

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 1997

SESSION LAW 1998-215
SENATE BILL 882

AN ACT TO REQUIRE STATE AGENCIES TO DEPOSIT THE CLEAR PROCEEDS
OF CIVIL PENALTIES AND CIVIL FORFEITURES INTO THE CIVIL
PENALTY AND FORFEITURE FUND.

The General Assembly of North Carolina enacts:

PART I. DEPARTMENT OF ADMINISTRATION

**A. CIVIL PENALTIES NOT TO EXCEED \$10,000 OR \$25,000 OR \$50,000
ASSESSED FOR VIOLATIONS OF FAIR HOUSING ACT**

Section 1. G.S. 41A-7(1)(3) reads as rewritten:

"(3) The Commission's final decision may be made by a panel consisting of three Commission members appointed by the chairperson of the Commission. If the Commission, in its final decision, finds that a respondent has violated or is about to violate this Chapter, it may order such relief as may be appropriate, including payment to the complainant by the respondent of compensatory damages and injunctive or other equitable relief. The Commission's order may also assess a civil penalty against the respondent:

- a. In an amount not exceeding ten thousand dollars (\$10,000) if the respondent has not been adjudged to have committed any prior unlawful discriminatory housing practices;
- b. In an amount not exceeding twenty-five thousand dollars (\$25,000) if the respondent has been adjudged to have committed one other unlawful discriminatory housing practice during the five-year period ending on the date of the filing of the complaint; or
- c. In an amount not exceeding fifty thousand dollars (\$50,000) if the respondent has been adjudged to have committed two or more unlawful discriminatory housing practices during the seven-year period ending on the date of the filing of the complaint.

If the acts constituting the unlawful discriminatory housing practice that is the object of the complaint are committed by the same natural person who has been previously adjudged to have committed acts constituting an unlawful discriminatory housing practice, then the civil penalties set forth in sub-subdivisions b. and c. of this subsection may

be imposed without regard to the period of time within which any subsequent discriminatory housing practice occurred.

The clear proceeds of civil penalties assessed pursuant to this subdivision shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2."

B. CIVIL PENALTY OF NOT MORE THAN \$5,000 ASSESSED IN CONSULTATION WITH DEPARTMENT OF CULTURAL RESOURCES FOR DAMAGE OR SALE OF ARCHAEOLOGICAL RESOURCE IN VIOLATION OF ARCHAEOLOGICAL RESOURCES ACT

Section 2. G.S. 70-16 reads as rewritten:

"§ 70-16. Civil penalties.

A civil penalty of not more than five thousand dollars (\$5,000) may be assessed by the Department of Administration, in consultation with the Department of Cultural Resources, against any person who violates the provisions of G.S. 70-15. In determining the amount of the penalty, the Department shall consider the extent of the harm caused by the violation and the cost of rectifying the damage. Any person assessed shall be notified of the assessment by registered or certified mail. The notice shall specify the reasons for the assessment. If the person assessed fails to pay the amount of the assessment to the Department within 30 days after receipt of notice, the Department may institute a civil action in the Superior Court of Wake County to recover the amount of the assessment.

The Department may use the assessed funds to rectify the damage to archaeological resources ~~or to otherwise effectuate the purposes of this Article.~~ resources. The clear proceeds of all assessed funds not used to rectify the damage shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2."

PART II. DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

A. CIVIL PENALTIES NOT TO EXCEED \$5,000 ASSESSED FOR VIOLATIONS OF THE ANIMAL WELFARE ACT

Section 3. G.S. 19A-40 reads as rewritten:

"§ 19A-40. Civil Penalties.

The Director may assess a civil penalty of not more than five thousand dollars (\$5,000) against any person who violates a provision of this Article or any rule promulgated thereunder. In determining the amount of the penalty, the Director shall consider the degree and extent of harm caused by the violation. The clear proceeds of civil penalties assessed pursuant to this section shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2."

B. CIVIL PENALTY OF NOT MORE THAN \$5,000 IMPOSED FOR WILLFUL VIOLATIONS OF THE WEIGHTS AND MEASURES ACT

Section 4. (a) G.S. 81A-30.1 reads as rewritten:

"§ 81A-30.1. Civil penalties.

A civil penalty of not more than five thousand dollars (\$5,000) for each violation may be assessed by the Commissioner against any person who willfully violates this Chapter. In determining the amount of the penalty, the Commissioner shall consider the degree and extent of harm caused by the violation. No civil penalty shall be assessed under this section unless the person has been given an opportunity for a hearing pursuant to the Administrative Procedure Act. If not paid within 30 days after the effective date of a final decision by the Commissioner, the penalty may be collected by any lawful manner for the collection of a debt.

The clear proceeds of civil penalties assessed pursuant to this section shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2."

(b) G.S. 81A-2 reads as rewritten:

"§ 81A-2. Administration of these Articles.

The provisions of this Chapter shall be administered by the Commissioner or his authorized agent. For the purpose of administering and giving effect to the provisions of this Chapter, the provisions of Handbook 44 as adopted by the National Conference on Weights and Measures, are hereby adopted except insofar as modified or rejected by the North Carolina Board of Agriculture. The North Carolina Board of Agriculture is empowered to make such further rules and regulations as may be necessary to make effective the purposes and provisions of this Chapter. ~~All~~Except as otherwise provided in G.S. 81A-30.1, all fees or moneys received by the Commissioner pursuant to this Chapter shall be placed in the Department of Agriculture and Consumer Services fund for the purpose of enforcing this Chapter."

C. CIVIL PENALTIES OF NOT MORE THAN \$2,000 FOR VIOLATIONS OF STRUCTURAL PEST CONTROL ACT

Section 5. (a) G.S. 106-65.41 reads as rewritten:

"§ 106-65.41. Civil Penalties.

A civil penalty of not more than two thousand dollars (\$2,000) may be assessed by the Committee against any person for any one or more of the causes set forth in G.S. 106-65.28(a)(1) through (12). In determining the amount of any penalty, the Committee shall consider the degree and extent of harm caused by the violation. No civil penalty may be assessed under this section unless the person has been given an opportunity for a hearing pursuant to Chapter 150B of the General Statutes. Assessments may be collected, following judicial review, if any, of the Committee's final decision imposing the assessment, in any lawful manner for the collection of a debt.

The clear proceeds of civil penalties assessed pursuant to this section shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2."

(b) G.S. 106-65.38 reads as rewritten:

"§ 106-65.38. Disposition of fees and charges.

~~All~~Except as otherwise provided in G.S. 106-65.41, all fees and charges received by the Division under this Article shall be deposited in the Department of Agriculture and Consumer Services General Fund Budget for the purpose of administration and enforcement of this Article, with proper approved accounting procedures accounting for all expenditures and receipts."

D. REFUND TO CONSUMER OF AGRICULTURE LIMING AND LANDPLASTER MATERIAL FOUND TO BE DEFICIENT IN THE MATERIAL COMPONENTS CLAIMED BY THE MANUFACTURER

Section 6. G.S. 106-92.11 reads as rewritten:

"§ 106-92.11. Deficiencies: refunds to consumer.

Should any of the agricultural liming and landplaster materials defined in this Article be found to be deficient in the components claimed by the manufacturer or registrant thereof, said manufacturer or registrant, upon official notification to [of] such deficiency by the Commissioner of Agriculture, shall, within 90 days, make refunds to the consumers of the deficient materials as follows:

In case of 'agricultural liming material' if the deficiency is five percent (5%) of the guarantee or more, there shall be refunded an amount equal to three times the value of such deficiency and in case of 'landplaster,' for deficiencies in excess of one percent (1%) of the guarantee, there shall be refunded an amount equal to three times the value of the deficiency. Values shall be based on the selling price of said materials. When said consumers cannot be found within the above specified time, refunds shall be forwarded to the Commissioner of Agriculture, where said refund shall be held for payment to the proper consumer upon order of the Commissioner. If the consumer to whom the refund is due cannot be found within a period of one year, the clear proceeds of such refund shall revert to the Department of Agriculture and Consumer Services for expenditure by the Commissioner in promoting the agricultural programs of the State. shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2."

E. CIVIL PENALTIES OF NOT MORE THAN \$10,000 MAY BE IMPOSED FOR VIOLATIONS OF THE WHOLESALE PRESCRIPTION DRUG DISTRIBUTORS LAW

Section 7. G.S. 106-145.6(c) reads as rewritten:

"(c) Civil Penalty. – The Commissioner may assess a civil penalty of not more than ten thousand dollars (\$10,000) against a person who violates any provision of this Article. In determining the amount of a civil penalty, the Commissioner shall consider the degree and extent of harm caused by the violation. Chapter 150B of the General Statutes governs the assessment of a civil penalty under this subsection. If a civil penalty is not paid within 30 days after the completion of judicial review of a final agency decision by the Commissioner, the penalty may be collected in any manner by which a debt may be collected. ~~Penalties collected shall be credited to the General Fund.~~ The clear proceeds of civil penalties assessed pursuant to this section shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2."

F. CIVIL PENALTIES OF NOT MORE THAN \$5,000 MAY BE IMPOSED FOR VIOLATION OF THE RENDERING PLANTS LAW OR RELATED RULES

Section 8. G.S. 106-168.16 reads as rewritten:

"§ 106-168.16. Civil penalties.

The Commissioner may assess a civil penalty of not more than five thousand dollars (\$5,000) against any person who violates a provision of this Article or any rule promulgated thereunder. In determining the amount of the penalty, the Commissioner shall consider the degree and extent of harm caused by the violation.

The clear proceeds of civil penalties assessed pursuant to this section shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2."

G. CIVIL PENALTIES OF NOT MORE THAN \$2,000 MAY BE IMPOSED FOR VIOLATIONS OF THE PLANT PROTECTION ACT

Section 9. G.S. 106-202.19(a2) reads as rewritten:

"(a2) A civil penalty of not more than two thousand dollars (\$2000) may be assessed by the Board against any person guilty of violating this Article a second or subsequent time. The clear proceeds of civil penalties assessed pursuant to this subsection shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2."

H. FORFEITURE AND SALE OF PLANTS POSSESSED IN VIOLATION OF G.S. 106-202.19

Section 10. G.S. 106-202.20 reads as rewritten:

"§ 106-202.20. Forfeiture of illegally possessed plants; disposition of plants.

Upon conviction of any defendant for a violation of G.S. 106-202.19, the court, in its discretion, may order the defendant to forfeit any plant or plant parts which he possesses in violation of G.S. 106-202.19. The court shall direct disposition of any forfeited plant or plant part by destruction or sale. ~~The proceeds from such a sale shall be paid to the North Carolina Department of Agriculture and Consumer Services for use in the enforcement of this Article.~~ The clear proceeds of forfeitures and sales pursuant to this section shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2."

I. CIVIL PENALTIES OF THE SMALLER OF \$25.00 OR THE RETAIL VALUE OF THE PRODUCT ASSESSED FOR VIOLATIONS OF THE COMMERCIAL FEED LAW

Section 11. G.S. 106-284.42(1) reads as rewritten:

"(1) Within 60 days from the date of written notice by the Commissioner or his duly designated agent to the manufacturer, guarantor, dealer or agent, all penalties assessed and collected under this section shall be paid to the purchaser of the lot of feed or canned pet food represented by the sample analyzed. When such penalties are paid, receipts shall be taken and promptly forwarded to the Commissioner of Agriculture. If said consumers cannot be found, ~~the amount clear proceeds of the penalty assessed shall be paid to the Commissioner of Agriculture who shall deposit the same in the Department of Agriculture and Consumer Services fund, of which the State Treasurer is custodian, for the express purpose of enforcement of this Article.~~ remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2."

J. CIVIL PENALTIES OF NOT MORE THAN \$5,000 ASSESSED FOR VIOLATIONS OF THE ANIMAL DISEASES CONTROL LAW

Section 12. G.S. 106-405.20 reads as rewritten:

"§ 106-405.20. Civil penalties.

The Commissioner may assess a civil penalty of not more than five thousand dollars (\$5,000) against any person who violates a provision of this Article or any rule promulgated thereunder. In determining the amount of the penalty, the Commissioner shall consider the degree and extent of harm caused by the violation.

The clear proceeds of civil penalties assessed pursuant to this section shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2."

K. CIVIL PENALTY NOT TO EXCEED \$5,000 FOR VIOLATING LAWS CONCERNING THE OPERATION OF PUBLIC LIVESTOCK MARKETS

Section 13. G.S. 106-417.1 reads as rewritten:

"§ 106-417.1. Civil penalties.

The Commissioner may assess a civil penalty of not more than five thousand dollars (\$5,000) against any person who violates a provision of this Article or any rule promulgated thereunder. In determining the amount of the penalty, the Commissioner shall consider the degree and extent of harm caused by the violation.

The clear proceeds of civil penalties assessed pursuant to this section shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2."

L. CIVIL PENALTY NOT TO EXCEED \$5,000 FOR VIOLATING LIVESTOCK PROMPT PAY LAW

Section 14. G.S. 106-418.7A reads as rewritten:

"§ 106-418.7A. Civil penalties.

The Commissioner may assess a civil penalty of not more than five thousand dollars (\$5,000) against any person who violates a provision of this Article or any rule promulgated thereunder. In determining the amount of the penalty, the Commissioner shall consider the degree and extent of harm caused by the violation.

The clear proceeds of civil penalties assessed pursuant to this section shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2."

M. CIVIL PENALTIES OF NOT MORE THAN \$5,000 ASSESSED FOR VIOLATIONS OF THE LIVESTOCK DEALERS LICENSING ACT

Section 15. G.S. 106-418.16 reads as rewritten:

"§ 106-418.16. Civil penalties.

The Commissioner may assess a civil penalty of not more than five thousand dollars (\$5,000) against any person who violates a provision of this Article or any rule promulgated thereunder. In determining the amount of the penalty, the Commissioner shall consider the degree and extent of harm caused by the violation.

The clear proceeds of civil penalties assessed pursuant to this section shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2."

N. CIVIL PENALTIES OF NOT MORE THAN \$5,000 ASSESSED FOR VIOLATIONS OF THE POULTRY, HATCHERIES, AND CHICKEN DEALERS LAW

Section 16. G.S. 106-549.01 reads as rewritten:

"§ 106-549.01. Civil penalties.

The Department of Agriculture and Consumer Services may assess a civil penalty of not more than five thousand dollars (\$5,000) against any person who violates a provision of this Article or any rule promulgated thereunder. In determining the amount of the penalty, the Department shall consider the degree and extent of harm caused by the violation.

The clear proceeds of civil penalties assessed pursuant to this section shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2."

O. CIVIL PENALTY OF NOT MORE THAN \$5,000 MAY BE ASSESSED FOR VIOLATION OF THE MEAT INSPECTION LAWS

Section 17. G.S. 106-549.35(c) reads as rewritten:

"(c) The Commissioner may assess a civil penalty of not more than five thousand dollars (\$5,000) against any person who violates a provision of this Article or Article 49B, or any rule promulgated thereunder. In determining the amount of the penalty, the Commissioner shall consider the degree and extent of harm caused by the violation.

The clear proceeds of civil penalties assessed pursuant to this subsection shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2."

P. CIVIL PENALTIES OF NOT MORE THAN \$5,000 MAY BE ASSESSED FOR VIOLATION OF THE LAW OR RULE REGULATING THE DISPOSAL OF DEAD AND DISEASED POULTRY COMMERCIAL FARMS

Section 18. G.S. 106-549.72 reads as rewritten:

"§ 106-549.72. Civil penalties.

The Commissioner may assess a civil penalty of not more than five thousand dollars (\$5,000) against any person who violates a provision of this Article or any rule promulgated thereunder. In determining the amount of the penalty, the Commissioner shall consider the degree and extent of harm caused by the violation.

The clear proceeds of civil penalties assessed pursuant to this section shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2."

Q. CIVIL PENALTIES OF NOT MORE THAN \$5,000 MAY BE ASSESSED FOR VIOLATIONS OF THE BIOLOGICAL RESIDUES IN ANIMALS LAW

Section 19. G.S. 106-549.89 reads as rewritten:

"§ 106-549.89. Civil penalties.

The Commissioner may assess a civil penalty of not more than five thousand dollars (\$5,000) against any person who violates a provision of this Article or any rule promulgated thereunder. In determining the amount of the penalty, the Commissioner shall consider the degree and extent of harm caused by the violation.

The clear proceeds of civil penalties assessed pursuant to this section shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2."

R. CIVIL PENALTY OF NOT MORE THAN \$10,000 IMPOSED FOR VIOLATION OF THE HONEY AND BEE ACT AND RULES OF THE COMMISSIONER

Section 20. G.S. 106-644(b) reads as rewritten:

"(b) The Commissioner may assess a civil penalty of not more than ten thousand dollars (\$10,000) against a person who violates this Article or a rule adopted to implement this Article. In determining the amount of the penalty, the Commissioner shall consider the degree and extent of harm caused by the violation. No civil penalty may be assessed under this section unless the person has been given the opportunity for a hearing pursuant to the Administrative Procedure Act, Chapter 150B of the General Statutes. If not paid within 30 days after the effective date of a final decision by the Commissioner, the penalty may be collected by any lawful means for the collection of a debt.

The clear proceeds of civil penalties assessed pursuant to this subsection shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2."

