

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2001

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Short Title: 2001 Technical Corrections.

(Public)

Sponsors:

Referred to:

March 1, 2001

1 A BILL TO BE ENTITLED  
2 AN ACT TO MAKE TECHNICAL CORRECTIONS AND CONFORMING  
3 CHANGES TO THE GENERAL STATUTES AS RECOMMENDED BY THE  
4 GENERAL STATUTES COMMISSION; AND TO MAKE VARIOUS OTHER  
5 CHANGES TO THE GENERAL STATUTES AND SESSION LAWS.

6 The General Assembly of North Carolina enacts:

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

8 "§ 1-17. Disabilities.

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

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

12 (2) ~~Insane; or~~

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

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

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

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

23 (2) The person is insane.

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

1 (a1) For those persons under a disability on January 1, 1976, as a result of being  
2 imprisoned on a criminal charge, or in execution under sentence for a criminal offense,  
3 the statute of limitations shall commence to run and no longer be tolled from January 1,  
4 1976.

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

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

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

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

19 "**§ 7B-1501. Definitions.**

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

23 (1) Chief court counselor. – The person responsible for administration and  
24 supervision of juvenile intake, probation, and post-release supervision  
25 in each judicial district, operating under the supervision of the  
26 Department of Juvenile Justice and Delinquency Prevention.

27 (2) Clerk. – Any clerk of superior court, acting clerk, or assistant or  
28 deputy clerk.

29 (3) Community-based program. – A program providing nonresidential or  
30 residential treatment to a juvenile under the jurisdiction of the juvenile  
31 court in the community where the juvenile's family lives. A  
32 community-based program may include specialized foster care, family  
33 counseling, shelter care, and other appropriate treatment.

34 (4) Court. – The district court division of the General Court of Justice.

35 (5) Court counselor. – A person responsible for probation and post-release  
36 supervision to juveniles under the supervision of the chief court  
37 counselor.

38 (6) Custodian. – The person or agency that has been awarded legal  
39 custody of a juvenile by a court.

40 (7) Delinquent juvenile. – Any juvenile who, while less than 16 years of  
41 age but at least 6 years of age, commits a crime or infraction under  
42 State law or under an ordinance of local government, including  
43 violation of the motor vehicle laws.

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

1 court counselor, and may be returned to the court for violation of those  
2 conditions during the period of probation.

3 (23) Prosecutor. – The district attorney or assistant district attorney  
4 assigned by the district attorney to juvenile proceedings.

5 (24) Protective supervision. – The status of a juvenile who has been  
6 adjudicated undisciplined and is under the supervision of a court  
7 counselor.

8 (25) Teen court program. – A community resource for the diversion of  
9 cases in which a juvenile has allegedly committed certain offenses for  
10 hearing by a jury of the juvenile's peers, which may assign the juvenile  
11 to counseling, restitution, curfews, community service, or other  
12 rehabilitative measures.

13 (26) Training school. – A secure residential facility authorized to provide  
14 long-term treatment, education, and rehabilitative services for  
15 delinquent juveniles committed by the court to the Department.

16 (27) Undisciplined juvenile. –

17 a. A juvenile who, while less than 16 years of age but at least 6  
18 years of age, is unlawfully absent from school; or is regularly  
19 disobedient to and beyond the disciplinary control of the  
20 juvenile's parent, guardian, or custodian; or is regularly found in  
21 places where it is unlawful for a juvenile to be; or has run away  
22 from home for a period of more than 24 hours; or

23 b. A juvenile who is 16 or 17 years of age and who is regularly  
24 disobedient to and beyond the disciplinary control of the  
25 juvenile's parent, guardian, or custodian; or is regularly found in  
26 places where it is unlawful for a juvenile to be; or has run away  
27 from home for a period of more than 24 hours.

28 (28) Wilderness program. – A rehabilitative residential treatment program  
29 in a rural or outdoor setting.

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

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

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

33 ...

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

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

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

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

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

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

7 ...

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

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

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

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

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

13 "(2) The person:

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

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

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

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

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

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

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

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

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

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

8 ...

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

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

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

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

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

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

2   "**§ 23-30.1. Provisional release.**

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

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

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

17       ...

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

20       a. The principal amount of the loan does not exceed the lesser of  
21       (i) the conforming loan size limit for a single-family dwelling  
22 as established from time to time by ~~the Federal National~~  
23 ~~Mortgage Association, Fannie Mae,~~ or (ii) three hundred  
24 thousand dollars (\$300,000);

25       b. The borrower is a natural person;

26       c. The debt is incurred by the borrower primarily for personal,  
27 family, or household purposes;

28       d. The loan is secured by either (i) a security interest in a  
29 manufactured home (as defined in G.S. 143-147(7)) which is or  
30 will be occupied by the borrower as the borrower's principal  
31 dwelling, or (ii) a mortgage or deed of trust on real estate upon  
32 which there is located or there is to be located a structure or  
33 structures designed principally for occupancy of from one to  
34 four families which is or will be occupied by the borrower as  
35 the borrower's principal dwelling; and

36       e. The terms of the loan exceed one or more of the thresholds as  
37 defined in subdivision (6) of this section.

38       ...

39       (6) "Thresholds" means:

40       a. Without regard to whether the loan transaction is or may be a  
41 "residential mortgage transaction" (as the term "residential  
42 mortgage transaction" is defined in section 226.2(a)(24) of Title  
43 12 of the Code of Federal Regulations, as amended from time to



1 time), the annual percentage rate of the loan at the time the loan  
2 is consummated is such that the loan is considered a "mortgage"  
3 under section 152 of the Home Ownership and Equity  
4 Protection Act of 1994 (Pub. Law 103-25, [15 U.S.C. §  
5 1602(aa)]), as the same may be amended from time to time, and  
6 regulations adopted pursuant thereto by the Federal Reserve  
7 Board, including section 226.32 of Title 12 of the Code of  
8 Federal Regulations, as the same may be amended from time to  
9 time;

10 b. The total points and fees payable by the borrower at or before  
11 the loan closing exceed five percent (5%) of the total loan  
12 amount if the total loan amount is twenty thousand dollars  
13 (\$20,000) or more, or (ii) the lesser of eight percent (8%) of the  
14 total loan amount or one thousand dollars (\$1,000), if the total  
15 loan amount is less than twenty thousand dollars (\$20,000);  
16 provided, the following discount points and prepayment fees  
17 and penalties shall be excluded from the calculation of the total  
18 points and fees payable by the borrower:

- 19 1. Up to and including two bona fide loan discount points  
20 payable by the borrower in connection with the loan  
21 transaction, but only if the interest rate from which the  
22 loan's interest rate will be discounted does not exceed by  
23 more than one percentage point (1%) the required net  
24 yield for a 90-day standard mandatory delivery  
25 commitment for a reasonably comparable loan from  
26 either ~~the Federal National Mortgage Association~~ Fannie  
27 Mae or the Federal Home Loan Mortgage Corporation,  
28 whichever is greater;
- 29 2. Up to and including one bona fide loan discount point  
30 payable by the borrower in connection with the loan  
31 transaction, but only if the interest rate from which the  
32 loan's interest rate will be discounted does not exceed by  
33 more than two percentage points (2%) the required net  
34 yield for a 90-day standard mandatory delivery  
35 commitment for a reasonably comparable loan from  
36 either ~~the Federal National Mortgage Association~~ Fannie  
37 Mae or the Federal Home Loan Mortgage Corporation,  
38 whichever is greater;
- 39 3. Prepayment fees and penalties which may be charged or  
40 collected under the terms of the loan documents which  
41 do not exceed one percent (1%) of the amount prepaid,  
42 provided the loan documents do not permit the lender to

1 charge or collect any prepayment fees or penalties more  
2 than 30 months after the loan closing; or".

3 **SECTION 14.(b)** G.S. 53-270.1(a)(3) reads as rewritten:

4 "(a) A lender and a borrower may agree, in writing, that in addition to the  
5 principal and any interest accruing on the outstanding balance of a reverse mortgage  
6 loan, the lender may receive:

7 ...

8 (3) The shared appreciation or shared value is paid in conjunction with a  
9 loan that:

10 a. Is outstanding for 24 months or longer; and

11 b. Either (i) is guaranteed or insured by an agency of the federal  
12 government, or (ii) has been originated under a reverse  
13 mortgage program approved by ~~the Federal National Mortgage~~  
14 ~~Association, Fannie Mae,~~ the Government National Mortgage  
15 Association, or the Federal Home Loan Mortgage Corporation,  
16 provided the loan is sold to one of those agencies or enterprises  
17 within 90 days of loan closing, or (iii) has been originated under  
18 a reverse mortgage program of a person, firm, or corporation  
19 approved as an authorized lender by the Commissioner; and

20 c. Provides that the borrower receives additional economic benefit  
21 in exchange for paying the shared appreciation or shared value,  
22 including, but not limited to, larger monthly payments or a  
23 larger line of credit. The specific nature of the economic benefit  
24 shall be provided to the Commissioner with the other  
25 information about the reverse mortgage program required under  
26 G.S. 53-264 for dissemination to the reverse mortgage  
27 counselors; and

28 d. At least 14 days prior to closing, the borrower receives a  
29 disclosure that explains the additional costs and benefits of  
30 shared appreciation or shared value and compares those costs  
31 and benefits with a comparable loan without shared  
32 appreciation or shared value. These costs and benefits shall also  
33 be included in the information required under G.S. 53-264."

34 **SECTION 14.(c)** G.S. 54-109.88(3) reads as rewritten:

35 "(3) Assets which are issued by, fully guaranteed as to principal and  
36 interest by, or due from the U.S. government, its agencies, ~~the Federal~~  
37 ~~National Mortgage Association, Fannie Mae,~~ or the Government  
38 National Mortgage Association."

39 **SECTION 14.(d)** G.S. 54B-187 reads as rewritten:

40 "**§ 54B-187. ~~Federal National Mortgage Association Fannie Mae obligations.~~**

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

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

2   "**§ 54C-136. Federal government-sponsored enterprise obligations.**

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

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

8   "**§ 58-3-140. Temporary contracts of insurance permitted.**

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

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

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

16           (1) Includes:

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

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

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

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

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

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

36           a. ~~The Federal National Mortgage Association, Fannie Mae,~~ and  
37 stock thereof when acquired in connection with the sale of  
38 mortgage loans to the Association.

39           b. Any federal land bank, when the securities are issued under the  
40 Farm Loan Act;

41           c. Any federal home loan bank, when the securities are issued  
42 under the Home Loan Bank Act;

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

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

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

- 14 ...
- 15 (6) Obligations maturing no later than 18 months after the date of  
16 purchase of the Federal Intermediate Credit Banks, the Federal Home  
17 Loan Banks, ~~the Federal National Mortgage Association, Fannie Mae,~~  
18 the Banks for Cooperatives, and the Federal Land Banks."

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

20 "(d) The loans to mortgage lenders shall be general obligations of the respective  
21 mortgage lenders owing them. The Agency shall require that such loans shall be  
22 additionally secured as to payment of both principal and interest by a pledge and lien  
23 upon collateral security. The collateral security itself shall be in such amount as the  
24 Agency determines will assure the payment of the principal of and the interest on the  
25 bonds as they become due. Collateral security shall be deemed to be sufficient if the  
26 principal of and the interest on the collateral security, when due, will be sufficient to  
27 pay the principal of and the interest on the bonds. The collateral security shall consist of  
28 any of the following items: (i) direct obligations of, or obligations guaranteed by, the  
29 State or the United States of America; (ii) bonds, debentures, notes or other evidences of  
30 indebtedness, satisfactory to the Agency, issued by any of the following federal  
31 agencies: Bank for Cooperatives, Federal Intermediate Credit Bank, Federal Home Loan  
32 Bank System, Export-Import Bank of Washington, Federal Land Banks, ~~the Federal~~  
33 ~~National Mortgage Association~~ ~~Fannie Mae~~ or the Government National Mortgage  
34 Association; (iii) direct obligations of or obligations guaranteed by the State; (iv)  
35 mortgages insured or guaranteed by the United States of America or an instrumentality  
36 of it as to payment of principal and interest; (v) any other mortgages secured by real  
37 estate on which there is located a residential structure, the collateral value of which shall  
38 be determined by the regulations issued from time to time by the Agency; (vi)  
39 obligations of Federal Home Loan Banks; (vii) certificates of deposit of banks or trust  
40 companies, including the trustee, organized under the laws of the United States or any  
41 state, which have a combined capital and surplus of at least fifteen million dollars  
42 (\$15,000,000); (viii) Bankers Acceptances; and (ix) commercial paper that has been

1 classified for rating purposes by Dun & Bradstreet, Inc., as Prime-1 or by Standard &  
2 Poor's Corp. as A-1."

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

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

5 ...

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

7 a. The Federal Home Loan Bank Board;

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

9 c. The Federal Farm Credit Bank; and

10 d. The Student Loan Marketing Association;".

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

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

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

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

20 ...

21 (2) Obligations of the Federal Financing Bank, the Federal Farm Credit  
22 Bank, the Bank for Cooperatives, the Federal Intermediate Credit  
23 Bank, the Federal Land Banks, the Federal Home Loan Banks, the  
24 Federal Home Loan Mortgage Corporation, ~~the Federal National~~  
25 ~~Mortgage Association,~~ Fannie Mae, the Government National  
26 Mortgage Association, the Federal Housing Administration, the  
27 Farmers Home Administration, the United States Postal Service, the  
28 Export-Import Bank, the International Bank for Reconstruction and  
29 Development, the International Finance Corporation, the  
30 Inter-American Development Bank, the Asian Development Bank, the  
31 African Development Bank, and the Student Loan Marketing  
32 Association."

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

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

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

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

38 a. A joint agency may also invest, in addition to the obligations  
39 enumerated in G.S. 159-30(c)(2), in bonds, debentures, notes,  
40 participation certificates, or other evidences of indebtedness  
41 issued, or the principal of and the interest on which are  
42 unconditionally guaranteed, whether directly or indirectly, by

1 any agency or instrumentality of, or corporation wholly owned  
2 by, the United States of America.

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

6 1. Obligations of the Federal Financing Bank, the Federal  
7 Farm Credit Bank, the Bank for Cooperatives, the  
8 Federal Intermediate Credit Bank, the Federal Land  
9 Banks, the Federal Home Loan Banks, the Federal Home  
10 Loan Mortgage Corporation, ~~the Federal National~~  
11 ~~Mortgage Association, Fannie Mae,~~ the Government  
12 National Mortgage Association, the Federal Housing  
13 Administration, the Farmers Home Administration, and  
14 the United States Postal Service;

15 2. Bonds, debentures, notes, participation certificates, or  
16 other evidences of indebtedness issued, or the principal  
17 of and the interest on which are unconditionally  
18 guaranteed, whether directly or indirectly, by any agency  
19 or instrumentality of, or corporation wholly owned by,  
20 the United States of America;

21 3. Mortgage-backed pass-through securities guaranteed by  
22 the Government National Mortgage Association, the  
23 Federal Home Loan Mortgage Corporation, or ~~the~~  
24 ~~Federal National Mortgage Association; Fannie Mae;~~

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

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

1 and (iii) for purposes of the second proviso of G.S.  
2 159-30(c)(12)a., the financial institution serving either as  
3 trustee or as fiscal agent for a joint agency holding the  
4 obligations subject to the repurchase agreement may also  
5 be the provider of the repurchase agreement if the  
6 obligations that are subject to the repurchase agreement  
7 are held in trust by the trustee or fiscal agent for the  
8 benefit of the joint agency;

9 (3) In mortgage-backed pass-through securities guaranteed by the  
10 Government National Mortgage Association, the Federal Home Loan  
11 Mortgage Corporation, or ~~the Federal National Mortgage~~  
12 ~~Association; Fannie Mae;~~

13 (4) In direct or indirect obligations which are collateralized by or represent  
14 beneficial ownership interests in mortgage-backed pass-through  
15 securities guaranteed by the Government National Mortgage  
16 Association, the Federal Home Loan Mortgage Corporation, or ~~the~~  
17 ~~Federal National Mortgage Association; Fannie Mae;~~ and

18 (5) In direct or indirect obligations, trust certificates, or other similar  
19 instruments which are (i) guaranteed by the Government National  
20 Mortgage Association, the Federal Home Loan Mortgage Corporation,  
21 or ~~the Federal National Mortgage Association; Fannie Mae,~~ and (ii)  
22 collateralized by or represent beneficial ownership interests in  
23 mortgage-backed pass-through securities which are guaranteed by the  
24 Government National Mortgage Association, the Federal Home Loan  
25 Mortgage Corporation, or ~~the Federal National Mortgage~~  
26 ~~Association; Fannie Mae,~~ including, but not limited to, Real Estate  
27 Mortgage Investment Conduit Certificates."

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

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

30 ...  
31 (2) Obligations of the Federal Financing Bank, the Federal Farm Credit  
32 Bank, the Bank for Cooperatives, the Federal Intermediate Credit  
33 Bank, the Federal Land Banks, the Federal Home Loan Banks, the  
34 Federal Home Loan Mortgage Corporation, ~~the Federal National~~  
35 ~~Mortgage Association; Fannie Mae,~~ the Government National  
36 Mortgage Association, the Federal Housing Administration, the  
37 Farmers Home Administration, the United States Postal Service."

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

39 "(c) Pre-effective-date filing in jurisdiction formerly governing perfection. – This  
40 act does not render ineffective an effective financing statement that, before July 1, 2001,  
41 is filed and satisfies the applicable requirements for perfection under the law of the  
42 jurisdiction governing perfection as provided in G.S. 25-9-103 of former Article 9.

