

# Commercial Law and Consumer Protection

See full summary documents for additional detail

## **H126 - Mortgage Origination Support Registration (SL 2015-293)**

S.L. 2015-293 amends the Secure and Fair Enforcement Mortgage Licensing Act to authorize the Commissioner of Banks to implement a registration system for persons engaged exclusively in the processing or underwriting of mortgage loans and not engaged in the mortgage business.

The provision authorizing the Commissioner of Banks to adopt temporary rules became effective October 29, 2015. The remainder of this act became effective November 1, 2015, and applies to all applications for registration as a mortgage origination support registrant filed on or after that date.

## **H511 - Credit Unions/Statutory Changes (SL 2015-93)**

S.L. 2015-93 does the following:

- Replaces the terms "insured bank or savings and loan association in North Carolina" with "federally insured depository institution lawfully doing business in this State."
- Provides an additional way that credit unions can invest their funds.
- Provides that certain officials of credit unions, in addition to necessary expenses, may be reimbursed for "reasonable" expenses incidental to the performance of the business and that such reimbursement may include the payment of expenses for one guest.

This act became effective June 19, 2015.

## **H607 - Allow Protected Consumer Security Freezes (SL 2015-193)**

S.L. 2015-193 requires a credit reporting agency to place a security freeze on a protected consumer's consumer report or file upon request of the protected consumer's authorized representative.

This act becomes effective January 1, 2016.

## **H765 - Regulatory Reform Act of 2015, Sec. 2.1: Exempt Small Business Entities Buying or Selling Entity-Owned Property (SL 2015-286)**

Sec. 2.1 of S.L. 2015-286 exempts from the real estate licensure requirement certain small businesses that are buying or selling entity-owned property. Current law prohibits a person or business entity from acting as a real estate broker without being licensed by the North Carolina Real Estate Commission. There are a number of exceptions to this requirement, such as for (i) businesses acting in the regular course of managing or investing property owned or leased by the business, including their officers and employees, general partners, and managers when those persons are engaged in acts for which the business entity would be exempt; (ii) certain services performed by an attorney; (iii) a trustee acting under the direction

of a trust agreement; and (iv) an individual owner who personally leases or sells the person's own property.

This section does two things with regard to the real estate licensure exemptions:

1) It provides that with regard to officers, employees, general partners, and managers of an exempt business entity, the exemption applies only to those individuals whose income is reported on IRS Form W-2 of the exempt corporation, partnership, or limited liability company.

2) It expands the exception for individuals associated with a business entity to include the following:

- Natural person owners of an exempt closely held business entity, defined as an LLC or a corporation that does not have more than two legal owners, at least one of whom is a natural person.
- Officers, employees, managers, and member-managers whose income is reported on IRS Form W-2 of a closely held business entity if the entity is owned by a natural person either (i) owning 50% or more ownership interest in the closely held business entity and the exempt business entity, or (ii) owning 50% or more of a closely held business entity that owns 50% or more ownership interest in the exempt business entity.

The provision further requires that a person conducting a real estate transaction under this exemption must provide written disclosure to all parties to the transaction.

This section became effective October 22, 2015.

### **S123 - Uniform Fraudulent Transfer Act (SL 2015-23)**

S.L. 2015-23 amends the Uniform Fraudulent Transfer Act (UFTA) to adopt the amendments approved by the Uniform Law Commission in 2014, and makes related conforming and technical amendments, as recommended by the General Statutes Commission.

This act became effective October 1, 2015, and applies to a transfer made or obligation incurred on or after that date.

### **S678 - Amend Debt Collection Statutes (SL 2015-177)**

S.L. 2015-177 modifies the requirements governing communications made by debt collectors who are not collection agencies to persons other than the debtor or the debtor's attorney, and clarifies that these debt collectors are not prohibited from collecting court costs actually incurred.

This act became effective on August 5, 2015.

## **S679 - North Carolina Consumer Finance Act Amendments (SL 2015-179)**

S.L. 2015-179 makes the following changes to the Consumer Finance Act:

- Allows for recovery of court costs by lenders in certain actions to recover loans.
- Makes clarifying changes to provisions pertaining to multiple loan contracts and repeals a separate statute limiting loans in multiple offices that refers to loan limits that no longer exist after the Act was amended in 2013.
- Makes clarifying changes to provisions that require additional notice and restrictions for borrowers who are military service members.
- Makes a conforming change to a provision on enforcement of loans made outside of the State to match the loan amounts allowed under the Act as amended in 2013.

This act became effective September 1, 2015.