

Property, Trusts, and Estates

See full summary documents for additional detail

H44 - Local Government Regulatory Reform 2015, Sec. 7: Verification of Escheats Reports (SL 2015-246)

Sec. 7 of S.L. 2015-246 authorizes the State Treasurer to utilize any and all reliable external data, including electronic databases, in verifying an escheated property.

This section became effective September 23, 2015, and applies to any examination pending on or after that date.

H174 - Landlord/Tenant-Foreclosure and Eviction Changes (SL 2015-178)

S.L. 2015-178 (i) amends and enhances certain notice requirements and protections for tenants of real properties in foreclosure, (ii) allows sellers of real property under option contracts to initiate a summary ejectment action to recover damages and possession, (iii) permits the purchaser under an option contract to counterclaim for damages in the summary ejectment action, and (iv) provides that a judgment in an action to recover possession does not prevent either party from seeking monetary damages in a separate action. The act also amends the minimum requirements for a contract for deed, amends the law prohibiting foreclosure rescue transactions, and repeals provisions making a violation of the statutes governing option contracts or contracts for deed an unfair trade practice.

This act became effective October 1, 2015.

H291 - Hazardous Materials in Safe Deposit Box (SL 2015-68)

S.L. 2015-68 gives the State Treasurer authority in the handling of unclaimed property determined to be of a hazardous nature or otherwise regulated, illegal, or which has no substantial commercial value and provides guidance for the proper disposition of these materials on the part of financial organizations. The act provides that none of the following are liable for any loss due to the disposal of materials unless the loss is due to intentional misconduct:

- The State, the Treasurer, or any officer, employee, or agent of the State or the Treasurer, acting in the person's individual and official capacity.
- A financial organization or any officer, employee, or agent of the financial organization.

This act became effective October 1, 2015.

H315 - Sheriff and Landlord/Tenant-Writs of Possession Changes (SL 2015-55)

S.L. 2015-55 revises the procedure for executing a writ of possession in summary ejectment proceedings, modifies the requirement for advance payment of certain uniform civil process fees, and requires the

plaintiff in a claim and delivery action to pay a fee deposit to the sheriff upon the issuance of an order for seizure of personal property.

This act became effective October 1, 2015.

H405 - Property Protection Act (SL 2015-50)

S.L. 2015-50 protects property owners from damages resulting from individuals acting in excess of the scope of permissible access and conduct granted to them.

This act becomes effective January 1, 2016, and applies to acts committed on or after that date.

H513 - Real Property/Technical Corrections (SL 2015-56)

S.L. 2015-56 makes conforming changes regarding the effect of recordation of a satisfaction of mortgages and deeds of trusts, and amends the North Carolina Condominium Act to make it consistent with the North Carolina Planned Community Act with regard to the transfer of special declarant rights.

This act became effective June 4, 2015.

H721 - Subdivision Ordinance/Land Development Changes (SL 2015-187)

S.L. 2015-187 amends and clarifies the law regarding performance guarantees developers are required to provide to cities and counties to assure completion of required improvements to subdivided land. The act requires the developer to demonstrate reasonable, good faith progress toward completion of any improvements that are the subject of a performance guarantee or any extension thereof and caps the amount of any performance guarantee or extension at 125% of the reasonably estimated cost of completing the improvements.

This act became effective October 1, 2015, and applies to performance guarantees or extensions of performance guarantees issued on or after that date.

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.

S83 - Criminal Law/Filing False Document (SL 2015-87)

S.L. 2015-87 amends the law to specify the procedures to be followed by registers of deeds and clerks of court when they suspect that a document presented for filing or recording is false.

This act became October 1, 2015, and applies to all filings on or after that date.

S336 - Estate Planning/Uniform Trust Code (SL 2015-205)

S.L. 2015-205, as amended by Sections 31.(a) and 31.(b) of S.L. 2015-264, is a recommendation of the North Carolina Bar Association that amends the law governing estate planning and fiduciaries, amends the Uniform Trust Code, and establishes the Uniform Power of Appointment Act. The act also does the following: (i) amends the standby guardian statute to provide for the appointment of standby guardians for incompetent adults; (ii) authorizes a living probate procedure allowing a person to petition the probate court for an order confirming the validity of that person's will; (iii) amends the valuation of life estates and contingent interests in property under the elective share statute to reflect the principle that the value used should be the fair market value, and (iv) amends the law providing for a conveyance of tenancy by the entireties to a trust.

This act has various effective dates. Please see the full summary for more details.

S345 - Limit Storage Duration for Damaged Vehicle (SL 2015-188)

S.L. 2015-188 limits the period of time a vehicle can be impounded after a collision to 20 days unless a court order provides otherwise.

This act became effective August 1, 2015, and applies to motor vehicles impounded on or after that date.

S386 - Registers of Deeds/Uniform Commercial Code Recording Fees (SL 2015-206)

S.L. 2015-206 recodifies the fee schedule for filing Uniform Commercial Code (UCC) records with registers of deeds without changing the fee schedule.

This act became effective October 1, 2015, and applies to instruments registered on or after that date.