1 However, except as otherwise provided in subsections (d) and (e) of this section and  
2 G.S. 25-9-706, the financing statement ceases to be effective at the earlier of:

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

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

7 **"§ 30-3.2. Definitions.**

8 The following definitions apply in this Article:

- 9 ~~(a)~~(1) "Code" means the Internal Revenue Code in effect at the time of the  
10 decedent's death.
- 11 ~~(b)~~(2) "Death taxes" means any estate, inheritance, succession, and similar  
12 taxes imposed by any taxing authority, reduced by any applicable  
13 credits against those taxes.
- 14 ~~(c)~~(3) "Nonadverse trustee" means a trustee who would be deemed  
15 nonadverse under section 672 of the Code.
- 16 ~~(d)~~(4) "Total Net Assets" means, after the payment or provision for payment  
17 of the decedent's funeral expenses, year's allowances to persons other  
18 than to the surviving spouse, debts, claims, and administration  
19 expenses, the sum of the following:
  - 20 ~~(1)~~a. All property to which the decedent had legal and equitable title  
21 immediately prior to death;
  - 22 ~~(2)~~b. All property received by the decedent's personal representative  
23 by reason of the decedent's death, other than wrongful death  
24 proceeds;
  - 25 ~~(3)~~c. One-half of the value of any property held by the decedent and  
26 the surviving spouse as tenants by the entirety, or as joint  
27 tenants with rights of survivorship;
  - 28 ~~(4)~~d. The entire value of any interest in property held by the decedent  
29 and another person, other than the surviving spouse, as joint  
30 tenants with right of survivorship, except to the extent that  
31 contribution can be proven by clear and convincing evidence;
  - 32 ~~(5)~~e. The value of any property which would be included in the  
33 taxable estate of the decedent pursuant to sections 2033, 2035,  
34 2036, 2037, 2038, 2039, or 2040 of the Code.
  - 35 ~~(6)~~f. Any donative transfers of property made by the decedent to  
36 donees other than the surviving spouse within six months of the  
37 decedent's death, excluding:
    - 38 a.1. Any gifts within the annual exclusion provisions of  
39 section 2503 of the Code;
    - 40 b.2. Any gifts to which the surviving spouse consented. A  
41 signing of a deed, or income or gift tax return reporting  
42 such gift shall be considered consent; and
    - 43 e.3. Any gifts made prior to marriage;



1                   (7)g. Any proceeds of any individual retirement account, pension or  
2 profit-sharing plan, or any private or governmental retirement  
3 plan or annuity of which the decedent controlled the designation  
4 of beneficiary, excluding any benefits under the federal social  
5 security system;

6                   (8)h. Any other Property Passing to Surviving Spouse under G.S.  
7 30-3.3; and

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

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

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

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

17                   "**§ 58-5-15. Minimum deposit required upon admission.**

18                   Upon admission to do business in the State of North Carolina every foreign or alien  
19 fire, marine, or fire and marine, fidelity, surety or casualty company shall deposit with  
20 the Commissioner securities in the amounts required under G.S. 58-5-5 and G.S.  
21 58-5-10."

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

23                   "(b) No agency or other person authorized or directed by law to select a plan and  
24 erect a building for the use of the State or any State institution shall receive and approve  
25 of the plan until it is submitted to and approved by the Commissioner as to the safety of  
26 the proposed building from fire, including the property's occupants or contents. No  
27 agency or person authorized or directed by law to select a plan or erect a building  
28 comprising 10,000 square feet ~~or~~or more for the use of any county, city, or school  
29 district shall receive and approve of the plan until it is submitted to and approved by the  
30 Commissioner as to the safety of the proposed building from fire, including the  
31 property's occupants or contents."

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

33                   "**§ 59-31. ~~Name of Article.~~North Carolina Uniform Partnership Act.**"

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

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

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

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

41                   ...

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

1 ...."

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

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

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

6 ...

7 (17) The executive director of the independent staff of the Information  
8 Resources Management Commission established under ~~G.S. 143B-~~  
9 ~~472.41A.~~G.S. 147-33.78.

10 ...."

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

12 "**§ 143-52.1. Board of Awards.**

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

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

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

27 (d) The State Budget Officer shall designate a secretary for the Board. The  
28 ~~Secretaries~~Secretary of Administration and ~~Commerce~~the State Chief Information  
29 Officer shall each submit their matters for consideration to the secretary for inclusion on  
30 the Board's agenda. Records shall be kept of each meeting and made public by the  
31 ~~applicable~~Secretary of Administration or CommerceState Chief Information Officer,  
32 as applicable unless the ~~applicable~~Secretary of Administration or State Chief  
33 Information Officer, as applicable, determines a specific record of the meeting needs to  
34 be confidential due to the nature of the contract. The ~~applicable~~Secretary of  
35 Administration or State Chief Information Officer, as applicable, may elect to proceed  
36 with the award of a contract without a recommendation of the Board in cases of  
37 emergencies or in the event that a Board is not available. In those cases, contracts  
38 awarded without Board review shall be reported to the next meeting of the Board as a  
39 matter of record.

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

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

2   "**§ 143-56. Certain purchases excepted from provisions of Article.**

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

6           (1) Published books, manuscripts, maps, pamphlets and periodicals.

7           (2) Perishable articles such as fresh vegetables, fresh fish, fresh meat,  
8           eggs, and others as may be classified by the Secretary of  
9           Administration.

10 Purchase through the Secretary of Administration shall not be mandatory for  
11 information technology purchased in accordance with ~~Part 16 of Article 10 of Chapter~~  
12 ~~143B- Article 3D of Chapter 147~~ of the General Statutes, for a purchase of supplies,  
13 materials or equipment for the General Assembly if the total expenditures is less than  
14 the expenditure benchmark established under the provisions of G.S. 143-53.1, for group  
15 purchases made by hospitals through a competitive bidding purchasing program, as  
16 defined in G.S. 143-129, by the University of North Carolina Health Care System  
17 pursuant to G.S. 116-37(h), by the University of North Carolina Hospitals at Chapel Hill  
18 pursuant to G.S. 116-37(a)(4), by the University of North Carolina at Chapel Hill on  
19 behalf of the clinical patient care programs of the School of Medicine of the University  
20 of North Carolina at Chapel Hill pursuant to G.S. 116-37(a)(4), or by East Carolina  
21 University on behalf of the Medical Faculty Practice Plan pursuant to G.S. 116-40.6(c).

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

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

29       "(a4) Notwithstanding the provisions of subsection (a) of this section, the ~~Secretary~~  
30 ~~of Commerce~~ ~~State Chief Information Officer~~ may adopt temporary rules to implement  
31 the information technology procurement provisions of ~~Part 16 of Article 10 of Chapter~~  
32 ~~143B- Article 3D of Chapter 147~~ of the General Statutes. After having the proposed  
33 temporary rule published in the North Carolina Register and at least 30 days prior to  
34 adopting a temporary rule pursuant to this subsection, the ~~Secretary-Officer~~ shall:

35           (1) Notify persons on its mailing list maintained pursuant to G.S.  
36           150B-21.2(d) and any other interested parties of its intent to adopt a  
37           temporary rule;

38           (2) Accept oral and written comments on the proposed temporary rule;  
39           and

40           (3) Hold at least one public hearing on the proposed temporary rule.

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

1 Notwithstanding any other provision of this Chapter, the Codifer of Rules shall  
2 publish in the North Carolina Register a proposed temporary rule received from the  
3 ~~Secretary Officer~~ in accordance with this subsection."

4 **SECTION 21.(h)** G.S. 150B-38(a), as rewritten by Section 8 of S.L. 2001-  
5 141 and by Section 12 of S.L. 2001-193, reads as rewritten:

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

7 (1) Occupational licensing agencies.

8 (2) The State Banking Commission, the Commissioner of Banks, and the  
9 Credit Union Division of the Department of Commerce.

10 (3) The Department of Insurance and the Commissioner of Insurance.

11 (4) ~~The Department of Commerce~~ State Chief Information Officer in the  
12 administration of the provisions of ~~Part 16 of Article 10 of Chapter~~  
13 ~~143B~~ Article 3D of Chapter 147 of the General Statutes.

14 (5) The North Carolina State Building Code Council."

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

16 "(d) If any substance is designated, rescheduled or deleted as a controlled  
17 substance under federal law, the Commission shall similarly control or cease control of,  
18 the substance under this Article unless the Commission objects to such inclusion. The  
19 Commission, at its next regularly scheduled meeting that takes place 30 days after  
20 publication in the Federal Register of a final order scheduling a substance, shall  
21 determine either to adopt a rule to similarly control the substance under this Article or to  
22 object to such action. No rule-making notice or hearing as specified by Chapter 150B  
23 ~~150B~~ of the General Statutes is required if the Commission makes a decision to  
24 similarly control a substance. However, if the Commission makes a decision to object to  
25 adoption of the federal action, it shall initiate rule-making procedures pursuant to  
26 Chapter 150B of the General Statutes within 180 days of its decision to object."

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

28 "**§ 93A-2. Definitions and exceptions.**

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

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

42 (b) The term real estate salesperson within the meaning of this Chapter shall  
43 mean and include any person who under the supervision of a real estate broker

1 designated as broker-in-charge of a real estate office, for a compensation or valuable  
2 consideration is associated with or engaged by or on behalf of a licensed real estate  
3 broker to do, perform or deal in any act, acts or transactions set out or comprehended by  
4 the foregoing definition of real estate broker.

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

- 6 (1) Any person, partnership, corporation, limited liability company,  
7 association, or other business entity who, as owner or lessor, shall  
8 perform any of the acts aforesaid with reference to property owned or  
9 leased by them, where the acts are performed in the regular course of  
10 or as incident to the management of that property and the investment  
11 therein.
- 12 (2) Any person acting as an attorney-in-fact under a duly executed power  
13 of attorney from the owner authorizing the final consummation of  
14 performance of any contract for the sale, lease or exchange of real  
15 estate.
- 16 (3) The acts or services of an attorney-at-law.
- 17 (4) Any person, while acting as a receiver, trustee in bankruptcy, guardian,  
18 administrator or executor or any person acting under order of any  
19 court.
- 20 (5) Any person, while acting as a trustee under a trust agreement, deed of  
21 trust or will, or ~~his~~ that person's regular salaried employees.
- 22 (6) Any salaried person employed by a licensed real estate broker, for and  
23 on behalf of the owner of any real estate or the improvements thereon,  
24 which the licensed broker has contracted to manage for the owner, if  
25 the salaried ~~employee~~ employee's employment is limited in his  
26 ~~employment~~ to: exhibiting units on the real estate to prospective  
27 tenants; providing the prospective tenants with information about the  
28 lease of the units; accepting applications for lease of the units;  
29 completing and executing preprinted form leases; and accepting  
30 security deposits and rental payments for the units only when the  
31 deposits and rental payments are made payable to the owner or the  
32 broker employed by the owner. The salaried employee shall not  
33 negotiate the amount of security deposits or rental payments and shall  
34 not negotiate leases or any rental agreements on behalf of the owner or  
35 broker.
- 36 (7) Any owner who personally leases or sells ~~his~~ the owner's own  
37 property.
- 38 (8) Any housing authority organized in accordance with the provisions of  
39 Chapter 157 of the General Statutes and any regular salaried  
40 employees of the housing authority when performing acts authorized  
41 in this Chapter as to any property owned or leased by the housing  
42 authority. This exception shall not apply to any person, partnership,  
43 corporation, limited liability company, association, or other business

1                   entity that contracts with a housing authority to sell or manage  
2                   property owned or leased by the housing authority."

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

4                   "**§ 93A-6. Disciplinary action by Commission.**

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

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

- 14                   (1) Making any willful or negligent misrepresentation or any willful or  
15                   negligent omission of material fact.
- 16                   (2) Making any false promises of a character likely to influence, persuade,  
17                   or induce.
- 18                   (3) Pursuing a course of misrepresentation or making of false promises  
19                   through agents, salespersons, advertising or otherwise.
- 20                   (4) Acting for more than one party in a transaction without the knowledge  
21                   of all parties for whom he or she acts.
- 22                   (5) Accepting a commission or valuable consideration as a real estate  
23                   salesperson for the performance of any of the acts specified in this  
24                   Article or Article 4 of this Chapter, from any person except his or her  
25                   broker-in-charge or licensed broker by whom he or she is employed.
- 26                   (6) Representing or attempting to represent a real estate broker other than  
27                   the broker by whom he or she is engaged or associated, without the  
28                   express knowledge and consent of the broker with whom he or she is  
29                   associated.
- 30                   (7) Failing, within a reasonable time, to account for or to remit any  
31                   ~~moneys~~ monies coming into his or her possession which belong to  
32                   others.
- 33                   (8) Being unworthy or incompetent to act as a real estate broker or  
34                   salesperson in a manner as to endanger the interest of the public.
- 35                   (9) Paying a commission or valuable consideration to any person for acts  
36                   or services performed in violation of this Chapter.
- 37                   (10) Any other conduct which constitutes improper, fraudulent or dishonest  
38                   dealing.
- 39                   (11) Performing or undertaking to perform any legal service, as set forth in  
40                   G.S. 84-2.1, or any other acts constituting the practice of law.
- 41                   (12) Commingling the money or other property of his or her principals with  
42                   his or her own or failure to maintain and deposit in a trust or escrow  
43                   account in an insured bank or savings and loan association in North

1 Carolina all money received by him or her as a real estate licensee  
2 acting in that capacity, or an escrow agent, or the temporary custodian  
3 of the funds of others, in a real estate transaction; provided, these  
4 accounts shall not bear interest unless the principals authorize in  
5 writing the deposit be made in an interest bearing account and also  
6 provide for the disbursement of the interest accrued.

7 (13) Failing to deliver, within a reasonable time, a completed copy of any  
8 purchase agreement or offer to buy and sell real estate to the buyer and  
9 to the seller.

10 (14) Failing, at the time the transaction is consummated, to deliver to the  
11 seller in every real estate transaction, a complete detailed closing  
12 statement showing all of the receipts and disbursements handled by  
13 him or her for the seller or failing to deliver to the buyer a complete  
14 statement showing all money received in the transaction from the  
15 buyer and how and for what it was disbursed.

16 (15) Violating any rule or regulation promulgated by the Commission.

17 The Executive Director shall transmit a certified copy of all final orders of the  
18 Commission suspending or revoking licenses issued under this Chapter to the clerk of  
19 superior court of the county in which the licensee maintains his or her principal place of  
20 business. The clerk shall enter these orders upon the judgment docket of the county.

21 (b) Following a hearing, the Commission shall also have power to suspend or  
22 revoke any license issued under the provisions of this Chapter or to reprimand or  
23 censure any licensee when:

24 (1) The licensee has obtained a license by false or fraudulent  
25 representation;

26 (2) The licensee has been convicted or has entered a plea of guilty or no  
27 contest upon which final judgment is entered by a court of competent  
28 jurisdiction in this State, or any other state, of the criminal offenses of:  
29 embezzlement, obtaining money under false pretense, fraud, forgery,  
30 conspiracy to defraud, or any other offense involving moral turpitude  
31 which would reasonably affect the licensee's performance in the real  
32 estate business;

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

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

40 (5) The licensee, who is also a State-licensed or State-certified real estate  
41 appraiser pursuant to Chapter 93E of the General Statutes, has violated  
42 any provisions of Chapter 93E of the General Statutes and has been

1                   reprimanded or has had ~~his~~an appraiser license or certificate  
2                   suspended or revoked by the Appraisal Board.

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

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

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

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

22 **"§ 93A-16. Real Estate Recovery Fund created; payment to fund; management.**

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

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

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



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

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

6 "**§ 93A-18. Hearing; required showing.**

7 Upon ~~such~~ application by an aggrieved person, the Commission shall conduct a  
8 hearing and the aggrieved person shall be required to ~~show~~; show that the aggrieved  
9 person:

- 10 (1) ~~He is-Is~~ not a spouse of the judgment debtor or a person representing  
11 ~~such the~~ spouse; ~~and~~
- 12 (2) ~~He is-Is~~ making application not more than one year after termination of  
13 all judicial proceedings, including appeals, in connection with the  
14 judgment;
- 15 (3) ~~He has-Has~~ complied with all requirements of this Article;
- 16 (4) ~~He has-Has~~ obtained a judgment as described in G.S. 93A-17, stating  
17 the amount owing thereon at the date of application;
- 18 (5) ~~He has-Has~~ made all reasonable searches and inquiries to ascertain  
19 whether the judgment debtor is possessed of real or personal property  
20 or other assets liable to be sold or applied in satisfaction of the  
21 judgment;
- 22 (6) ~~That by such search he~~ After searching as described in subdivision (5)  
23 of this section, has discovered no real or personal property or other  
24 assets liable to be sold or applied, or that he has discovered certain of  
25 them, describing them, but that the amount so realized was insufficient  
26 to satisfy the judgment, stating the amount realized and the balance  
27 remaining due on the judgment after application of the amount  
28 realized; and
- 29 (7) ~~He has-Has~~ diligently pursued ~~his remedies including attempted the~~  
30 aggrieved person's remedies, which include attempting execution on  
31 the judgment against all the judgment debtors—debtors, which  
32 execution has been returned unsatisfied. In addition to that, he knows  
33 Knows of no assets of the judgment debtor and ~~that he~~ has attempted  
34 collection from all other persons who may be liable ~~to him in for~~ the  
35 transaction for which ~~he the~~ aggrieved person seeks payment from the  
36 Real Estate Recovery Fund if there be any such other persons."

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

38 "**§ 93A-19. Response and defense by Commission and judgment debtor; proof of**  
39 **conversion.**

40 (a) Whenever the Commission proceeds upon an application as set forth in this  
41 Article, counsel for the Commission may defend such action on behalf of the fund and  
42 shall have recourse to all appropriate means of defense, including the examination of  
43 witnesses. The judgment debtor may defend such action on his or her own behalf and

1 shall have recourse to all appropriate means of defense, including the examination of  
2 witnesses. Counsel for the Commission and the judgment debtor may file responses to  
3 the application, setting forth answers and defenses. Responses shall be filed with the  
4 Commission and copies shall be served upon every party by the filing party. If at any  
5 time it appears there are no triable issues of fact and the application for payment from  
6 the fund is without merit, the Commission shall dismiss the application. A motion to  
7 dismiss may be supported by affidavit of any person or persons having knowledge of  
8 the facts and may be made on the basis that the application or the judgment referred to  
9 therein do not form a basis for meritorious recovery within the purview of G.S. 93A-17,  
10 that the applicant has not complied with the provisions of this Article, or that the  
11 liability of the fund with regard to the particular licensee or transaction has been  
12 exhausted; provided, however, notice of ~~such~~the motion shall be given at least 10 days  
13 prior to the time fixed for hearing. If the applicant or judgment debtor fails to appear at  
14 the hearing after receiving notice of the hearing, the applicant or judgment debtor ~~shall~~  
15 ~~waive his or her rights~~waives the person's rights unless the absence is excused by the  
16 Commission.

