section 1 of S.L. 2001-256,
32 reads as rewritten:

33 **"§143-64.60. State Privacy Act.**

34 (a) It is unlawful for any State or local government agency to deny to any
35 individual any right, benefit, or privilege provided by law because of such individual's
36 refusal to disclose his social security account number.

37 The provisions of this ~~section~~ subsection shall not apply with respect to:

- 38 (1) Any disclosure which is required or permitted by federal statute, or
39 (2) The disclosure of a social security number to any State or local agency
40 maintaining a system of records in existence and operating before
41 January 1, 1975, if such disclosure was required under statute or
42 regulation adopted prior to such date to verify the identity of an
43 individual.

1 (b) Any State or local government agency which requests an individual to
2 disclose his social security account number shall inform that individual whether that
3 disclosure is mandatory or voluntary, by what statutory or other authority such number
4 is solicited, and what uses will be made of it."

5 **SECTION 88.** G.S. 143-129(e), as rewritten by Section 1 of S.L. 2001-328,
6 reads as rewritten:

7 "(e) Exceptions. – The requirements of this Article do not apply to:

- 8 (1) The purchase, lease, or other acquisition of any apparatus, supplies,
9 materials, or equipment from: (i) the United States of America or any
10 agency thereof; or (ii) any other government unit or agency thereof
11 within the United States. The Secretary of Administration or the
12 governing board of any political subdivision of the State may
13 designate any officer or employee of the State or political subdivision
14 to enter a bid or bids in its behalf at any sale of apparatus, supplies,
15 materials, equipment, or other property owned by: (i) the United States
16 of America or any agency thereof; or (ii) any other governmental unit
17 or agency thereof within the United States. The Secretary of
18 Administration or the governing board of any political subdivision of
19 the State may authorize the officer or employee to make any partial or
20 down payment or payment in full that may be required by regulations
21 of the governmental unit or agency disposing of the property.
- 22 (2) Cases of special emergency involving the health and safety of the
23 people or their property.
- 24 (3) Purchases made through a competitive bidding group purchasing
25 program, which is a formally organized program that offers
26 competitively ~~bid~~-obtained purchasing services at discount prices to
27 two or more public agencies.
- 28 (4) Construction or repair work undertaken during the progress of a
29 construction or repair project initially begun pursuant to this section.
- 30 (5) Purchase of gasoline, diesel fuel, alcohol fuel, motor oil, fuel oil, or
31 natural gas. These purchases are subject to G.S. 143-131.
- 32 (6) Purchases of apparatus, supplies, materials, or equipment when: (i)
33 performance or price competition for a product are not available; (ii) a
34 needed product is available from only one source of supply; or (iii)
35 standardization or compatibility is the overriding consideration.
36 Notwithstanding any other provision of this section, the governing
37 board of a political subdivision of the State shall approve the purchases
38 listed in the preceding sentence prior to the award of the contract.

39 In the case of purchases by hospitals, in addition to the other
40 exceptions in this subsection, the provisions of this Article shall not
41 apply when: (i) a particular medical item or prosthetic appliance is
42 needed; (ii) a particular product is ordered by an attending physician
43 for his patients; (iii) additional products are needed to complete an

1 ongoing job or task; (iv) products are purchased for "over-the-counter"
2 resale; (v) a particular product is needed or desired for experimental,
3 developmental, or research work; or (vi) equipment is already
4 installed, connected, and in service under a lease or other agreement
5 and the governing body of the hospital determines that the equipment
6 should be purchased. The governing body of a hospital shall keep a
7 record of all purchases made pursuant to this ~~subsection~~subdivision.
8 These records are subject to public inspection.

- 9 (7) Purchases of information technology through contracts established by
10 the State Office of Information Technology Services as provided in
11 G.S. 147-33.82(b) and G.S. 147-33.92(b).
- 12 (8) Guaranteed energy savings contracts, which are governed by Article
13 3B of Chapter 143 of the General Statutes.
- 14 (9) Purchases from contracts established by the State or any agency of the
15 State, if the contractor is willing to extend to a political subdivision of
16 the State the same or more favorable prices, terms, or conditions as
17 established in the State contract.
- 18 (10) Purchase of used apparatus, supplies, materials, or equipment. For
19 purposes of this subdivision, remanufactured or refabricated apparatus,
20 supplies, materials, or equipment are not included in the exception."

21 **SECTION 89.** G.S. 143-166.13(a) reads as rewritten:

22 "(a) The following persons who are subject to the Criminal Justice Training and
23 Standards Act are entitled to benefits under this Article:

- 24 (1) State Government Security Officers, Department of Administration;
25 (2) State Correctional Officers, Department of Corrections;
26 (3) State Probation and Parole Officers, Department of Corrections;
27 (4) Sworn State Law-Enforcement Officers with the power of arrest,
28 Department of Corrections;
29 (5) Alcohol Law-Enforcement Agents, Department of Crime Control and
30 Public Safety;
31 (6) State Highway Patrol Officers, Department of Crime Control and
32 Public Safety;
33 (7) State Legislative Building Special Police, General Assembly;
34 (8) Sworn State Law-Enforcement Officers with the power of arrest,
35 Department of Health and Human Services;
36 (9) ~~Youth Correctional Officers, Department of Health and Human~~
37 ~~Services; Juvenile Justice Officers, Department of Juvenile Justice and~~
38 ~~Delinquency Prevention;~~
39 (10) Insurance Investigators, Department of Insurance;
40 (11) State Bureau of Investigation Officers and Agents, Department of
41 Justice;
42 (12) Director and Assistant Director, License and Theft Enforcement
43 Section, Division of Motor Vehicles, Department of Transportation;

- 1 (13) Members of License and Theft Enforcement Section, Division of
2 Motor Vehicles, Department of Transportation, designated by the
3 Commissioner of Motor Vehicles as either "inspectors" or uniformed
4 weigh station personnel;
- 5 (14) Utilities Commission Transportation Inspectors and Special
6 Investigators;
- 7 (15) North Carolina Ports Authority Police, Department of Commerce;
- 8 (16) Sworn State Law-Enforcement Officers with the power of arrest,
9 Department of Environment and Natural Resources;
- 10 (17) Sworn State Law-Enforcement Officers with the power of arrest,
11 Department of Crime Control and Public Safety.
- 12 (18) Sworn State Law-Enforcement Officers with the power of arrest,
13 Department of Revenue.
- 14 (19) Sworn State Law-Enforcement Officers with the power of arrest,
15 University System."