S. CIVIL PENALTIES OF VARIOUS AMOUNTS ASSESSED FOR VIOLATIONS OF THE COMMERCIAL FERTILIZER LAW

Section 21. G.S. 106-665(c) reads as rewritten:

"(c) All penalties assessed under this section shall be paid to the consumer of the lot of fertilizer represented by the sample analyzed within three months from the date of notice by the Commissioner to the distributor, receipts taken therefor, and promptly forwarded to the Commissioner; provided, that in no case shall the total assessed penalties exceed the commercial value of the goods to which it applies. If said consumer cannot be found, ~~the amount clear proceeds of the penalty assessed shall be paid to the Commissioner who shall deposit the same in the Department of Agriculture and Consumer Services fund, of which the State Treasurer is custodian.~~ remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2. Such sums as shall be found to be payable to consumers on lots of fertilizer against which said penalties were assessed shall not be subject to claim by the consumer after 12 months from the date of assessment."

T. CIVIL PENALTIES OF NOT MORE THAN \$5,000 ASSESSED FOR VIOLATIONS OF THE STATE BIOLOGICS LAW

Section 22. G.S. 106-715 reads as rewritten:

"§ 106-715. Civil penalties.

The Commissioner may assess a civil penalty of not more than five thousand dollars (\$5,000) against any person who violates a provision of this Article or any rule promulgated thereunder. In determining the amount of the penalty, the Commissioner shall consider the degree and extent of harm caused by the violation.

The clear proceeds of civil penalties assessed pursuant to this section shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2."

U. UNSPECIFIED CIVIL PENALTIES ASSESSED FOR VIOLATION OF THE GASOLINE AND OIL INSPECTION LAW

Section 23. (a) G.S. 119-26.1(c) reads as rewritten:

"(c) The Commissioner of Agriculture may assess and collect civil penalties for violations of rules adopted under G.S. 143-215.107(a)(9) or this section in accordance with G.S. 143-215.114A. The Commissioner of Agriculture may institute a civil action for injunctive relief to restrain, abate, or prevent a violation or threatened violation of rules adopted under G.S. 143-215.107(a)(9) or this section in accordance with G.S. 143-215.114C. The assessment of a civil penalty under this section and G.S. 143-215.114A or institution of a civil action under G.S. 143-215.114C and this section shall not relieve any person from any other penalty or remedy authorized under this Article.

The clear proceeds of civil penalties assessed pursuant to this subsection shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2."

(b) G.S. 119-23 reads as rewritten:

"§ 119-23. Administration by Commissioner of Agriculture; collection of fees by Department of Revenue and payment into State treasury; disposition of moneys by State Treasurer.

Gasoline and oil inspection fees or taxes shall be collected by, and reports relating thereto, shall be made to, the Department of Revenue. The administration of the gasoline and oil inspection law shall otherwise be administered by the Commissioner of Agriculture. ~~All~~ Except as provided in G.S. 119-26.1(c) and G.S. 119-39.1, all moneys received under the authority of this Article shall be paid into the State treasury and the State Treasurer shall place to the credit of the 'State Highway Fund' that proportion of said funds representing inspection fees collected on highway use motor fuels, as certified monthly to the State Treasurer by the Secretary of Revenue, and the remainder of said funds shall be credited to the general fund."

V. CIVIL PENALTIES OF NOT MORE THAN \$5,000 MAY BE ASSESSED FOR VIOLATIONS OF THE GASOLINE AND OIL INSPECTION ACT

Section 24. G.S. 119-39.1 reads as rewritten:

"§ 119-39.1. Civil Penalties.

The Commissioner of Agriculture may assess a civil penalty of not more than five thousand dollars (\$5,000) against any person who violates a provision of this Article or any rule promulgated thereunder. In determining the amount of the penalty, the Commissioner shall consider the degree and extent of harm caused by the violation.

The clear proceeds of civil penalties assessed pursuant to this section shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2."

W. CIVIL PENALTIES NOT TO EXCEED \$100.00, \$300.00, OR \$500.00 ASSESSED FOR VIOLATIONS OF THE LIQUEFIED PETROLEUM GASES LAW

Section 25. G.S. 119-59(c) reads as rewritten:

"(c) Civil Penalty. – The Commissioner may assess a civil penalty against any person who violates a provision of this Article or a rule adopted under it. The penalty may not exceed one hundred dollars (\$100.00) for the first violation, three hundred dollars (\$300.00) for a second violation, and five hundred dollars (\$500.00) for a third or subsequent violation. In determining the amount of a penalty, the Commissioner shall consider the degree and extent of harm or potential harm that has resulted or could have resulted from the violation.

The Commissioner may not assess a civil penalty against a person until the Commissioner has notified the person of the alleged violation and has given the person at least 45 days to correct or cease the alleged violation. A notice may be served by any means authorized by G.S. 1A-1, Rule 4. Civil penalties assessed under this subsection shall be credited to the General Fund as nontax revenue. The clear proceeds of civil penalties assessed pursuant to this subsection shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2."

X. CIVIL PENALTIES OF NOT MORE THAN \$500.00 OR \$2,000 ASSESSED FOR VIOLATIONS OF THE PESTICIDE LAW

Section 26. (a) G.S. 143-469 is amended by adding a new subsection to read:

"(e) The clear proceeds of civil penalties assessed pursuant to this section shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2."

(b) G.S. 143-468(a) reads as rewritten:

"(a) Except as provided in G.S. 143-469 and in subsection (b), all fees and charges received by the Board under this Article shall be credited to the Department of Agriculture and Consumer Services for the purpose of administration and enforcement of this Article."

PART III. DEPARTMENT OF COMMERCE

A. ABC COMMISSION – PENALTIES UP TO \$500.00, \$750.00 OR \$1,000 ASSESSED ON PERMIT HOLDERS BY THE ABC COMMISSION FOR VIOLATIONS OF ABC LAWS AND REGULATIONS; COMMISSION MAY ALSO ACCEPT A COMPROMISE PENALTY OF NOT MORE THAN \$5,000 IN LIEU OF REVOKING OR SUSPENDING A PERMIT

Section 27. G.S. 18B-104(c) reads as rewritten:

"(c) Fines and Penalties to Treasurer. —~~All fines and penalties collected under subsections (a) and (b) shall be remitted by the Commission to the State Treasurer for the General Fund.~~ The clear proceeds of fines and penalties assessed pursuant to this section shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2."

B. ABC COMMISSION – MONETARY PENALTY OF UP TO \$15,000 AND \$35,000 FOR VIOLATING WINE DISTRIBUTION AGREEMENTS LAWS

Section 28. G.S. 18B-1207(c)(4) reads as rewritten:

"(4) Impose a monetary penalty up to fifteen thousand dollars (\$15,000) for a first offense and up to thirty-five thousand (\$35,000) for the second offense. ~~All monetary penalties imposed by this subsection shall be remitted by the Commission to the State Treasurer for the General Fund.~~ The clear proceeds of monetary penalties imposed pursuant to this subdivision shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2."

C. BANKING COMMISSION – CIVIL PENALTY OF NOT MORE THAN \$500.00 OR \$1,000 FOR BANK'S VIOLATION OF COMMISSIONER'S CEASE AND DESIST ORDERS

Section 29. G.S. 53-107.1(d) reads as rewritten:

"(d) The Commissioner may impose a civil money penalty of not more than one thousand dollars (\$1,000) for each violation by any bank, trust company, or subsidiary thereof, or any director, officer, or employee of an order issued under subdivision (1) of subsection (a) of this section. Provided further, the Commissioner may impose a civil money penalty of not more than five hundred dollars (\$500.00) per day for each day that a bank, trust company, or subsidiary thereof, or any director, officer, or employee violates a cease and desist order issued under subdivision (2) of subsection (a) of this section. ~~All civil money penalties collected under this section shall be deposited in the General Fund.~~

The clear proceeds of civil money penalties imposed pursuant to this section shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2."

D. BANKING COMMISSION – PENALTY OF NOT MORE THAN \$10,000 FOR BANK'S VIOLATION OF ANY LAWFUL ORDERS OF THE COMMISSIONER OR THE BANKING COMMISSION

Section 30. G.S. 53-107.2(b) reads as rewritten:

"(b) Notwithstanding any penalty imposed by the Commissioner of Banks, the Banking Commission may after notice of and opportunity for hearing, impose, enter judgment for, and enforce by appropriate process, a penalty of not more than ten thousand dollars (\$10,000) against any bank, trust company, or subsidiary thereof, or against any of its directors, officers, or employees for violating any lawful orders of the Commission or Commissioner of Banks. ~~All civil money penalties collected under this section shall be deposited in the General Fund.~~

The clear proceeds of civil money penalties imposed pursuant to this subsection shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2."

E. PENALTY OF \$500.00 FOR BANK ADVERTISING LARGER CAPITAL STOCK THAN THAT ACTUALLY PAID IN WITH CASH

Section 31. G.S. 53-133 reads as rewritten:

"§ 53-133. Advertising larger amount than that paid in capital stock.

It shall be unlawful for any bank to advertise in a newspaper, letterhead, or any other way, a larger capital stock than has been actually paid in in cash. Any bank violating this section shall be subject to a penalty of five hundred dollars (\$500.00) for each and every offense. The penalty herein provided for shall be recovered by the State in a civil action in any court of competent jurisdiction, and it shall be the duty of the Attorney General to prosecute all such actions.

The clear proceeds of penalties provided for in this section shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2."

F. PENALTY OF \$1,000 FOR VIOLATION OF COMMISSIONER'S CEASE AND DESIST ORDER UNDER THE BANK HOLDING COMPANY ACT

Section 32. G.S. 53-228 reads as rewritten:

"§ 53-228. Cease and desist.

Upon a finding that any action of a bank holding company or nonbank subsidiary subject to this Article may be in violation of any North Carolina banking law, the Commissioner, after a reasonable notice to the bank holding company or its nonbank subsidiary and an opportunity for it to be heard, shall have the authority to order it to cease and desist from such action. If the bank holding company or nonbank subsidiary fails to appeal such decision in accordance with G.S. 53-231 hereof and continues to engage in such action in violation of the Commissioner's order to cease and desist such action, it shall be subject to a penalty of one thousand dollars (\$1,000), to be recovered with costs by the Commissioner in any court of competent jurisdiction in a civil action prosecuted by the Commissioner. The penalty provision of this section shall be in addition to and not in lieu of any other provision of law applicable to a bank holding company's or its nonbank subsidiary's failure to comply with an order of the Commissioner.

The clear proceeds of penalties provided for in this section shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2."

G. PENALTY OF \$1,000 FOR VIOLATION OF COMMISSIONER'S CEASE AND DESIST ORDER UNDER N.C. INTERNATIONAL BANKING ACT

Section 33. G.S. 53-232.16 reads as rewritten:

"§ 53-232.16. Cease and desist.

Upon a finding that any action of an international banking corporation or its international banking agency, international banking branch, or international representative office subject to this Article may be in violation of any North Carolina banking law, the Commissioner, after a reasonable notice to the international banking corporation, international bank agency, international bank branch, or international representative office and an opportunity for it to be heard, may order it to cease and desist from the action. If the international banking corporation, international bank

agency, international bank branch, or international representative office fails to appeal the decision in accordance with G.S. 53-232.17 and continues to engage in the action in violation of the Commissioner's order to cease and desist the action, it is subject to a penalty of one thousand dollars (\$1,000), to be recovered with costs by the Commissioner in any court of competent jurisdiction in a civil action prosecuted by the Commissioner. This penalty is in addition to and not in lieu of any other law applicable to the failure of an international banking corporation, international bank agency, international bank branch, or international representative office to comply with an order of the Commissioner. ~~All civil money penalties collected under this section shall be deposited in the General Fund.~~

The clear proceeds of penalties provided for in this section shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2."

H. PENALTY OF \$1,000 FOR MORTGAGE BANKERS OR MORTGAGE BROKERS VIOLATING COMMISSIONER'S CEASE AND DESIST ORDER

Section 34. G.S. 53-239(b) reads as rewritten:

"(b) If the mortgage banker or mortgage broker fails to appeal such cease and desist order of the Commissioner in accordance with G.S. 53-240 hereof and continues to engage in such action in violation of the Commissioner's order to cease and desist such action, it shall be subject to a penalty of one thousand dollars (\$1,000) for each such action it takes in violation of the Commissioner's order. The penalty provision of this section shall be in addition to and not in lieu of any other provision of law applicable to a mortgage banker or a mortgage broker for the mortgage banker or mortgage broker's failure to comply with an order of the Commissioner.

The clear proceeds of civil penalties provided for in this subsection shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2."

I. PENALTY OF \$1,000 FOR EACH ACTION IN VIOLATION OF COMMISSIONER'S CEASE AND DESIST ORDER UNDER REFUND ANTICIPATION LOAN ACT

Section 35. G.S. 53-251(a) reads as reads as rewritten:

"(a) Cease and Desist Order. Upon the finding that any action of a registrant may be in violation of this Article or that the registrant has engaged in an unfair or deceptive act or practice, the Commissioner shall give reasonable notice to the registrant of the suspected violation or unfair or deceptive act or practice, and an opportunity for the registrant to be heard. If, following the hearing, the Commissioner finds that an action of the registrant is in violation of this Article or that the registrant has engaged in an unfair or deceptive act or practice, the Commissioner shall order the registrant to cease and desist from the action.

If the registrant fails to appeal a cease and desist order of the Commissioner in accordance with G.S. 53-252 and continues to engage in an action in violation of the Commissioner's order to cease and desist from the action, the registrant shall be subject to a penalty of one thousand dollars (\$1,000) for each action it takes in violation of the Commissioner's order.

The clear proceeds of penalties provided for in this subsection shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2."

J. SAVINGS AND LOANS ASSOCIATIONS – CIVIL PENALTIES ASSESSED BY ADMINISTRATOR UP TO \$20,000 FOR SAVINGS AND LOANS ASSOCIATIONS' FAILURE TO COMPLY WITH STATE LAW OR REGULATION GOVERNING OPERATIONS OR A CEASE AND DESIST ORDER

Section 36. G.S. 54B-64(a) reads as rewritten:

"(a) Except as otherwise provided in this Article, any association which is found to have violated any provision of this Article may be ordered to forfeit and pay a civil penalty of up to twenty thousand dollars (\$20,000). Any association which is found to have violated or failed to comply with any cease and desist order issued under the authority of this Article may be ordered to forfeit or pay a civil penalty of up to twenty thousand dollars (\$20,000) for each day that the violation or failure to comply continues.

The clear proceeds of civil penalties provided for in this section shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2."

K. SAVINGS AND LOANS ASSOCIATIONS – CIVIL PENALTIES ASSESSED BY ADMINISTRATOR UP TO \$5,000 FOR FAILURE OF DIRECTORS, OFFICERS OR EMPLOYEES OF SAVINGS AND LOANS ASSOCIATIONS TO COMPLY WITH STATE LAW OR REGULATION GOVERNING OPERATIONS OR A CEASE AND DESIST ORDER

Section 37. G.S. 54B-65(a) reads as rewritten:

"(a) Any person, whether a director, officer or employee, who is found to have violated any provision of this Article, whether willfully or as a result of gross negligence, gross incompetency, or recklessness, may be ordered to forfeit and pay a civil penalty of up to five thousand dollars (\$5,000) per violation. Any person who is found to have violated or failed to comply with any cease and desist order issued under the authority of this Article, may be ordered to forfeit and pay a civil penalty of up to five thousand dollars (\$5,000) per violation for each day that the violation or failure to comply continues.

The clear proceeds of civil penalties provided for in this section shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2."

L. SAVINGS BANKS – CIVIL PENALTIES ASSESSED BY ADMINISTRATOR UP TO \$20,000 PER VIOLATION PER DAY FOR SAVINGS INSTITUTION'S OR SAVINGS BANK'S FAILURE TO COMPLY WITH STATE LAW OR REGULATION GOVERNING OPERATIONS OR A CEASE AND DESIST ORDER

Section 38. (a) G.S. 54C-77 reads as rewritten:

"§ 54C-77. Civil penalties; State savings banks.

(a) Except as otherwise provided in this Article, a savings bank that is found to have violated this Article may be ordered to pay a civil penalty of up to twenty thousand dollars (\$20,000). A savings bank that is found to have violated or failed to comply with any cease and desist order issued under the authority of this Article may be ordered to pay a civil penalty of up to twenty thousand dollars (\$20,000) for each day that the violation or failure to comply continues.

The clear proceeds of civil penalties provided for in this section shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2."

(b) G.S. 54C-55(b) reads as rewritten:

"(b) All funds and revenue collected by the Division under this section and all other sections of this Chapter that authorize the collection of fees and other funds shall be deposited with the State Treasurer and expended under the terms of the Executive Budget Act, solely to defray expenses incurred by the office of the Administrator in carrying out its supervisory and auditing functions. ~~Civil penalties collected under this Chapter shall be credited to the General Fund and may be appropriated by the General Assembly for any public purpose."~~

M. SAVINGS BANKS – CIVIL PENALTIES ASSESSED BY ADMINISTRATOR UP TO \$5,000 PER VIOLATION PER DAY FOR DIRECTORS, OFFICERS, OR EMPLOYEES OF SAVINGS BANK WHO FAIL TO COMPLY WITH STATE LAW OR REGULATION GOVERNING OPERATIONS OR A CEASE AND DESIST ORDER

Section 39. G.S. 54C-78(a) reads as rewritten:

"(a) A person, whether a director, officer, or employee, who is found to have violated this Article, whether willfully or as a result of gross negligence, gross incompetency, or recklessness, may be ordered to pay a civil penalty of up to five thousand dollars (\$5,000) per violation. A person who is found to have violated or failed to comply with any cease and desist order issued under the authority of this Article, may be ordered to pay a civil penalty of up to five thousand dollars (\$5,000) per violation for each day that the violation or failure to comply continues. ~~All civil penalties, plus interest and cost, that are collected under this subsection shall be deposited into the General Fund of the State treasury.~~ The clear proceeds of civil penalties provided for in this subsection shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2."