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

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

24 "**§ 93A-22. Repayment to fund; automatic suspension of license.**

25 Should the Commission pay from the Real Estate Recovery Fund any amount in  
26 settlement of a claim or toward satisfaction of a judgment against a licensed real estate  
27 broker or salesperson, the license of the broker or salesperson shall be automatically  
28 suspended upon the effective date of the order authorizing payment from the fund. No  
29 such broker or salesperson shall be granted a reinstatement until ~~he has the fund has~~  
30 been repaid in full, plus including interest at the legal rate as provided for in G.S. 24-1,  
31 ~~the amount paid from the Real Estate Recovery Fund.G.S. 24-1."~~

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

33 "**§ 93A-23. Subrogation of rights.**

34 When the Commission has paid from the Real Estate Recovery Fund any sum to the  
35 judgment creditor, the Commission shall be subrogated to all of the rights of the  
36 judgment creditor to the extent of the amount so paid and the judgment creditor shall  
37 assign all ~~his~~ right, title, and interest in the judgment to the extent of the amount so paid  
38 to the Commission and any amount and interest so recovered by the Commission on the  
39 judgment shall be deposited in the Real Estate Recovery Fund."

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

41 "**§ 93A-25. Persons ineligible to recover from fund.**

42 No real estate broker or real estate salesperson who suffers the loss of any  
43 commission from any transaction in which he or she was acting in the capacity of a real

1 estate broker or real estate salesperson shall be entitled to make application for payment  
2 from the Real Estate Recovery Fund for ~~such~~the loss."

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

4 "**§ 93A-42. Time shares deemed real estate.**

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

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

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

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

17 (2) Not later than 180 days following the execution of the contract of sale  
18 by the purchaser, provided that all payments made by the purchaser  
19 shall be placed by the developer with an independent escrow agent  
20 upon the expiration of the 10-day escrow period provided by G.S.  
21 93A-45(c).

22 (d) The independent escrow agent provided by G.S. 93A-42(c)(2) shall deposit  
23 and maintain the purchaser's payments in an insured trust or escrow account in a bank or  
24 savings and loan association located in this State. The trust or escrow account may be  
25 interest-bearing and the interest earned shall belong to the developer, if agreed upon in  
26 writing by the purchaser; Provided, however, if the time share instrument is not  
27 recorded within the time periods specified in this section, then the interest earned shall  
28 belong to the purchaser. The independent escrow agent shall return all payments to the  
29 purchaser at the expiration of 180 days following the execution of the contract of sale  
30 by the purchaser, unless prior to that time the time share instrument has been recorded.  
31 However, if prior to the expiration of 180 days following the execution of the contract  
32 of sale, the developer and the purchaser provide their written consent to the independent  
33 escrow agent, the developer's obligation to record the time share instrument and the  
34 escrow period may be extended for an additional period of 120 days. Upon recordation  
35 of the time share instrument, the independent escrow agent shall pay the purchaser's  
36 funds to the developer. Upon request by the Commission, the independent escrow agent  
37 shall promptly make available to the Commission inspection of records of money held  
38 by ~~him~~the independent escrow agent.

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

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

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

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

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

9       "**§ 93A-48. Exchange programs.**

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

- 15           (1) The name and address of the exchange company;
- 16           (2) The names of all officers, directors, and shareholders owning five  
17           percent (5%) or more of the outstanding stock of the exchange  
18           company;
- 19           (3) Whether the exchange company or any of its officers or directors has  
20           any legal or beneficial interest in any developer or managing agent for  
21           any time share project participating in the exchange program and, if so,  
22           the name and location of the time share project and the nature of the  
23           interest;
- 24           (4) Unless the exchange company is also the developer a statement that  
25           the purchaser's contract with the exchange company is a contract  
26           separate and distinct from the sales contract;
- 27           (5) Whether the purchaser's participation in the exchange program is  
28           dependent upon the continued affiliation of the time share project with  
29           the exchange program;
- 30           (6) Whether the purchaser's membership or participation, or both, in the  
31           exchange program is voluntary or mandatory;
- 32           (7) A complete and accurate description of the terms and conditions of the  
33           purchaser's contractual relationship with the exchange company and  
34           the procedure by which changes thereto may be made;
- 35           (8) A complete and accurate description of the procedure to qualify for  
36           and effectuate exchanges;
- 37           (9) A complete and accurate description of all limitations, restrictions, or  
38           priorities employed in the operation of the exchange program,  
39           including, but not limited to, limitations on exchanges based on  
40           seasonality, unit size, or levels of occupancy, expressed in boldfaced  
41           type, and, in the event that such limitations, restrictions, or priorities  
42           are not uniformly applied by the exchange program, a clear description  
43           of the manner in which they are applied;

- 1 (10) Whether exchanges are arranged on a space available basis and  
2 whether any guarantees of fulfillment of specific requests for  
3 exchanges are made by the exchange program;
- 4 (11) Whether and under what circumstances an owner, in dealing with the  
5 exchange company, may lose the use and occupancy of ~~his~~the owner's  
6 time share in any properly applied for exchange without ~~his~~ being  
7 provided with substitute accommodations by the exchange company;
- 8 (12) The expenses, fees or range of fees for participation by owners in the  
9 exchange program, a statement whether any such fees may be altered  
10 by the exchange company, and the circumstances under which  
11 alterations may be made;
- 12 (13) The name and address of the site of each time share project or other  
13 property which is participating in the exchange program;
- 14 (14) The number of units in each project or other property participating in  
15 the exchange program which are available for occupancy and which  
16 qualify for participation in the exchange program, expressed within the  
17 following numerical groupings, 1-5, 6-10, 11-20, 21-50 and 51, and  
18 over;
- 19 (15) The number of owners with respect to each time share project or other  
20 property which are eligible to participate in the exchange program  
21 expressed within the following numerical groupings, 1-100, 101-249,  
22 250-499, 500-999, and 1,000 and over, and a statement of the criteria  
23 used to determine those owners who are currently eligible to  
24 participate in the exchange program;
- 25 (16) The disposition made by the exchange company of time shares  
26 deposited with the exchange program by owners eligible to participate  
27 in the exchange program and not used by the exchange company in  
28 effecting exchanges;
- 29 (17) The following information which, except as provided in subsection (b)  
30 below, shall be independently audited by a certified public accountant  
31 in accordance with the standards of the Accounting Standards Board of  
32 the American Institute of Certified Public Accountants and reported  
33 for each year no later than July 1, of the succeeding year:
- 34 a. The number of owners enrolled in the exchange program and  
35 such numbers shall disclose the relationship between the  
36 exchange company and owners as being either fee paying or  
37 gratuitous in nature;
- 38 b. The number of time share projects or other properties eligible to  
39 participate in the exchange program categorized by those  
40 having a contractual relationship between the developer or the  
41 association and the exchange company and those having solely  
42 a contractual relationship between the exchange company and  
43 owners directly;

- 1 c. The percentage of confirmed exchanges, which shall be the  
2 number of exchanges confirmed by the exchange company  
3 divided by the number of exchanges properly applied for,  
4 together with a complete and accurate statement of the criteria  
5 used to determine whether an exchange requested was properly  
6 applied for;
- 7 d. The number of time shares or other intervals for which the  
8 exchange company has an outstanding obligation to provide an  
9 exchange to an owner who relinquished a time share or interval  
10 during the year in exchange for a time share or interval in any  
11 future year; and
- 12 e. The number of exchanges confirmed by the exchange company  
13 during the year; and

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

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

24 (b) The information required by subdivisions (a), (2), (3), (13), (14), (15), and  
25 (17) shall be accurate as of December 31 of the year preceding the year in which the  
26 information is delivered, except for information delivered within the first 180 days of  
27 any calendar year which shall be accurate as of December 31 of the year two years  
28 preceding the year in which the information is delivered to the purchaser. The remaining  
29 information required by subsection (a) shall be accurate as of a date which is no more  
30 than 30 days prior to the date on which the information is delivered to the purchaser.

31 (c) In the event an exchange company offers an exchange program directly to the  
32 purchaser or owner, the exchange company shall deliver to each purchaser or owner,  
33 concurrently with the offering and prior to the execution of any contract between the  
34 purchaser or owner and the exchange company the information set forth in subsection  
35 (a) above. The requirements of this paragraph shall not apply to any renewal of a  
36 contract between an owner and an exchange company.

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

41 **SECTION 23.(1)** G.S. 93A-54 reads as rewritten:

42 "**§ 93A-54. Disciplinary action by Commission.**

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

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

- 15 (1) Making any willful or negligent misrepresentation or any willful or  
16 negligent omission of material fact about any time share or time share  
17 project;
- 18 (2) Making any false promises of a character likely to influence, persuade,  
19 or induce;
- 20 (3) Pursuing a course of misrepresentation or making of false promises  
21 through agents, salesperson, advertising or otherwise;
- 22 (4) Failing, within a reasonable time, to account for all money received  
23 from others in a time share transaction, and failing to remit such  
24 monies as may be required in G.S. 93A-45 of this Article;
- 25 (5) Acting as a time share salesperson or time share developer in a manner  
26 as to endanger the interest of the public;
- 27 (6) Paying a commission, salary, or other valuable consideration to any  
28 person for acts or services performed in violation of this Article;
- 29 (7) Any other conduct which constitutes improper, fraudulent, or  
30 dishonest dealing;
- 31 (8) Performing or undertaking to perform any legal service as set forth in  
32 G.S. 84-2.1, or any other acts not specifically set forth in that section;
- 33 (9) Failing to deposit and maintain in a trust or escrow account in an  
34 insured bank or savings and loan association in North Carolina all  
35 money received from others in a time share transaction as may be  
36 required in G.S. 93A-45 of this Article or failing to place with an  
37 independent escrow agent the funds of a time share purchaser when  
38 required by G.S. 93A-42(c);
- 39 (10) Failing to deliver to a purchaser a public offering statement containing  
40 the information required by G.S. 93A-44 and any other disclosures that  
41 the Commission may by regulation require;
- 42 (11) Failing to comply with the provisions of Chapter 75 of the General  
43 Statutes in the advertising or promotion of time shares for sale, or

- 1 failing to assure such compliance by persons engaged on behalf of a  
2 developer;
- 3 (12) Failing to comply with the provisions of G.S. 93A-48 in furnishing  
4 complete and accurate information to purchasers concerning any  
5 exchange program which may be offered to such purchaser;
- 6 (13) Making any false or fraudulent representation on an application for  
7 registration;
- 8 (14) Violating any rule or regulation promulgated by the Commission;
- 9 (15) Failing to record or cause to be recorded a time share instrument as  
10 required by G.S. 93A-42(c), or failing to provide a purchaser the  
11 protection against liens required by G.S. 93A-57(a); or
- 12 (16) Failing as a time share project broker to exercise reasonable and  
13 adequate supervision of the conduct of sales at ~~his~~a project or location  
14 by the brokers and salespersons under ~~his~~the time share project  
15 broker's control.
- 16 (a1) The clear proceeds of fines collected pursuant to subsection (a) of this section  
17 shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S.  
18 115C-457.2.
- 19 (b) Following a hearing, the Commission shall also have power to suspend or  
20 revoke any certificate of registration issued under the provisions of this Article or to  
21 reprimand or censure any developer when the registrant has been convicted or has  
22 entered a plea of guilty or no contest upon which final judgment is entered by a court of  
23 competent jurisdiction in this State, or any other state, of the criminal offenses of:  
24 embezzlement, obtaining money under false pretense, fraud, forgery, conspiracy to  
25 defraud, or any other offense involving moral turpitude which would reasonably affect  
26 the developer's performance in the time share business.
- 27 (c) The Commission may appear in its own name in superior court in actions for  
28 injunctive relief to prevent any person or entity from violating the provisions of this  
29 Article or rules promulgated by the Commission. The superior court shall have the  
30 power to grant these injunctions even if criminal prosecution has been or may be  
31 instituted as a result of the violations, or regardless of whether the person or entity has  
32 been registered by the Commission.
- 33 (d) Each developer shall maintain or cause to be maintained complete records of  
34 every time share transaction including records pertaining to the deposit, maintenance,  
35 and withdrawal of money required to be held in a trust or escrow account, or as  
36 otherwise required by the Commission, under G.S. 93A-45 of this Article. The  
37 Commission may inspect these records periodically without prior notice and may also  
38 inspect these records whenever the Commission determines that they are pertinent to an  
39 investigation of any specific complaint against a registrant.
- 40 (e) When a licensee is accused of any act, omission, or misconduct under this  
41 Article which would subject the licensee to disciplinary action, the licensee may, with  
42 the consent and approval of the Commission, surrender ~~his or its~~the licensee's license  
43 and all the rights and privileges pertaining to it for a period of time to be established by



1 the Commission. A licensee who surrenders ~~his or its~~a license shall not be eligible for,  
2 or submit any application for, licensure as a real estate broker or salesperson or  
3 registration of a time share project during the period of license surrender. For the  
4 purposes of this section, the term licensee shall include a time share developer."

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

6 "**§ 93A-58. Registrar required; criminal penalties; project broker.**

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

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

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

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

24 (c) The developer shall designate for each project and other locations where time  
25 shares are sold or offered for sale a project broker. The project broker shall act as  
26 supervising broker for all persons licensed as salespersons at the project or other  
27 location and shall directly, personally, and actively supervise all persons licensed as  
28 brokers or salespersons at the project or other location in a manner to reasonably ensure  
29 that the sale of time shares will be conducted in accordance with the provisions of this  
30 Chapter."

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

32 "(2) Penalty. – In addition to interest for nonpayment of taxes provided by  
33 G.S. 105-360 and in addition to any criminal penalties provided by law  
34 for the giving of worthless checks, the penalty for giving in payment of  
35 taxes a check that is returned because of insufficient funds or  
36 nonexistence of an account of the drawer is ten percent (10%) of the  
37 amount of the check, subject to a minimum of one dollar (\$1.00) and a  
38 maximum of one thousand dollars (\$1,000). This penalty does not  
39 apply if the tax collector finds that, when the check was presented for  
40 payment, the drawer of the check had sufficient funds in an account at  
41 a financial institution in this State to pay the check and, by  
42 ~~inadvertance, inadvertence,~~ the drawer of the check failed to draw the  
43 check on the account that had sufficient funds. This penalty shall be

1 added to and collected in the same manner as the taxes for which the  
2 check was given."

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

4 "(b) ~~Participation in providing professional services.~~ Participation in Providing  
5 Professional Services. – The Department of State Treasurer shall provide contracting  
6 opportunities for historically underutilized businesses in providing professional services  
7 in connection with the issuance of bonds and notes authorized by this section. As used  
8 in this subsection, the term 'historically underutilized business' means a business  
9 described in G.S. 143-48. The Department of State Treasurer shall strive to increase the  
10 amount of legal, financial, and other professional services acquired by it from  
11 historically underutilized businesses. With the assistance of the Office for Historically  
12 Underutilized Businesses in the Department of Administration, the Department of State  
13 Treasurer shall set objectives for contracting with these businesses, identify and  
14 eliminate barriers or constraints that may restrict these businesses from contracting with  
15 the Department, and develop a plan for meeting its objectives. The Department of State  
16 Treasurer shall report quarterly to the Office for Historically Underutilized Businesses  
17 on its progress in carrying out the requirements of this subsection."

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

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

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

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

- 28 a. Area mental health, developmental disabilities, and substance  
29 abuse authorities.
- 30 b. Local social services departments.
- 31 c. Local public health departments.
- 32 d. Local emergency management agencies that receive federal  
33 grant-in-aid funds.

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

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

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

- 40 (1) Constitutional officers of the State.
- 41 (2) Officers and employees of the Judicial Department.
- 42 (3) Officers and employees of the General Assembly.

- 1 (4) Members of boards, committees, commissions, councils, and advisory  
2 councils compensated on a per diem basis.
- 3 (5) Officials or employees whose salaries are fixed by the General  
4 Assembly, or by the Governor, or by the Governor and Council of  
5 State, or by the Governor subject to the approval of the Council of  
6 State.
- 7 (6) Employees of the Office of the Governor that the Governor, at any  
8 time, in ~~his~~the Governor's discretion, exempts from the application of  
9 the provisions of this Chapter by means of a letter to the State  
10 Personnel Director designating these employees.
- 11 (7) Employees of the Office of the Lieutenant Governor, that the  
12 Lieutenant Governor, at any time, in ~~his~~the Lieutenant Governor's  
13 discretion, exempts from the application of the provisions of this  
14 Chapter by means of a letter to the State Personnel Director  
15 designating these employees.
- 16 (8) Instructional and research staff, physicians, and dentists of The  
17 University of North Carolina.
- 18 (9) Employees whose salaries are fixed under the authority vested in the  
19 Board of Governors of The University of North Carolina by the  
20 provisions of G.S. 116-11(4), 116-11(5), and 116-14.
- 21 (10) Repealed by Session Laws 1991, c. 84, s. 1.
- 22 (11) North Carolina School of Science and Mathematics' employees whose  
23 salaries are fixed in accordance with the provisions of G.S.  
24 116-235(c)(1) and G.S. 116-235(c)(2).
- 25 (12) Employees of the North Carolina Low-Level Radioactive Waste  
26 Management Authority whose salaries are fixed pursuant to G.S.  
27 104G-5(g)(1) and G.S. 104G-5(g)(2).
- 28 (13) Employees of the North Carolina Hazardous Waste Management  
29 Commission whose salaries are fixed pursuant to G.S. 130B-6(g)(1)  
30 and G.S. 130B-6(g)(2).
- 31 (14) Employees of the North Carolina State Ports Authority.
- 32 (15) Employees of the North Carolina Global TransPark Authority.
- 33 (16) The executive director and one associate director of the North Carolina  
34 Center for Nursing established under Article 9F of Chapter 90 of the  
35 General Statutes.
- 36 (17) The executive director of the independent staff of the Information  
37 Resources Management Commission established under G.S.  
38 143B-472.41A.
- 39 (18) Employees of the Tobacco Trust Fund Commission established in  
40 Article 75 of Chapter 143 of the General Statutes.
- 41 (19) Employees of the Health and Wellness Trust Fund Commission  
42 established in Article 21 of Chapter 130A of the General Statutes.

1 (20) Employees of the North Carolina Rural Redevelopment Authority  
2 created in Part 2D of Article 10 of Chapter 143B of the General  
3 Statutes."