16 **SECTION 90.** G.S. 143-661(b) reads as rewritten:

17 "(b) The Board shall consist of ~~19~~20 members, appointed as follows:

- 18 (1) ~~Three~~Four members appointed by the Governor, including one
19 member who is a director or employee of a State correction agency for
20 a term to begin September 1, 1996 and to expire on June 30, 1997, one
21 member who is an employee of the North Carolina Department of
22 Crime Control and Public Safety for a term beginning September 1,
23 1996 and to expire on June 30, 1997, ~~and~~ one member selected from
24 the North Carolina Association of Chiefs of Police for a term to begin
25 September 1, 1996 and to expire on June 30, ~~1999~~1999, and one
26 member who represents the Division of Motor Vehicles for a term to
27 begin September 1, 2002, and to expire on June 30, 2003.

28 "...."

29 **SECTION 91.(a)** G.S. 143B-475.1 is recodified as G.S. 143B-262.4.

30 **SECTION 91.(b)** G.S. 143B-262.4, as recodified by Section 91(a) of this
31 act, reads as rewritten:

32 "**§ ~~143B-475.1~~143B-262.4. Deferred prosecution, community service restitution,**
33 **and volunteer program.**

34 (a) The Department of ~~Crime Control and Public Safety~~Correction may conduct
35 a deferred prosecution, community service restitution, and volunteer program for
36 youthful and adult offenders. The Secretary of ~~Crime Control and Public Safety~~
37 Correction may assign one or more coordinators to each district court district as defined
38 in G.S. 7A-133 to assure and report to the Court the offender's compliance with the
39 requirements of the program. The appointment of each coordinator shall be made in
40 consultation with the chief district court judge in the district to which the coordinator is
41 assigned. Each county shall provide office space in the courthouse or other convenient
42 place, for the use of each coordinator assigned to that county.

1 (b) Unless a fee is assessed pursuant to G.S. 20-179.4 or G.S. 15A-1371(i), a fee
2 of one hundred dollars (\$100.00) shall be paid by all persons who participate in the
3 program or receive services from the program staff. If the person is convicted in a court
4 in this State, the fee shall be paid to the clerk of court in the county in which he is
5 convicted. If the person is participating in the program as a result of a deferred
6 prosecution or similar program, the fee shall be paid to the clerk of court in the county
7 in which the agreement is filed. Persons participating in the program for any other
8 reason shall pay the fee to the clerk of court in the county in which the services are
9 provided by the program staff. The fee shall be paid in full within two weeks from the
10 date the person is ordered to perform the community service, and before he begins his
11 community service, except that:

- 12 (1) A person convicted in a court in this State may be given an extension
13 of time or allowed to begin the community service before he pays the
14 fee by the court in which he is convicted; or
- 15 (2) A person performing community service pursuant to a deferred
16 prosecution or similar agreement may be given an extension of time or
17 allowed to begin his community service before the fee is paid by the
18 official or agency representing the State in the agreement.

19 Fees collected pursuant to this subsection shall be deposited in the General Fund.

20 (c) The Secretary may designate the same person to serve as a coordinator under
21 this section and under G.S. 20-179.4.

22 (d) A person is not liable for damages for any injury or loss sustained by an
23 individual performing community or reparation service under this section unless the
24 injury is caused by the person's gross negligence or intentional wrongdoing. As used in
25 this subsection, "person" includes any governmental unit or agency, nonprofit
26 corporation, or other nonprofit agency that is supervising the individual, or for whom
27 the individual is performing community service work, as well as any person employed
28 by the agency or corporation while acting in the scope and course of the person's
29 employment. This subsection does not affect the immunity from civil liability in tort
30 available to local governmental units or agencies. Notice of the provisions of this
31 subsection shall be furnished to the individual at the time of assignment of community
32 service work by the community service coordinator.

33 (e) In order to maximize the efficiency and effectiveness of the community
34 service program, (i) beginning September 1, 1995, community service program districts
35 shall have the same boundaries as the district court districts established in G.S. 7A-133
36 and (ii) beginning with persons hired on or after September 1, 1995, all community
37 service program district supervisors employed by the Department of ~~Crime Control and~~
38 ~~Public Safety-Correction~~ to supervise each of the community service program districts
39 shall reside in the district in which the supervisor works.

40 (f) The community service staff shall report to the court in which the community
41 service was ordered, a significant violation of the terms of the probation, or deferred
42 prosecution, related to community service. The community service staff shall give
43 notice of the hearing to determine if there is a willful failure to comply to the person

1 who was ordered to perform the community service. This notice shall be given by either
2 personal delivery to the person to be notified or by depositing the notice in the United
3 States mail in an envelope with postage prepaid, addressed to the person at the address
4 shown on the records of the community service staff. The notice shall be mailed at least
5 10 days prior to any hearing and shall state the basis of the alleged willful failure to
6 comply. The court shall then conduct a hearing, even if the person ordered to perform
7 the community service fails to appear, to determine if there is a willful failure to
8 complete the work as ordered by the community service staff within the applicable time
9 limits. If the court determines there is a willful failure to comply, it shall revoke any
10 drivers [driver's] license issued to the person and notify the Division of Motor Vehicles
11 to revoke any drivers [driver's] license issued to the person until the community service
12 requirement has been met. In addition, if the person is present, the court may take any
13 further action authorized by Article 82 of Chapter 15A of the General Statutes for
14 violation of a condition of probation."