N. FORFEITURE OF \$100.00 AGAINST PERSON SELLING ARTICLE WITHOUT REQUIRED INSPECTION

Section 40. G.S. 66-5 reads as rewritten:

"§ 66-5. Penalty for sale without inspection.

If any person shall sell any article of forage or provision, of which inspection is required in accordance with this Article, without the same having been inspected as required, he shall, for every offense, forfeit and pay one hundred dollars (\$100.00).

The clear proceeds of penalties provided for in this section shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2."

O. PENALTY OF \$200.00 FOR MASTER OR COMMANDER OF VESSEL TAKING ARTICLES ON BOARD WHICH WERE NOT INSPECTED AS REQUIRED

Section 41. G.S. 66-6 reads as rewritten:

"§ 66-6. Penalty on master receiving without inspection.

No master or commander of any vessel shall take on board any cask or barrel or other commodity, liable to inspection as aforesaid, without its being inspected and branded as required, under the penalty of two hundred dollars (\$200.00) for each offense.

The clear proceeds of penalties provided for in this section shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2."

PART IV. DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES

A. CIVIL PENALTIES NOT TO EXCEED \$500.00 OR \$5,000 FOR VIOLATIONS OF THE MINING ACT OF 1971

Section 42. G.S. 74-64(a)(4) reads as rewritten:

"(4) ~~All funds collected pursuant to this section shall be credited to the General Fund as nontax revenue.~~ The clear proceeds of civil penalties collected pursuant to this section shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2."

B. CIVIL PENALTY OF NOT MORE THAN \$5,000 OR \$250.00 FOR VIOLATIONS OF ACT CONTROLLING EXPLORATION FOR URANIUM IN NORTH CAROLINA

Section 43. G.S. 74-87(a)(4) reads as rewritten:

"(4) ~~All funds collected pursuant to this section shall be placed in a special fund and shall be used to carry out the purposes of this Article.~~ The clear proceeds of civil penalties collected pursuant to this subsection shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2."

C. CIVIL PENALTY OF NOT MORE THAN \$100.00 PER VIOLATION ASSESSED FOR VIOLATIONS OF THE WELL CONSTRUCTION ACT

Section 44. G.S. 87-94 is amended by adding a new subsection to read:

"(g) The clear proceeds of civil penalties provided for in this section shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2."

D. CIVIL PENALTIES NOT TO EXCEED \$100.00 PER DAY ASSESSED FOR VIOLATIONS OF WATER TREATMENT FACILITIES CERTIFICATION LAW

Section 45. G.S. 90A-30(a) reads as rewritten:

"(a) Upon the recommendation of the Board of Certification, the Secretary of Environment and Natural Resources or a delegated representative may impose an administrative, civil penalty on any person, corporation, company, association, partnership, unit of local government, State agency, federal agency, or other legal entity who violates G.S. 90A-29(a). Each day of a continued violation shall constitute a separate violation. The penalty shall not exceed one hundred dollars (\$100.00) for each day such violation continues. No penalty shall be assessed until the person alleged to be in violation has been notified of the violation.

The clear proceeds of penalties imposed pursuant to this section shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2."

E. CIVIL PENALTY NOT TO EXCEED \$1,000 FOR WILLFUL VIOLATION OF LAWS CONCERNING CERTIFICATION OF WASTE MANAGEMENT SYSTEM OPERATORS

Section 46. G.S. 90A-47.5(b) reads as rewritten:

"(b) In addition to revocation of a certificate, the Commission may levy a civil penalty, not to exceed one thousand dollars (\$1,000) per violation, for willful violation of the requirements of this Part.

The clear proceeds of civil penalties levied pursuant to this subsection shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2."

F. ADMINISTRATIVE PENALTIES NOT TO EXCEED \$10,000 PER DAY FOR VIOLATING RADIATION PROTECTION ACT.

Section 47. (a) G.S. 104E-24 reads as rewritten:

"§ 104E-24. Administrative penalties.

(a) The Department may impose an administrative penalty on any person:

- (1) Who fails to comply with this Chapter, any order issued hereunder, or any rules adopted pursuant to this Chapter;
- (2) Who refuses to allow an authorized representative of the Radiation Protection Commission or the Department of Environment and Natural Resources a right of entry as provided for in G.S. 104E-11 or impounding materials as provided for in G.S. 104E-14.

(b) Each day of a continuing violation shall constitute a separate violation. Such penalty shall not exceed ten thousand dollars (\$10,000) per day. In determining the amount of the penalty, the Department shall consider the degree and extent of the harm caused by the violation. Any person assessed a penalty shall be notified of the assessment by registered or certified mail, and the notice shall specify the reasons for the assessment.

(c) The clear proceeds of penalties imposed pursuant to this section shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2."

(b) G.S. 104E-16 reads as rewritten:

"§ 104E-16. Nonreverting Radiation Protection Fund.

(a) There is hereby established under the control and direction of the Department a Nonreverting Radiation Protection Fund which shall be used to defray the expenses of any project or activity for:

- (1) Emergency response to and decontamination of radiation accidents as provided in G.S. 104E-9(a)(5), or
- (2) Perpetual maintenance and custody of radioactive materials as the Department may undertake.

In addition to any moneys that shall be appropriated or otherwise made available to it, the Fund may be maintained by fees, charges, ~~penalties~~ or other moneys paid to or recovered by or on behalf of the Department under the provisions of this ~~Chapter~~. Chapter, except for the clear proceeds of penalties. Any moneys paid to or recovered by or on behalf of the Department as fees, charges, ~~penalties~~ or other payments authorized by this ~~Chapter~~ Chapter, except for the clear proceeds of penalties, shall be paid to the Radiation Protection Fund in an amount equal to the sum expended for the projects or activities in subdivisions (1) and (2) above.

(b) Repealed by Session Laws 1987, c. 850, s. 11."

G. FORFEITURE OF BOND GIVEN BY FISHERY LICENSE AGENTS

Section 48. G.S. 113-151.1 is amended by adding a new subsection to read:

"(a1) The clear proceeds of the forfeiture of a license agent's bond pursuant to this section shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2."

H. FINE OF NOT LESS THAN \$100.00 NOR MORE THAN \$500.00 FOR VIOLATION OF THE COMMERCIAL AND SPORT FISHERIES LICENSING LAW

Section 49. G.S. 113-162 is amended by adding a new subsection to read:

"(c) The clear proceeds of fines assessed pursuant to this section shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2."

I. PENALTY NOT TO EXCEED \$1,000 PER DAY FOR KNOWINGLY AND WILLFULLY VIOLATING THE OIL AND GAS CONSERVATION ACT

Section 50. G.S. 113-410 reads as rewritten:

"§ 113-410. Penalties for other violations.

Any person who knowingly and willfully violates any provision of this law, or any rule or order of the Department made hereunder, shall, in the event a penalty for such violation is not otherwise provided for herein, be subject to a penalty of not to exceed one thousand dollars (\$1,000) a day for each and every day of such violation, and for each and every act of violation, such penalty to be recovered in a suit in the superior court of the county where the defendant resides, or in the county of the residence of any defendant if there be more than one defendant, or in the superior court of the county where the violation took place. The place of suit shall be selected by the Department, and such suit, by direction of the Department, shall be instituted and conducted in the name of the Department by the Attorney General. The payment of any penalty as

provided for herein shall not have the effect of changing illegal oil into legal oil, illegal gas into legal gas, or illegal product into legal product, nor shall such payment have the effect of authorizing the sale or purchase or acquisition, or the transportation, refining, processing, or handling in any other way, of such illegal oil, illegal gas or illegal product, but, to the contrary, penalty shall be imposed for each prohibited transaction relating to such illegal oil, illegal gas or illegal product.

Any person knowingly and willfully aiding or abetting any other person in the violation of any statute of this State relating to the conservation of oil or gas, or the violation of any provisions of this law, or any rule or order made thereunder, shall be subject to the same penalties as prescribed herein for the violation by such other person.

The clear proceeds of penalties provided for in this section shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2."

J. PROCEEDS FROM FORFEITURE AND SALE OF CONTRABAND OIL, GAS AND PRODUCT

Section 51. G.S. 113-412 reads as rewritten:

"§ 113-412. Seizure and sale of contraband oil, gas and product.

Apart from, and in addition to, any other remedy or procedure which may be available to the Department, or any penalty which may be sought against or imposed upon any person with respect to violations relating to illegal oil, illegal gas, or illegal product, all illegal oil, illegal gas and illegal product shall, except under such circumstances as are stated herein, be contraband and shall be seized and ~~and the proceeds applied as herein provided.~~ sold. Such sale shall not take place unless the court shall find, in the proceeding provided for in this paragraph, that the commodity involved is contraband. Whenever the Department believes that illegal oil, illegal gas or illegal product is subject to seizure and sale, as provided herein, it shall, through the Attorney General, have issued a warrant of attachment and bring a civil action in rem for that purpose in the superior court of the county where the commodity is found, or the action may be maintained in connection with any suit or cross bill for injunction or for penalty relating to any prohibited transaction involving such illegal oil, illegal gas or illegal product. Any interested person who may show himself to be adversely affected by any such seizure and sale shall have the right to intervene in such suit to protect his rights.

The action referred to above shall be strictly in rem and shall proceed in the name of the State as plaintiff against the illegal oil, illegal gas or illegal product mentioned in the complaint, as defendant, and no bond or bonds shall be required of the plaintiff in connection therewith. Upon the filing of the complaint, the clerk of the court shall issue a summons directed to the sheriff of the county, or to such other officer or person as the court may authorize to serve process, requiring him to summon any and all persons (without undertaking to name them) who may be interested in the illegal oil, illegal gas, or illegal product mentioned in the complaint to appear and answer within 30 days after the issuance and service of such summons. The summons shall contain the style and number of the suit and a very brief statement of the nature of the cause of action. It shall be served by posting one copy thereof at the courthouse door of the county where the commodity involved in the suit is alleged to be located and by posting another copy

thereof near the place where the commodity is alleged to be located. Copy of such summons shall be posted at least five days before the return day stated therein, and the posting of such copy shall constitute constructive possession of such commodity by the State. A copy of the summons shall also be published once each week for four weeks in some newspaper published in the county where the suit is pending and having a bona fide circulation therein. No judgment shall be pronounced by any court condemning such commodity as contraband until after the lapse of five days from the last publication of said summons. Proof of service of said summons, and the manner thereof, shall be as provided by general law.

Where it appears by a verified pleading on the part of the plaintiff, or by affidavit, or affidavits, or by oral testimony, that grounds for the seizure and sale exist, the clerk, in addition to the summons or warning order, shall issue a warrant of attachment, which shall be signed by the clerk and bear the seal of the court. Such warrant of attachment shall specifically describe the illegal oil, illegal gas or illegal product, so that the same may be identified with reasonable certainty. It shall direct the sheriff to whom it is addressed to take into his custody, actual or constructive, the illegal oil, illegal gas or illegal product, described therein, and to hold the same subject to the orders of the court. Said warrant of attachment shall be executed as a writ of attachment is executed. No bond shall be required before the issuance of such warrant of attachment, and the sheriff shall be responsible upon his official bond for the proper execution thereof.

In a proper case, the court may direct the sheriff to deliver the custody of any illegal oil, illegal gas or illegal product seized by him under a warrant of attachment, to a commissioner to be appointed by the court, which commissioner shall act as the agent of the court and shall give bond with such approved surety as the court may direct, conditioned that he will faithfully conserve such illegal oil, illegal gas or illegal product, as may come into his custody and possession in accordance with the orders of the court; provided, that the court may in its discretion appoint any member of the Department or any agent of the Department as such commissioner of the court.

Sales of illegal oil, illegal gas or illegal product seized under the authority of this law, and notices of such sales, shall be in accordance with the laws of this State relating to the sale and disposition of attached property; provided, however, that where the property is in custody of a commissioner of the court, the sale shall be held by said commissioner and not by the sheriff. For his services hereunder, such commissioner shall receive a reasonable fee to be paid out of the proceeds of the sale or sales to be fixed by the court ordering such sale.

The court may order that the commodity be sold in specified lots or portions, and at specified intervals, instead of being sold at one time. Title to the amount sold shall pass as of the date of the law which is found by the court to make the commodity contraband. The judgment shall provide for ~~payment of the proceeds of the sale into the general fund of the State Treasurer, after first deducting the costs in connection with the proceedings and the sale.~~ the clear proceeds of the sales to be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2. The amount sold shall be treated as legal oil, legal gas or legal product, as the case may be, in the hands of the purchaser, but the purchaser and the commodity shall be subject to all applicable laws, rules, and

orders with respect to further sale or purchase or acquisition, and with respect to the transportation, refining, processing, or handling in any other way, of the commodity purchased.

Nothing in this section shall deny or abridge any cause of action a royalty owner, or a lienholder, or any other claimant, may have, because of the forfeiture of the illegal oil, illegal gas, or illegal product, against the person whose act resulted in such forfeiture. No illegal oil, illegal gas or illegal product shall be sold for less than the average market value at the time of sale of similar products of like grade and character."

K. CIVIL PENALTIES IMPOSED FOR FAILURE TO COMPLY WITH SEDIMENTATION CONTROL LAWS

Section 52. G.S. 113A-64(a)(5) reads as rewritten:

"(5) ~~Civil~~ The clear proceeds of civil penalties collected by the Department or other State agency under this subsection shall be credited to the General Fund as nontax revenue. remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2. Civil penalties collected by a local government under this subsection shall be credited to the general fund of the local government as nontax revenue."

L. DIVISION OF COASTAL MANAGEMENT – CIVIL PENALTIES OF NOT MORE THAN \$250.00 AND \$2,500 ASSESSED FOR VIOLATIONS OF STATE LAWS AND REGULATIONS ESTABLISHING COASTAL MANAGEMENT STANDARDS

Section 53. (a) G.S. 113A-126(d) is amended by adding a new subdivision to read:

"(5) The clear proceeds of penalties assessed pursuant to this subsection shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2."

(b) Section 5 of Chapter 839 of the 1991 Session Laws is repealed.

M. ADMINISTRATIVE PENALTIES IMPOSED FOR VIOLATIONS OF SOLID WASTE (NONHAZARDOUS/MEDICAL) MANAGEMENT REGULATIONS NOT TO EXCEED \$5,000, \$25,000, OR \$50,000 PER DAY DEPENDING UPON EXTENT OF VIOLATION/DIVISION OF ENVIRONMENTAL HEALTH – CIVIL PENALTIES NOT TO EXCEED \$25,000 PER DAY ASSESSED FOR VIOLATIONS OF STATE LAWS AND REGULATIONS GOVERNING OPERATION OF PUBLIC WATER SYSTEMS/EPIDEMIOLOGY BRANCH – ADMINISTRATIVE PENALTIES NOT TO EXCEED \$1,000 PER DAY IMPOSED FOR VIOLATIONS OF ASBESTOS MANAGEMENT REGULATIONS – EPIDEMIOLOGY BRANCH – ADMINISTRATIVE PENALTIES NOT TO EXCEED \$10,000 PER DAY IMPOSED FOR VIOLATIONS OF ASBESTOS NATIONAL EMISSION STANDARDS FOR HAZARDOUS AIR POLLUTANTS (NESHAP) FOR DEMOLITION AND RENOVATION/ADMINISTRATIVE PENALTY NOT TO

EXCEED EITHER \$50.00 OR \$300.00 PER DAY FOR VIOLATING WASTEWATER SYSTEMS LAW/DIVISION OF MATERNAL AND CHILD HEALTH – MONETARY PENALTY ON VENDOR WHO VIOLATES COMMISSION'S RULES REGARDING THE WOMEN, INFANTS, AND CHILDREN (WIC) PROGRAM

Section 54. (a) G.S. 130A-22 reads as rewritten:

"§ 130A-22. Administrative penalties.

(a) The Secretary of Environment and Natural Resources may impose an administrative penalty on a person who violates Article 9 of this Chapter, rules adopted by the Commission pursuant to Article 9, or any order issued under Article 9. Each day of a continuing violation shall constitute a separate violation. The penalty shall not exceed five thousand dollars (\$5,000) per day in the case of a violation involving nonhazardous waste. The penalty shall not exceed twenty-five thousand dollars (\$25,000) per day in case of a first violation involving hazardous waste as defined in G.S. 130A-290 or involving the disposal of medical waste as defined in G.S. 130A-290 in or upon water in a manner that results in medical waste entering waters or lands of the State; and shall not exceed fifty thousand dollars (\$50,000) per day for a second or further violation involving the disposal of medical waste as defined in G.S. 130A-290 in or upon water in a manner that results in medical waste entering waters or lands of the State. If a person fails to pay a civil penalty within 60 days after the final agency decision or court order has been served on the violator, the Secretary of Environment and Natural Resources shall request the Attorney General to institute a civil action in the superior court of any county in which the violator resides or has his or its principal place of business to recover the amount of the assessment. Such civil actions must be filed within three years of the date the final agency decision or court order was served on the violator.

(a1) Part 5 of Article 21A of Chapter 143 of the General Statutes shall apply to the determination of civil liability or penalty pursuant to subsection (a) of this section.

(b) The Secretary of Environment and Natural Resources may impose an administrative penalty on a person who violates G.S. 130A-325. Each day of a continuing violation shall constitute a separate violation. The penalty shall not exceed twenty-five thousand dollars (\$25,000) for each day the violation continues.