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

5 "(b) Licensure; inspections. –

6 (1) The Department of Health and Human Services shall inspect and  
7 license, under rules adopted by the Medical Care Commission, all  
8 adult care homes for persons who are aged or mentally or physically  
9 disabled except those exempt in subsection (c) of this section. Licenses  
10 issued under the authority of this section shall be valid for one year  
11 from the date of issuance unless revoked earlier by the Secretary for  
12 failure to comply with any part of this section or any rules adopted  
13 ~~hereunder adult care.~~ hereunder. Licenses shall be renewed annually  
14 upon filing and the Department's approval of the renewal application.  
15 A license shall not be renewed if outstanding fines and penalties  
16 imposed by the State against the home have not been paid. Fines and  
17 penalties for which an appeal is pending are exempt from  
18 consideration. The renewal application shall contain all necessary and  
19 reasonable information that the Department may by rule require.  
20 Except as otherwise provided in this subdivision, the Department may  
21 amend a license by reducing it from a full license to a provisional  
22 license for a period of not more than 90 days whenever the Department  
23 finds that:

- 24 a. The licensee has substantially failed to comply with the  
25 provisions of Articles 1 and 3 of Chapter 131D of the General  
26 Statutes and the rules adopted pursuant to these Articles;  
27 b. There is a reasonable probability that the licensee can remedy  
28 the licensure deficiencies within a reasonable length of time;  
29 and  
30 c. There is a reasonable probability that the licensee will be able  
31 thereafter to remain in compliance with the licensure rules for  
32 the foreseeable future.

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

37 The Department may revoke a license whenever:

- 38 a. The Department finds that:  
39 1. The licensee has substantially failed to comply with the  
40 provisions of Articles 1 and 3 of Chapter 131D of the  
41 General Statutes and the rules adopted pursuant to these  
42 Articles; and



1 to the Board made by the Speaker of the House of Representatives and the President Pro  
2 Tempore of the Senate for terms beginning July 9, 1993, should reflect the ethnic and  
3 gender diversity of the State as nearly as practical.

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

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

12 The members of the Economic Development Board shall receive per diem and  
13 necessary travel and subsistence expenses payable to members of State Boards and  
14 agencies generally pursuant to G.S. 138-5 and ~~{G.S.}~~ G.S. 138-6, as the case may be.  
15 The members of the Economic Development Board who are members of the General  
16 Assembly shall not receive per diem but shall receive necessary travel and subsistence  
17 expenses at rates prescribed by G.S. 120-3.1."

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

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

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

29 "(b) The Office shall coordinate with the Office of State Budget, Planning, and  
30 Management ~~and the Office of State Budget, Planning, and Management~~ to integrate  
31 agency strategic and business planning, technology planning and budgeting, and project  
32 expenditure processes into the Office's information technology portfolio-based  
33 management. The Office shall provide recommendations for agency annual budget  
34 requests for information technology investments, projects, and initiatives to the Office  
35 of State Budget, Planning, and Management."

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

37 "**§ 159D-23. Application of Article 9 of Chapter 25.**

38 Article 9 of Chapter 25 of the General Statutes applies to transactions under this  
39 Chapter.

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

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

42 "(f1) Property Subject to Present-Use Value Appraisal. – If an area described in an  
43 annexation ordinance includes agricultural land, horticultural land, or forestland that

1 meets either of the conditions listed below on the effective date of annexation is:  
2 annexation, then the annexation becomes effective as to that property pursuant to  
3 subsection (f2) of this section:

4 (1) The land is being taxed at present-use value pursuant to G.S. 405-  
5 277.4; or 105-277.4.

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

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

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

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

17 (f2) Effective Date of Annexation for Certain Property. – Annexation of property  
18 subject to annexation under subsection (f1) of this section ~~shall become effective;~~  
19 becomes effective as provided in this subsection.

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

24 (2) For all other purposes, the annexation becomes effective as to each  
25 tract of the property or part thereof on the last day of the month in  
26 which that tract or part thereof becomes ineligible for classification  
27 pursuant to G.S. ~~405-227.4-105-277.4~~ or no longer meets the  
28 requirements of subdivision (f1)(2) of this section. Until annexation of  
29 a tract or a part of a tract becomes effective pursuant to this  
30 subdivision, the tract or part of a tract is not subject to taxation by the  
31 city under Article 12 of Chapter 105 of the General Statutes nor is the  
32 tract or part of a tract entitled to services provided by the city."

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

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

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

39 "**§ 1-209.1. Petitioner who abandons condemnation proceeding taxed with fee for**  
40 **respondent's attorney.**

41 In all condemnation proceedings authorized by ~~G.S. 40-2-G.S. 40A-3~~ or by any  
42 other statute, the clerks of the superior courts are authorized to fix and tax the petitioner

1 with a reasonable fee for respondent's attorney in cases in which the petitioner takes or  
2 submits to a voluntary nonsuit or otherwise abandons the proceeding."

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

4 "**§ 1-209.2. Voluntary nonsuit by petitioner in condemnation proceeding.**

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

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

8 "(c) If within the 30-day period mentioned in subsection (b) of this section the  
9 member and the association do not agree as to the fair market value of ~~such~~ the stock or  
10 other property rights or interests, the member may, within 60 days after the expiration of  
11 the 30-day period, file a petition in the superior court of the county in which the  
12 association has its registered office or principal place of business asking for the  
13 appointment by the clerk of the superior court of that county of three qualified and  
14 disinterested appraisers to appraise the fair market value of ~~such~~ the stock or other  
15 property rights or interests. A summons as in other cases of special proceedings,  
16 together with a copy of the petition, shall be served on the association at least 10 days  
17 prior to the hearing of the petition by the court. The award of the appraisers, or a  
18 majority of them, if no exceptions ~~be~~ are filed thereto within 10 days after the award  
19 ~~shall have been~~ is filed in court, shall be confirmed by the court, and when confirmed  
20 shall be final and ~~conclusive, and the~~ conclusive. The member, upon depositing with the  
21 court the proper stock certificates or other evidence of ~~such~~ property rights or interests,  
22 shall be entitled to judgment against the association for the appraised value thereof as of  
23 the day prior to the date on which the vote was taken, together with interest thereon to  
24 the date of ~~such~~ the confirmation. If either party files exceptions to ~~such~~ the award  
25 within 10 days after the award ~~shall have been~~ is filed in court, the case shall be  
26 transferred to the civil issue docket of the superior court for trial during term and shall  
27 be there tried in the same manner, as near as may be practicable, as is provided in  
28 Chapter ~~40-40A~~ of the General Statutes for the trial of cases under the eminent domain  
29 law of this State, and with the same right of appeal to the appellate division as is  
30 permitted in that Chapter. The court shall assess the cost of the proceedings as it shall  
31 deem equitable. Upon payment of the ~~judgment~~ judgment, the owner of ~~such~~ the stock  
32 or other property rights or interests shall cease to have any interest in the association  
33 and the association shall be entitled to have ~~said~~ the stock certificates or other evidence  
34 of ~~such~~ the property rights or interests surrendered to the association by the clerk of  
35 court. Unless the member ~~shall file~~ files a petition within the time herein  
36 prescribed, ~~he~~ the member and all persons claiming under ~~him~~ the member shall have  
37 no right of payment hereunder, but in that event nothing herein shall impair ~~his~~ the  
38 member's status as a member."

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

40 "**§ 104-20. Utilities Commission to secure right-of-way; condemnation by United**  
41 **States.**

42 If the title to any part of the lands required by the United States government for the  
43 construction of ~~such~~ an inland waterway from Beaufort Inlet to the Cape Fear River



1 ~~shall be in any~~ is owned by a private person, company or corporation, railroad company,  
2 street railway company, telephone or telegraph company, or other public service  
3 corporation, or ~~shall have~~ has been donated or condemned for any public use by any  
4 political subdivision of the State or if it may be necessary, for the purpose of obtaining  
5 the proper title to any lands, the title to which has heretofore been vested in the State  
6 Board of Education, then the Utilities ~~Commission~~ Commission, in the name of the  
7 State of North Carolina, ~~is hereby authorized and empowered, acting for and in behalf~~  
8 ~~of the State of North Carolina, to~~ may secure a right-of-way 1,000 feet wide for ~~said~~ the  
9 inland waterway across and through ~~such~~ the lands or any part thereof, if possible by  
10 purchase, donation or otherwise, through agreement with the owner or owners, and  
11 when any ~~such~~ property is thus acquired, the Governor and Secretary of State shall  
12 execute a deed for the same to the United States; and if for any reason the ~~said~~  
13 Commission ~~shall be~~ is unable to secure ~~such~~ a right-of-way across ~~any~~ such ~~the~~  
14 property by voluntary agreement with the owner or owners as aforesaid, the ~~said~~  
15 Commission acting for and in behalf of the State of North Carolina, is hereby vested  
16 with the power to condemn the same, and in so doing, the ways, means, methods and  
17 procedure of Chapter ~~40~~ 40A of the General Statutes of North Carolina, entitled  
18 "Eminent Domain," shall be used by it as near as the same is suitable for the purposes of  
19 this law, and in all instances, the general and the special benefits to the owner thereof  
20 shall be assessed as offsets against the damages to ~~such~~ the property or lands.

21 As ~~such~~ condemnation proceedings might result in delay in the acquiring of title to  
22 all parts of the right-of-way and in the construction of the ~~said~~ inland waterway by the  
23 United States, ~~said~~ the Utilities Commission is authorized to enter any of ~~said~~ the lands  
24 and property and take possession of the same at the time hereinafter provided as needed  
25 for this use in behalf of the State or the United States government for the purposes  
26 herein set out prior to the bringing of the proceeding for condemnation and prior to the  
27 payment of the money for ~~such~~ the land or property under any judgment in  
28 condemnation. In the event the owner or owners shall appeal from the report of the  
29 commissioners appointed in the condemnation proceeding it shall not be necessary for  
30 ~~said~~ the Commission, acting in behalf of the State of North Carolina, the  
31 State of North Carolina, or the United States government, to deposit the money assessed  
32 by ~~said~~ the commissioners with the clerk.

33 Whenever proceedings in condemnation are instituted ~~in pursuance of~~ under the  
34 provisions of this section, the ~~said~~ Commission upon the filing of the petition or  
35 petitions in ~~such~~ the proceedings, ~~shall have the right to~~ may take immediate possession  
36 on behalf of the State of ~~such~~ the lands or property to the extent of the interest to be  
37 acquired and the Governor and Secretary of State shall thereupon execute a deed to the  
38 United States and ~~said~~ the lands or property may then be appropriated and used by the  
39 United States for the purposes ~~aforesaid~~ described in this section. Provided, that in  
40 every case the proceedings in condemnation shall be diligently prosecuted to final  
41 judgment in order that the just compensation to which the owners of the property are  
42 entitled may be ascertained and when so ascertained and determined ~~such~~ the  
43 compensation shall be promptly paid as hereinafter in this law provided.

1 If the United States government shall so determine, it is hereby authorized to  
2 condemn and use all lands and property ~~which~~that may be needed for the purposes  
3 herein set out and which is specifically described and set out in the preceding  
4 paragraphs, under the authority of ~~said~~the United States government, and according to  
5 the provisions existing in the federal statutes for condemning lands and property for the  
6 use of the United States government. In case the United States government shall so  
7 condemn ~~said~~the land and property, the ~~said~~ Utilities Commission is hereby authorized  
8 to pay all expenses of the condemnation proceedings and any award that may be made  
9 thereunder, out of the money ~~which~~that may be appropriated for ~~said~~these purposes."

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

11 "**§ 113-34. Power to acquire lands as State forests, parks, etc.; donations or leases**  
12 **by United States; leases for recreational purposes; rules governing public**  
13 **use.**

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

40 (b) The Department ~~is further authorized and empowered to~~ may accept as gifts  
41 to the State of North Carolina ~~such~~any forest and submarginal farmland acquired by  
42 ~~said~~the federal government as may be suitable for the purpose of creating and  
43 maintaining State-controlled forests, game refuges, public shooting grounds, State

1 parks, State lakes, and other recreational areas, or to enter into longtime leases with the  
2 federal government for such areas and administer them with ~~such~~ funds as may be  
3 secured from their administration in the best interest of longtime public use,  
4 supplemented by ~~such~~ any necessary appropriations as may be made by the General  
5 Assembly. The Department is ~~further empowered to~~ may segregate State hunting and  
6 fishing licenses, use permits, and concessions and other proper revenue secured through  
7 the administration of such forests, game refuges, public shooting grounds, State parks,  
8 State lakes, and other recreational areas to be deposited in the State treasury to the credit  
9 of the Department to be used for the administration of these areas.

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

- 15 (1) The erection, maintenance and use of docks, piers and ~~such~~ other  
16 structures as may be permitted in or on ~~said~~ the waters under its own  
17 ~~rules;~~ rules.
- 18 (2) Fishing privileges in ~~said~~ the waters, provided that ~~such~~ the privileges  
19 shall be extended only to holders of bona fide North Carolina fishing  
20 licenses, and provided further that all State fishing laws and rules are  
21 complied with.

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

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

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

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

32 "(6) The right to apply to the North Carolina Rural Electrification  
33 Authority for permission to construct or place any parts of its system  
34 or lines in and along any State highway or over any lands ~~which~~ that  
35 are now, or may be, the property of this State, or any political  
36 subdivision thereof. In all questions involving the right-of-way, or the  
37 right of eminent domain, the rulings of the North Carolina Rural  
38 Electrification Authority ~~shall be~~ are final. Notwithstanding the  
39 foregoing sentence and notwithstanding subdivision (7) of G.S. 117-2,  
40 electric membership corporations ~~are hereby empowered,~~ may, without  
41 necessity of the Authority's rulings or participation, ~~to~~ exercise the  
42 right of eminent domain for the purposes of constructing, operating  
43 and maintaining electric generating, transmission, distribution and

1 related facilities, individually and solely in their own names, pursuant  
2 to the provisions of Chapter ~~40-40A~~ of the General Statutes; provided,  
3 that notwithstanding G.S. 117-30, the foregoing grant of the power of  
4 eminent domain to electric membership corporations shall not apply to  
5 telephone membership corporations; and, provided further, that ~~such~~  
6 the grant of the power shall be of eminent domain is supplementary to  
7 the power of eminent domain already devolved upon the Authority."

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

9 **"§ 121-16. Acquiring lands by purchase or condemnation.**

10 The Department of Cultural Resources, within the limits and amounts appropriated  
11 by the General Assembly and ~~such any funds as may be~~ available from donations or  
12 otherwise, when the conditions set forth in G.S. 121-15 of this Article have been met, is  
13 hereby granted the power and authority to purchase sufficient lands for the restoration  
14 of ~~said the~~ Palace, and the ~~said~~ Department is hereby authorized to accept title to ~~said~~  
15 lands in the name of the State of North Carolina.

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

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

22 **"§ 156-138.1. Acquisition and disposition of lands; lease to or from federal or State  
23 government or agency thereof.**

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

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

40 The commissioners of the district ~~are authorized and empowered to~~ may lease from  
41 the State or federal governments ~~such any~~ real or personal property ~~as may be~~ needed  
42 by the district to enable it to efficiently operate and maintain the district for the purposes

1 for which it was established. The terms of ~~such a~~ lease shall be subject to the approval  
2 of the clerk of the superior court of the county in which the district was established."

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

4 **"§ 160A-349.10. Power to condemn land; procedure for condemnation; board**  
5 **incorporated.**

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

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

15 "(j) Evidence of statements made and conduct occurring in a settlement  
16 proceeding conducted under this section shall not be subject to discovery and shall be  
17 inadmissible in any proceeding in the action or other actions on the same claim, except  
18 in proceedings for sanctions or proceedings to enforce a settlement of the action. No  
19 settlement ~~proceeding~~ agreement reached at a settlement conference or settlement  
20 proceeding conducted under this section shall be enforceable unless it has been reduced  
21 to writing and signed by the parties and in all other respects complies with the  
22 requirements of Chapter 50 of the General Statutes. No evidence otherwise discoverable  
23 shall be inadmissible merely because it is presented or discussed in a settlement  
24 proceeding.

25 No mediator, or other neutral conducting a settlement procedure under this section,  
26 shall be compelled to testify or produce evidence concerning statements made and  
27 conduct occurring in a mediated settlement conference or other settlement procedure in  
28 any civil proceeding for any purpose, including proceedings to enforce a settlement of  
29 the action, except to attest to the signing of any of these agreements, and except  
30 proceedings for sanctions under this section, disciplinary hearings before the State Bar  
31 or any agency established to enforce standards of conduct for mediators, and  
32 proceedings to enforce laws concerning juvenile or elder abuse."

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

34 **"§ 8-53.5. Communications between licensed marriage and family therapist and**  
35 **client(s).**

36 No person, duly ~~authorized~~ licensed as a ~~certified marital~~ licensed marriage and  
37 family therapist, nor any of ~~his~~ the person's employees or associates, shall be required to  
38 disclose any information which ~~he~~ the person may have acquired in rendering  
39 professional ~~marital~~ marriage and family therapy services, and which information was  
40 necessary to enable ~~him~~ the person to render professional ~~marital~~ marriage and family  
41 therapy services. Any resident or presiding judge in the district in which the action is  
42 pending may, subject to G.S. 8-53.6, compel disclosure, either at the trial or prior  
43 thereto, if in ~~his~~ the court's opinion disclosure is necessary to a proper administration of

1 justice. If the case is in district court the judge shall be a district court judge, and if the  
2 case is in superior court the judge shall be a superior court judge."

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

5 "**§ 8-53.7. Social worker privilege.**

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

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

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

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

22 "(6) The term "professional service" means any type of personal or  
23 professional service of the public which requires as a condition  
24 precedent to the rendering of such service the obtaining of a license  
25 from a licensing board as herein defined, and pursuant to the following  
26 provisions of the General Statutes: Chapter 83A, "Architects"; Chapter  
27 84, "Attorneys-at-Law"; Chapter 93, "Public Accountants"; and Article  
28 1, "Practice of Medicine," Article 2, "Dentistry," Article 6,  
29 "Optometry," Article 7, "Osteopathy," Article 8, "Chiropractic,"  
30 Article 9A, "Nursing Practice Act," with regard to registered nurses,  
31 Article 11, "Veterinarians," Article 12A, "Podiatrists," Article 18A,  
32 "Practicing Psychologists," Article 18D, "Occupational Therapy," and  
33 Article 24, "Licensed Professional Counselors," of Chapter 90;  
34 Chapter 89C, "Engineering and Land Surveying"; Chapter 89A,  
35 "Landscape Architects"; Chapter 90B, "Social Worker Certification  
36 and Licensure Act" with regard to Licensed Clinical Social Workers as  
37 defined by G.S. 90B-3; Chapter 89E, "Geologists"; Chapter 89B,  
38 "Foresters"; and Chapter 89F, "North Carolina Soil Scientist Licensing  
39 Act."

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

41 "(4) A physician, or a licensed psychologist, or both, and a certified clinical  
42 specialist in psychiatric and mental health nursing, a ~~certified~~ licensed  
43 clinical social worker, a licensed professional counselor, or each of

1           them, to render psychotherapeutic and related services that the  
2           respective stockholders are licensed, certified, or otherwise approved  
3           to provide."