15 **SECTION 92.** G.S. 147-12(13) reads as rewritten:

16 "(13) To oversee and approve all memoranda of understanding and
17 agreements between the State and foreign governments, as defined in
18 ~~G.S. 66-275(e)~~, G.S. 66-280(c), and international organizations. Any
19 memoranda of understanding or agreements under this subsection to be
20 signed on behalf of the State must first be approved by the Governor
21 after review by the Attorney General, and after execution filed with the
22 Secretary of State in accordance with ~~G.S. 66-275~~, G.S. 66-280."

23 **SECTION 93.** G.S. 147-49 reads as rewritten:

24 "**§ 147-49. Disposition of damaged and unsaleable publications.**

25 The Secretary of State is hereby authorized and empowered to dispose of damaged
26 and unsaleable House and Senate Journals and ~~Public-Session~~ Laws of various years at a
27 price to be determined by the Secretary of State."

28 **SECTION 94.** G.S. 159C-5 reads as rewritten:

29 "**§ 159C-5. General powers.**

30 Each authority shall have all of the powers necessary or convenient to carry out and
31 effectuate the purposes and provisions of this Chapter, including, but without limiting
32 the generality of the foregoing, the powers:

- 33 (1) To adopt bylaws for the regulation of its affairs and the conduct of its
34 business and to prescribe rules, regulations and policies in connection
35 with the performance of its functions and duties;
- 36 (2) To adopt an official seal and alter the same at pleasure;
- 37 (3) To maintain an office at such place or places within the boundaries of
38 the county for which it was created as it may determine;
- 39 (4) To sue and be sued in its own name, plead and be impleaded;
- 40 (5) To receive, administer and comply with the conditions and
41 requirements respecting any gift, grant or donation of any property or
42 money;

- 1 (6) To make and execute financing agreements, security documents and
2 other contracts and instruments necessary or convenient in the exercise
3 of the powers and functions of the authority under this Chapter;
4 (7) To acquire by purchase, lease, gift or otherwise, but not by eminent
5 domain, or to obtain options for the acquisition of, any property, real
6 or personal, improved or unimproved, and interests in land less than
7 the fee ~~thereof,~~interest, for the construction, operation or maintenance
8 of any project;
9 ~~(7a) To acquire by purchase, lease, gift, or otherwise, but not by eminent~~
10 ~~domain, or to obtain options for the acquisition of, any property, real~~
11 ~~or personal, improved or unimproved, and interests in land less than~~
12 ~~the fee interest, for the construction, operation, or maintenance of any~~
13 ~~project;~~
14 (8) To sell, lease, exchange, transfer or otherwise dispose of, or to grant
15 options for any such purposes with respect to, any real or personal
16 property or interest therein;
17 (9) To pledge or assign revenues of the authority;
18 (10) To construct, acquire, own, repair, maintain, extend, improve,
19 rehabilitate, renovate, furnish and equip one or more projects and to
20 pay all or any part of the costs thereof from the proceeds of bonds of
21 the authority or from any contribution, gift or donation or other funds
22 made available to the authority for such purpose;
23 (11) To fix, charge and collect revenues with respect to any project;
24 (12) To employ consulting engineers, architects, attorneys, real estate
25 counselors, appraisers and such other consultants and employees as
26 may be required in the judgment of the authority and to fix and pay
27 their compensation from funds available to the authority therefor and
28 to select and retain subject to approval of the Local Government
29 Commission the financial consultants, underwriters and bond attorneys
30 to be associated with the issuance of any bonds and to pay for services
31 rendered by underwriters, financial consultants or bond attorneys out
32 of the proceeds of any such issue with regard to which the services
33 were performed; and
34 (13) To do all acts and things necessary, convenient or desirable to carry
35 out the purposes, and to exercise the powers herein granted."

36 **SECTION 95.** G.S. 162-33 reads as rewritten:

37 "**§ 162-33. Prisoner may furnish necessities.**

38 ~~Prisoners~~ With the sheriff's approval, prisoners shall be allowed to purchase and
39 procure such necessities, in addition to the diet furnished by the jailer, as they may
40 think ~~proper; and to provide their own bedding, linen and clothing, without paying any~~
41 ~~perquisite to the jailer for such indulgence.~~ proper."

42 **SECTION 96.** G.S. 163-132.3(d)(1)a., as enacted by Section 10.1 of S.L.
43 2001-319, reads as rewritten:

1 "a. Is likely to be designated by the Census Bureau as a block
2 boundary in the next federal decennial ~~Census~~-Census."

3 **SECTION 97.(a)** G.S. 163-278.19(e) reads as rewritten:

4 "(e) Notwithstanding the prohibitions specified in this Article and Article 22 of
5 this Chapter, a political committee organized under provisions of this Article shall be
6 entitled to receive and the corporation, business entity, labor union, professional
7 association, or insurance company designated on the committee's organizational report
8 as the parent entity of the employees or members who organized the committee is
9 authorized to give reasonable administrative support that shall include, but not be
10 limited to, record keeping, computer services, billings, mailings to members of the
11 committee, and such other support as is reasonably necessary for the administration of
12 the committee.

13 The approximate cost of any record keeping, computer services, billings, mailings,
14 office supplies, and office space provided on a continuing basis shall be submitted to the
15 committee, in writing, and the committee shall include that cost on the ~~annual~~-report
16 required by G.S. 163-278.9(a)(6). Also included in the report shall be the approximate
17 allocable portion of the compensation of any officer or employee of the corporation,
18 business entity, labor union, professional association, or insurance company who has
19 devoted more than thirty-five percent (35%) of his time during normal business hours of
20 the corporation, business entity, labor union, professional association, or insurance
21 company during the period covered by the required report. The approximate cost
22 submitted by the parent corporation, business entity, labor union, professional
23 association, or insurance company shall be entered on the committee's ~~annual~~-report as
24 the final entry on its list of "contributions" and a copy of the written approximate cost
25 received by it shall be attached.