(b1) The Secretary may impose an administrative penalty on a person who violates Article 19 of this Chapter or a rule adopted pursuant to that Article. Except as provided in subsection (b2) of this section, the penalty shall not exceed one thousand dollars (\$1,000) per day per violation. Until the Department has notified the person of the violation, a continuing violation shall be treated as one violation. Each day thereafter of a continuing violation shall be treated as a separate violation.

In determining the amount of a penalty under this subsection or subsection (b2) of this section, the Secretary shall consider all of the following factors:

- (1) The degree and extent of harm to the natural resources of the State, to the public health, or to private property resulting from the violation.
- (2) The duration and gravity of the violation.
- (3) The effect on air quality.

- (4) The cost of rectifying the damage.
- (5) The amount of money the violator saved by noncompliance.
- (6) The prior record of the violator in complying or failing to comply with Article 19 of this Chapter or a rule adopted pursuant to that Article.
- (7) The cost to the State of the enforcement procedures.
- (8) If applicable, the size of the renovation and demolition involved in the violation.

~~Administrative penalties imposed by the Secretary under this subsection or subsection (b2) of this section shall be credited to the General Fund as nontax revenue.~~

(b2) The penalty for violations of the asbestos NESHAP for demolition and renovation, as defined in G.S. 130A-444, shall not exceed ten thousand dollars (\$10,000) per day per violation. Until the Department has provided the person with written notification of the violation of the asbestos NESHAP for demolition and renovation that describes the violation, recommends a general course of action, and establishes a time frame in which to correct the violations, a continuing violation shall be treated as one violation. Each day thereafter of a continuing violation shall be treated as a separate violation. A violation of the asbestos NESHAP for demolition and renovation is not considered to continue during the period a person who has received the notice of violation is following the general course of action and complying with the time frame set forth in the notice of violation.

(b3) The Secretary may impose an administrative penalty on a person who violates Article 19A of this Chapter or any rules adopted pursuant to Article 19A of this Chapter. Each day of a continuing violation is a separate violation. The penalty shall not exceed one thousand dollars (\$1,000) for each day the violation continues. The penalty authorized by this section does not apply to a person who is not required to be certified under this Article.

(c) The Secretary of Environment and Natural Resources may impose an administrative penalty on a person who willfully violates Article 11 of this Chapter, rules adopted by the Commission pursuant to Article 11 or any condition imposed upon a permit issued under Article 11. An administrative penalty may not be imposed upon a person who establishes that neither the site nor the system may be improved or a new system installed so as to comply with Article 11 of this Chapter. Each day of a continuing violation shall constitute a separate violation. The penalty shall not exceed fifty dollars (\$50.00) per day in the case of a wastewater collection, treatment and disposal system with a design daily flow of no more than 480 gallons or in the case of any system serving a single one-family dwelling. The penalty shall not exceed three hundred dollars (\$300.00) per day in the case of a wastewater collection, treatment and disposal system with a design daily flow of more than 480 gallons which does not serve a single one-family dwelling.

(c1) The Secretary may impose a monetary penalty on a vendor who violates rules adopted by the Commission pursuant to Article 13 of this Chapter when the Secretary determines that disqualification would result in hardship to participants in the Women, Infants, and Children (WIC) program. The penalty shall be calculated using the following formula: multiply five percent (5%) times the average dollar amount of the

vendor's monthly redemptions of WIC food instruments for the 12-month period immediately preceding disqualification, then multiply that product by the number of months of the disqualification period determined by the Secretary.

(d) In determining the amount of the penalty in subsections (a), (b) and (c), the Secretary and the Secretary of the Department of Environment and Natural Resources shall consider the degree and extent of the harm caused by the violation and the cost of rectifying the damage.

(e) A person contesting a penalty shall, by filing a petition pursuant to G.S. 150B-23(a) not later than 30 days after receipt by the petitioner of the document which constitutes agency action, be entitled to an administrative hearing and judicial review in accordance with Chapter 150B of the General Statutes, the Administrative Procedure Act.

(f) The Commission shall adopt rules concerning the imposition of administrative penalties under this section.

(g) The Secretary or the Secretary of Environment and Natural Resources may bring a civil action in the superior court of the county where the violation occurred or where the defendant resides to recover the amount of an administrative penalty authorized under this section whenever a person:

- (1) Who has not requested an administrative hearing in accordance with subsection (e) of this section fails to pay the penalty within 60 days after being notified of the penalty; or
- (2) Who has requested an administrative hearing fails to pay the penalty within 60 days after service of a written copy of the final agency decision.

(h) A local health director may impose an administrative penalty on any person who willfully violates the wastewater collection, treatment, and disposal rules of the local board of health adopted pursuant to G.S. 130A-335(c) or who willfully violates a condition imposed upon a permit issued under the approved local rules. An administrative penalty may not be imposed upon a person who establishes that neither the site nor the system may be improved or a new system installed so as to comply with Article 11 of this Chapter. The local health director shall establish and recover the amount of the administrative penalty in accordance with subsections (d) and (g). Each day of a continuing violation shall constitute a separate violation. The penalty shall not exceed fifty dollars (\$50.00) per day in the case of a wastewater collection, treatment and disposal system with a design daily flow of no more than 480 gallons or in the case of any system serving a single one-family dwelling. The penalty shall not exceed three hundred dollars (\$300.00) per day in the case of a wastewater collection, treatment and disposal system with a design daily flow of more than 480 gallons which does not serve a single one-family dwelling. A person contesting a penalty imposed under this subsection shall be entitled to an administrative hearing and judicial review in accordance with G.S. 130A-24. A local board of health shall adopt rules concerning the imposition of administrative penalties under this subsection.

(i) The clear proceeds of penalties assessed pursuant to this section shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2."

(b) G.S. 130A-306 reads as rewritten:

"§ 130A-306. Emergency Response Fund.

There is established under the control and direction of the Department, an Emergency Response Fund which shall be a nonreverting fund consisting of any money appropriated for such purpose by the General Assembly or available to it from grants, fees, charges, and other money paid to or recovered by or on behalf of the Department pursuant to this Article, except fees and penalties specifically designated by this Article for some other use or purpose. The Emergency Response Fund shall be treated as a special trust fund and shall be credited with interest by the State Treasurer pursuant to G.S. 147-69.2 and G.S. 147-69.3. The Fund shall be used to defray expenses incurred by the Department in developing and implementing an emergency hazardous waste remedial plan and to reimburse any federal, State or local agency and any agent or contractor for expenses incurred in developing and implementing such a plan that has been approved by the Department. These funds shall be used upon a determination that sufficient funds or corrective action cannot be obtained from other sources without incurring a delay that would significantly increase the threat to life or risk of damage to the environment. This Fund may not exceed five hundred thousand dollars (\$500,000); money in excess of five hundred thousand dollars (\$500,000) shall be deposited in the Inactive Hazardous Sites Cleanup Fund. The Secretary is authorized to take the necessary action to recover all costs incurred by the State for site investigation and the development and implementation of an emergency hazardous waste remedial plan, including attorney's fees and other expenses of bringing the cost recovery action from the responsible party or parties. The provisions of G.S. 130A-310.7 shall apply to actions to recover costs under this section except that: (i) reimbursement shall be to the Emergency Response Fund and (ii) the State need not show that it has complied with the provisions of Part 3 of this Article."

N. CIVIL PENALTY OF \$50.00 FOR KNOWINGLY DISPOSING OF TIRE IMPROPERLY

Section 55. G.S. 130A-309.62 reads as rewritten:

"§ 130A-309.62. Fines and penalties.

Any person who knowingly hauls or disposes of a tire in violation of this Part or the rules adopted pursuant to this Part shall be assessed a civil penalty of fifty dollars (\$50.00) per violation. Each tire hauled or disposed of in violation of this Part or rules adopted pursuant to this Part constitutes a separate violation.

The clear proceeds of civil penalties assessed pursuant to this section shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2."

O. CIVIL PENALTY NOT TO EXCEED \$50.00 PER VIOLATION AGAINST PERSONS KNOWINGLY DISPOSING OF LEAD-ACID BATTERIES IN VIOLATION OF SECTION

Section 56. G.S. 130A-309.70(c) reads as rewritten:

"(c) Any person who knowingly places or disposes of a lead-acid battery in violation of this section shall be assessed a civil penalty of not more than fifty dollars

(\$50.00) per violation. Each battery improperly disposed of shall constitute a separate violation.

The clear proceeds of civil penalties assessed pursuant to this section shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2."

P. CIVIL PENALTY NOT TO EXCEED \$50.00 PER DAY AGAINST PERSON FAILING TO POST NOTICES CONCERNING RECYCLING AND DISPOSING OF LEAD-ACID BATTERIES

Section 57. G.S. 130A-309.71(c) reads as rewritten:

"(c) Any person who fails to post the notice required by subsection (b) of this section after receiving a written warning from the Department to do so shall be assessed a civil penalty of not more than fifty dollars (\$50.00) per day for each day the person fails to post the required notice.

The clear proceeds of civil penalties assessed pursuant to this section shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2."

Q. CIVIL PENALTY OF \$50.00 PER VIOLATION AGAINST WHOLESALERS WHO REFUSE TO ACCEPT LEAD-ACID BATTERIES FROM CUSTOMERS

Section 58. G.S. 130A-309.72(b) reads as rewritten:

"(b) Any person who violates this section shall be assessed a civil penalty of fifty dollars (\$50.00) per violation. Each battery refused by a wholesaler or not removed from the retail point of collection within 90 days shall constitute a separate violation.

The clear proceeds of civil penalties assessed pursuant to this section shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2."

R. CIVIL PENALTY UP TO \$100.00 FOR IMPROPER DISPOSAL OF WHITE GOODS

Section 59. G.S. 130A-309.84 reads as rewritten:

"§ 130A-309.84. Civil penalties for improper disposal.

The Department may assess a civil penalty of not more than one hundred dollars (\$100.00) against a person who, knowing it is unlawful, places or otherwise disposes of a discarded white good in a landfill, an incinerator, or a waste-to-energy facility. The Department may assess this penalty for the day the unlawful disposal occurs and each following day until the white good is disposed of properly.

The Department may assess a penalty of up to one hundred dollars (\$100.00) against a person who, knowing it is required, fails to remove chlorofluorocarbon refrigerants from a discarded white good. The Department may assess this penalty for the day the failure occurs and each following day until the chlorofluorocarbon refrigerants are removed.

~~Civil penalties collected under this section shall be credited to the General Fund as nontax revenue.~~ The clear proceeds of civil penalties assessed pursuant to this section shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2."

S. AIR AND WATER QUALITY – CIVIL PENALTIES OF NOT MORE THAN \$25,000 OR \$50,000 FOR VIOLATION AND AN ADDITIONAL \$25,000 OR \$50,000 FOR EACH ADDITIONAL DAY VIOLATION CONTINUES ASSESSED FOR UNLAWFUL DISPOSAL OF MEDICAL WASTE

Section 60. G.S. 143-214.2A(b) is amended by adding a new subdivision to read:

"(7) The clear proceeds of civil penalties assessed pursuant to this subsection shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2."

T. INFRACTION PENALTY OF \$10.00 FOR USING PROHIBITED CLEANING AGENTS WHICH CONTAIN PHOSPHORUS

Section 61. G.S. 143-214.4(g) reads as rewritten:

"(g) Any person who uses any cleaning agent in violation of the provisions of this section shall be responsible for an infraction for which the sanction is a penalty of not more than ten dollars (\$10.00). Notwithstanding G.S. 143-3.1(a), the clear proceeds of infractions pursuant to this section shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2."

U. CIVIL PENALTY ASSESSED PURSUANT TO G.S. 143-215.6A(a)(7) & (e) AGAINST LOCAL GOVERNMENTS AND PERSONS WHO FAIL TO FOLLOW LAWS CONCERNING WATER SUPPLY WATERSHEDS

Section 62. G.S. 143-214.5(g) reads as rewritten:

"(g) Civil Penalties. – A local government that fails to adopt a local water supply watershed protection program as required by this section or willfully fails to administer or enforce the provisions of its program in substantial compliance with the minimum statewide water supply watershed management requirements shall be subject to a civil penalty pursuant to G.S. 143-215.6A(e). In any area of the State that is not covered by an approved local water supply watershed protection program, any person who violates or fails to act in accordance with any minimum statewide water supply watershed management requirement or more stringent management requirement adopted by the Commission for a critical water supply watershed established pursuant to this section shall be subject to a civil penalty as specified in G.S. 143-215.6A(a)(7).

The clear proceeds of civil penalties provided for in this section shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2."

V. CIVIL PENALTIES OF NOT MORE THAN \$10,000 OR \$10,000 PER DAY OR \$10,000 PER MONTH FOR VARIOUS WATER POLLUTION CONTROL VIOLATIONS

Section 63. G.S. 143-215.6A is amended by adding a new subsection to read:

"(h1) The clear proceeds of civil penalties assessed by the Secretary or the Commission pursuant to this section shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2."

W. CIVIL PENALTY OF VARIOUS AMOUNTS FOR VIOLATIONS OF REGULATIONS FOR USE OF WATER RESOURCES

Section 64. G.S. 143-215.17(b) is amended by adding a new subdivision to read:

"(8) The clear proceeds of civil penalties assessed pursuant to this subsection shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2."

X. LAND RESOURCES DIVISION – CIVIL PENALTIES NOT TO EXCEED \$100.00 OR \$500.00 ASSESSED FOR VIOLATIONS OF THE DAM SAFETY LAW. IF WILLFUL, NOT TO EXCEED \$500.00 PER DAY FOR EACH DAY OF VIOLATION

Section 65. G.S. 143-215.36(b) is amended by adding a new subdivision to read:

"(8) The clear proceeds of civil penalties assessed pursuant to this subsection shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2."

Y. CIVIL PENALTY NOT TO EXCEED \$10,000 FOR VIOLATING AIR AND WATER QUALITY REPORTING REGULATIONS

Section 66. G.S. 143-215.69(b) reads as rewritten:

"(b) Civil Penalties. – The Commission may assess a civil penalty against a person who violates this Part or a rule of the Commission implementing this Part. For persons subject to the provisions of G.S. 143-215.1, the amount of the penalty shall not exceed the maximum imposed in G.S. 143-215.6A and shall be assessed in accordance with the procedure set out in G.S. 143-215.6A for assessing a civil penalty. For persons subject to the provisions of Title V, G.S. 143-215.108, or G.S. 143-215.109, the amount of penalty shall not exceed the maximum imposed in G.S. 143-215.114A and shall be assessed in accordance with the procedure set out in G.S. 143-215.114A for assessing a civil penalty. ~~Civil~~ The clear proceeds of civil penalties assessed under this subsection shall be credited to the General Fund as nontax revenue. remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2."

Z. OIL POLLUTION AND HAZARDOUS SUBSTANCES CONTROL – CIVIL PENALTIES OF NOT MORE THAN \$5,000 ASSESSED FOR UNLAWFUL DISCHARGE OF OIL

Section 67. (a) G.S. 143-215.88A is amended by adding a new subsection to read:

"(c) The clear proceeds of civil penalties provided for in this section shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2."

(b) G.S. 143-215.87 reads as rewritten:

"§ 143-215.87. Oil or Other Hazardous Substances Pollution Protection Fund.

There is hereby established under the control and direction of the Department an Oil or Other Hazardous Substances Pollution Protection Fund which shall be a nonlapsing, revolving fund consisting of any moneys appropriated for such purpose by the General Assembly or that shall be available to it from any other source. The moneys shall be used to defray the expenses of any project or program for the containment, collection, dispersal or removal of oil or other hazardous substances discharged to the land or waters of this State, or discharged into waters outside the territorial limits of the State which affect land and waters or related uses within the State; to assess damages for injury to, destruction of, or loss of use of natural resources; and to develop and implement plans for restoration, rehabilitation, replacement, or acquisition of the equivalent of the natural resources injured by the discharge. In addition to any moneys that shall be appropriated or otherwise made available to it, the fund shall be maintained by fees, charges, ~~penalties~~ or other moneys except for the clear proceeds of civil penalties paid to or recovered by or on behalf of the Department under the provisions of this Part. Any moneys paid to or recovered by or on behalf of the Department as fees, charges, ~~penalties~~ or other payments as damages authorized by this Part except for the clear proceeds of civil penalties shall be paid to the Oil or Other Hazardous Substances Pollution Protection Fund in an amount equal to the sums expended from the fund for the project or activity. ~~Within the meaning of this section, the word "penalties" means civil penalties and does not include criminal fines or penalties.~~

The clear proceeds of civil penalties provided for in this section shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2."

AA. CIVIL PENALTY ASSESSED PURSUANT TO G.S. 143-215.94K AGAINST OWNER OR OPERATOR OF COMMERCIAL UNDERGROUND STORAGE TANK WHO FAILS TO PROPERLY COMMENCE AND COMPLETE CLOSURE

Section 68. G.S. 143-215.94E(i) reads as rewritten:

"(i) An owner or operator who notifies the Department of an intention to close or upgrade a commercial underground storage tank as provided in G.S. 143-215.94B(b)(2a) shall commence the closure or upgrade prior to 1 July 1994 and shall complete the closure or upgrade prior to 1 January 1995. An owner who notifies the Department of an intention to close or upgrade a commercial underground storage tank and who fails to commence and complete the closure as specified in this subsection is subject to a civil penalty as provided in G.S. 143-215.94K. The provisions of G.S. 143-215.94B(b)(2a) do not apply if an owner or operator who notifies the Department of an intention to close or upgrade a commercial underground storage tank fails to commence or complete the closure or upgrade within the dates specified in this subsection.

The clear proceeds of civil penalties provided for in this subsection shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2."