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

5           "(17) "Medical professional" means any person licensed or certified to  
6           provide health care services to natural persons, including but not  
7           limited to, a physician, dentist, nurse, chiropractor, optometrist,  
8           physical or occupational therapist, ~~certified~~licensed clinical social  
9           worker, clinical dietitian, clinical psychologist, pharmacist, or speech  
10          therapist."

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

13          "**§ 58-50-30. Right to choose services of optometrist, podiatrist, ~~certified~~licensed**  
14          **clinical social worker, certified substance abuse professional, licensed**  
15          **professional counselor, dentist, chiropractor, psychologist, pharmacist,**  
16          **certified fee-based practicing pastoral counselor, advanced practice**  
17          **nurse, or physician assistant.**

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

- 36           (1)       In the case of plans that require the use of network providers as a  
37           condition of obtaining benefits under the plan or policy, the  
38           policyholder, insured, or beneficiary must choose a provider of the  
39           services within the network; and  
40           (2)       In the case of plans that require the use of network providers as a  
41           condition of obtaining a higher level of benefits under the plan or  
42           policy, the policyholder, insured, or beneficiary must choose a

1 provider of the services within the network in order to obtain the  
2 higher level of benefits.

3 (a2) Whenever any policy of insurance governed by Articles 1 through 65 of this  
4 Chapter provides for certification of disability that is within the scope of practice of a  
5 duly licensed physician, a duly licensed physician assistant, a duly licensed optometrist,  
6 a duly licensed podiatrist, a duly licensed dentist, a duly licensed chiropractor, a duly  
7 ~~certified-licensed~~ clinical social worker, a duly certified substance abuse professional, a  
8 duly licensed professional counselor, a duly licensed psychologist, a duly certified  
9 fee-based practicing pastoral counselor, or an advanced practice registered nurse, the  
10 insured or other persons entitled to benefits under the policy shall be entitled to payment  
11 of or reimbursement for the disability whether the disability be certified by a duly  
12 licensed physician, or a provider listed in this subsection, notwithstanding any  
13 provisions contained in the policy. The policyholder, insured, or beneficiary shall have  
14 the right to choose the provider of the services notwithstanding any provision to the  
15 contrary in any other statute; provided that for plans that require the use of network  
16 providers either as a condition of obtaining benefits under the plan or policy or to access  
17 a higher level of benefits under the plan or policy, the policyholder, insured, or  
18 beneficiary must choose a provider of the services within the network, subject to the  
19 requirements of the plan or policy.

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

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

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

35 ...."

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

37 **"§ 58-65-1. Regulation and definitions; application of other laws; profit and**  
38 **foreign corporations prohibited.**

39 (a) Any corporation heretofore or hereafter organized under the general  
40 corporation laws of the State of North Carolina for the purpose of maintaining and  
41 operating a nonprofit hospital and/or medical and/or dental service plan whereby  
42 hospital care and/or medical and/or dental service may be provided in whole or in part  
43 by said corporation or by hospitals and/or physicians and/or dentists participating in



1 such plan, or plans, shall be governed by this Article and Article 66 of this Chapter and  
2 shall be exempt from all other provisions of the insurance laws of this State, heretofore  
3 enacted, unless specifically designated herein, and no laws hereafter enacted shall apply  
4 to them unless they be expressly designated therein.

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

12 The term "medical service plan" as used in this Article and Article 66 of this Chapter  
13 includes the contracting for the payment of fees toward, or furnishing of, medical,  
14 obstetrical, surgical and/or any other professional services authorized or permitted to be  
15 furnished by a duly licensed physician, except that in any plan in any policy of  
16 insurance governed by this Article and Article 66 of this Chapter that includes services  
17 which are within the scope of practice of a duly licensed optometrist, a duly licensed  
18 chiropractor, a duly licensed psychologist, a duly licensed pharmacist, an advanced  
19 practice registered nurse, a duly ~~certified-licensed~~ clinical social worker, a duly certified  
20 substance abuse professional, a duly certified fee-based practicing pastoral counselor, a  
21 duly licensed physician assistant, and a duly licensed physician, then the insured or  
22 beneficiary shall have the right to choose the provider of the care or service, and shall  
23 be entitled to payment of or reimbursement for such care or service, whether the  
24 provider be a duly licensed optometrist, a duly licensed chiropractor, a duly licensed  
25 psychologist, a duly licensed pharmacist, an advanced practice registered nurse, a duly  
26 ~~certified-licensed~~ clinical social worker, a duly certified substance abuse professional, a  
27 duly certified fee-based practicing pastoral counselor, a duly licensed physician  
28 assistant, or a duly licensed physician notwithstanding any provision to the contrary  
29 contained in such policy. The term "medical services plan" also includes the contracting  
30 for the payment of fees toward, or furnishing of, professional medical services  
31 authorized or permitted to be furnished by a duly licensed provider of health services  
32 licensed under Chapter 90 of the General Statutes.

33 ...

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

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

41 For purposes of this section, a "duly certified fee-based practicing pastoral  
42 counselor" shall be defined only to include fee-based practicing pastoral counselors

1 certified by the North Carolina State Board of Examiners of Fee-Based Practicing  
2 Pastoral Counselors pursuant to Article 26 of Chapter 90 of the General Statutes.

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

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

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

17 The insured or beneficiary of every "medical service plan" and of every "dental  
18 service plan," as those terms are used in this Article and Article 66 of this Chapter, or of  
19 any policy of insurance issued thereunder, that includes services which are within the  
20 scope of practice of both a duly licensed physician and a duly licensed dentist shall have  
21 the right to choose the provider of such care or service, and shall be entitled to payment  
22 of or reimbursement for such care or service, whether the provider be a duly licensed  
23 physician or a duly licensed dentist notwithstanding any provision to the contrary  
24 contained in any such plan or policy.

25 The term "hospital service corporation" as used in this Article and Article 66 of this  
26 Chapter is intended to mean any nonprofit corporation operating a hospital and/or  
27 medical and/or dental service plan, as herein defined. Any corporation heretofore or  
28 hereafter organized and coming within the provisions of this Article and Article 66 of  
29 this Chapter, the certificate of incorporation of which authorizes the operation of either  
30 a hospital or medical and/or dental service plan, or any or all of them, may, with the  
31 approval of the Commissioner of Insurance, issue subscribers' contracts or certificates  
32 approved by the Commissioner of Insurance, for the payment of either hospital or  
33 medical and/or dental fees, or the furnishing of such services, or any or all of them, and  
34 may enter into contracts with hospitals for physicians and/or dentists, or any or all of  
35 them, for the furnishing of fees or services respectively under a hospital or medical  
36 and/or dental service plan, or any or all of them.

37 The term "preferred provider" as used in this Article and Article 66 of this Chapter  
38 with respect to contracts, organizations, policies or otherwise means a health care  
39 service provider who has agreed to accept, from a corporation organized for the  
40 purposes authorized by this Article and Article 66 of this Chapter or other applicable  
41 law, special reimbursement terms in exchange for providing services to beneficiaries of  
42 a plan administered pursuant to this Article and Article 66 of this Chapter. Except to the  
43 extent prohibited either by G.S. 58-65-140 or by regulations promulgated by the

1 Department of Insurance not inconsistent with this Article and Article 66 of this  
2 Chapter, the contractual terms and conditions for special reimbursement shall be those  
3 which the corporation and preferred provider find to be mutually agreeable.

4 ..."

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

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

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

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

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

25 "~~§ 90-331. Unlawful use of title "licensed professional counselor".~~ **Prohibitions.**"

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

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

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

35 b. The area facility has obtained written verification from the  
36 following boards that the employee has not had his or her  
37 license, registration, or certification revoked, rescinded, or  
38 suspended: the North Carolina Board of Licensed Professional  
39 Counselors, the North Carolina State Board of Examiners of  
40 Practicing Psychologists, the North Carolina Social Work  
41 Certification Board for Social Work, and Licensure Board, and  
42 the North Carolina ~~Marital~~ Marriage and Family Therapy  
43 ~~Certification~~ Licensure Board;".

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

2           "(17a) Skilled Care. – Medically necessary services that can only be rendered  
3           under State law or regulation by licensed health professionals such as a  
4           medical doctor, physician's assistant, physical therapist, occupational  
5           therapist, speech therapist, certified clinical social worker, licensed  
6           clinical social worker, certified nurse midwife, licensed practical  
7           nurse, or registered nurse."

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

10       "**§ 135-40.7B. Special provisions for chemical dependency and mental health**  
11       **benefits.**

12       ...

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

- 16           (1) Psychiatrists who have completed a residency in psychiatry approved  
17           by the American Council for Graduate Medical Education and who are  
18           licensed as medical doctors or doctors of osteopathy in the state in  
19           which they perform and services covered by the Plan;
- 20           (2) Licensed or certified doctors of psychology;
- 21           (3) Certified clinical social ~~workers;~~workers and licensed clinical social  
22           workers;
- 23           (3a) Licensed professional counselors;
- 24           (4) Certified clinical specialists in psychiatric and mental health nursing;
- 25           (4a) Nurses working under the employment and direct supervision of such  
26           physicians, psychologists, or psychiatrists;
- 27           (5) Repealed by Session Laws 1997-512, s. 14.
- 28           (6) Psychological associates with a masters degree in psychology under  
29           the direct employment and supervision of a licensed psychiatrist or  
30           licensed or certified doctor of psychology;
- 31           (7), (8) Repealed by Session Laws 1997-512, s. 14.
- 32           (9) Certified fee-based practicing pastoral counselors;
- 33           (10) Licensed physician assistants under the supervision of a licensed  
34           psychiatrist and acting pursuant to G.S. 90-18.1 or the applicable laws  
35           and rules of the area in which the physician assistant is licensed or  
36           certified; and
- 37           (11) Licensed marriage and family therapists.

38       (c1) Notwithstanding any other provisions of this Part, the following providers  
39 and no others may provide necessary care and treatment for chemical dependency under  
40 this section:

- 41           (1) The following providers with appropriate substance abuse training and  
42           experience in the field of alcohol and other drug abuse as determined  
43           by the mental health case manager, in facilities described in

1 subdivision (b)(2) of this section, in day/night programs or outpatient  
2 treatment facilities licensed after July 1, 1984, under Article 2 of  
3 Chapter 122C of the General Statutes or in North Carolina area  
4 programs in substance abuse services are authorized to provide  
5 treatment for chemical dependency under this section:

- 6 a. Licensed physicians including, but not limited to, physicians  
7 who are certified in substance abuse by the American Society of  
8 Addiction Medicine (ASAM);
- 9 b. Licensed or certified psychologists;
- 10 c. Psychiatrists;
- 11 d. Certified substance abuse counselors working under the direct  
12 supervision of such physicians, psychologists, or psychiatrists;
- 13 e. Psychological associates with a masters degree in psychology  
14 working under the direct supervision of such physicians,  
15 psychologists, or psychiatrists;
- 16 f. Nurses working under the direct supervision of such physicians,  
17 psychologists, or psychiatrists;
- 18 g. Certified clinical social ~~workers~~workers and licensed clinical  
19 social workers;
- 20 h. Certified clinical specialists in psychiatric and mental health  
21 nursing;
- 22 i. Licensed professional counselors;
- 23 j. Certified fee-based practicing pastoral counselors;
- 24 k. Substance abuse professionals certified under Article 5C of  
25 Chapter 90 of the General Statutes; and
- 26 l. Licensed marriage and family therapists.

27 (2) The following providers with appropriate substance abuse training and  
28 experience in the field of alcohol and other drug abuse as determined  
29 by the mental health case manager are authorized to provide treatment  
30 for chemical dependency in outpatient practice settings:

- 31 a. Licensed physicians who are certified in substance abuse by the  
32 American Society of Addiction Medicine (ASAM);
- 33 b. Licensed or certified psychologists;
- 34 c. Psychiatrists;
- 35 d. Certified substance abuse counselors working under the  
36 employment and direct supervision of such physicians,  
37 psychologists, or psychiatrists;
- 38 e. Psychological associates with a masters degree in psychology  
39 working under the employment and direct supervision of such  
40 physicians, psychologists, or psychiatrists;
- 41 f. Nurses working under the employment and direct supervision  
42 of such physicians, psychologists, or psychiatrists;

- 1 g. Certified clinical social ~~workers;~~workers and licensed clinical  
 2 social workers;  
 3 h. Certified clinical specialists in psychiatric and mental health  
 4 nursing;  
 5 i. Licensed professional counselors;  
 6 j. Certified fee-based practicing pastoral counselors;  
 7 1. Substance abuse professionals certified under Article 5C  
 8 of Chapter 90 of the General Statutes;  
 9 j1. Licensed marriage and family therapists; and  
 10 k. In the absence of meeting one of the criteria above, the Mental  
 11 Health Case Manager could consider, on a case-by-case basis, a  
 12 provider who supplies:  
 13 1. Evidence of graduate education in the diagnosis and  
 14 treatment of chemical dependency, and  
 15 2. Supervised work experience in the diagnosis and  
 16 treatment of chemical dependency (with supervision by  
 17 an appropriately credentialed provider), and  
 18 3. Substantive past and current continuing education in the  
 19 diagnosis and treatment of chemical dependency  
 20 commensurate with one's profession.

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

24 ...."

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

26 "**§ 14-34.7. Assault inflicting serious injury on a law enforcement, probation, or**  
 27 **parole officer or on a person employed at a State or local detention facility.**"

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

30 "**§ 14-100.1. Possession or manufacture of certain fraudulent forms of**  
 31 **identification.**

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

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

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

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

- 1 (1) An identification card containing a picture, issued by any  
2 department, agency, or subdivision of the State of North Carolina,  
3 the federal government, or any other state.  
4 (2) A military identification card containing a picture.  
5 (3) A passport.  
6 (4) An alien registration card containing a picture.

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

8 **SECTION 42.(b)** G.S. 18B-302(f), as rewritten by Section 3 of S.L.  
9 2001-461, reads as rewritten:

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

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

16 "**§ 20-37.01. Drivers license technology fund.**~~License Technology Fund.~~

17 The Drivers License Technology Fund is established in the Department of  
18 Transportation as a nonreverting, interest-bearing special revenue account. The revenue  
19 in the Fund at the end of a fiscal year does not revert, and earnings on the Fund shall be  
20 credited to the Fund annually. All money collected by the Commissioner pursuant to  
21 G.S. 20-37.02 shall be remitted to the State Treasurer and held in the Fund. Money held  
22 in the Fund shall be used to supplement funds otherwise available to the Division for  
23 information technology and office automation needs. The Commissioner shall report by  
24 February 1 and August 1 of each year to the Joint Legislative Commission on  
25 Governmental Operations, the chairs of the Senate and House of Representatives  
26 Appropriation Committees, and the chairs of the Senate and House of Representatives  
27 Appropriations ~~Subcommittee~~ Subcommittees on Transportation on all money collected  
28 and deposited in the Fund and on the proposed expenditure of funds collected during the  
29 preceding six months."

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

32 "**§ 14-129. Taking, etc., of certain wild plants from land of another.**

33 No person, firm or corporation shall dig up, pull up or take from the land of another  
34 or from any public domain, the whole or any part of any Venus flytrap (*Dionaea*  
35 *muscipula*), trailing arbutus, Aaron's Rod (*Thermopsis caroliniana*), Bird-foot Violet  
36 (*Viola pedata*), Bloodroot (*Sanguinaria canadensis*), Blue Dogbane (*Amsonia*  
37 *tabernaemontana*), Cardinal-flower (*Lobelia cardinalis*), Columbine (*Aquilegia*  
38 *canadensis*), Dutchman's Breeches (*Dicentra cucullaria*), Maidenhair Fern (*Adiantum*  
39 *pedatum*), Walking Fern (*Camptosorus rhizophyllus*), Gentians (*Gentiana*), ~~Ginseng~~  
40 (~~*Panax quinquefolium*~~), Ground Cedar, Running Cedar, Hepatica (*Hepatica americana*  
41 and *acutiloba*), Jack-in-the-Pulpit (*Arisaema triphyllum*), Lily (*Lilium*), Lupine  
42 (*Lupinus*), Monkshood (*Aconitum uncinatum* and *reclinatum*), May Apple  
43 (*Podophyllum peltatum*), Orchids (all species), Pitcher Plant (*Sarracenia*), Shooting Star

1 (Dodecatheon meadia), Oconee Bells (Shortia galacifolia), Solomon's Seal  
2 (Polygonatum), Trailing Christmas (Greens-Lycopodium), Trillium (Trillium), Virginia  
3 Bluebells (Mertensia virginica), and Fringe Tree (Chionanthus virginicus), American  
4 holly, white pine, red cedar, hemlock or other coniferous trees, or any flowering  
5 dogwood, any mountain laurel, any rhododendron, or any ground pine, or any Christmas  
6 greens, or any Judas tree, or any leucothea, or any azalea, without having in his  
7 possession a permit to dig up, pull up or take such plants, signed by the owner of such  
8 land, or by his duly authorized agent. Any person convicted of violating the provisions  
9 of this section shall be guilty of a Class 3 misdemeanor only punished by a fine of not  
10 less than ten dollars (\$10.00) nor more than fifty dollars (\$50.00) for each offense. The  
11 provisions of this section shall not apply to the Counties of Cabarrus, Carteret, Catawba,  
12 Cherokee, Chowan, Cumberland, Currituck, Dare, Duplin, Edgecombe, Franklin,  
13 Gaston, Granville, Hertford, McDowell, Pamlico, Pender, Person, Richmond,  
14 Rockingham, Rowan and Swain."

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

16 "(a) ~~If~~ Unless the conduct is covered under some other provision of law providing  
17 greater punishment, it is unlawful:

- 18 (1) To uproot, dig, take or otherwise disturb or remove for any purpose  
19 from the lands of another, any plant on a protected plant list without a  
20 written permit from the owner which is dated and valid for no more  
21 than 180 days and which indicates the species or higher taxon of plants  
22 for which permission is granted; except that the incidental disturbance  
23 of protected plants during agricultural, forestry or development  
24 operations is not illegal so long as the plants are not collected for sale  
25 or commercial use;
- 26 (2) To sell, barter, trade, exchange, export, offer for sale, barter, trade,  
27 exchange or export or give away for any purpose including advertising  
28 or other promotional purpose any plant on a protected plant list, except  
29 as authorized according to the rules and regulations of the Board;
- 30 (3) To violate any rule of the Board promulgated under this Article;
- 31 (4) To dig ginseng on another person's land, except for the purpose of  
32 replanting, between the first day of April and the first day of  
33 September;
- 34 (5) To buy ginseng outside of a buying season as provided by the Board  
35 without obtaining the required documents from the person selling the  
36 ginseng;
- 37 (6) To buy ginseng for the purpose of resale or trade without holding a  
38 currently valid permit as a ginseng dealer;
- 39 (7) To fail to keep records as required under this Article, to refuse to make  
40 records available for inspection by the Board or its agent, or to use  
41 forms other than those provided for the current year or harvest season  
42 by the Department of Agriculture and Consumer Services;



- 1 (8) To provide false information on any record or form required under this  
2 Article;
- 3 (9) To make false statements or provide false information in connection  
4 with any investigation conducted under this Article;
- 5 (10) To possess any protected plant, or part thereof, which was obtained in  
6 violation of this Article or any rule adopted hereunder; or
- 7 (11) To violate a stop sale order issued by the Board or its agent."