26 The administrative support given by a corporation, business entity, labor union,
27 professional association, or insurance company shall be designated on the books of the
28 corporation, business entity, labor union, professional association, or insurance
29 company as such and may not be treated by it as a business deduction for State income
30 tax purposes."

31 **SECTION 97.(b)** The prefatory clause of G.S. 163-278.9(a) reads as
32 rewritten:

33 "(a) Except as provided in G.S. 163-278.10A, the treasurer of each candidate and
34 of each political committee shall file with the Board under verification-certification of
35 the treasurer as true and correct to the best of the knowledge of that officer ~~with the~~
36 ~~Board~~ the following reports:"

37 **SECTION 98.** G.S. 166A-6A(b)(2), as enacted by Section 4 of S.L.
38 2001-214, reads as rewritten:

39 "(2) ~~Public Assistance~~-assistance. – State disaster assistance in the form of
40 public assistance grants may be made available to eligible entities
41 located within the disaster area on the following terms and conditions:

42 a. Eligible entities shall meet the following qualifications:

- 1 1. The eligible entity suffers a minimum of ten thousand
- 2 dollars (\$10,000) in uninsurable losses;
- 3 2. The eligible entity suffers uninsurable losses in an
- 4 amount equal to or exceeding one-half percent (0.5%) of
- 5 the annual operating budget;
- 6 3. For a state of disaster proclaimed pursuant to G.S.
- 7 166A-6(a) after August 1, 2002, the eligible entity shall
- 8 have a hazard mitigation plan approved pursuant to the
- 9 Stafford Act; and
- 10 4. For a state of disaster proclaimed pursuant to G.S.
- 11 166A-6(a) after August 1, 2002, the eligible entity shall
- 12 be participating in the National Flood Insurance Program
- 13 in order to receive public assistance for flooding damage.
- 14 b. Eligible entities shall be required to provide non-State matching
- 15 funds equal to twenty-five percent (25%) of the eligible costs of
- 16 the public assistance grant.
- 17 c. An eligible entity that receives a public assistance grant
- 18 pursuant to this subsection may use the grant for the following
- 19 purposes only:
- 20 1. Debris clearance.
- 21 2. Emergency protective measures.
- 22 3. Roads and bridges.
- 23 4. Crisis counseling.
- 24 5. Assistance with public transportation needs."

25 **SECTION 99.** Section 2 of S.L. 1998-106, as rewritten by Section 1 of S.L.
26 2001-354, reads as rewritten:

27 "Sec. 2. The Cabarrus County demonstration Work Over Welfare Program for
28 certain Work First and Food Stamp recipients shall:

- 29 (1) Provide job opportunities to all able-bodied Work First and Food
- 30 Stamp recipients who are required to participate in the Work First
- 31 employment program;
- 32 (2) Create job opportunities in the public, the private, nonprofit, and the
- 33 private, for-profit sector, primarily in the human services areas by
- 34 allowing Cabarrus County to use grant diversions, consisting of the
- 35 Work First benefits and the cash value of Food Stamps that would be
- 36 paid to otherwise eligible recipients to match employer funds, to
- 37 subsidize the employment of these recipients. Human service area jobs
- 38 will meet such socially necessary needs as day care work, nursing
- 39 home aide work, and in-home aide work;
- 40 (3) Allow wages paid to these recipients, which contain grant-diverted
- 41 funds, to be exempt from income for purposes of determining
- 42 eligibility for assistance;

- 1 (4) Structure payment of wages to these recipients such that they will be
2 considered income, in order to make recipients eligible for the federal
3 earned income tax credit;
- 4 (5) Create work experience opportunities in the private sector more
5 realistically to reflect the world of work;
- 6 (6) Require these recipients to participate in the development of an
7 opportunity agreement outlining the responsibilities of the recipient
8 and agency, as well as the incentives for compliance and the sanctions
9 for noncompliance;
- 10 (7) Require all these recipients who participate in the program to pursue
11 and accept employment, full or part time, subsidized or unsubsidized,
12 as a condition for continued eligibility for Work First and Food Stamp
13 assistance;
- 14 (8) Require job search training of all participants;
- 15 (9) Require monitored job search of all participants until employment is
16 found or until other work activities of up to 40 hours per week are in
17 place;
- 18 (10) Create a positive work incentive by providing wage
19 incentives to participants who are in compliance with the program by
20 using the job bonus as outlined in the Work First Policy Manual for
21 both Work First and Food Stamp benefits;
- 22 (11) Provide for a system in which the Work First cash assistance
23 case is terminated following the first month of noncompliance, with
24 restoration of assistance after the client agrees to comply with
25 requirements and files a new application. To ensure that children in
26 terminated households are not harmed, provide social worker
27 monitoring and the use of direct vendor payments or assistance from
28 other community resources for rent, utilities, or other basic needs of
29 children as necessary, during the period in which assistance for the
30 household is terminated. This period of social worker monitoring shall
31 coincide with the period of time that the household would have been,
32 as a Work First case, under a three-month pay-for-performance
33 sanction system and shall not exceed three months from the date of
34 ~~termination~~termination;
- 35 (12) Provide for all individuals to be evaluated for ongoing
36 Medicaid and children to be evaluated for Health Choice eligibility
37 any time Work First terminates. This act shall not alter any individual's
38 eligibility for Medicaid or Health Choice as set out in State and
39 Federal law or ~~regulation~~regulation;
- 40 (13) Require that a recipient who voluntarily terminates employment
41 without good cause be ineligible for Work First until the individual
42 returns to work, provided work opportunities are available. Provide