BB. CIVIL PENALTY OF NOT MORE THAN \$10,000 FOR VIOLATING UNDERGROUND STORAGE TANK REGULATIONS. IF VIOLATION IS CONTINUOUS, MAY ASSESS \$10,000 PER DAY NOT TO EXCEED \$200,000

Section 69. G.S. 143-215.94W is amended by adding a new subsection to read:

"(h) The clear proceeds of civil penalties assessed pursuant to this section shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2."

CC. CIVIL PENALTY OF EITHER \$50,000 OR \$250,000 PER DAY FOR FAILURE TO IMMEDIATELY REPORT AN OFFSHORE DISCHARGE

Section 70. G.S. 143-215.94GG is amended by adding a new subsection to read:

"(c) The clear proceeds of penalties provided for in this section shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2."

DD. CIVIL PENALTY NOT TO EXCEED \$10,000 FOR VIOLATIONS OF OIL REFINING FACILITY PERMIT LAWS AND REGULATIONS

Section 71. G.S. 143-215.102(a) reads as rewritten:

"(a) Civil Penalty. – Any person who violates any provision of this Part, or any rule, regulation or order made pursuant to this Part, shall incur, in addition to any other penalty provided by law, a civil penalty in an amount not to exceed ten thousand dollars (\$10,000) for every such violation, the amount to be determined by the Secretary after taking into consideration the factors set out in G.S. 143B-282.1(b). The procedures set out in G.S. 143-215.6 and G.S. 143B-282.1 shall apply to civil penalties assessed under this section. The penalty herein provided for shall become due and payable when the person incurring the penalty receives a notice in writing from the Commission describing the violation with reasonable particularity and advising such person that the penalty is due. A person may contest a penalty by filing a petition for a contested case under G.S. 150B-23 within 30 days after receiving notice of the penalty. If any civil penalty has not been paid within 30 days after notice of assessment has been served on the violator, the Secretary shall request the Attorney General to institute a civil action in the Superior Court of any county in which the violator resides or has his or its principal place of business to recover the amount of the assessment, unless the violator contests the assessment, or requests remission of the assessment in whole or in part as provided in G.S. 143-215.6. If any civil penalty has not been paid within 30 days after the final agency decision or court order has been served on the violator, the Secretary shall request the Attorney General to institute a civil action in the Superior Court of any county in which the violator resides or has his or its principal place of business to recover the amount of the assessment.

~~Any sums recovered under this subsection shall be payable to the Oil Pollution Protection Fund as established by this Article. The clear proceeds of civil penalties provided for in this section shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2."~~

EE. FORFEITURE OF BONDS FOR NONCOMPLIANCE WITH SPECIAL ORDERS CONCERNING AIR POLLUTION CONTROL

Section 72. G.S. 143-215.110(e) reads as rewritten:

"(e) Compliance Bonds. – A special order or other instrument authorized by this section may provide that a bond or other surety be posted to ensure compliance. In determining the amount of such bond the Commission shall consider the degree and extent of harm which may result if the person to whom the special order is directed fails to comply with the terms of the order, the cost of rectifying such harm, the economic consequences to the person to whom the special order is directed if the special order is issued as compared to the consequences of a denial, suspension, or revocation of the special order or permit, and the person's history of compliance with pollution control requirements, other special orders, history of payment of any penalties which may have been previously assessed by the Commission. In the event of noncompliance with the special order or other instrument, the bond shall be forfeited and the entire amount of the bond shall be deposited in the General Fund. clear proceeds of the bond shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2."

FF. CIVIL PENALTY OF NOT MORE THAN \$10,000 FOR VARIOUS AIR POLLUTION CONTROL VIOLATIONS

Section 73. G.S. 143-215.114A is amended by adding a new subsection to read:

"(h) The clear proceeds of penalties provided for in this section shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2."

PART V. DEPARTMENT OF HEALTH AND HUMAN SERVICES

A. CIVIL PENALTIES OF NOT MORE THAN \$20,000 AND \$75,000 FOR CIRCUMVENTION OF THE SELF-REFERRALS BY HEALTH CARE PROVIDERS LAW

Section 74. G.S. 90-407 is amended by adding a new subsection to read:

"(d) The clear proceeds of civil penalties provided for in this section shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2."

B CIVIL PENALTY NOT TO EXCEED \$1,000 IMPOSED UPON CHILD DAY CARE FACILITIES OR HOMES FOR VIOLATIONS OF STATE LAW OR REGULATION GOVERNING LICENSURE/STANDARDS

Section 75. G.S. 110-103.1 is amended by adding a new subsection to read:

"(d) The clear proceeds of penalties provided for in this section shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2."

C. CIVIL PENALTIES OF \$100.00 OR \$500.00 OR \$1,000 FOR FAILURE OF PAYORS/EMPLOYERS TO COMPLY WITH EMPLOYEE'S CHILD SUPPORT ENFORCEMENT ORDERS

Section 76. G.S. 110-136.8(e) reads as rewritten:

"(e) Prohibited conduct by payor; civil penalty. Notwithstanding any other provision of law, when a court finds, pursuant to a motion in the cause filed by the initiating party joining the payor as a third party defendant, with 30 days notice to answer the motion, that a payor has willfully refused to comply with the provisions of

this section, such payor shall be ordered to commence withholding and shall be held liable to the initiating party for any amount which such payor should have withheld, except that such payor shall not be required to vary the normal pay or disbursement cycles in order to comply with these provisions.

A payor shall not discharge from employment, refuse to employ, or otherwise take disciplinary action against any obligor solely because of the withholding. When a court finds that a payor has taken any of these actions, the payor shall be liable for a civil ~~penalty to be paid to the county school fund.~~ penalty. For a first offense, the civil penalty shall be one hundred dollars (\$100.00). For second and third offenses, the civil penalty shall be five hundred dollars (\$500.00) and one thousand dollars (\$1,000), respectively. Any payor who violates any provision of this paragraph shall be liable in a civil action for reasonable damages suffered by an obligor as a result of the violation, and an obligor discharged or demoted in violation of this paragraph shall be entitled to be reinstated to his former position. The statute of limitations for actions under this subsection shall be one year pursuant to G.S. 1-54 of this section.

The clear proceeds of civil penalties provided for in this subsection shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2."

D. CIVIL PENALTY NOT TO EXCEED \$100.00 PER VIOLATION FOR WILLFUL VIOLATION OF PROVISIONS FOR CERTIFICATION OF ADULT DAY CARE PROGRAM

Section 77. G.S. 131D-6(c) reads as rewritten:

"(c) The Secretary may impose a civil penalty not to exceed one hundred dollars (\$100.00) for each violation on a person, firm, agency, or corporation who willfully violates any provision of this section or any rule adopted by the Social Services Commission pursuant to this section. Each day of a continuing violation constitutes a separate violation.

In determining the amount of the civil penalty, the Secretary shall consider the degree and extent of the harm or potential harm caused by the violation.

The Social Services Commission shall adopt rules concerning the imposition of civil penalties under this subsection.

The clear proceeds of civil penalties imposed pursuant to this subsection shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2."

E. CIVIL PENALTIES OF VARYING AMOUNTS IMPOSED UPON ADULT CARE HOMES FOR VIOLATIONS OF STATE LAW OR REGULATION GOVERNING LICENSURE AND STANDARDS/ADMINISTRATIVE AND CIVIL PENALTIES OF VARIOUS AMOUNTS IMPOSED UPON NURSING FACILITIES FOR VIOLATIONS OF STATE LAW OR REGULATION GOVERNING LICENSURE AND STANDARDS

Section 78. (a) G.S. 131D-34 is amended by adding a new subsection to read:

"(i) The clear proceeds of civil penalties provided for in this section shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2."

(b) G.S. 131E-129 is amended by adding a new subsection to read:

"(h) The clear proceeds of civil penalties provided for in this section shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2."

(c) G.S. 131E-109 is amended by adding a new subsection to read:

"(e) The clear proceeds of civil penalties provided for in this section shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2."

(d) G.S. 131E-242(a) reads as rewritten:

"(a) The Department shall establish a temporary management contingency fund from the proceeds of penalties collected by the Department under the provisions of ~~G.S. 131E-109~~ and ~~G.S. 131E-129~~ for nursing facilities, and ~~G.S. 131D-2~~ and ~~G.S. 131D-34~~ for adult care homes."

F. CIVIL PENALTY OF \$50.00 PER DAY UP TO \$1,500 PER VIOLATION AGAINST NURSING HOMES FOR NOT GIVING FIRST AVAILABLE BED TO PATIENT WHO LEFT FOR TEMPORARY TREATMENT

Section 79. G.S. 131E-130(b) reads as rewritten:

"(b) If the Department finds that a nursing home has violated the provisions of subsection (a) of this section, the Department may assess a civil penalty of fifty dollars (\$50.00) a day, up to a maximum of one thousand five hundred dollars (\$1,500), against the nursing home, for each violation.

The clear proceeds of penalties provided for in this subsection shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2."

G. CIVIL PENALTIES OF NOT MORE THAN \$20,000 IMPOSED FOR VIOLATIONS OF STATE LAW OR REGULATION REQUIRING ISSUANCE OF AND COMPLIANCE WITH CERTIFICATES OF NEED

Section 80. G.S. 131E-190(f) reads as rewritten:

"(f) The Department may assess a civil penalty of not more than twenty thousand dollars (\$20,000) against any person who knowingly offers or develops any new institutional health service within the meaning of this Article without a certificate of need issued under this Article and the rules pertaining thereto, or in violation of the terms or conditions of such a certificate, whenever it determines a violation has occurred and each time the service is provided in violation of this provision. In determining the amount of the penalty the Department shall consider the degree and extent of harm caused by the violation and the cost of rectifying the damage. A person who is assessed a penalty shall be notified of the penalty by registered or certified mail. The notice shall state the reasons for the penalty. If a person fails to pay a penalty, the Department shall refer the matter to the Attorney General for collection. For the purpose of this subsection, the word 'person' shall not include an individual in his capacity as an officer, director, or employee of a person as otherwise defined in this Article.

The clear proceeds of penalties provided for in this subsection shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2."

H. ADMINISTRATIVE PENALTIES FOR VIOLATIONS OF THE SOLICITATIONS OF CONTRIBUTIONS LAW NOT TO EXCEED \$1,000 PER ACT OR OMISSION

Section 81. G.S. 131F-23(g) reads as rewritten:

"(g) Disposition of Penalties. —~~Penalties collected by the Department under subsection (e) of this section shall be credited to the General Fund as nontax revenue.~~ The clear proceeds of penalties provided for in subsection (e) of this section shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2."

I. CIVIL PENALTIES NOT TO EXCEED \$10,000 FOR VIOLATION OF THE SOLICITATIONS OF CONTRIBUTIONS LAW

Section 82. G.S. 131F-24(a) reads as rewritten:

"(a) Civil Remedies. – In addition to other remedies authorized by law, the Attorney General may bring a civil action in superior court to enforce this Chapter. Upon a finding that any person has violated this Chapter, a court may make any necessary order or enter a judgment, including a temporary or permanent injunction, a declaratory judgment, the appointment of a master or receiver, the sequestration of assets, the reimbursement of persons from whom contributions have been unlawfully solicited, the distribution of contributions in accordance with the charitable or sponsor purpose expressed in the registration statement or in accordance with the representations made to the person solicited, the reimbursement of the Department for attorneys' fees and costs, including investigative costs, and any other equitable relief the court finds appropriate. Upon a finding that any person has violated any provision of this Chapter, a court may enter an order imposing a civil penalty in an amount not to exceed ten thousand dollars (\$10,000) per violation.

The clear proceeds of penalties imposed pursuant to this subsection shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2."

PART VI. DEPARTMENT OF INSURANCE

A. PENALTIES OF NOT LESS THAN \$100.00 NOR MORE THAN \$1,000 ASSESSED AGAINST INSURANCE COMPANIES FOR FAILURE TO COMPLY WITH STATE LAWS AND REGULATIONS/COMMISSIONER MAY IMPOSE A CIVIL PENALTY PURSUANT TO G.S. 58-2-70 IF INSURER FAILS TO NOTICE A CLAIM WITHIN 30 DAYS AFTER RECEIVING WRITTEN NOTICE OF THE CLAIM/ANY INSURER WILLFULLY MISREPRESENTING TERMS, CONDITIONS, OR BENEFITS OF A POLICY IS SUBJECT TO THE PENALTY PROVISIONS OF G.S. 58-2-70/CIVIL PENALTY OF NO MORE THAN \$2,000, PURSUANT TO G.S. 58-2-70 FOR INSURERS REFUSING TO PAY CLAIMANTS BECAUSE OF REPAIR SERVICE CHOSEN/CIVIL PENALTY PURSUANT TO G.S. 58-2-70 IMPOSED FOR VIOLATING REINSURANCE INTERMEDIARIES LAW/CIVIL PENALTY AS PROVIDED IN G.S. 58-21-105 FOR SURPLUS LINES LICENSEE OR PRODUCING BROKER WHO FAILS TO PRODUCE PROPER EVIDENCE OF

INSURANCE/CIVIL PENALTY PURSUANT TO G.S. 58-2-70 IMPOSED FOR VIOLATING THE SURPLUS LINES ACT/CIVIL PENALTY PURSUANT TO G.S. 58-2-70 IMPOSED FOR KNOWINGLY AND WILLFULLY VIOLATING COMMISSIONER'S ORDERS FOR INSURERS SUPERVISION, REHABILITATION, AND LIQUIDATION/CIVIL PENALTY PURSUANT TO G.S. 58-2-70(d) IMPOSED AGAINST INSURANCE MANAGING GENERAL AGENT WHO HAS NOT MATERIALLY COMPLIED WITH AGENCY AND MANAGEMENT CONTRACTS LAWS/CIVIL PENALTY PURSUANT TO G.S. 58-2-70 IMPOSED FOR VIOLATION OF INSURANCE INFORMATION AND PRIVACY PROTECTION ACT

Section 83. (a) G.S. 58-2-70(d) reads as rewritten:

"(d) Upon a finding by the Commissioner of a violation as specified in subsection (c) of this section, the Commissioner shall direct the payment of a penalty of not less than one hundred dollars (\$100.00) nor more than one thousand dollars (\$1,000). In determining the amount of the penalty, the Commissioner shall consider the degree and extent of harm caused by the violation, the amount of money that inured to the benefit of the violator as a result of the violation, whether the violation was committed willfully, and the prior record of the violator in complying or failing to comply with laws, rules, or orders applicable to the violator. ~~The penalty shall be payable to the Commissioner, who shall then forward the clear proceeds of which to the State Treasurer for deposit in the General Fund of the State.~~ The clear proceeds of the penalty shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2. Payment of the civil penalty under this section shall be in addition to payment of any other penalty for a violation of the criminal laws of this State."

(b) G.S. 58-6-1 reads as rewritten:

"§ 58-6-1. Commissioner to report ~~taxes, fees, and civil penalties~~ taxes and fees and pay monthly.

On or before the 10th day of each month the Commissioner shall furnish to the Auditor a statement in detail of the ~~taxes, fees, and civil penalties~~ taxes and fees received during the previous month, and shall pay the amounts received to the Treasurer. Except as otherwise provided, the amounts shall be credited to the General Fund. The Auditor may examine the accounts of the Commissioner and check them up with said statement."

B. CIVIL PENALTY OF \$100.00 PER DAY NOT TO EXCEED \$1,000 FOR VIOLATING INSURANCE HOLDING COMPANY SYSTEM REGULATORY ACT

Section 84. G.S. 58-19-50(a) reads as rewritten:

"(a) Any person failing, without just cause, to file any registration statement as required in this Article shall pay, after notice and hearing, a civil penalty of one hundred dollars (\$100.00) for each day's delay, not to exceed a total penalty of one thousand dollars (\$1,000), to the ~~Commissioner, who shall forward the clear proceeds to the General Fund of this State.~~ Commissioner. The clear proceeds of civil penalties

provided for in this section shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2."

C. PENALTY OF \$1,000 FOR PERSON WHO PLACES SURPLUS LINES INSURANCE WITHOUT A VALID SURPLUS LINES LICENSE IN EFFECT

Section 85. G.S. 58-21-65(d) reads as rewritten:

"(d) Each surplus lines license shall be issued on September 1 of each year and expire August 31 of the following year unless renewed. Application for renewal shall be made 30 days before the expiration date. The license shall be renewed upon payment of the annual license fee and compliance with the other applicable provisions of this section. Any person who places surplus lines insurance without a valid surplus lines license in effect shall pay a penalty of one thousand dollars (\$1,000) and be subject to such other penalties as provided by law.

The clear proceeds of civil penalties provided for in this subsection shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2."

D. CIVIL PENALTY NOT TO EXCEED \$10,000 FOR VIOLATING COMMISSIONER'S SUPERVISORY ORDERS

Section 86. G.S. 58-30-60(h) reads as rewritten:

"(h) If any person violates any supervision order issued under this section that as to him is then still in effect, he shall be liable to pay a civil penalty imposed by the Court not to exceed ten thousand dollars (\$10,000). The clear proceeds of civil penalties imposed pursuant to this subsection shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2."

E. FORFEITURE OF \$1,000 OR \$5,000 FOR VIOLATING COMMISSIONER'S FINAL ORDER ABOUT REGULATION OF CREDIT LIFE INSURANCE

Section 87. G.S. 58-57-80 reads as rewritten:

"§ 58-57-80. Penalties.