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

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

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

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

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

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

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

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

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

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

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

- |    |                  |  |
|----|------------------|--|
| 23 | G.S. 14-17       | - Murder in the first and second degree.   |
| 24 | G.S. 14-27.2     | - First degree rape.   |
| 25 | G.S. 14-27.3     | - Second degree rape.  |
| 26 | G.S. 14-27.4     | - First degree sexual offense.   |
| 27 | G.S. 14-27.5     | - Second degree sexual offense.  |
| 28 | G.S. 14-28       | - Malicious castration.  |
| 29 | G.S. 14-29       | - Castration or other maiming.   |
| 30 | G.S. 14-30       | - Malicious maiming.   |
| 31 | G.S. 14-30.1     | - Malicious throwing of corrosive acid or alkali.  |
| 32 | G.S. 14-31       | - Malicious assault in secret manner.  |
| 33 | G.S. 14-32       | - Felonious assault with deadly weapon with<br>intent to kill.   |
| 34 |                  |  |
| 35 | G.S. 14-32.1     | - Assaults on handicapped persons.   |
| 36 | G.S. 14-34.1     | - Discharging barreled weapon or firearm into<br>occupied property.  |
| 37 |                  |  |
| 38 | G.S. 14-34.2     | - Assault with firearm or other deadly weapon<br>upon law enforcement officer, fireman, or EMS<br>personnel. |
| 39 |                  |  |
| 40 |                  |  |
| 41 | G.S. 14-39(a)(3) | - Kidnapping for the purpose of doing serious<br>bodily harm to the person.                                  |
| 42 |                  |  |
| 43 | G.S. 14-49       | - Malicious use of explosive or incendiary.  |

- 1 G.S. 14-58.2 - Burning of mobile home, manufactured-type  
2 house, or recreational trailer home.  
3 G.S. 14-202.1 - Taking indecent liberties with children.  
4 G.S. 14-87 - Robbery with a dangerous weapon.  
5 G.S. 14-277.3 - Stalking.  
6 G.S. 14-87.1 - Common law robbery.  
7 G.S. 14-58 - First degree arson."

8 **SECTION 46.5.(a)** G.S. 15A-540(c) reads as rewritten:

9 "(c) New Conditions of Pretrial Release. – When a defendant is surrendered by a  
10 surety under subsection (b) of this section, the sheriff shall without unnecessary delay  
11 take the defendant before a judicial official, along with a copy of the undertaking  
12 received from the surety and a copy of the receipt provided to the surety. The judicial  
13 official shall then determine whether the defendant is again entitled to release and, if so,  
14 upon what conditions. ~~The judicial official determining conditions of pretrial release~~  
15 ~~under this subsection shall impose any conditions set by the court in any order for arrest~~  
16 ~~issued for the defendant's failure to appear. If no conditions have been set, the judicial~~  
17 ~~official shall require the execution of a secured appearance bond in an amount at least~~  
18 ~~double the amount of the previous bond, and shall impose such restrictions on the travel,~~  
19 ~~associations, conduct, or place of abode of the defendant as will assure that the~~  
20 ~~defendant will not again fail to appear. The magistrate shall also indicate on the release~~  
21 ~~order that the defendant was surrendered after failing to appear as required under a prior~~  
22 ~~release order."~~

23 **SECTION 46.5.(b)** G.S. 15A-534 is amended by adding the following new  
24 subsection to read:

25 "(d1) When conditions of pretrial release are being imposed on a defendant who  
26 has failed on one or more prior occasions to appear to answer one or more of the  
27 charges to which the conditions apply, the judicial official shall at a minimum impose  
28 the conditions of pretrial release that are recommended in any order for the arrest of the  
29 defendant that was issued for the defendant's most recent failure to appear. If no  
30 conditions are recommended in that order for arrest, the judicial official shall require the  
31 execution of a secured appearance bond in an amount at least double the amount of the  
32 most recent previous secured or unsecured bond for the charges or, if no bond has yet  
33 been required for the charges, in the amount of at least five hundred dollars (\$500.00).  
34 The judicial official shall also impose such restrictions on the travel, associations,  
35 conduct, or place of abode of the defendant as will assure that the defendant will not  
36 again fail to appear. The judicial official shall indicate on the release order that the  
37 defendant was arrested or surrendered after failing to appear as required under a prior  
38 release order. If the information available to the judicial official indicates that the  
39 defendant has failed on two or more prior occasions to appear to answer the charges, the  
40 judicial official shall indicate that fact on the release order."

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

42 "§ 15A-837. **Responsibilities of Division of Adult Probation and**  
43 **Parole-Community Corrections.**

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

- 3 (1) The defendant's regular conditions of probation or post-release  
4 supervision, special or added conditions, supervision requirements,  
5 and any subsequent changes.
- 6 (2) The date of a hearing to determine whether the defendant's supervision  
7 should be revoked, continued, modified, or terminated.
- 8 (3) The final disposition of any hearing referred to in subdivision (2) of  
9 this ~~section~~ subsection.
- 10 (4) Any restitution modification.
- 11 (5) The defendant's movement into or out of any intermediate sanction as  
12 defined in G.S. 15A-1340.11(6).
- 13 (6) The defendant's absconding supervision, within 72 hours.
- 14 (7) The capture of a defendant described in subdivision (6) of this  
15 ~~section~~ subsection, within 72 hours.
- 16 (8) The date when the defendant is terminated or discharged.
- 17 (9) The defendant's death.

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

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

21 **"§ 15A-1343.2. Special probation rules for persons sentenced under Article 81B.**

22 (a) Applicability. – This section applies only to persons sentenced under Article  
23 81B of this Chapter.

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

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

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

- 40 (1) For misdemeanants sentenced to community punishment, not less than  
41 six nor more than 18 months;
- 42 (2) For misdemeanants sentenced to intermediate punishment, not less  
43 than 12 nor more than 24 months;

- 1           (3) For felons sentenced to community punishment, not less than 12 nor  
2           more than 30 months; and  
3           (4) For felons sentenced to intermediate punishment, not less than 18 nor  
4           more than 36 months.

5           If the court finds at the time of sentencing that a longer period of probation is  
6 necessary, that period may not exceed a maximum of five years, as specified in G.S.  
7 15A-1342 and G.S. 15A-1351.

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

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

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

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

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

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

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

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

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

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

10 (h) Definitions. – For purposes of this section, the definitions in G.S.  
11 15A-1340.11 apply."

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

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

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

18 "(15) To exchange information concerning a tax imposed by Articles 2A,  
19 2C, or 2D of this Chapter with one of the following agencies when the  
20 information is needed to fulfill a duty imposed on the Department or  
21 the agency:

- 22 a. The North Carolina Alcoholic Beverage Control Commission.
- 23 b. The Division of Alcohol Law Enforcement of the Department  
24 of Crime Control and Public Safety.
- 25 c. The Bureau of Alcohol, Tobacco, and Firearms of the United  
26 States Treasury Department.
- 27 d. Law enforcement agencies.
- 28 e. The Division of ~~Adult Probation and Parole~~ Community  
29 Corrections of the Department of Correction."

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

31 "(b) In order to make instruction as accessible as possible to all citizens, the  
32 teaching of curricular courses and of noncurricular extension courses at convenient  
33 locations away from institution campuses as well as on campuses is authorized and shall  
34 be encouraged. A pro rata portion of the established regular tuition rate charged a  
35 full-time student shall be charged a part-time student taking any curriculum course. In  
36 lieu of any tuition charge, the State Board of Community Colleges shall establish a  
37 uniform registration fee, or a schedule of uniform registration fees, to be charged  
38 students enrolling in extension courses for which instruction is financed primarily from  
39 State funds; provided, however, that the State Board of Community Colleges may  
40 provide by general and uniform regulations for waiver of tuition and registration fees  
41 for persons not enrolled in elementary or secondary schools taking courses leading to a  
42 high school diploma or equivalent certificate, for training courses for volunteer firemen,  
43 local fire department personnel, volunteer rescue and lifesaving department personnel,

1 local rescue and lifesaving department personnel, Radio Emergency Associated Citizens  
2 Team (REACT) members when the REACT team is under contract to a county as an  
3 emergency response agency, local law-enforcement officers, patients in State alcoholic  
4 rehabilitation centers, all full-time custodial employees of the Department of Correction,  
5 employees of the Department's Division of ~~Adult Probation and Parole~~ Community  
6 Corrections and employees of the Department of Juvenile Justice and Delinquency  
7 Prevention required to be certified under Chapter 17C of the General Statutes and the  
8 rules of the Criminal Justice and Training Standards Commission, trainees enrolled in  
9 courses conducted under the New and Expanding Industry Program, clients of sheltered  
10 workshops, clients of adult developmental activity programs, students in Health and  
11 Human Services Development Programs, juveniles of any age committed to the  
12 Department of Juvenile Justice and Delinquency Prevention by a court of competent  
13 jurisdiction, prison inmates, and members of the North Carolina State Defense Militia as  
14 defined in G.S. 127A-5 and as administered under Article 5 of Chapter 127A of the  
15 General Statutes. Provided further, tuition shall be waived for senior citizens attending  
16 institutions operating under this Chapter as set forth in Chapter 115B of the General  
17 Statutes, Tuition Waiver for Senior Citizens. Provided further, tuition shall also be  
18 waived for all courses taken by high school students at community colleges in  
19 accordance with G.S. 115D-20(4) and this section."

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

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

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

31 "**§ 143B-478. Governor's Crime Commission – creation; composition; terms;**  
32 **meetings, etc.**

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

37 (1) The voting members shall be:

38 a. The Governor, the Chief Justice of the Supreme Court of North  
39 Carolina (or his alternate), the Attorney General, the Director of  
40 the Administrative Office of the Courts, the Secretary of the  
41 Department of Health and Human Services, the Secretary of the  
42 Department of Correction, the Secretary of the Department of

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



- 1           (2)    The following members shall be appointed by the Governor: the  
2           district attorney, the defense attorney, the three sheriffs, the three  
3           police executives, the six citizens, the three county commissioners or  
4           county officials, the three mayors or municipal officials.
- 5           (3)    The following members shall be appointed by the Governor from a list  
6           submitted by the Chief Justice of the Supreme Court, which list shall  
7           contain no less than three nominees for each position and which list  
8           must be submitted within 30 days after the occurrence of any vacancy  
9           in the judicial membership: the judge of superior court, the clerk of  
10          superior court, the judge of district court specializing in juvenile  
11          matters, and the chief district court judge.
- 12          (4)    The two members of the House of Representatives provided by  
13          subdivision (a)(1)d. of this section shall be appointed by the Speaker  
14          of the House of Representatives and the two members of the Senate  
15          provided by subdivision (a)(1)d. of this section shall be appointed by  
16          the President Pro Tempore of the Senate. These members shall  
17          perform the advisory review of the State plan for the General  
18          Assembly as permitted by section 206 of the Crime Control Act of  
19          1976 (Public Law 94-503).
- 20          (5)    The Governor may serve as chairman, designating a vice-chairman to  
21          serve at his pleasure, or he may designate a chairman and  
22          vice-chairman both of whom shall serve at his pleasure.
- 23          (c)    The initial members of the Commission shall be those appointed under  
24          subsection (b) above, which appointments shall be made by March 1, 1977. The terms  
25          of the present members of the Governor's Commission on Law and Order shall expire  
26          on February 28, 1977. Effective March 1, 1977, the Governor shall appoint members,  
27          other than those serving by virtue of their office, to serve staggered terms; seven shall  
28          be appointed for one-year terms, seven for two-year terms, and seven for three-year  
29          terms. At the end of their respective terms of office their successors shall be appointed  
30          for terms of three years and until their successors are appointed and qualified. The  
31          Commission members from the House and Senate shall serve two-year terms effective  
32          March 1, of each odd-numbered year; and they shall not be disqualified from  
33          Commission membership because of failure to seek or attain reelection to the General  
34          Assembly, but resignation or removal from office as a member of the General Assembly  
35          shall constitute resignation or removal from the Commission. Any other Commission  
36          member no longer serving in the office from which he qualified for appointment shall  
37          be disqualified from membership on the Commission. Any appointment to fill a  
38          vacancy on the Commission created by the resignation, dismissal, death, disability, or  
39          disqualification of a member shall be for the balance of the unexpired term.
- 40          (d)    The Governor shall have the power to remove any member from the  
41          Commission for misfeasance, malfeasance or nonfeasance.

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

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

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

- 11 (1) The reputation, character, and criminal record of the applicant;
- 12 (2) The number of places already holding ABC permits within the  
13 neighborhood;
- 14 (3) Parking facilities and traffic conditions in the neighborhood;
- 15 (4) Kinds of businesses already in the neighborhood;
- 16 (5) ~~Whether the establishment is located within 50 feet of a church or~~  
17 ~~public school or church school;~~Whether the establishment is located in  
18 such proximity to a church, public school or church school that the  
19 applicant will, in the opinion of the Commission, have a deleterious  
20 effect on the church, public school or church school;
- 21 (6) Zoning laws;
- 22 (7) The recommendations of the local governing body; and
- 23 (8) Any other evidence that would tend to show whether the applicant  
24 would comply with the ABC laws and whether operation of his  
25 business at that location would be detrimental to the neighborhood."

26 **SECTION 49.(a)** G.S. 18B-1001(15), as enacted by Section 1 of S.L.  
27 2001-262, reads as rewritten:

28 "(15) Wine-Tasting Permit. – A wine-tasting permit authorizes wine  
29 tastings on the premises conducted and supervised by the  
30 permittee. A wine tasting consists of the offering of a sample of  
31 one or more unfortified wine products, in amounts of no more than  
32 one ounce for each sample, without charge, to customers of the  
33 business. Representatives of the winery, which produced the wine,  
34 or the ~~grape grower~~ wine producer may assist with the tastings in a  
35 manner consistent with existing law. The Commission shall adopt  
36 rules to assure that the tastings are limited to samplings and not a  
37 subterfuge for the unlawful sale or distribution of wine, and that the  
38 tastings are not used by industry members for unlawful  
39 inducements to retail permit holders, and do not violate existing  
40 rules. Except for purposes of this subsection, the holder of a  
41 wine-tasting permit shall not be construed to hold a permit for the  
42 on-premises sale or consumption of alcoholic beverages. Any food  
43 business is eligible for a wine-tasting permit."

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

3           "(2a)     Receive, in closed containers, unfortified wine produced outside  
4                   North Carolina under the winery's label from ~~grapes-grapes,~~  
5                   ~~berries, or other fruits~~ owned by the winery, and sell, deliver, and  
6                   ship that wine to wholesalers, exporters, and nonresident  
7                   wholesalers in the same manner as its wine manufactured in North  
8                   Carolina. This provision may be used only by a winery during its  
9                   first three years of operation or when there is substantial damage to  
10                  its ~~grapes-grapes, berries, or other fruits~~ from catastrophic ~~grape~~  
11                  crop loss. This provision may be used only three years out of every  
12                  10 years and notice must be given to the Commission each time  
13                  this provision is used;"

14           **SECTION 49.(c)** G.S. 18B-1114.3, as enacted by Section 4 of S.L.  
15 2001-262, reads as rewritten:

16 **"§ 18B-1114.3. Authorization of wine ~~grower-producer~~ permit.**

17       (a)     Authorization. – The holder of a wine ~~grower-producer~~ permit may:

- 18           (1)     Ship ~~grapes-crops~~ on land owned by it in North Carolina to a winery,  
19                   inside or outside the State, for the manufacture and bottling of  
20                   unfortified wine from those ~~grapes-crops~~ and may receive that wine  
21                   back in closed containers.  
22           (2)     Sell, deliver, and ship the unfortified wine manufactured from its  
23                   ~~grapes-crops~~ in closed containers to wholesalers and retailers licensed  
24                   under this Chapter as authorized by the ABC laws and also sell to  
25                   exporters and nonresident wholesalers when the purchase is not for  
26                   resale in this State.  
27           (3)     Regardless of the results of any local wine election, sell the wine  
28                   manufactured from its ~~grapes-crops~~ for on- or off-premise  
29                   consumption upon obtaining the appropriate permit under G.S.  
30                   18B-1001.

31       (b)     Limitation on Sales. – The holder of a wine ~~grower-producer~~ permit may not  
32                   sell, in total, annually, more than 20,000 gallons of wine manufactured off its premises  
33                   from ~~grapes-crops~~ it has grown."

34           **SECTION 49.(d)** G.S. 18B-1000(10), as enacted by Section 7 of S.L.  
35 2001-262, reads as rewritten:

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

39           **SECTION 49.(e)** G.S. 18B-1114.1 as amended by Section 3 of S.L. 2001-  
40 262, reads as rewritten:

41           "(a)     Authorization. – The holder of an unfortified ~~winery, winery permit,~~ a limited  
42                   winery permit, or a wine ~~grower-producer~~ permit may obtain a winery special permit  
43                   allowing the winery or wine producer to give free tastings of its wine, and to sell its

1 wine by the glass or in closed containers, at trade shows, conventions, shopping malls,  
2 wine festivals, street festivals, holiday festivals, agricultural festivals, balloon races,  
3 local fund-raisers, and other similar events approved by the Commission."

4 **SECTION 49.(f)** G.S. 18B-902(d) as amended by Section 6 of S.L. 2001-  
5 262, reads as rewritten:

6 "(d) Fees. – An application for an ABC permit shall be accompanied by payment  
7 of the following application fee:

8 ...

9 (34) Wine ~~grower-producer~~ permit – \$300.00.

10 (35) Wine tasting permit – \$100.00."

11 **SECTION 49.(g)** G.S. 18B-1100(19) as enacted by Section 8 of S.L. 2001-  
12 262, reads as rewritten:

13 "(19) Wine ~~grower-producer~~ permit."