1 employment services for 30 days to assist the individual in obtaining
2 employment;

3 (14) Require applicants for Work First to meet with child support staff
4 within 10 days of application. Failure or refusal to pursue child support
5 without good cause is grounds for denial of benefits;

6 (15) Provide that an applicant may be eligible for a one-time Work First
7 diversion payment in an amount not exceeding one thousand two
8 hundred dollars (\$1,200). Applicants receiving the diversion payment
9 shall not be eligible for ongoing Work First benefits for a period of
10 three months from the date of receipt of the diversion payment.
11 Individuals receiving a diversion payment must attend budgetary
12 counseling and may be required to have a protective payee for the
13 diversion payment;

14 (16) Provide that the period of exemption from participation in employment
15 services for a parent of a newborn child is three months. If a recipient
16 returns to work within six weeks of childbirth, the recipient may
17 reclaim the remainder of the three-month exemption if the recipient
18 chooses not to continue working during the initial six-week period;

19 (17) In ongoing Work First cases, require family reassessment of service
20 needs when the family circumstance changes due to an able-bodied,
21 financially responsible adult moving into the home. Family
22 reassessment may result in benefit diversion, change in services, or
23 termination from Work First program participation;

24 (18) Not sanction individuals who demonstrate that they cannot meet
25 program requirements because necessary child care is not available."

26 **SECTION 100.** Section 2 of S.L. 2001-177 reads as rewritten:

27 "**SECTION 2.** This act becomes effective October 1, 2001, and applies to ~~actions~~
28 ~~on payment bonds filed~~ labor and materials furnished on or after that date."

29 **SECTION 101.** Section 29 of S.L. 2001-208 reads as rewritten:

30 "**SECTION 29.** ~~This~~ Section 15 of this act becomes effective January 1, 2002, and
31 applies to relinquishments executed on or after that date. The remainder of this act
32 becomes effective January 1, 2002, and applies to actions pending or filed on or after
33 that date."

34 **SECTION 102.(a)** S.L. 2001-216 is amended by adding a new section to
35 read:

36 "**SECTION 6.1.** In the event that a court of competent jurisdiction holds that any
37 provision of this act is unconstitutional or otherwise invalid, the invalidity does not
38 affect other provisions or applications of this act that can be given effect without the
39 invalid provisions or application, and to this end the provisions of each section of this
40 act are severable one from the other and from the remainder of this act."

41 **SECTION 102.(b)** Section 7 of S.L. 2001-216 reads as rewritten:

1 "SECTION 7. This act is effective when it becomes ~~law~~ law and applies to all cases
2 pending on or after the effective date except those cases in which a health benefit plan
3 has intervened before the Industrial Commission prior to the effective date."

4 SECTION 102.(c) This section becomes effective June 15, 2001.

5 SECTION 103.(a) Section 24.5 of S.L. 2001-223 reads as rewritten:

6 "SECTION 24.5. This ~~section~~ Part applies to estates that are pending."

7 SECTION 103.(b) G.S. 58-7-178(a), as rewritten by Section 8.11 of S.L.
8 2001-223, reads as rewritten:

9 "(a) An insurer authorized to transact insurance in a foreign country or any U.S.
10 territory may have funds invested in securities that may be required for that authority
11 and for the transaction of that business, provided the funds and securities are
12 substantially of the same kinds, classes, and investment grades as those otherwise
13 eligible for investment under this Chapter. ~~ercent (5%) of admitted assets.~~ The
14 aggregate amount of investments under this subsection shall not exceed the amount that
15 the insurer is required by law to invest in the foreign country or United States territory,
16 or one and one-half times the amount of reserves and other obligations under the
17 contracts, whichever is greater."

18 SECTION 104. The prefatory language of Section 2 of S.L. 2001-281 reads
19 as rewritten:

20 "SECTION 2. ~~G.S. 20-182(e)~~ G.S. 90-182(c) reads as rewritten:"

21 SECTION 105.(a) The prefatory language of Section 2 of S.L. 2001-297 is
22 rewritten to read:

23 "SECTION 2. G.S. 58-65-1 reads as rewritten:"

24 SECTION 105.(b) The statutory catch line in Section 2 of S.L. 2001-297 is
25 rewritten to read:

26 "**§58-65-1. Regulation and definitions; application of other laws; profit**
27 **and foreign corporations prohibited.**"

28 SECTION 106.(a) Effective October 1, 2001, Section 17.4 of S.L. 2001-334
29 is repealed.

30 SECTION 106.(b) Effective October 1, 2001, G.S. 58-67-50(b), as rewritten
31 by Section 8.1 of S.L. 2001-334, reads as rewritten:

32 "(b) (1) Premium approval. – No schedule of premiums for coverage for
33 health care services, or any amendment to the schedule, shall be
34 used in conjunction with any health care plan until a copy of the
35 schedule or amendment has been filed with and approved by the
36 Commissioner.