In addition to any other penalty provided by law, any person, firm or corporation which willfully violates an order of the Commissioner after it has become final, and while such order is in effect, shall, upon proof thereof to the satisfaction of the court, forfeit and pay to the State of North Carolina a sum not to exceed one thousand dollars (\$1,000) which may be recovered in a civil action, except that if such violation is found to be willful, the amount of such penalty shall be a sum not to exceed five thousand dollars (\$5,000). The clear proceeds of penalties provided for in this section shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2. The Commissioner, in his discretion, may revoke or suspend the license or certificate of authority of the person, firm or corporation guilty of such willful violation. Such order for suspension or revocation shall be upon notice and hearing, and shall be subject to judicial review as provided in G.S. 58-57-75. Any creditor who requires credit life insurance or credit accident and health insurance, or both, in excess of the amounts set forth in G.S. 58-57-15 or who violates the provisions of G.S. 58-57-65 shall be guilty of

a Class 3 misdemeanor, the penalty for which shall only be a fine of two thousand dollars (\$2,000) for each such occurrence or violation."

F. MONETARY FORFEITURE NOT LESS THAN \$1,000 NOR MORE THAN \$5,000 FOR FAILURE TO COMPLY WITH CEASE AND DESIST ORDER CONCERNING UNFAIR TRADE PRACTICE

Section 88. G.S. 58-63-50 reads as rewritten:

"§ 58-63-50. Penalty.

Any person who willfully violates a cease and desist order of the Commissioner under G.S. 58-63-32, after it has become final, and while the order is in effect, shall forfeit and pay to the Commissioner ~~for the use of the public schools of the county or counties in which the act or acts complained of occurred~~ the sum of not less than one thousand dollars (\$1,000) nor more than five thousand dollars (\$5,000) for each violation, which if not paid shall be recovered in a civil action instituted in the name of the Commissioner in the Superior Court of Wake County. The clear proceeds of forfeitures provided for in this section shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2."

G. PENALTY OF NOT LESS THAN \$100.00 OR GREATER THAN \$2,000 AGAINST COLLECTION AGENCIES FOR VIOLATING COLLECTION OF DEBT RULES

Section 89. (a) G.S. 58-70-130 is amended by adding a new subsection to read:

"(d) The clear proceeds of civil penalties imposed under this section in suits instituted by the Attorney General shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2."

(b) G.S. 58-39-95 is amended by adding a new subsection to read:

"(c) The clear proceeds of any civil penalties levied pursuant to this section shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2."

H. CIVIL PENALTIES OF \$250.00 ASSESSED FOR VIOLATION OF BAIL BONDSMEN AND RUNNERS LAW

Section 90. G.S. 58-71-80(b) reads as rewritten:

"(b) The Commissioner, in lieu of revoking or suspending a license in accordance with the provisions of this Article, may, in any one proceeding, by order, require the licensee to pay ~~to the school fund in the licensee's county of residence~~ a civil penalty of two hundred fifty dollars (\$250.00) for each offense. The Commissioner shall remit the clear proceeds of these civil penalties to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2. Upon the licensee's failure to pay the penalty within 20 days after the order is mailed, postage prepaid, registered and addressed to the licensee's last known place of business, unless the order is stayed by an order of the court of competent jurisdiction or unless the Commissioner has already suspended or

revoked the license of the licensee, the Commissioner may revoke the license or may suspend the license for any period."

I. FORFEITURE OF \$500.00 FOR OFFICER ACTING WITHOUT BOND

Section 91. G.S. 58-72-5 reads as rewritten:

"§ 58-72-5. Penalty for officer acting without bond.

Every person or officer of whom an official bond is required, who presumes to discharge any duty of his office before executing such bond in the manner prescribed by law, is liable to a forfeiture of five hundred dollars (\$500.00) to the use of the State for each attempt so to exercise his office. The clear proceeds of forfeitures provided for in this section shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2."

J. CIVIL PENALTY NOT LESS THAN \$100.00 NOR MORE THAN \$500.00 FOR VIOLATING MANUFACTURED HOMES WARRANTIES LAW

Section 92. G.S. 143-143.13(c) reads as rewritten:

"(c) In addition to the authority to deny, suspend, or revoke a license under this Article, the Board also has the authority to impose a civil penalty upon any person violating the provisions of this Article. Upon a finding by the Board of a violation of this Article, the Board shall direct the payment of a penalty of not less than one hundred dollars (\$100.00) nor more than five hundred dollars (\$500.00). In determining the amount of the penalty, the Board shall consider the degree and extent of harm caused by the violation, the amount of money that inured to the benefit of the violator as a result of the violation, whether the violation was committed willfully, and the prior record of the violator in complying or failing to comply with laws, rules, or orders applicable to the violator. Each day during which a violation occurs shall constitute a separate offense. The penalty shall be payable to the Board, ~~which shall then forward the clear proceeds of which to the State Treasurer for deposit in the General Fund of the State.~~ Board. The Board shall remit the clear proceeds of penalties provided for in this subsection to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2.

Payment of the civil penalty under this section shall be in addition to payment of any other penalty for a violation of the criminal laws of this State. Nothing in this subsection shall prevent the Board from negotiating a mutually acceptable agreement with any person as to the status of the person's license or certificate or as to any civil penalty."

K. CIVIL PENALTIES NOT TO EXCEED \$1,000 PER VIOLATION IMPOSED FOR VIOLATIONS OF THE UNIFORM STANDARDS FOR MANUFACTURED HOMES

Section 93. G.S. 143-151(a) reads as rewritten:

"(a) Whoever violates (i) the provisions of this Article; or (ii) any rules promulgated under this Article, shall be liable for civil penalty not to exceed one thousand dollars (\$1,000) for each violation. Each such violation shall constitute a

separate violation with respect to each manufactured home or with respect to each failure or refusal to allow or perform an act required thereby, except that the maximum civil penalty may not exceed one million dollars (\$1,000,000) for any related series of violations occurring within one year from the date of the first violation. The clear proceeds of civil penalties provided for in this section shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2."

PART VII. DEPARTMENT OF JUSTICE

A. CIVIL PENALTY OF \$100.00 IMPOSED AGAINST JUDGMENT CREDITOR FAILING TO FILE NOTICE OF RECEIPT OF PAYMENT WITH CLERK OF SUPERIOR COURT

Section 94. G.S. 1-239(c) reads as rewritten:

"(c) Upon receipt by the judgment creditor of any payment of money upon a judgment, the judgment creditor shall within 60 days after receipt of the payment give satisfactory notice thereof to the clerk of the superior court in which the judgment was rendered, and the clerk shall thereafter promptly enter the payment on the judgment docket of the court, and the clerk shall immediately forward a certificate thereof to the clerk of the superior court of each county to whom a transcript of the judgment has been sent, and the clerk of each superior court shall thereafter promptly enter the same on the judgment docket of the court and file the original with the judgment roll in the action. If the judgment creditor fails to file the notice required by this subsection within 30 days following written demand by the debtor, he may be required to pay a civil penalty of one hundred dollars (\$100.00) in addition to attorneys' fees and any loss caused to the debtor by such failure. The clear proceeds of civil penalties provided for in this section shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2."

B. FINE NOT TO EXCEED \$2,000 PAID TO COURT FOR UNLAWFULLY WITHHOLDING TITLE TO AN OFFICE (QUO WARRANTO)

Section 95. G.S. 1-527 reads as rewritten:

"§ 1-527. Judgment in such actions.

In every such case judgment shall be rendered upon the right of the defendant, and also upon the right of the party alleged to be entitled, or only upon the right of the defendant, as justice requires. When the defendant, whether a natural person or corporation, against whom the action has been brought, is adjudged guilty of usurping or intruding into, or unlawfully holding or exercising any office, franchise or privilege, judgment shall be rendered that the defendant be excluded from such office, franchise or privilege, and also that the plaintiff recover costs against him. The court may also, in its discretion, fine the defendant a sum not exceeding two thousand dollars (\$2000). The clear proceeds of the fine shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2."

C. COURT MAY ASSESS CIVIL PENALTIES AGAINST ANYONE OPERATING A PYRAMID OR CHAIN SCHEME IN VIOLATION OF LOTTERY AND GAMING LAWS

Section 96. G.S. 14-291.2(c) reads as rewritten:

"(c) Any judge of the superior court shall have jurisdiction, upon petition by the Attorney General of North Carolina or district attorney of the superior court, to enjoin, as an unfair or deceptive trade practice, the continuation of the scheme described in subsection (a); in such proceeding the court may assess civil penalties and attorneys' fees to the Attorney General or the District Attorney pursuant to G.S. 75-15.2 and 75-16.1; and the court may appoint a receiver to secure and distribute assets obtained by any defendant through participation in any such scheme. The clear proceeds of civil penalties provided for in this subsection shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2."

D. CIVIL PENALTIES NOT TO EXCEED \$25,000 ASSESSED FOR VIOLATIONS OF THE INVENTION DEVELOPMENT SERVICES LAW

Section 97. G.S. 66-216 reads as rewritten:

"§ 66-216. Enforcement.

The Attorney General shall enforce this Article and may recover a civil penalty not to exceed twenty-five thousand dollars (\$25,000) for each violation of this Article and may seek equitable relief to restrain the violation of this Article. The clear proceeds of civil penalties provided for in this section shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2."

E. CIVIL PENALTIES OF NOT MORE THAN \$2,000 ASSESSED FOR VIOLATION OF LAWS AND REGULATIONS GOVERNING PRIVATE PROTECTIVE SERVICES

Section 98. G.S. 74C-17(c) reads as rewritten:

"(c) In lieu of revocation or suspension of a license or permit under G.S. 74C-12, a civil penalty of not more than two thousand dollars (\$2,000) may be assessed by the Board against any person or business who violates any provision of this Chapter or any rule of the Board adopted pursuant to this Chapter. In determining the amount of any penalty, the Board shall consider the degree and extent of harm caused by the violation. The clear proceeds of civil penalties provided for in this subsection shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2."

F. CIVIL PENALTIES OF NOT MORE THAN \$5,000 ASSESSED BY THE COURTS FOR KNOWING VIOLATIONS OF MONOPOLIES, TRUSTS, AND CONSUMER PROTECTION LAWS OR RELATED COURT ORDERS

Section 99. G.S. 75-15.2 reads as rewritten:

"§ 75-15.2. Civil penalty.

In any suit instituted by the Attorney General, in which the defendant is found to have violated G.S. 75-1.1 and the acts or practices which constituted the violation were, when committed, knowingly violative of a statute, the court may, in its discretion,

impose a civil penalty against the defendant of up to five thousand dollars (\$5,000) for each violation. In any action brought by the Attorney General pursuant to this Chapter in which it is shown that an action or practice when committed was specifically prohibited by a court order, the Court may, in its discretion, impose a civil penalty of up to five thousand dollars (\$5,000) for each violation. Civil penalties may be imposed in a new action or by motion in an earlier action, whether or not such earlier action has been concluded. In determining the amount of the civil penalty, the court shall consider all relevant circumstances, including, but not limited to, the extent of the harm caused by the conduct constituting a violation, the nature and persistence of such conduct, the length of time over which the conduct occurred, the assets, liabilities, and net worth of the person, whether corporate or individual, and any corrective action taken by the defendant. Any penalty so assessed shall be paid to the General Fund of the State of North Carolina. The clear proceeds of penalties so assessed shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2."

G. FINE UP TO \$2,000 PER PERSON FOR LENDER REQUIRING BORROWER TO DEAL WITH A PARTICULAR INSURER OR FOR APPROVING INSURER ON DISCRIMINATORY BASIS

Section 100. G.S. 75-19 reads as rewritten:

"§ 75-19. Violators subject to fine and injunction.

The superior court, on complaint by any person that G.S. 75-17 or 75-18 is being violated, may issue an injunction against such violation and may fine all persons, firms, corporations, and officers, directors, trustees, agents, employees, or affiliates of such up to two thousand dollars (\$2,000) per person for such violation. In event of a disregard of such injunction or other court order, the superior court shall hold such parties in contempt and prescribe such further penalties as the court in its discretion shall so determine. The clear proceeds of fines provided for in this section shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2."

H. CIVIL PENALTY NOT TO EXCEED \$2,000 FOR DEBT COLLECTORS WHO ATTEMPT TO COLLECT DEBTS IN UNAUTHORIZED MANNER

Section 101. G.S. 75-56 reads as rewritten:

"§ 75-56. Application.

The specific and general provisions of this Article shall exclusively constitute the unfair or deceptive acts or practices proscribed by G.S. 75-1.1 in the area of commerce regulated by this Article. Notwithstanding the provisions of G.S. 75-15.2 and 75-16, in private actions or actions instituted by the Attorney General, civil penalties in excess of two thousand dollars (\$2,000) shall not be imposed, nor shall damages be trebled for any violation under this Article. The clear proceeds of civil penalties imposed in actions instituted by the Attorney General shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2."

I. CIVIL PENALTY OF \$1,000 FOR KNOWINGLY INDUCING OR ATTEMPTING TO INDUCE SOMEONE TO VIOLATE THE MOTOR FUEL MARKETING ACT

Section 102. G.S. 75-83 reads as rewritten:

"§ 75-83. Unlawful inducement; civil penalty.

It shall be unlawful to knowingly induce, or to knowingly attempt to induce, a violation of this Article, whether by otherwise lawful or unlawful means. In any action initiated by the Attorney General, anyone found to have violated this provision shall be subject to the civil penalty applicable to the sales made in violation of this Article; or, if no sales were made, to a civil penalty of one thousand dollars (\$1,000). The clear proceeds of any civil penalties imposed in any actions initiated by the Attorney General under this section shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2."

J. CIVIL PENALTY OF NOT MORE THAN \$1,000 PER OFFENSE FOR ESTABLISHING A PRICE IN VIOLATION OF THE MOTOR FUEL MARKETING ACT

Section 103. G.S. 75-84 reads as rewritten:

"§ 75-84. Separate offenses; injunctions.

Each act of establishing a price in violation of this Article shall constitute a separate offense by the seller and the civil penalty for each offense shall be not more than one thousand dollars (\$1,000). Upon a proper showing by the Attorney General or his delegate, further violations may be temporarily or permanently enjoined.

The clear proceeds of civil penalties provided for in this section shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2."

K. ATTORNEY GENERAL MAY SEEK CIVIL PENALTIES FOR VIOLATIONS OF THE MOTOR FUEL MARKETING ACT

Section 104. G.S. 75-85 reads as rewritten:

"§ 75-85. Investigations by Attorney General.

The Attorney General is authorized to investigate any allegation of a violation of this Article made by a motor fuel merchant or by an association or group of motor fuel merchants. If an investigation discloses a violation, the Attorney General may exercise the authority under this Article to seek an injunction and he may also seek civil penalties. The clear proceeds of civil penalties provided for in this section shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2."

L. CIVIL PENALTIES OF NOT MORE THAN \$100,000 ASSESSED BY THE COURTS FOR UNLAWFUL ACTIVITIES IN CONNECTION WITH CERTAIN CORPORATE TRANSACTIONS; COURT MAY TREBLE PENALTY IF CONDUCT IS WILLFUL

Section 105. G.S. 75E-5 reads as rewritten:

"§ 75E-5. Civil penalties.

In any suit instituted by the Attorney General in which the defendant is found to have violated G.S. 75E-2, the court may, in its discretion, impose a civil penalty against the defendant of not more than one hundred thousand dollars (\$100,000) for each violation; provided that, if the court shall determine that such violation was willful, it may in its discretion treble such penalty; provided, further, that in either of the foregoing circumstances, the court may in its discretion award to the Attorney General costs and reasonable attorneys' fees. ~~Any penalty assessed pursuant to this section shall be paid to the General Fund of the State of North Carolina. The clear proceeds of any~~ penalty assessed pursuant to this section shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2."

M. CIVIL PENALTIES AND FORFEITURE OF PERSONAL AND REAL PROPERTY AUTHORIZED IN NUISANCE ACTIONS

Section 106. G.S. 19-6 reads as rewritten:

"§ 19-6. Civil penalty; forfeiture; accounting; lien as to expenses of abatement; invalidation of lease.

Lewd matter is contraband, and there are no property rights therein. All personal property, including all money and other considerations, declared to be a nuisance under the provisions of G.S. 19-1.3 and other sections of this Article, are subject to forfeiture to the local government and are recoverable as damages in the county wherein such matter is sold, exhibited or otherwise used. Such property including moneys may be traced to and shall be recoverable from persons who, under G.S. 19-2.4, have knowledge of the nuisance at the time such moneys are received by them.

Upon judgment against the defendant or defendants in legal proceedings brought pursuant to this Article, an accounting shall be made by such defendant or defendants of all moneys received by them which have been declared to be a nuisance under this Article. An amount equal to the sum of all moneys estimated to have been taken in as gross income from such unlawful commercial activity shall be forfeited to the general funds of the city and county governments wherein such activity took place, to be shared equally, as a forfeiture of the fruits of an unlawful enterprise, and as partial restitution for damages done to the public welfare; provided, however, that no provision of this Article shall authorize the recovery of any moneys or gross income received from the sale of any book, magazine, or exhibition of any motion picture prior to the issuance of a preliminary injunction. Where the action is brought pursuant to this Article, special injury need not be proven, and the costs of abatement are a lien on both the real and personal property used in maintaining the nuisance. Costs of abatement include, but are not limited to, reasonable attorney's fees and court costs.

If it is judicially found after an adversary hearing pursuant to this Article that a tenant or occupant of a building or tenement, under a lawful title, uses such place for the purposes of lewdness, assignation, prostitution, gambling, sale or possession of illegal alcoholic beverages or substances proscribed under the North Carolina Controlled Substances Act, such use makes void the lease or other title under which he holds, at the option of the owner, and, without any act of the owner, causes the right of possession to revert and vest in such owner.