14 **SECTION 50.(a)** G.S. 20-4.01(12b), as amended by Section 1 of S.L.  
15 2001-356, reads as rewritten:

16 "(12b) Gross Vehicle Weight Rating (GVWR). – The value specified by the  
17 manufacturer as the maximum loaded weight ~~of a vehicle. a vehicle is~~  
18 capable of safely hauling. The GVWR of a combination vehicle is the  
19 GVWR of the power unit plus the GVWR of the towed unit or units.  
20 When a vehicle is determined by an enforcement officer to be  
21 structurally altered in any way from the manufacturer's original ~~design,~~  
22 design in an attempt to increase the hauling capacity of the vehicle, the  
23 GVWR of that vehicle shall be deemed to be the greater of the license  
24 weight or the total weight of the vehicle or combination of vehicles  
25 ~~may be deemed as the GVWR~~ for the purpose of enforcing this  
26 Chapter."

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

28 "(6) ~~To photostat or otherwise reproduce a driver's license or learner's~~  
29 ~~permit or to possess a driver's license or learner's permit which has~~  
30 ~~been photostated or otherwise reproduced, unless such photostat or~~  
31 ~~other reproduction was authorized by the Commissioner. To make a~~  
32 color photocopy or otherwise make a color reproduction of a drivers  
33 license, learner's permit, or special identification card which has been  
34 color-photocopied or otherwise reproduced in color, unless such color  
35 photocopy or other color reproduction was authorized by the  
36 Commissioner. It shall be lawful to make a black and white photocopy  
37 of a drivers license, learner's permit, or special identification card or  
38 otherwise make a black and white reproduction of a drivers license,  
39 learner's permit, or special identification card."

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

41 "(b) Every license plate shall have displayed upon it the registration number  
42 assigned to the vehicle for which it is issued, the name of the State of North Carolina,  
43 which may be abbreviated, and the year number for which it is issued or the date of

1 expiration. A plate issued for a commercial vehicle, as defined in G.S. 20-4.2(1), and  
2 weighing 26,001 pounds or more, must bear the word "commercial," unless the plate is  
3 a special registration plate authorized in G.S. 20-79.4 or the commercial vehicle is a  
4 trailer or is licensed for 6,000 pounds or less. The plate issued for vehicles licensed for  
5 7,000 pounds through 26,000 pounds must bear the word "weighted".

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

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

14 **"§ 20-101. Certain business vehicles to be marked.**

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

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

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

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

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

- 28 a. Is hauling aggregates from a distribution yard or a  
29 State-permitted production site within a North Carolina county  
30 contiguous to the North Carolina State border to a destination in  
31 ~~an adjacent state~~ another state adjacent to that county as verified  
32 by a weight ticket in the driver's possession and available for  
33 inspection by enforcement personnel.
- 34 b. Does not operate on an interstate highway or posted bridge.
- 35 c. Does not exceed 69,850 pounds gross vehicle weight and  
36 53,850 pounds per axle grouping for tri-axle vehicles. For  
37 purposes of this subsection, a tri-axle vehicle is a single power  
38 unit vehicle with a three consecutive axle group on which the  
39 respective distance between any two consecutive axles of the  
40 group, measured longitudinally center to center to the nearest  
41 foot, does not exceed eight feet. For purposes of this subsection,  
42 the tolerance provisions of subsection (h) of this section do not

1 ~~apply.~~ apply, and vehicles must be licensed in accordance with  
2 G.S. 20-88.

3 d. All other enforcement provisions of this Article remain  
4 applicable."

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

6 **"§ 20-118.1. Officers may weigh vehicles and require overloads to be removed.**

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

11 Any person operating a vehicle or a combination of vehicles having a GVWR of  
12 10,001 pounds or more or any vehicle transporting hazardous materials that is required  
13 to be placarded under 49 C.F.R. § 171-180 must enter a permanent weigh station or  
14 temporary inspection or weigh site as directed by duly erected signs or an electronic  
15 transponder for the purpose of being electronically screened for compliance, or  
16 weighed, or inspected.

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

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

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

25 **"§ 20-142.3. Certain vehicles must stop at railroad grade crossing; ~~placarding~~**  
26 **~~certain vehicles.~~ crossing.**

27 (a) Before crossing at grade any track or tracks of a railroad, the driver of any  
28 school bus, any activity bus, any motor vehicle carrying passengers for compensation,  
29 ~~any property hauling motor vehicle carrying hazardous materials,~~ any commercial  
30 motor vehicle listed in 49 C.F.R. § 392.10, and any motor vehicle with a capacity of 16  
31 or more persons shall stop the vehicle within 50 feet but not less than 15 feet from the  
32 nearest rail of the railroad. While stopped, the driver shall listen and look in both  
33 directions along the track for any approaching train and shall not proceed until ~~he~~ the  
34 driver can do so safely. Upon proceeding, the driver of the vehicle shall cross the track  
35 in a gear that allows the driver to cross the track without changing gears and the driver  
36 shall not change gears while crossing the track or tracks.

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

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

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

- 1 (3) At a railroad grade crossing protected by a gate or flashing signal  
2 designed to stop traffic upon the approach of a train, when the gate or  
3 flashing signal does not indicate the approach of a train.  
4 (4) At an abandoned railroad grade crossing which is marked with a sign  
5 indicating that the rail line is abandoned.  
6 (5) At an industrial or spur line railroad grade crossing marked with a sign  
7 reading "Exempt" erected by or with the consent of the appropriate  
8 State or local authority.

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

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

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

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

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

38 **SECTION 51.5(a)** G.S. 20-11(h) is amended by adding a new subdivision to  
39 read:

40 "(2a) A full provisional license, if the person has completed a drivers  
41 education program that meets the requirements of the Superintendent  
42 of Public Instruction, has held both a learner's permit and a restricted  
43 license from another state for at least six months each, the

1                    Commissioner finds that the requirements for the learner's permit and  
2                    restricted license are comparable to the requirements for a learner's  
3                    permit and restricted license in this State, and the person has not been  
4                    convicted during the preceding six months of a motor vehicle moving  
5                    violation, a seat belt infraction, or an offense committed in another  
6                    jurisdiction that would be a moving violation or a seat belt infraction if  
7                    committed in this State."

8                    **SECTION 51.5(b)** This section becomes effective May 1, 2002.

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

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

21                    **SECTION 53.** G.S. 20-39.1(e), as enacted by Section 6.14(a) of S.L.  
22                    2001-424, reads as rewritten:

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

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

39                    Confidential license plates issued under this subsection shall be issued on an annual  
40                    basis and the Division shall maintain a separate registration file for vehicles bearing  
41                    confidential license plates. That file shall be confidential for the use of the Division and  
42                    is not a public record within the meaning of Chapter 132 of the General Statutes. Upon  
43                    the annual renewal of the registration of a vehicle for which a confidential status has



1 been established under this section, the registration shall lose its confidential status  
2 unless the agency or department supplies the Director of the State Bureau of  
3 Investigation with information demonstrating that an officer's personal safety remains at  
4 risk or that the vehicle is still primarily used for surveillance or undercover operations at  
5 the time of renewal."

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

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

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

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

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

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

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

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

1                    the permanent portion of the home loan during which amortization  
2                    occurs.

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

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

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

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

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

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

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

17            (4)        In goods in possession of a bailee which is perfected under G.S.  
18 25-9-312(d)(1) or (2);

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

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

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

25            (8)        In deposit accounts, electronic chattel paper, investment property,  
26 or letter-of-credit rights which is perfected by control under G.S.  
27 25-9-314;

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

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

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

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

34        ...

35            (8)        An authority created under the provisions of Article 1 of Chapter  
36 162A for the purposes of that ~~Article, provided, however the~~  
37 ~~provisions of G.S. 162A-7 shall continue to apply.~~ Article.

38        ...

39            (13)      A regional public transportation authority established under Article  
40 26 of Chapter 160A of the General Statutes for the purposes of that  
41 Article."

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

1 **"§ 44-49. Lien created; applicable to persons non sui juris.**

2 (a) From and after March 26, 1935, there is hereby created a lien upon any sums  
3 recovered as damages for personal injury in any civil action in this State. This lien is in  
4 favor of any person, corporation, State entity, municipal corporation or county to whom  
5 the person so recovering, or the person in whose behalf the recovery has been made,  
6 may be indebted for any drugs, medical supplies, ambulance services, services rendered  
7 by any physician, dentist, nurse, or hospital, or hospital attention or services rendered in  
8 connection with the injury in compensation for which the damages have been recovered.  
9 Where damages are recovered for and in behalf of minors or persons non compos  
10 mentis, the liens shall attach to the sum recovered as fully as if the person were sui juris.

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

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

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

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

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

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

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

40 **SECTION 61.(a)** G.S. 54-109.57(a), as rewritten by Section 2 of S.L.  
41 2001-267, reads as rewritten:

42 "(a) Shares may be issued to and deposits received from any person or persons  
43 establishing an account who shall execute a written agreement with the credit union

1 containing a statement that it is executed pursuant to the provisions of this section and  
2 providing for the account to be held in the name of the person or persons as owner or  
3 owners for one or more persons designated as beneficiaries, the account and any  
4 balance thereof shall be held as a Payable on Death account, with the following  
5 incidents:

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

1 Payment by the credit union of funds in the Payable on Death account  
 2 to the beneficiary shall terminate the personal representative's  
 3 authority under G.S. 28A-15-10(a)(1) to collect against the credit  
 4 union for the funds so paid, but the personal representative's authority  
 5 to collect such funds from the beneficiary or beneficiaries is not  
 6 terminated.

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

10 "CREDIT UNION (OR NAME OF INSTITUTION)  
 11 PAYABLE ON DEATH ACCOUNT  
 12 G.S. 54-109.57

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

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

23  
 24 -----"

25 **SECTION 61.(b)** G.S. 54C-166(a), as rewritten by Section 4 of S.L.  
 26 2001-267, reads as rewritten:

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

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

1 payment by the savings bank to the holder is a total discharge of the  
2 savings bank's obligation as to the amount paid. If two or more  
3 beneficiaries are living at the death of the last surviving owner, they  
4 shall be owners of the account as joint tenants with right of  
5 survivorship as provided in G.S. 54C-165, and payment by the savings  
6 bank to the owners or to any of the owners shall be a total discharge of  
7 the savings bank's obligation as to the amount paid.

8 (4) If one or more owners survive the last surviving beneficiary, the  
9 account shall become an individual account of the owner, or a joint  
10 account with right of survivorship of the owners, and shall have the  
11 legal incidents of an individual account in the case of a single owner  
12 or a joint account with right of survivorship, as provided in G.S.  
13 54C-165, in the case of multiple owners.

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

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

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

37 "SAVINGS BANK (OR NAME OF INSTITUTION) PAYABLE ON DEATH  
38 ACCOUNT  
39 G.S. 54C-166(A)

40 I (or we) understand that by establishing a Payable on Death account under G.S.  
41 54C-166(a) that:

42 1. During my (or our) lifetime, I (or ~~we~~-we), individually or jointly,  
43 may withdraw the money in the account; and



1 "§ 55-11A-12. Articles of conversion.

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

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

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

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

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

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

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

28 ~~(e)~~(e) Certificates of conversion shall also be registered as provided in G.S.  
29 47-18.1."

30 **SECTION 62.(e)** G.S. 55A-1-40(20), as amended by Section 33 of S.L.  
31 2001-387, reads as rewritten:

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

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



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

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

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

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

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

30       **SECTION 62.(g)** G.S. 55A-15-21(a), as amended by Section 46 of S.L.  
31 2001-387, reads as rewritten:

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

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

15 **SECTION 62.(h)** G.S. 55D-21(d), as amended by Section 163 of S.L.  
16 2001-387, reads as rewritten:

17 "(d) Except as otherwise provided in this subsection, the name of a corporation  
18 dissolved under Article 14 of Chapter 55 of the General Statutes, of a nonprofit  
19 corporation dissolved under Article 14 of Chapter 55A of the General Statutes, of a  
20 limited liability company dissolved under Article 6 of Chapter 57C of the General  
21 Statutes, of a limited partnership dissolved under Part 8 of Article 5 of Chapter 59 of the  
22 General Statutes, or of a limited liability partnership whose registration as a limited  
23 liability partnership has been cancelled under G.S. 59-84.2 or revoked under G.S.  
24 59-84.4, may not be used by another entity until:

- 25 (1) In the case of a nonjudicial dissolution other than an administrative  
26 dissolution or cancellation of registration as a limited liability  
27 partnership, 120 days after the effective date of the dissolution or  
28 cancellation.
- 29 (2) In the case of an administrative dissolution or revocation of  
30 registration as a limited liability partnership, the expiration of the  
31 period within which the entity or its registration may be reinstated.
- 32 (3) In the case of a judicial dissolution, 120 days after the later of the date  
33 the judgment has become final or the effective date of the dissolution.  
34 The person applying for the name must certify to the Secretary of State  
35 that no appeal or other judicial review of the judgment directing  
36 dissolution is pending.

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

1 State, or foreign limited liability partnerships maintaining a statement of foreign  
2 ~~registration, registration~~ in this State."

3 **SECTION 62.(i)** G.S. 57C-3-04(e), as amended by Section 66 of S.L.  
4 2001-387, reads as rewritten:

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

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

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

23 **SECTION 62.(k)** G.S. 57C-7-12(a), as amended by Section 88 of S.L.  
24 2001-387, reads as rewritten:

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

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

42 (2) A statement that the surviving or resulting entity consents that service  
43 of process based upon any cause of action arising in this State, or

1 arising out of business transacted in this State, during the time the  
2 foreign limited liability company was authorized to transact business  
3 in this State, may thereafter be made by service thereof on the  
4 Secretary of State;

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

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

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

11 **"§ 57C-3-23. Agency power of managers.**

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

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

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

31 **SECTION 62.(n)** G.S. 57C-9A-11(c), as enacted by Section 96 of S.L.  
32 2001-387, reads as rewritten:

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

40 **SECTION 62.(o)** G.S. 57C-9A-12, as enacted by Section 96 of S.L.  
41 2001-387, reads as rewritten:

42 **"§ 57C-9A-12. Articles of conversion.**

1 (a) After a plan of conversion has been approved by the converting domestic  
2 limited liability company as provided in G.S. 57C-9A-11, the converting domestic  
3 limited liability company shall deliver articles of conversion to the Secretary of State for  
4 filing. The articles of conversion shall state:

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

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

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

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

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

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

28 ~~(e)~~(e) Certificates of conversion shall also be registered as provided in G.S.  
29 47-18.1."

30 **SECTION 62.(p)** G.S. 57C-9A-21(b), as amended by Section 97 of S.L.  
31 2001-387, reads as rewritten:

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

1           **SECTION 62.(q)** G.S. 59-35.2(b), as enacted in Section 170(b) of S.L.  
2 2001-387, reads as rewritten:

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

8           **SECTION 62.(r)** G.S. 59-73.11(c), as enacted by Section 108 of S.L.  
9 2001-387, reads as rewritten:

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

15          **SECTION 62.(s)** G.S. 59-73.12(a), as enacted by Section 108 of S.L.  
16 2001-387, reads as rewritten:

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

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

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

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

40          **SECTION 62.(t)** G.S. 59-73.21(c), as enacted by Section 111 of S.L.  
41 2001-387, reads as rewritten:

42          "(c) After a plan of conversion has been approved by a domestic partnership but  
43 before the articles of conversion become effective, the plan of conversion (i) may be

1 amended as provided in the plan of ~~conversion~~conversion, or (ii) may be abandoned,  
2 subject to any contractual rights, as provided in the plan of conversion or written  
3 partnership agreement or, if not so provided, as determined in the manner necessary for  
4 approval of the plan of conversion."

5 **SECTION 62.(u)** G.S. 59-73.22, as enacted by Section 111 of S.L.  
6 2001-387, reads as rewritten:

7 "**§ 59-73.22. Articles of conversion.**

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

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

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

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

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

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

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

32 ~~(e)~~(e) Certificates of conversion shall also be registered as provided in G.S.  
33 47-18.1."

34 **SECTION 62.(v)** G.S. 59-73.23(b)(2), as enacted by Section 111 of S.L.  
35 2001-387, reads as rewritten:

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

1 process by registered or certified mail, return receipt requested, to the  
2 resulting business entity. If the resulting business entity is authorized  
3 to transact business or conduct affairs in this State, the address for  
4 mailing shall be its principal office designated in the latest document  
5 filed with the Secretary of State that is authorized by law to designate  
6 the principal office or, if there is no principal office on file, its  
7 registered office. If the resulting business entity is not authorized to  
8 transact business or conduct affairs in this State, the address for  
9 mailing shall be the mailing address designated pursuant to ~~G.S. 59-~~  
10 ~~73.12(a)(2)~~.G.S. 59-73.22(a)(2)."

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

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

18 **SECTION 62.(x)** G.S. 59-102(12a), as enacted by Section 121 of S.L.  
19 2001-387, reads as rewritten:

20 "(12a) "Principal office" means the office (in or out of this State) where the  
21 principal executive offices of a limited liability limited partnership or  
22 foreign limited partnership are located, in the case of a limited liability  
23 limited partnership as designated in its most recent annual report filed  
24 with the Secretary of State or, if no annual report has yet been filed, in  
25 its application for registration as a limited liability limited  
26 partnership.~~partnership~~, or in the case of a foreign limited partnership  
27 as most recently designated in its application for registration as a  
28 foreign limited partnership or a certificate filed pursuant to G.S. 59-  
29 905."