37 (2) Individual coverage. – Premiums shall be established in accordance
38 with actuarial principles for various categories of enrollees.
39 Premiums applicable to an enrollee shall not be individually
40 determined based on the status of the enrollee's health. Premiums
41 shall not be excessive, inadequate or unfairly discriminatory; and
42 shall exhibit a reasonable relationship to the benefits provided by
43 the evidence of coverage. The premiums or any premium revisions

1 to the premiums with respect to ~~for~~ nongroup enrollee coverage
2 shall be guaranteed, as to every enrollee covered under the same
3 category of enrollee coverage, for a period of not less than 12
4 months. As an alternative to giving this guarantee for nongroup
5 enrollee coverage, the premium or premium revisions may be made
6 applicable to all similar ~~category~~ categories of enrollee coverage at
7 one time if the health maintenance organization chooses to apply
8 for the premium revision with respect to ~~such~~ the categories of
9 coverages no more frequently than once in any 12-month period.
10 The premium revision shall be applicable to all categories of
11 nongroup enrollee coverage of the same type; provided that no
12 premium revision may become effective for any category of
13 enrollee coverage unless the HMO has given written notice of the
14 premium revision to the enrollee 45 days before the effective date
15 of the revision. The enrollee ~~thereafter~~ must then pay the revised
16 premium in order to continue the contract in force. The
17 Commissioner may adopt reasonable rules, after notice and
18 hearing, to require the submittal of supporting data and such
19 information as the Commissioner considers necessary to determine
20 whether the rate revisions meet the standards in this subdivision. In
21 adopting the rules under this subsection, the Commissioner may
22 require identification of the types of rating methodologies used by
23 filers and may also address standards for data in HMO rate filings
24 for initial filings, filings by recently licensed HMOs, and rate
25 revision filings; data requirements for service area expansion
26 requests; policy reserves used in rating; incurred loss ratio
27 standards; and other recognized actuarial principles of the NAIC,
28 the American Academy of Actuaries, and the Society of Actuaries.

- 29 (3) Group coverage. – Employer group premiums shall be established
30 in accordance with actuarial principles for various categories of
31 enrollees, provided that premiums applicable to an enrollee shall
32 not be individually determined based on the status of the enrollee's
33 health. Premiums shall not be excessive, inadequate, or unfairly
34 discriminatory, and shall exhibit a reasonable relationship to the
35 benefits provided by the evidence of coverage. The premiums or
36 any revisions to the premiums for employer group coverage shall
37 be guaranteed for a period of not less than 12 months. No premium
38 revision shall become effective for any category of group coverage
39 unless the HMO has given written notice of the premium revision
40 to the master group contract holder upon receipt of the group's
41 finalized benefits or 45 days before the effective date of the
42 revision, whichever is earlier. The master group contract holder
43 thereafter must pay the revised premium in order to continue the

1 contract in force. The Commissioner may adopt reasonable rules,
2 after notice and hearing, to require the submittal of supporting data
3 and such information as the Commissioner considers necessary to
4 determine whether the rate revisions meet the standards in this
5 subdivision."

6 **SECTION 107.(a)** Section 14.(b) of S.L. 2001-358 reads as rewritten:

7 "**SECTION 14.(b)** G.S. 55-4-02, 55-4-03, 55-4-04, and 55-4-05 are recodified as
8 G.S. 55D-23, 55D-24, 55D-25, and 55D-26, and ~~55D-27,~~ respectively, in Article 3 of
9 Chapter 55D of the General Statutes."

10 **SECTION 107.(b)** G.S. 59-62(c), as enacted by Section 41 of S.L.
11 2001-358, reads as rewritten:

12 "(c) The name of a registered limited liability ~~company~~ partnership becomes
13 available for use by another entity as provided in G.S. 55D-21."

14 **SECTION 108.** Section 5.1 of S.L. 2001-424 is amended by adding a new
15 subsection to read:

16 "**SECTION 5.1.(bb)** If the Department of Health and Human Services determines
17 that sufficient funds are not available within the Work First Cash Assistance Program
18 and the Cash Assistance Reserve to provide cash assistance payments to all eligible
19 families in the 2001-2002 fiscal year, the Department may reduce the allocations under
20 the TANF Block Grant in this section to non cash assistance programs and services in
21 order to ensure that cash assistance payments to all eligible families continue throughout
22 the 2001-2002 fiscal year."

23 **SECTION 109.** Section 6.20(c) of S.L. 2001-424 reads as rewritten:

24 "**SECTION 6.20.(c)** The provisions of S.L. 2001-250, S.L. 2001-287, S.L.
25 2001-322, and ~~S.L. 2001-395, S.L. 2001-~~ S.L. 2001-395 remain in effect for the
26 2001-2002 fiscal year except to the extent that:

- 27 (1) Those provisions are expressly repealed or amended in this act or
- 28 (2) Those provisions conflict with the provisions of this act. To the
29 extent of such a conflict, the provisions of this act shall prevail.
- 30 (3) Those provisions expire or expired pursuant to the provisions of
31 those acts."

32 **SECTION 110.** Section 21.14(b) of S.L. 424 reads as rewritten:

33 "**SECTION 21.14.(b)** Under the direction of the Secretary of Health and Human
34 Services, the Director of the Office of Policy and Planning shall have the authority to
35 direct Divisions, offices, and programs within the Department to conduct periodic
36 reviews of policies, plans, and rules and shall advise the Secretary when it is determined
37 to be appropriate or necessary to modify, amend, and repeal departmental policies,
38 plans, and rules. All professional and supervisory employees in policy and management
39 positions within the Office of Policy and Planning are exempt from Chapter 126 of the
40 General Statutes except for Articles 6, 7, and 14 of that Chapter. ~~positions as that term is~~
41 defined in G.S. 126-5. Exempt positions within the Office of Policy and Planning shall
42 not count toward the exempt position totals authorized by G.S. 126-5(d)(1)."

43 **SECTION 111.** S.L. 2001-424 is amended by adding a new section to read:

1 **"SECTION 21.18E.** In addition to the requirements of G.S. 143-6.1, as a condition
2 of receipt of funds appropriated by this act, the Child Advocacy Institute shall report to
3 the Senate Appropriations Committee on Health and Human Services, the House of
4 Representatives Appropriations Subcommittee on Health and Human Services, and the
5 Fiscal Research Division by May 1, 2002, on the following:

- 6 (1) A detailed explanation of the use of funds appropriated by the General
7 Assembly to the Child Advocacy Institute.
- 8 (2) A detailed explanation, including specific examples, of how the work
9 of the Child Advocacy Institute has benefited the children of North
10 Carolina.
- 11 (3) A detailed description of the demographic profile of the Child
12 Advocacy Institute's constituents and a description of any outreach
13 efforts to minority communities.
- 14 (4) A detailed report on the output of the Child Advocacy Institute over
15 the past five years, including a list of publications and reports released
16 by the Institute and training modules developed by the Institute.
- 17 (5) A detailed description of the relationship between the Child Advocacy
18 Institute and the Covenant with North Carolina's Children, including
19 an accounting of any State funds that support the work of the Covenant
20 with North Carolina's Children."