The clear proceeds of civil penalties and forfeitures provided for in this section, except for penalties and properties that accrue to local governments instead of the State, shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2."

PART VIII. DEPARTMENT OF LABOR

A. CIVIL PENALTIES PURSUANT TO G.S. 95-25.23 FOR PERSONS REQUIRED TO COMPLY WITH FAIR LABOR STANDARDS ACT WHO VIOLATE N.C. YOUTH EMPLOYMENT LAW/YOUTH EMPLOYMENT – CIVIL PENALTIES NOT TO EXCEED \$250.00 PER VIOLATION ASSESSED AGAINST EMPLOYERS FOR VIOLATING YOUTH EMPLOYMENT LAWS

Section 107. G.S. 95-25.23(c) reads as rewritten:

"(c) ~~Sums collected under this section by the Commissioner shall be paid into the General Fund of the State treasury.~~ The clear proceeds of civil penalties provided for in this section shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2."

B. CIVIL PENALTY OF UP TO \$250.00 PER EMPLOYEE NOT TO EXCEED \$1,000 PER INVESTIGATION FOR VIOLATING RECORD-KEEPING REQUIREMENTS OF WAGE AND HOUR ACT

Section 108. G.S. 95-25.23A(c) reads as rewritten:

"(c) ~~Sums collected under this section by the Commissioner shall be paid into the General Fund.~~ The clear proceeds of civil penalties provided for in this section shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2."

C. PRIVATE PERSONNEL SERVICES – FINES UP TO \$250.00 AND CIVIL PENALTIES NOT LESS THAN \$50.00 NOR MORE THAN \$100.00 PER DAY, UP TO \$2,000 IMPOSED UPON SERVICES WHICH VIOLATE LAW OR RULES OR OPERATES WITHOUT A LICENSE/CIVIL PENALTIES (LIKE THAT IMPOSED IN G.S. 95-47.9(e)) IMPOSED FOR OPERATING A JOB-LISTING SERVICE WITHOUT A VALID LICENSE

Section 109. G.S. 95-47.9(e) reads as rewritten:

"(e) Any person who operates as a private personnel service without first obtaining the appropriate license (i) shall be guilty of a Class 1 misdemeanor; and (ii) be subject to a civil penalty of not less than fifty dollars (\$50.00) nor more than one hundred dollars (\$100.00) for each day the private personnel service operates without a license, the penalty not to exceed a total of two thousand dollars (\$2,000). Actions to recover civil penalties shall be initiated by the Attorney General and any such penalties collected shall be deposited to the general fund. General. The clear proceeds of civil penalties provided for in this section shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2."

D. CIVIL PENALTIES NOT TO EXCEED \$1,000 PER DAY OR NOT TO EXCEED \$1,000 ASSESSED FOR VIOLATIONS OF THE AMUSEMENT DEVICE SAFETY ACT

Section 110. G.S. 95-111.4(17) reads as rewritten:

"(17) To order the payment of all civil penalties provided by this Article. ~~Funds~~ The clear proceeds of funds collected pursuant to a civil penalty order shall be deposited with the State Treasurer; remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2; and".

E. OSHA – CIVIL PENALTIES OF \$7,000 AND CIVIL PENALTIES NOT LESS THAN \$5,000 NOR GREATER THAN \$70,000 ASSESSED AGAINST EMPLOYERS FOR OSHA VIOLATIONS

Section 111. G.S. 95-138(b) reads as rewritten:

"(b) ~~All~~ The clear proceeds of all civil penalties and interest recovered by the Commissioner, together with the costs thereof, shall be paid into the general fund of the State treasury; remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2."

F. CIVIL PENALTIES OF NOT MORE THAN \$1,000 ASSESSED FOR VIOLATIONS OF THE LAWS CONCERNING IDENTIFICATION OF TOXIC OR HAZARDOUS SUBSTANCES/CIVIL PENALTIES (AS PROVIDED IN G.S. 95-195(c)) ASSESSED AGAINST EMPLOYER WHICH REFUSES TO LIST CHEMICALS USED OR STORED AT THE EMPLOYMENT FACILITY

Section 112. G.S. 95-195(c) reads as rewritten:

"(c) If the Commissioner of Labor finds that the employer violated this Article, the Commissioner shall order the employer to comply within 14 days following receipt of written notification of the violation. Employers not complying within 14 days following receipt of written notification of a violation shall be subject to civil penalties of not more than one thousand dollars (\$1,000) per violation imposed by the Commissioner of Labor. There shall be a separate offense for each day the violation continues. The clear proceeds of civil penalties provided for in this section shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2."

G. CONTROLLED SUBSTANCES EXAMINATION ACT – CIVIL PENALTY UP TO \$250.00 PER EXAMINEE NOT TO EXCEED \$1,000 PER INVESTIGATION ASSESSED AGAINST EXAMINEES WHO VIOLATE CSE ACT

Section 113. G.S. 95-234(c) reads as rewritten:

"(c) ~~Sums collected under this section by the Commissioner shall be paid into the General Fund.~~ The clear proceeds of civil penalties provided for in this section shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2."

H. \$25.00 CIVIL PENALTY FOR EMPLOYER FAILING TO NOTIFY THE INDUSTRIAL COMMISSION AND EMPLOYEE WHEN WORKERS' COMPENSATION FINAL PAYMENT HAS BEEN MADE

Section 114. G.S. 97-18(h) reads as rewritten:

"(h) Within 16 days after final payment of compensation has been made, the employer shall send to the Commission and the employee a notice, in accordance with a form prescribed by the Commission, stating that such final payment has been made, the total amount of compensation paid, the name of the employee and of any other person to whom compensation has been paid, the date of the injury or death, and the date to which compensation has been paid. If the employer fails to so notify the Commission or the employee within such time, the Commission shall assess against such employer a civil penalty in the amount of twenty-five dollars (\$25.00). The clear proceeds of civil penalties assessed pursuant to this section shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2."

I. INDUSTRIAL COMMISSION – CIVIL PENALTIES OF \$1.00 PER EMPLOYEE, BUT NOT LESS THAN \$50.00 NOR MORE THAN \$100.00 PER DAY ASSESSED FOR EMPLOYER'S FAILURE TO SECURE THE PAYMENT OF COMPENSATION

Section 115. G.S. 97-94(b) reads as rewritten:

"(b) Any employer required to secure the payment of compensation under this Article who refuses or neglects to secure such compensation shall be punished by a penalty of one dollar (\$1.00) for each employee, but not less than fifty dollars (\$50.00) nor more than one hundred dollars (\$100) for each day of such refusal or neglect, and until the same ceases; and the employer shall be liable during continuance of such refusal or neglect to an employee either for compensation under this Article or at law at the election of the injured employee.

The penalty herein provided may be assessed by the Industrial Commission administratively, with the right to a hearing if requested within 30 days after notice of the assessment of the penalty and the right of review and appeal as in other cases. Enforcement of the penalty shall be made by the Office of the Attorney General. The clear proceeds of penalties provided for in this subsection shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2. "

PART IX. DEPARTMENT OF REVENUE

A. CIVIL PENALTY OF \$100.00 AND \$1,000 FOR DISCIPLINARY EMPLOYMENT ACTION AGAINST DEBTOR WHO HAS MONEY WITHHELD

Section 116. G.S. 105B-4(b) reads as rewritten:

"(b) A payor shall not discharge from employment, refuse to employ, or otherwise take disciplinary action against any debtor because of the withholding. When a court finds that a payor has taken any of these actions, the payor shall be liable for a civil ~~penalty to be paid to the county school fund.~~ penalty. For a first offense, the civil penalty shall be one hundred dollars (\$100.00). For second and third offenses, the civil

penalty shall be five hundred dollars (\$500.00) and one thousand dollars (\$1,000), respectively. Any payor who violates any provision of this paragraph shall be liable in a civil action for reasonable damages suffered by a debtor as a result of the violation, and a debtor discharged or demoted in violation of this paragraph shall be entitled to be reinstated to his former position. The statute of limitations for actions under this subsection shall be one year pursuant to G.S. 1-54.

The clear proceeds of civil penalties provided for in this section shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2."

PART X. SECRETARY OF STATE

A. CIVIL PENALTY OF \$10.00 PER DAY NOT TO EXCEED \$1,000 AGAINST FOREIGN CORPORATIONS TRANSACTING BUSINESS WITHOUT AUTHORITY

Section 117. G.S. 55-15-02(d) reads as rewritten:

"(d) A foreign corporation failing to obtain a certificate of authority as required by this Chapter or by prior acts then applicable shall be liable to the State for the years or parts thereof during which it transacted business in this State without a certificate of authority in an amount equal to all fees and taxes which would have been imposed by law upon such corporation had it duly applied for and received such permission, plus interest and all penalties imposed by law for failure to pay such fees and taxes. In addition, the foreign corporation shall be liable for a civil penalty of ten dollars (\$10.00) for each day, but not to exceed a total of one thousand dollars (\$1,000) for each year or part thereof, it transacts business in this State without a certificate of authority. The Attorney General may bring actions to recover all amounts due the State under the provisions of this subsection.

The clear proceeds of civil penalties provided for in this subsection shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2."

B. CIVIL PENALTY OF \$10.00 PER DAY NOT TO EXCEED \$1,000 AGAINST FOREIGN CORPORATIONS FOR CONDUCTING AFFAIRS WITHOUT AUTHORITY

Section 118. G.S. 55A-15-02(b) reads as rewritten:

"(b) A foreign corporation failing to obtain a certificate of authority as required by this Chapter or by prior acts then applicable shall be liable to the State for the years or parts thereof during which it conducted affairs in this State without a certificate of authority in an amount equal to all fees and taxes which would have been imposed by law upon the corporation had it duly applied for and received such permission, plus interest and all penalties imposed by law for failure to pay such fees and taxes. In addition, the foreign corporation shall be liable for a civil penalty of ten dollars (\$10.00) for each day, but not to exceed a total of one thousand dollars (\$1,000) for each year or part thereof, it conducts affairs in this State without a certificate of authority. The Attorney General may bring actions to recover all amounts due the State under the provisions of this subsection. The clear proceeds of civil penalties provided for in this

subsection shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2."

C. CIVIL PENALTY OF \$10.00 PER DAY NOT TO EXCEED \$1,000 PER YEAR AGAINST FOREIGN LLCs FOR TRANSACTING BUSINESS WITHOUT AUTHORITY

Section 119. G.S. 57C-7-03(b) reads as rewritten:

"(b) A foreign limited liability company failing to obtain a certificate of authority as required by this Chapter shall be liable to the State for the years or parts thereof during which it transacted business in this State without a certificate of authority in an amount equal to all fees and taxes which would have been imposed by law upon the foreign limited liability company had it duly applied for and received such permission, plus interest and all penalties imposed by law for failure to pay such fees and taxes. In addition, the foreign limited liability company shall be liable for a civil penalty of ten dollars (\$10.00) for each day, but not to exceed a total of one thousand dollars (\$1,000) for each year or part thereof, it transacts business in this State without a certificate of authority. The Attorney General may bring actions to recover all amounts due the State under the provisions of this subsection. The clear proceeds of civil penalties provided for in this subsection shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2."

D. SECURITIES DIVISION – CIVIL PENALTIES UP TO \$2,500 OR \$25,000 ASSESSED FOR SINGLE OR MULTIPLE VIOLATIONS OF SECURITIES ACT

Section 120. G.S. 78A-47(c) reads as rewritten:

"(c) The Administrator may issue an order against an applicant, registered person, or other person who willfully violates this Chapter or a rule or order of the Administrator under this Chapter:

- (1) Imposing a civil penalty of up to two thousand five hundred dollars (\$2,500) for a single violation or of up to twenty-five thousand dollars (\$25,000) for multiple violations in a single proceeding or a series of related proceedings; and
- (2) Requiring reimbursement of the costs of investigation.

The clear proceeds of civil penalties imposed under this subsection shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2. Any civil penalty or reimbursement imposed under this subsection shall be paid into the General Fund. No order under this subsection may be entered without prior notice and an opportunity for a hearing conducted pursuant to Article 3 of Chapter 150B of the General Statutes."

E. SECURITIES DIVISION – CIVIL PENALTIES UP TO \$2,500 OR \$25,000 ASSESSED FOR WILLFUL VIOLATIONS OF THE INVESTMENT ADVISORS ACT OR RELATED RULES AND ORDERS

Section 121. G.S. 78C-28(c) reads as rewritten:

"(c) The Administrator may issue an order against an applicant, registered person, or other person who willfully violates this Chapter or a rule or order of the Administrator under this Chapter:

- (1) Imposing a civil penalty of up to two thousand five hundred dollars (\$2,500) for a single violation or of up to twenty-five thousand dollars (\$25,000) for multiple violations in a single proceeding or a series of related proceedings; and
- (2) Requiring reimbursement of the costs of investigation.

The clear proceeds of civil penalties imposed under this subsection shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2. Any ~~civil penalty or~~ reimbursement imposed under this subsection shall be paid into the General Fund. No order authorized by this subsection may be entered without prior notice of an opportunity for a hearing conducted pursuant to Article 3 of Chapter 150B of the General Statutes."

F. SECURITIES DIVISION – CIVIL PENALTIES UP TO \$2,500 OR \$25,000 ASSESSED FOR WILLFUL VIOLATING INVESTMENT ADVISORS ACT CONCERNING REGULATION OF ATHLETE AGENT OR RELATED RULES AND ORDERS

Section 122. (a) G.S. 78C-79 is amended by adding a new subsection to read:

"(d) The clear proceeds of civil penalties imposed pursuant to this section shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2."

(b) G.S. 78C-74 reads as rewritten:

"§ 78C-74. Disposition of fees.

~~Fees~~ Except as otherwise provided, fees and other funds received under this Article by the Secretary of State shall be deposited in the State treasury to the credit of the General Fund."

G. SECURITIES DIVISION – CIVIL PENALTIES NOT TO EXCEED \$25,000 OR \$50,000 ASSESSED FOR VIOLATION OF THE COMMODITIES ACT

Section 123. G.S. 78D-22(a) reads as rewritten:

"(a) If the Administrator believes, whether or not based upon an investigation conducted under G.S. 78D-21 that any person has engaged or is about to engage in any act or practice constituting a violation of any provision of this Chapter or any rule or order hereunder, the Administrator may:

- (1) Issue a cease and desist order;
- (2) Issue an order imposing a civil penalty in an amount which may not exceed twenty-five thousand dollars (\$25,000) for any single violation or five hundred thousand dollars (\$500,000) for multiple violations in a single proceeding or a series of related proceedings;
- (3) Issue an order requiring reimbursement of the costs of investigation; or
- (4) Initiate any of the actions specified in subsection (b) of this section.

The clear proceeds of civil penalties imposed pursuant to this subsection shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2. Any civil penalty or reimbursement of costs imposed by this subsection shall be paid to the General Fund."

H. CIVIL PENALTY IMPOSED AT THE COURT'S DISCRETION NOT TO EXCEED \$25,000 OR \$500,000 FOR VIOLATING COMMODITIES ACT

Section 124. G.S. 78D-23(a) reads as rewritten:

- "(a) (1) Upon a proper showing by the Administrator that a person has violated, or is about to violate, any provision of this Chapter or any rule or order of the Administrator, any court of competent jurisdiction may grant appropriate legal or equitable remedies.
- (2) Upon showing of violation of this Chapter or a rule or order of the Administrator, the court, in addition to traditional legal and equitable remedies, including temporary restraining orders, permanent or temporary prohibitory or mandatory injunctions, and writs of prohibition or mandamus, may grant the following special remedies:
- a. Imposition of a civil penalty in an amount which may not exceed twenty-five thousand dollars (\$25,000) for any single violation or five hundred thousand dollars (\$500,000) for multiple violations in a single proceeding or a series of related proceedings;
 - b. Disgorgement;
 - c. Declaratory judgment;
 - d. Restitution to investors wishing restitution; and
 - e. Appointment of a receiver or conservator for the defendant or the defendant's assets.
- (3) Appropriate remedies when the defendant is shown only about to violate this Chapter or a rule or order of the Administrator shall be limited to:
- a. A temporary restraining order;
 - b. A temporary or permanent injunction;
 - c. A writ of prohibition or mandamus; or
 - d. An order appointing a receiver or conservator for the defendant or the defendant's assets.

The clear proceeds of civil penalties imposed pursuant to this subsection shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2."

I. CIVIL PENALTY OF \$5,000 OR \$25,000 FOR WILLFUL VIOLATION OF PROVISIONS CONCERNING BOXING IN STATE

Section 125. G.S. 143-658(a) reads as rewritten:

"(a) Civil Penalties. – The Secretary of State may issue an order against a licensee or other person who willfully violates any provision of this Article, imposing a civil penalty of up to five thousand dollars (\$5,000) for a single violation or of up to twenty-

five thousand dollars (\$25,000) for multiple violations in a single proceeding or a series of related proceedings. No order under this subsection may be entered without giving the licensee or other person 15 days' prior notice and an opportunity for a contested case hearing conducted pursuant to Article 3 of Chapter 150B of the General Statutes.

The clear proceeds of civil penalties imposed pursuant to this subsection shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2."

