

Commercial Law and Consumer Protection

See full summary documents for additional detail

H287 - Amend Insurance Laws. (SL 2016-78)

SUMMARY: S.L. 2016-78 amends various insurance laws as follows:

- Increases property damage thresholds under the State's Safe Driver Incentive Plan. This provision becomes effective on October 1, 2017, and applies to accidents that occur on or after that date.
- Places a 25% cap on annual premium increases on long-term care insurance policies. This provision becomes effective October 1, 2017, and applies to policies issued, renewed, or amended on or after that date.
- Adds notice requirements to North Carolina's consent to rate laws for homeowner's insurance and allows the use of catastrophe models in rate filings under certain circumstances. These provisions become effective on October 1, 2017, and apply to policies issued, renewed, or amended on or after that date and filings submitted on or after that date.
- Makes various updates to the fire and rescue provisions in North Carolina's insurance statutes.
- Directs the Office of the State Fire Marshal in the Department of Insurance (DOI) to study the reduction in recruitment and retention of volunteer firefighters in North Carolina.
- Effective December 1, 2016, increases penalties for fraudulent and criminal acts involving insurance.
- Makes technical and substantive changes to North Carolina's captive insurance laws
- Authorizes the DOI to plan for and establish a private flood insurance market.
- Effective December 1, 2016, enables third parties, including insurers, to recover restitution from convicted defendants.
- Exempts accountable care organizations participating in Medicare programs from DOI regulation.
- Makes various other changes to insurance laws, as recommended by the DOI.

Except as otherwise provided, this act became effective June 30, 2016.

H289 - North Carolina Money Transmitters Act. (SL 2016-81)

S.L. 2016-81 modernizes and clarifies the Money Transmitters Act (MTA) and replaces the statutes incorporating much of the existing law, as requested by the Office of the North Carolina Commissioner of Banks. The main changes to the MTA are as follows:

- It specifically addresses the transmission of virtual currency, such as Bitcoin. These payment systems are currently subject to the act, but industry has requested clarification of the law to take into account the changes that have occurred since the law was written.
- It excludes certain business-to-business money transmission activity.
- It revises the cost structure by replacing the examination fee and the annual renewal fee with an annual assessment based on North Carolina transmission volume.
- It converts the annual license into a perpetual license.

When the bill was first introduced during the 2015 Session, the effective date was October 1, 2015. The bill failed to pass during the 2015 Session and was enacted during the 2016 Session. However, the effective date was not changed and, therefore, the act became effective on October 1, 2015. It was not intended for the act to have a retroactive effective date, and the bill sponsor attempted to rectify the date

in the Technical Corrections bill (Sec. 49 of S821), but that bill did not pass. The Commissioner of Banks has indicated that, with regard to any fee or assessment changes, it will not retroactively assess the industry and will treat the effective date as if it were October 1, 2016. It is anticipated that the effective will be corrected in a technical bill in the 2017 Session.

H870 - Certificate of Title/Manufactured Home Changes. (SL 2016-59)

S.L. 2016-59 clarifies the procedure for renewing, releasing, and canceling security interests on the certificate of title for a manufactured home, and revises the cost calculation used in determining whether a lien agent must be appointed for leased real property being improved by the installation of a manufactured home.

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

S124 - Assumed Business Name/Industrial Commission Contempt/Parks.

Parts I and II: Assumed Business Name Act and Conforming Changes. (SL 2016-100)

Parts I and II of S.L. 2016-100 update the law governing the use of assumed business names, as recommended by the General Statutes Commission. These parts do all of the following:

- Modernize language and style, provide guidance on "real names" for entities, and conform outdated conflicting provisions to more recent law.
- Provide for amending certificates of assumed names.
- Remove penalty provisions, but allow recovery of expenses incurred in locating true owners who fail to file.
- Remove an acknowledgment requirement.
- Create a new Class 1 misdemeanor for filing a knowingly false certificate.
- Require the creation of a statewide database that is searchable by the public.

These parts become effective July 1, 2017, and do not affect a civil action or proceeding commenced or a right accrued before July 1, 2017.

S481 - Fund Small Businesses/Department of Revenue Rulings/City Rights of Way.

Part I: North Carolina Providing Access to Capital for Entrepreneurs and Small Business Act. (SL 2016-103)

Part I of S.L. 2016-103 enacts the North Carolina Providing Access to Capital for Entrepreneurs and Small Business Act (NC PACES) that allows North Carolina investors to buy equity or debt offerings from North Carolina issuers if the transaction meets requirements for registration, disclosure, reporting, offering limit, and investment limit. The filing fee for an exemption notice is \$150 and will be used by the Securities Division of the Department of the Secretary of State to administer and enforce the NC PACES Act.

This part became effective July 22, 2016.

S482 - Limited Liability Company Clarifications and Employee Invention Ownership. (SL 2016-114)

S.L. 2016-114 makes technical and clarifying changes to the Limited Liability Company Act and further defines an employer's and employee's rights to inventions invented by an employee.

This act becomes effective October 1, 2016. The provisions of this act relating to operating agreements apply to agreements entered into on or after that date.

S770 - North Carolina Farm Act of 2016.

Sec. 16: Require Written Notice of Automatic Contract Renewal 15 to 45 Days Prior to the Automatic Renewal. (SL 2016-113)

Sec. 16 of S.L. 2016-113 makes an automatic contract renewal for the sale, lease of products or services for a term exceeding 60 days void and unenforceable unless the consumer is given written notice that the contract will automatically renew if the consumer does not cancel it, and requires the notice to be given no sooner than 45 days and no later than 15 days before the renewal. This section (i) limits the notice requirement to automatic renewals for periods exceeding 60 days, (ii) provides for notice by personal delivery, electronic mail or first-class mail, and (iii) excludes entities regulated by the Federal Communications Commission under federal law, by the North Carolina Utilities Commission under State law, or doing business under authorization issued by a political subdivision of the State or any agency thereof. These exclusions are in addition to entities excluded under existing law, including insurers licensed under Chapter 58 of the General Statutes, banks, trust companies, savings and loan associations, savings banks, and credit unions licensed or organized under the laws of any state or the United States, and any foreign bank maintaining a branch or agency licensed under the laws of the United States, or any subsidiary or affiliate thereof.

This section became effective July 26, 2016, and applies to contracts entered into on or after that date.

S805 - Fiduciary Access to Digital Assets. (SL 2016-53)

S.L. 2016-53 enacts a new Chapter in the General Statutes establishing the Revised Uniform Fiduciary Access to Digital Assets Act. This Act creates a process for disclosure of a user's digital assets to a fiduciary, personal representative, guardian or trustee.

This act became effective June 30, 2016.

S807 - Conform Full-Payment Check Law to Uniform Commercial Code. (SL 2016-52)

S.L. 2016-52 provides an option for claimants to repay monies received as full satisfaction of a claim within 90 days of receipt to maintain their claim against the debtor for full payment. This change was

recommended by the General Statutes Commission and allows for North Carolina to mirror the Uniform Commercial Code (UCC).

This act becomes effective October 1, 2016, and applies to negotiable instruments tendered in full satisfaction of a claim on or after that date.