21 **SECTION 112.** Section 21.76B(b) of S.L. 2001-424 reads as rewritten:

22 **"SECTION 21.76B.(b)** The Department of Health and Human Services and the
23 Department of Public Instruction shall establish the "More at Four" Pre-K Task Force to
24 oversee development and implementation of the pilot program. The membership shall
25 include:

- 26 (1) Parents of at-risk children.
- 27 (2) Representatives with expertise in early childhood development.
- 28 (3) Classroom teachers who are certified in early childhood education.
- 29 (4) Representatives of the private not-for-profit and for-profit child care
30 providers in North Carolina.
- 31 (5) Employees of the Department of Health and Human Services who are
32 knowledgeable in the areas of early childhood development, current
33 State and federally funded efforts in child development, and providing
34 child care.
- 35 (6) Representatives of the North Carolina Partnership for Children, Inc.,
36 and of local Smart Start partnerships.
- 37 (7) Representatives of local school administrative units.
- 38 (8) Representatives of Head Start prekindergarten programs in North
39 Carolina.
- 40 (9) Employees of the Department of Public Instruction."

41 **SECTION 113.** Section 21.84(a) of S.L. 2001-424 reads as rewritten:

42 **"SECTION 21.84.(a)** The Department of Health and Human Services, Division of
43 Public Health shall not expand the ~~Student Information Management System~~

1 interagency database system pilot program statewide during the 2001-2002 fiscal year.
2 The Department shall maintain, evaluate, and improve the three pilot projects
3 implemented in the 2000-2001 fiscal year, and provide a report on the status of the
4 system to the Senate Appropriations Committee on Health and Human Services, the
5 House of Representatives Appropriations Subcommittee on Health and Human
6 Services, and the Fiscal Research Division by October 1, 2001. The report shall include
7 the status of the operations of the database, a plan for statewide expansion, and the costs
8 associated with the expansion."

9 **SECTION 114.(a)** The heading of Section 22.8 of S.L. 2001-424 reads as
10 rewritten:

11 **"AUTHORIZE FAMILY DRUG TREATMENT COURTS TO SERVE**
12 **ADDICTED PARENTS OF ABUSED AND NEGLECTED CHILDREN AND TO**
13 **SERVE SUBSTANCE-ABUSING JUVENILE OFFENDERS WHO COME**
14 **UNDER THE COURTS' JURISDICTION/DRUG TREATMENT COURT**
15 **PROGRAM FOR JUDICIAL ~~DISTRICT~~ DISTRICTS 3B AND 28."**

16 **SECTION 114.(b)** Subsection (h) of Section 22.8 of S.L. 2001-424 reads as
17 rewritten:

18 **"SECTION 22.8.(h)** The Judicial Department may seek non-State funds and
19 provide technical assistance to the local drug treatment court planning committee for the
20 purpose of implementing a drug treatment court program in ~~the 28th Judicial~~
21 ~~District.~~ Judicial Districts 3B and 28."

22 **SECTION 115.(a)** The heading of Section 27.29 of S.L. 2001-424 reads as
23 rewritten:

24 **"RAIL DIVISION FUNDS FOR ~~RAILROAD BRIDGE REPLACEMENT~~**
25 **~~PROJECT PLANNING AND PRELIMINARY ENGINEERING~~**
26 **MAINTENANCE OF RAILROAD TRACK AND SIGNAL IMPROVEMENT"**

27 **SECTION 115.(b)** Section 27.29 of S.L. 2001-424 reads as rewritten:

28 **"SECTION 27.29.** Of funds appropriated to the Department of Transportation Rail
29 Division, ~~up to eight hundred thousand dollars (\$800,000) shall be used for planning~~
30 ~~and preliminary engineering of the Neuse Railroad Bridge east of Kinston replacement~~
31 ~~project and the Highway 54 Railroad bridge in Research Triangle Park replacement~~
32 ~~project.~~ placed in a maintenance reserve to fulfill obligations of the Department of
33 Transportation for maintenance of track and signal improvements to the North Carolina
34 Railroad."

35 **SECTION 116.** Section 28.17(h) of S.L. 2001-424 reads as rewritten:

36 **"SECTION 28.17.(h)** Students in a local school shall not be subject to field tests or
37 national tests during the two-week period preceding the administration of the
38 end-of-grade tests, end-of-course tests, or the school's regularly scheduled final exams.
39 No school shall participate in more than two field tests at any one grade level during a
40 school year ~~unless that:~~ unless:

41 (1) That school volunteers, through a vote of its school improvement
42 team, to participate in an expanded number of field ~~tests.~~ tests; or

(2) The State Board of Education makes written findings, based on information provided by the Department of Public Instruction, that an additional field test must be administered at that school to ensure the reliability and validity of a specific test."

SECTION 117. Section 32.24(c) of S.L. 2001-424 reads as rewritten:

"**SECTION 32.24A.(a)** This section becomes effective January 1, ~~2002~~2003."

SECTION 118.(a) Section 6(e) of S.L. 2001-427 is repealed.

SECTION 118.(b) The introductory language of Section 13(a) of S.L. 2001-427 reads as rewritten:

"**SECTION 13.(a)** G.S. 105-472(a) and (b) reads as rewritten:"

SECTION 119. Section 18 of S.L. 2001-430 reads as rewritten:

"**SECTION 18.** Pursuant to G.S. 62-31 and G.S. 62-32, the Utilities Commission must lower the ~~rate set for local telecommunications services~~ rates set for telecommunications services to reflect the repeal of G.S. 105-120 and the resulting liability of local telecommunications companies for the tax imposed under G.S. 105-122."