PART XI. UTILITIES COMMISSION

A. UNSPECIFIED CIVIL PENALTY FOR VIOLATING SAFETY STANDARDS FOR GAS PIPELINE FACILITIES. MAXIMUM AMOUNT OF PENALTY NOT TO EXCEED THE MAXIMUM AMOUNT IF PENALTY HAD BEEN IMPOSED BY SECRETARY OF U.S. DEPARTMENT OF TRANSPORTATION UNDER 49 U.S.C. APPROXIMATELY § 1679a(a)/ FORFEITURE OF \$1,000 BY PUBLIC UTILITIES FOR PROVIDING UNAUTHORIZED SERVICES OR FOR FAILURE TO PROVIDE SERVICES AS AUTHORIZED

Section 126. G.S. 62-302(d) reads as rewritten:

"(d) Use of Proceeds. – A special fund in the office of State Treasurer, the Utilities Commission and Public Staff Fund, is created. The fees collected pursuant to this section and all other funds received by the Commission or the Public Staff ~~Staff~~, except for the clear proceeds of civil penalties collected pursuant to G.S. 62-50(d) and the clear proceeds of funds forfeited pursuant to G.S. 62-310(a), shall be deposited in the Utilities Commission and Public Staff Fund. The Fund shall be placed in an interest bearing account and any interest or other income derived from the Fund shall be credited to the Fund. Monies in the Fund shall only be spent pursuant to appropriation by the General Assembly.

The Utilities Commission and Public Staff Fund shall be subject to the provisions of the Executive Budget Act except that no unexpended surplus of the Fund shall revert to the General Fund. All funds credited to the Utilities Commission and Public Staff Fund shall be used only to pay the expenses of the Commission and the Public Staff in regulating public utilities in the interest of the public as provided by this Chapter.

The clear proceeds of civil penalties collected pursuant to G.S. 62-50(d) and the clear proceeds of funds forfeited pursuant to G.S. 62-310(a) shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2."

PART XII. ALARM SYSTEM LICENSING BOARD

A. CIVIL PENALTY OF NOT MORE THAN \$2,000 FOR VIOLATIONS OF ALARM SYSTEMS LICENSING ACT OR RULES OF ALARM SYSTEMS LICENSING BOARD

Section 127. G.S. 74D-11(d) reads as rewritten:

"(d) In lieu of revocation of suspension of a license or registration under G.S. 74D-10, a civil penalty of not more than two thousand dollars (\$2,000) may be assessed by the Board against any person who violates any provision of this Chapter, or any rule of the Board adopted pursuant to this Chapter. In determining the amount of any

penalty, the Board shall consider the degree and extent of harm caused by the violation. ~~All The clear proceeds of all penalties collected under this section will be deposited in the General Fund.~~ shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2."

PART XIII. BOARD OF ARCHITECTURE

A. CIVIL PENALTY OF NOT MORE THAN \$500.00 PER VIOLATION FOR DISHONEST, INCOMPETENT OR UNPROFESSIONAL CONDUCT BY A REGISTRANT

Section 128. G.S. 83A-15(b) reads as rewritten:

"(b) Actions to recover civil penalties against any registrant may be commenced by the Board pursuant to Chapter 150B of the General Statutes. In determining the amount of any civil penalty, the Board shall consider the degree and extent of harm caused by the violation. ~~Any The clear proceeds of any civil penalty collected hereunder shall be deposited to the General Fund.~~ remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2."

B. CIVIL PENALTIES NOT TO EXCEED \$500.00 PER DAY AUTHORIZED AGAINST NONREGISTERED PERSON OR CORPORATION MISREPRESENTING THEMSELVES AS AN ARCHITECT OR PRACTICING ARCHITECTURE

Section 129. G.S. 83A-16(a) reads as rewritten:

"(a) Any individual or corporation not registered under this Chapter, who shall wrongfully use the title 'Architect' or represent himself or herself to the public as an architect, or practice architecture as herein defined, or seek to avoid the provisions of this Chapter by the use of any other designation than 'Architect': (i) shall be guilty of a Class 2 misdemeanor; and (ii) be subject to a civil penalty not to exceed five hundred dollars (\$500.00) per day of such violation. Each day of such unlawful practice shall constitute a distinct and separate violation. ~~Any The clear proceeds of any civil penalty collected hereunder shall be deposited to the General Fund.~~ remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2."

PART XIV. BOARD OF CPA EXAMINERS

A. CIVIL PENALTIES NOT TO EXCEED \$1,000 FOR VIOLATION OF RULES OF PROFESSIONAL CONDUCT

Section 130. G.S. 93-12(9) reads as rewritten:

"(9) Adoption of Rules of Professional Conduct; Disciplinary Action. – The Board shall have the power to adopt rules of professional ethics and conduct to be observed by certified public accountants in this State. The Board shall have the power to revoke, either permanently or for a specified period, any certificate issued under the provisions of this Chapter to a certified public accountant or to censure the holder of any such certificate or to assess a civil penalty not to exceed one

thousand dollars (\$1,000) for any one or combination of the following causes:

- a. Conviction of a felony under the laws of the United States or of any state of the United States.
- b. Conviction of any crime, an essential element of which is dishonesty, deceit or fraud.
- c. Fraud or deceit in obtaining a certificate as a certified public accountant.
- d. Dishonesty, fraud or gross negligence in the public practice of accountancy.
- e. Violation of any rule of professional ethics and professional conduct adopted by the Board.

Any disciplinary action taken shall be in accordance with the provisions of Chapter 150B of the General Statutes. Any-The clear proceeds of any civil penalty assessed under this section shall be collected by the Board and transferred to the State Treasurer for use in the General Fund, remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2."

PART XV. STATE BOARD OF ELECTIONS

A. \$500.00 PENALTY FOR FAILURE OF PRESIDENTIAL ELECTOR TO ATTEND AND VOTE FOR PARTY CANDIDATE

Section 131. G.S. 163-212 reads as rewritten:

"§ 163-212. Penalty for failure of presidential elector to attend and vote.

Any presidential elector having previously signified his consent to serve as such, who fails to attend and vote for the candidate of the political party which nominated such elector, for President and Vice-President of the United States at the time and place directed in G.S. 163-210 (except in case of sickness or other unavoidable accident) shall forfeit and pay to the State five hundred dollars (\$500.00), to be recovered by the Attorney General in the Superior Court of Wake County. In addition to such forfeiture, refusal or failure to vote for the candidates of the political party which nominated such elector shall constitute a resignation from the office of elector, his vote shall not be recorded, and the remaining electors shall forthwith fill such vacancy as hereinbefore provided.

The clear proceeds of forfeitures provided for in this section shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2."

PART XVI. ELECTRICAL CONTRACTORS

A. CIVIL PENALTIES OF NOT MORE THAN \$1,000 IMPOSED FOR VIOLATIONS OF RULES AND REGULATIONS GOVERNING ELECTRICAL CONTRACTORS

Section 132. G.S. 87-47 reads as rewritten:

"§ 87-47. Penalties imposed by Board; enforcement procedures.

(a) Repealed by Session Laws 1989, c. 709, s. 9.

(a1) The following activities are prohibited:

- (1) Offering to engage or engaging in electrical contracting without being licensed.
- (2) Selling, transferring, or assigning a license, regardless of whether for a fee.
- (3) Aiding or abetting an unlicensed person, partnership, firm, or corporation to offer to engage or to engage in electrical contracting.
- (4) Being convicted of a crime involving fraud or moral turpitude.
- (5) Engaging in fraud or misrepresentation to obtain a certification, obtain or renew a license, or practice electrical contracting.
- (6) Engaging in false or misleading advertising.
- (7) Engaging in malpractice, unethical conduct, fraud, deceit, gross negligence, gross incompetence, or gross misconduct in the practice of electrical contracting.

(a2) The Board may administer one or more of the following penalties if the applicant, licensee, or qualified individual has engaged in any activity prohibited under subsection (a1) of this section:

- (1) Reprimand.
- (2) Suspension from practice for a period not to exceed 12 months.
- (3) Revocation of the right to serve as a listed qualified individual on any license issued by the Board.
- (4) Revocation of license.
- (5) Probationary revocation of license or the right to serve as a listed qualified individual on any license issued by the Board, upon conditions set by the Board as the case warrants, and revocation upon failure to comply with the conditions.
- (6) Revocation of certification.
- (7) Refusal to certify an applicant or a qualified individual.
- (8) Refusal to issue a license to an applicant.
- (9) Refusal to renew a license.

(a3) In addition to administering a penalty under subsection (a2) of this section, the Board may assess a civil penalty of not more than one thousand dollars (\$1,000) against a licensee or a qualified individual who has engaged in an activity prohibited under subsection (a1) of this section or has violated another provision of this Article or a rule adopted by the Board. ~~Civil~~ The clear proceeds of civil penalties collected under this subsection shall be deposited in the General Fund of North Carolina as nontax revenue, remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2.

In determining the amount of a civil penalty, the Board shall consider:

- (1) The degree and extent of harm to the public safety or to property, or the potential for harm.
- (2) The duration and gravity of the violation.

- (3) Whether the violation was committed willfully or intentionally, or reflects a continuing pattern.
- (4) Whether the violation involved elements of fraud or deception either to the public or to the Board, or both.
- (5) The violator's prior disciplinary record with the Board.
- (6) Whether and the extent to which the violator profited by the violation.

(a4) Any person, including the Board and its staff on their own initiative, may prefer charges pursuant to this section, and such charges must be submitted in writing to the Board. The Board may, without a hearing, dismiss charges as unfounded or trivial. The Board may issue a notice of violation based on the charges, to be served by a member of the Board's staff or in accordance with Rule 4 of the Rules of Civil Procedure, against any person, partnership, firm, or corporation for engaging in an activity prohibited under subsection (a1) of this section or for a violation of the provisions of this Article or any rule adopted by the Board. The person or other entity to whom the notice of violation is issued may request a hearing by notifying the Board in writing within 20 days after being served with the notice of violation. Hearings shall be conducted by the Board or an administrative law judge pursuant to Article 3A of Chapter 150B of the General Statutes. In conducting hearings, the Board may remove the hearings to any county in which the offense, or any part thereof, was committed if in the opinion of the Board the ends of justice or the convenience of witnesses require such removal.

(a5) If the person or other entity does not request a hearing under subsection (a4) of this section, the Board shall enter a final decision and may impose penalties against the person or other entity. If the person or other entity is not a licensee or a qualified individual, the Board may impose penalties under subsection (a2) of this section. If the person or other entity is a licensee or a qualified individual, the Board may impose penalties under subsection (a2) of this section, subsection (a3) of this section, or both.

(b) The Board shall adopt and publish rules, in accordance with Chapter 150B of the General Statutes and consistent with the provisions of this Article, governing the matters contained in this section.

(c) The Board shall establish and maintain a system whereby detailed records are kept regarding charges and notices of violation pursuant to this section. This record shall include, for each person, partnership, firm, and corporation charged or notified of a violation, the date and nature of each charge or notice of violation, investigatory action taken by the Board, any findings by the Board, and the disposition of the matter.

(d) The Board may reinstate a qualified individual's certification and may reinstate a license after having revoked it, provided that one year has elapsed from revocation until reinstatement and that the vote of the Board for reinstatement is by a majority of its members.

The Board shall immediately notify the Secretary of State and the electrical inspectors within the licensee's county of residence upon the revocation of a license or the reissuance of a license which had been revoked.

(e) In any case in which the Board is entitled to convene a hearing to consider imposing any penalty provided for in subsection (a2) or (a3) of this section, the Board

may accept an offer in compromise of the charge, whereby the accused shall pay to the Board a penalty of not more than one thousand dollars (\$1,000). ~~Penalties—The clear proceeds of penalties collected by the Board under this subsection shall be deposited in the General Fund of North Carolina as nontax revenue.~~ remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2."

PART XVII. BOARD OF EMPLOYEE ASSISTANCE PROFESSIONALS

A. CIVIL PENALTY NOT TO EXCEED \$50.00 PER DAY FOR EMPLOYER ASSISTANCE PROFESSIONAL WHO FAILS TO BE LICENSED AS REQUIRED

Section 133. G.S. 90-506(c) reads as rewritten:

"(c) Civil penalties assessed by the Board pursuant to subdivision (3) of subsection (a) of this section are final 30 days after the date the assessment is served upon the alleged violator, unless the alleged violator seeks review by the Board within that time.

The clear proceeds of these civil penalties shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2."

PART XVIII. STATE BOARD OF PROFESSIONAL ENGINEERS AND LAND SURVEYORS

A. CIVIL PENALTIES NOT TO EXCEED \$2,000 ASSESSED AGAINST PROFESSIONAL ENGINEERS AND LAND SURVEYORS WHO VIOLATE PROVISIONS OF THE ENGINEERING AND LAND SURVEYING ACT/CIVIL PENALTY ASSESSED AGAINST ENGINEERS AND LAND SURVEYORS WHO COMMIT FRAUD, DECEIT, GROSS NEGLIGENCE, INCOMPETENCE, MISCONDUCT OR VIOLATE THE RULES OF PROFESSIONAL CONDUCT

Section 134. G.S. 89C-21(c) reads as rewritten:

"(c) The Board may levy a civil penalty not in excess of two thousand dollars (\$2,000) for any engineer or land surveyor who violates any of the provisions of subdivisions (1) through (4) of subsection (a) of this section. ~~All—The clear proceeds of all civil penalties collected by the Board, including civil penalties collected pursuant to G.S. 89C-22(c), shall be deposited in the General Fund of North Carolina.~~ remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2."

PART XIX. NORTH CAROLINA BOARD FOR LICENSING OF SOIL SCIENTIST

A. CIVIL PENALTY NOT TO EXCEED \$1,000 FOR VIOLATION OF SOIL SCIENTIST LICENSING ACT

Section 135. G.S. 89F-5(c) reads as rewritten:

"(c) The Secretary-Treasurer shall deposit funds received by the ~~Board—Board,~~ except for the clear proceeds of civil penalties assessed pursuant to G.S. 89F-20(b), in one or more funds in banks or other financial institutions carrying deposit insurance and authorized to do business in the State. Interest earned on funds may remain in the account and may be expended as authorized by the Board to carry out the provisions of

this Chapter. The Board may authorize expenditures deemed necessary to carry out the provisions of this Chapter, and all expenses shall be paid upon the warrant of the Secretary-Treasurer. During any fiscal year, expenditures shall not exceed the revenues of the Board.

The clear proceeds of civil penalties shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2."

PART XX. VETERINARY MEDICAL BOARD

B. CIVIL PENALTY UP TO \$5,000 AGAINST LICENSED VETERINARIES FOR VIOLATING ARTICLE

Section 136. 90-187.8(b) reads as rewritten:

"(b) The Board may impose and collect from a licensee a civil monetary penalty of up to five thousand dollars (\$5,000) for each violation of this Article or a rule adopted under this Article. The clear proceeds of these civil penalties shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2.

The amount of the civil penalty, up to the maximum, shall be determined upon a finding of one or more of the following factors:

- (1) The degree and extent of harm to the public health or to the health of the animal under the licensee's care.
- (2) The duration and gravity of the violation.
- (3) Whether the violation was committed willfully or intentionally or reflects a continuing pattern.
- (4) Whether the violation involved elements of fraud or deception either to the client or to the Board, or both.
- (5) The prior disciplinary record with the Board of the licensee.
- (6) Whether and the extent to which the licensee profited by the violation.

PART XXI. CAPE FEAR RIVER AND MOREHEAD CITY NAVIGATION AND PILOTAGE COMMISSIONS

A. FINES MAY BE ASSESSED FOR PILOTS WHO VIOLATE RULES OF COMMISSIONS

Section 137. (a) G.S. 76A-5(d) reads as rewritten:

"(d) Fine, License Suspension and Cancellation. – The Commission shall have the power to fine or call in and suspend or cancel the license of any pilot found to be derelict of duty, in violation of the reasonable rules and regulations as set out by the Commission or for other just cause. Grounds for suspension or cancellation shall include but not be limited to: citation by the Coast Guard and/or Commission for careless or neglectful duty resulting in damage to property or personal harm; absence, neglect of duty, absence from duty for a period longer than four weeks without written submission to and written approval from the Commission chairman; other violations of regulations or in actions found by the Commission to be unduly disruptive of the pilotage and service and/or harmful to person or property.

The clear proceeds of fines levied pursuant to this subsection shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2."

(b) G.S. 76A-35(d) reads as rewritten:

"(d) Fine, License Suspension and Cancellation. – The Commission shall have the power to fine or call in and suspend or cancel the license of any pilot found to be derelict of duty, in violation of the reasonable rules and regulations as set out by the Commission or for other just cause. Grounds for suspension or cancellation shall include but not be limited to: citation by the Coast Guard and/or Commission for careless or neglectful duty resulting in damage to property or personal harm; absence, neglect of duty, absence from duty for a period longer than four weeks without written submission to and written approval from the Commission Chairman; other violations of regulations or in actions found by the Commission to be unduly disruptive of the pilotage and service and/or harmful to person or property.

The clear proceeds of fines levied pursuant to this subsection shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2."

PART XXII. REAL ESTATE COMMISSION

A. \$500.00 PENALTY FOR EACH VIOLATION OF TIME SHARE DEVELOPER LAWS

Section 138. G.S. 93A-54 is amended by adding a new subsection to read:

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

PART XXIII. MISCELLANEOUS PROVISIONS

EFFECT OF HEADINGS

Section 139. The headings to the parts and sections of this act are a convenience to the reader and are for reference only. The headings do not expand, limit, or define the text of this act, except for effective dates referring to a Part.

EFFECTIVE DATE

Section 140. Except as otherwise provided, this act is effective when it becomes law.

In the General Assembly read three times and ratified this the 22nd day of October, 1998.

s/ Marc Basnight
President Pro Tempore of the Senate

s/ Harold J. Brubaker
Speaker of the House of Representatives

s/ James B. Hunt, Jr.
Governor

Approved 1:49 p.m. this 31st day of October, 1998