SECTION 120. Section 11 of S.L. 2001-433 reads as rewritten:

"**SECTION 11.** This act becomes effective ~~October 1, 2001~~December 1, 2001."

SECTION 121. The prefatory language of Section 2 of S.L. 2001-450 reads as rewritten:

"**SECTION 2.** ~~G.S. 10-9~~ G.S. 10A-9 is amended by adding the following subsections to read:"

SECTION 122.(a) If Senate Bill 748, 2001 General Assembly, becomes law, G.S. 105-164.4(a)(1g)b., as enacted by that act, reads as rewritten:

"b. Rates. – A single tax rate applies to all of the qualified electricity received by an industry or a plant in each fiscal year beginning July 1. That tax rate is determined based on the megawatt-hour volume of qualified electricity received by the industry or plant during the previous calendar year, in accordance with the following table. The rates set based on the table are subject to adjustment as provided in sub-subdivision f. of this subdivision.

Previous Year's Megawatt-Hours Received	Rate for Fiscal Year
1,200,000 <u>900,000</u> or Less	2.83%
Over 1,200,000 <u>900,000</u>	0.17%".

SECTION 122.(b) If Senate Bill 748, 2001 General Assembly, becomes law, Section 17(f) of that act is amended as follows:

(1) By deleting the phrase "~~1,200,000~~" and substituting the phrase "900,000"; and

1 (2) By deleting the phrase "up to 1,200,000" and substituting the phrase
2 "up to 900,000".

3 **SECTION 122.(c)** If Senate Bill 748, 2001 General Assembly, becomes
4 law, Section 17(g) of that act reads as rewritten:

5 "**SECTION 17.(g)** Subsections (b) and (c) of this section become effective ~~July~~
6 January 1, 2002, and apply to sales made on or after that date. Subsection (f) of this
7 section becomes effective July 1, 2005, and applies to sales made on or after that date.
8 The remainder of this section is effective when it becomes law."

9 **SECTION 122.(d)** This section is effective when it becomes law and applies
10 to sales made on or after January 1, 2002.

11 **SECTION 123.** If Senate Bill 748, 2001 General Assembly, becomes law,
12 Section 8.(c) of that bill reads as rewritten:

13 "**SECTION 8.(c)** This section is effective for ~~taxable years beginning~~ business
14 activities occurring on or after January 1, 2002. In addition, this section applies to
15 business activities occurring before January 1, 2002, for which no application has been
16 filed with the Department of Commerce as of January 1, 2003. For business activities
17 occurring before January 1, 2002, for which no application for certification has been
18 filed as of January 1, 2002, the taxpayer must file an application pursuant to G.S. 105-
19 129.6, accompanied by any required fee, with the Department of Commerce. The
20 Department of Commerce shall not make a determination regarding eligibility for
21 credits under Article 3A of Chapter 105 of the General Statutes based on the application
22 and shall not issue a certification, but shall instead mark on the application that the fee
23 has been paid and return the application to the taxpayer. The taxpayer must then submit
24 the application along with the return for the taxable year in which the taxpayer qualifies
25 for the credit. The Department of Commerce shall retain one-fourth of these fees
26 collected during the 2002 calendar year for the costs of administering Article 3A of
27 Chapter 105 of the General Statutes and shall credit the remaining proceeds of these
28 fees to the Department of Revenue for the costs of auditing and administering Article
29 3A of Chapter 105 of the General Statutes. The proceeds of these fees are receipts of
30 the Department to which they are credited."~~In addition, this section applies to business~~
31 ~~activities occurring before January 1, 2002 for which no application has been filed with~~
32 ~~the Department of Commerce as of January 1, 2003. For business activities occurring~~
33 ~~before January 1, 2002, for which no application for certification has been filed as of~~
34 ~~January 1, 2002, the taxpayer must file an application pursuant to G.S. 105-129.6,~~
35 ~~accompanied by any required fee, with the Department of Commerce. The Department~~
36 ~~of Commerce shall not make a determination regarding eligibility for credits under~~
37 ~~Article 3A of Chapter 105 of the General Statutes based on the application and shall not~~
38 ~~issue a certification, but shall instead mark on the application that the fee has been paid~~
39 ~~and return the application to the taxpayer. The taxpayer must then submit the~~
40 ~~application along with the return for the taxable year in which the taxpayer qualifies for~~
41 ~~the credit. The Department of Commerce shall retain one-fourth of these fees collected~~
42 ~~during the 2002 calendar year for the costs of administering Article 3A of Chapter 105~~
43 ~~of the General Statutes and shall credit the remaining proceeds of these fees to the~~

1 ~~Department of Revenue for the costs of auditing and administering Article 3A of~~
2 ~~Chapter 105 of the General Statutes. The proceeds of these fees are receipts of the~~
3 ~~Department to which they are credited.'~~

4 **SECTION 124.** Notwithstanding G.S. 150B-21.1(a)(2), the Health and
5 Wellness Trust Fund Commission and the Tobacco Trust Fund Commission shall have
6 the authority to adopt temporary rules as a recent act of the General Assembly through
7 June 30, 2002, in order to adopt rules as authorized in S.L. 2000-147.

8 **SECTION 125.** The North Carolina Department of Transportation is
9 authorized to expend funds as necessary to assist in implementing the objectives of G.S.
10 143-641. The Department shall provide a report of any expenditures as authorized in
11 this section no later than March 15 and October 15 of each year to the Joint Legislative
12 Commission on Governmental Operations.

13 **SECTION 126.** Except as otherwise provided herein, this act is effective
14 when it becomes law.