30 **SECTION 62.(y)** G.S. 59-902, as amended by Section 159.(b) of S.L.  
31 2001-387, reads as rewritten:

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

- 39 (1) The name of the foreign limited partnership and, if different, the name  
40 under which it proposes to register and transact business in this State;
- 41 (2) The jurisdiction and date of its formation;
- 42 (3) The date of formation and the period of duration;



- 1           (4)    The street ~~address~~ address, and the mailing address if different from  
2           the street address, of the principal office of the foreign limited  
3           ~~partnership~~; partnership, and the county in which the principal office is  
4           located;
- 5           (5)    The street address, and the mailing address if different from the street  
6           address, of the registered office of the foreign limited partnership in  
7           this State, the county in which the registered office is located, and the  
8           name of its proposed registered agent in this State;
- 9           (6)    If the certificate of limited partnership filed in the foreign limited  
10          partnership's state of organization is not required to include the names  
11          and addresses of the partners, a list of the names and addresses or, at  
12          the election of the foreign limited partnership, a list of the names and  
13          addresses of the general partners and the address, including county and  
14          city or town, and street and number, of the office at which is kept a list  
15          of the names and addresses of the limited partners and their capital  
16          contributions, together with an undertaking by the foreign limited  
17          partnership to keep such records until such foreign limited  
18          partnership's registration in this State is cancelled;
- 19          (7)    A statement that in consideration of the issuance of a certificate of  
20          authority to transact business in this State, the foreign limited  
21          partnership appoints the Secretary of State of North Carolina as the  
22          agent to receive service of process, notice, or demand, whenever the  
23          foreign limited partnership fails to appoint or maintain a registered  
24          agent in this State or whenever any such registered agent cannot with  
25          reasonable diligence be found at the registered office;
- 26          (8)    The names and addresses including county and city or town, and street  
27          and number, if any, of all of the general partners; ~~and~~
- 28          (8a) Whether the foreign limited partnership is a foreign limited liability  
29          partnership; and
- 30          (9)    The effective date and time of the registration if it is not to be effective  
31          at the time of filing of the application."

32           **SECTION 62.(z)** G.S. 59-909(a), as amended by Section 136 of S.L.  
33   2001-387, reads as rewritten:

34           "(a) Whenever a foreign limited partnership authorized to transact business in this  
35   State ceases its separate existence as a result of a statutory merger or consolidation  
36   permitted by the laws of the state or country under which it was organized, or converts  
37   into another type of entity as permitted by those laws, the surviving or resulting entity  
38   shall apply for a certificate of withdrawal for the foreign limited partnership by  
39   delivering to the Secretary of State for filing a copy of the articles of merger,  
40   consolidation, or conversion or a certificate reciting the facts of the merger,  
41   consolidation, or conversion, duly authenticated by the Secretary of State or other  
42   official having custody of limited partnership records in the state or country under the  
43   laws of which the foreign limited partnership was organized. If the surviving or

1 resulting entity is not authorized to transact business or conduct affairs in this State, the  
2 articles or certificate must be accompanied by an application which must set forth:

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

17 **SECTION 62.(aa)** G.S. 59-1061(b), as enacted by Section 142 of S.L.  
18 2001-387, reads as rewritten:

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

31 **SECTION 62.(bb)** G.S. 59-1062, as enacted by Section 142 of S.L.  
32 2001-387, reads as rewritten:

33 **"§ 59-1062. Articles of conversion.**

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

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

1 address and a commitment to file with the Secretary of State a  
2 statement of any subsequent change in its mailing address; and

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

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

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

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

18 ~~(e)~~(e) Certificates of conversion shall also be registered as provided in G.S.  
19 47-18.1."

20 **SECTION 62.(cc)** G.S. 59-1072(a), as amended by Section 146 of S.L.  
21 2001-387, reads as rewritten:

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

26 (1) The plan of merger;

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

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

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

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

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

1           **SECTION 62.(dd)** G.S. 105-232(a), as amended by Section 153 of S.L.  
2 2001-387, reads as rewritten:

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

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

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

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

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

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

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

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

38           "(4) "Courier service profession" means any person, firm, association, or  
39 corporation which transports or offers to transport from one place or  
40 point to another place or point documents, papers, maps, stocks, bonds,  
41 checks, or other small items of value which require expeditious service  
42 for a fee or other valuable consideration. ~~This definition does not~~  
43 ~~include a person operating a courier service pursuant to a motor carrier~~

1 certificate or permit issued by the North Carolina Utilities Commission  
2 which grants operating rights for such service; however, ~~armed~~ Armed  
3 courier service guards shall be subject to the provisions of G.S.  
4 74C-13."

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

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

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

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

15 **"§ 74C-8. Applications for an issuance of license.**

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

19 (b) The application shall include:

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

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

1 Service upon the registered agent appointed by the business entity of  
2 any process, notice, or demand required by or permitted to be served  
3 upon the business entity by the Private Protective Services Board shall  
4 be binding upon the business entity and the licensee. Nothing herein  
5 contained shall limit or affect the right to serve any process, notice, or  
6 demand required or permitted by law to be served upon a business  
7 entity in any other manner now or hereafter permitted by law.

8 (2) For the purposes of the Chapter a qualifying agent means an individual  
9 in a management position who is licensed under this Chapter and  
10 whose name and address have been registered with the  
11 ~~Administrator~~Director.

12 (3) In the event that the qualifying agent upon whom the business entity  
13 relies in order to do business ceases to perform his duties as qualifying  
14 agent, the business entity shall notify the ~~Administrator~~Director  
15 within 10 working days. The business entity must obtain a substitute  
16 qualifying agent within 30 days after the original qualifying agent  
17 ceases to serve as qualifying agent unless the Board, in its discretion,  
18 extends this period, for good cause, for a period of time not to exceed  
19 three months.

20 (4) The certificate authorizing the business entity to engage in a private  
21 protective services profession shall list the name of at least one  
22 designated qualifying agent. No licensee shall serve as the qualifying  
23 agent for more than one business entity without prior approval of the  
24 ~~Administrator~~Director, subject to the approval of the Board.

25 (d) Upon receipt of an application, the Board shall conduct a background  
26 investigation during the course of which the applicant shall be required to show that he  
27 meets all the following requirements and qualifications hereby made prerequisite to  
28 obtaining a license:

29 (1) That he is at least 18 years of age;

30 (2) That he is of good moral character and temperate habits. The following  
31 shall be prima facie evidence that the applicant does not have good  
32 moral character or temperate habits: conviction by any local, State,  
33 federal, or military court of any crime involving the illegal use,  
34 carrying, or possession of a firearm; conviction of any crime involving  
35 the illegal use, possession, sale, manufacture, distribution, or  
36 transportation of a controlled substance, drug, narcotic, or alcoholic  
37 beverage; conviction of a crime involving felonious assault or an act of  
38 violence; conviction of a crime involving unlawful breaking or  
39 entering, burglary, larceny, or any offense involving moral turpitude;  
40 or a history of addiction to alcohol or a narcotic drug; provided that,  
41 for purposes of this subsection, "conviction" means and includes the  
42 entry of a plea of guilty or no contest or a verdict rendered in open  
43 court by a judge or jury;

1 (3) Repealed by Session Laws 1989, c. 759, s. 6.

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

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

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

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

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

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

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

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

32 (1) The name of the licensee,

33 (2) The name under which the licensee is to operate, and

34 (3) The number and expiration date of the license.

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

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

42 (d) The operator or manager of any branch office shall be properly licensed or  
43 registered. The license shall be posted at all times in a conspicuous place in the branch

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

7 (e) The Board is authorized to charge reasonable application and license fees as  
8 follows:

- 9 (1) A nonrefundable initial application fee in an amount not to exceed one  
10 hundred fifty dollars (\$150.00);
- 11 (2) A new or renewal license fee in an amount not to exceed two hundred  
12 fifty dollars (\$250.00);
- 13 (3) A new or renewal trainee permit fee in an amount not to exceed two  
14 hundred fifty dollars (\$250.00);
- 15 (4) A new or renewal fee for each license or duplicate license in addition  
16 to the basic license referred to in subsection (2) in an amount not to  
17 exceed fifty dollars (\$50.00);
- 18 (5) A late renewal fee to be paid in addition to the renewal fee due in an  
19 amount not to exceed one hundred dollars (\$100.00), if the license has  
20 not been renewed on or before the expiration date of the licensee;
- 21 (6) A new, renewal, replacement or reissuance fee for an unarmed  
22 registration identification card in an amount not to exceed thirty  
23 dollars (\$30.00);
- 24 (7) An application fee for an armed security guard firearm registration  
25 permit not to exceed fifty dollars (\$50.00);
- 26 (8) A new, renewal, replacement, or reissuance fee for an armed security  
27 guard firearm registration permit not to exceed thirty dollars (\$30.00);
- 28 (9) An application fee for certification as a certified trainer not to exceed  
29 fifty dollars (\$50.00);
- 30 (10) A renewal or replacement fee for certified trainer certification not to  
31 exceed twenty-five dollars (\$25.00);
- 32 (11) A new nonresident temporary permit fee not to exceed one hundred  
33 dollars (\$100.00);
- 34 (12) An unarmed registration transfer fee not to exceed fifteen dollars  
35 (\$15.00);
- 36 (13) A branch office license fee not to exceed fifty dollars (\$50.00); and
- 37 (14) A special limited guard and patrol license fee not to exceed one  
38 hundred dollars (\$100.00).

39 Except as provided in G.S. 74C-13(k), all fees collected pursuant to this section shall be  
40 expended, under the direction of the Board, for the purpose of defraying the expenses of  
41 administering this Chapter.

42 (f) A license or trainee permit granted under the provisions of this Chapter may  
43 be renewed by the Private Protective Services Board upon notification by the licensee or



1 permit holder to the ~~Administrator~~ Director of intended renewal, the payment of the  
2 proper fee, and evidence of a policy of liability insurance as prescribed in G.S.  
3 74C-10(e).

4 The renewal shall be finalized before the expiration date of the license. In no event  
5 will renewal be granted more than three months after the date of expiration of a license  
6 or trainee permit.

7 (g) Upon notification of approval of his application by the Board, an applicant  
8 must furnish evidence that he has obtained the necessary liability insurance required by  
9 G.S. 74C-10 and obtain the license applied for or his application shall lapse.

10 (h) Trainee permits shall not be issued to applicants that qualify for a private  
11 detective license. A licensed private detective may supervise no more than five trainees  
12 at any given time."

13 **SECTION 64.(e)** G.S. 74C-10(h) reads as rewritten:

14 "(h) Every licensee shall at all times maintain on file with the Board the certificate  
15 of insurance required by this Chapter in full force and effect and upon failure to do so,  
16 the license of such licensee shall be automatically suspended and shall not be reinstated  
17 until an application therefor, in the form prescribed by the Board, is filed together with a  
18 proper insurance certificate.

19 No cancellation or refusal to renew by an insurer of a licensee under this Chapter  
20 shall be effective unless the insurer has given the insured licensee notice of the  
21 cancellation or refusal to renew. Upon termination of insurance coverage for said  
22 licensee, the insurer shall give notice to the ~~Administrator~~ Director of the Board."

23 **SECTION 64.(f)** G.S. 74C-11 reads as rewritten:

24 "**§ 74C-11. Registration of permanent and temporary employees; unarmed**  
25 **security guard required to have registration card.**

26 (a) All licensees shall register their employees who will be engaged in providing  
27 private protective services covered by this Chapter with the Board within 20 days after  
28 the employment begins, unless the ~~Administrator~~ Director, in his discretion, extends the  
29 time period, for good cause. To register an employee, a licensee must give the Board the  
30 following:

- 31 (1) Set(s) of classifiable fingerprints on standard F.B.I. applicant cards;  
32 recent photograph(s) of acceptable quality for identification; and
- 33 (2) Statements of any criminal records obtained from the appropriate  
34 authority in each area where the employee has resided within the  
35 immediately preceding 48 months.

36 (b) A security guard and patrol company may not employ an unarmed security  
37 guard unless the guard has a registration card issued under subsection (d) of this section.  
38 A person engaged in a private protective services profession may not employ an armed  
39 security guard unless the guard has a firearm registration permit issued under G.S.  
40 74C-13.

41 (c) The ~~Administrator~~ Director shall be notified in writing of the termination of  
42 any employee registered under subsection (a) within 10 days after said termination.

1 (d) An unarmed security guard shall make application to the ~~Administrator~~  
2 Director for an unarmed registration card which the ~~Administrator~~Director shall issue  
3 to said applicant after receipt of the information required to be submitted by his  
4 employer pursuant to subsection (a), and after meeting any additional requirements  
5 which the Board, in its discretion, deems to be necessary. The unarmed security guard  
6 registration card shall be in the form of a pocket card designed by the Board, shall be  
7 issued in the name of the applicant, and may have the applicant's photograph affixed  
8 thereto. The unarmed security guard registration card shall expire one year after its date  
9 of issuance and shall be renewed every year. If an unarmed registered security guard is  
10 terminated by a licensee and changes employment to another security guard and patrol  
11 company, the security guard's registration card shall remain valid, provided the security  
12 guard pays the unarmed guard registration transfer fee to the Board and a new unarmed  
13 security guard registration card is issued. An unarmed security guard whose transfer  
14 registration application and transfer fee have been sent to the Board may work with a  
15 copy of the transfer application until the registration card is issued.

16 (e) Notwithstanding the provisions of this section, a licensee may employ a  
17 person properly registered or licensed as an unarmed security guard in another state for  
18 a period not to exceed 10 days in any given month; provided the licensee, prior to  
19 employing the unarmed security guard, submits to the ~~Administrator~~Director the name,  
20 address, and social security number of the unarmed guard and the name of the state of  
21 current registration or licensing, and the ~~Administrator~~Director approves the  
22 employment of the unarmed guard in this State.

23 (f) Notwithstanding the provisions of this section, a licensee may employ a  
24 person as an unarmed security guard for a period not to exceed 30 days in any given  
25 calendar year without registering that employee in accordance with this section;  
26 provided that the licensee submits to the ~~Administrator~~Director a quarterly report,  
27 within 30 days after the end of the quarter in which the temporary employee worked,  
28 which provides the ~~Administrator~~Director with the name, address, social security  
29 number, and dates of employment of such employee."

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

31 "**§ 74C-12. Denial, suspension, or revocation of license, registration, or permit.**

32 (a) The Board may, after compliance with Chapter 150B of the General Statutes,  
33 deny, suspend or revoke a license, registration, or permit issued under this Chapter if it  
34 is determined that the applicant, licensee, registrant, or permit holder has:

- 35 (1) Made any false statement or given any false information in connection  
36 with any application for a license, registration, or permit or for the  
37 renewal or reinstatement of a license, registration, or permit;
- 38 (2) Violated any provision of this Chapter;
- 39 (3) Violated any rule promulgated by the Board pursuant to the authority  
40 contained in this Chapter;
- 41 (4) Repealed by Session Laws 1989, c. 759, s. 10.

- 1 (5) Impersonated or permitted or aided and abetted any other person to  
2 impersonate a law enforcement officer of the United States, this State,  
3 any other state, or any political subdivision of a state;
- 4 (6) Engaged in or permitted any employee to engage in a private  
5 protective services profession when not lawfully in possession of a  
6 valid license issued under the provisions of this Chapter;
- 7 (7) Willfully failed or refused to render to a client service as agreed  
8 between the parties and for which compensation has been paid or  
9 tendered in accordance with the agreement of the parties;
- 10 (8) Knowingly made any false report to the employer or client for whom  
11 information is being obtained;
- 12 (9) Committed an unlawful breaking or entering, assault, battery, or  
13 kidnapping;
- 14 (10) Knowingly violated or advised, encouraged, or assisted the violation of  
15 any court order or injunction in the course of business as a licensee;
- 16 (11) Repealed by Session Laws 1989, c. 759, s. 10.
- 17 (12) Undertaken to give legal advice or counsel or to in any way falsely  
18 represent that he is representing any attorney or he is appearing or will  
19 appear as an attorney in any legal proceeding;
- 20 (13) Issued, delivered, or uttered any simulation of process of any nature  
21 which might lead a person or persons to believe that such simulation –  
22 written, printed, or typed – may be a summons, warrant, writ or court  
23 process, or any pleading in any court proceeding;
- 24 (14) Failed to make the required contribution to the Private Protective  
25 Services Recovery Fund or failed to maintain the certificate of liability  
26 insurance required by this Chapter;
- 27 (15) Violated the firearm provisions set forth in this Chapter;
- 28 (16) Repealed by Session Laws 1989, c. 759, s. 10.
- 29 (17) Failed to notify the ~~Administrator~~Director by a business entity other  
30 than a sole proprietorship licensed pursuant to this Chapter of the  
31 cessation of employment of the business entity's qualifying agent  
32 within the time set forth in this Chapter;
- 33 (18) Failed to obtain a substitute qualifying agent by a business entity  
34 within 30 days after its qualifying agent has ceased to serve as the  
35 business entity's qualifying agent;
- 36 (19) Been judged incompetent by a court having jurisdiction under Chapter  
37 35A or former Chapter 35 of the General Statutes or committed to a  
38 mental health facility for treatment of mental illness, as defined in G.S.  
39 122C-3, by a court under G.S. 122C-271;
- 40 (20) Failed or refused to offer a report to a client within 30 days of the  
41 client's written request;

- 1 (21) Been previously denied a license, registration, or permit under this  
2 Chapter or previously had a license, registration, or permit revoked for  
3 cause;
- 4 (22) Engaged in a private protective services profession under a name other  
5 than the name under which the license was obtained under the  
6 provisions of this Chapter;
- 7 (23) Divulged to any person, except as required by law, any information  
8 acquired by him except at the direction of the employer or client for  
9 whom the information was obtained. A licensee may divulge to any  
10 law enforcement officer or district attorney or his representative any  
11 information the law enforcement officer may require to investigate a  
12 criminal offense with the prior approval and consent of the client;
- 13 (24) Fraudulently held himself out as employed by or licensed by the State  
14 Bureau of Investigation or any other governmental authority;
- 15 (25) Intemperate habits or lacks good moral character. The acts that are  
16 prima facie evidence of intemperate habits or lack of good moral  
17 character under G.S. 74C-8(d)(2) are prima facie evidence of the same  
18 under this subdivision;
- 19 (26) Advertised or solicited business using a name other than that in which  
20 the license was issued;
- 21 (27) Worn, carried, or accepted any badge or shield purporting to indicate  
22 that the person is a private detective or private investigator while  
23 licensed under the provisions of this Chapter as a private investigator.
- 24 (b) The denial, revocation, or suspension of a license, registration, or permit by  
25 the Board shall be in writing, be signed by the ~~Administrator~~ Director of the Board, and  
26 state the grounds upon which the Board decision is based. The aggrieved person shall  
27 have the right to appeal from this decision as provided in Chapter 150B of the General  
28 Statutes.
- 29 (c) The following persons may not be issued a license, registration, or permit  
30 under this Chapter:
- 31 (1) A sworn court official.
- 32 (2) A holder of a company police commission under Chapter 74E of the  
33 General Statutes."

34 **SECTION 64.(h)** G.S. 74C-13 reads as rewritten:

35 **"§ 74C-13. Armed security guard required to have firearm registration permit;  
36 security guard training.**

37 (a) It shall be unlawful for any person performing the duties of an armed security  
38 guard to carry a firearm in the performance of those duties without first having met the  
39 qualifications as set forth in this section and having been issued a firearm registration  
40 permit by the Board. For the purposes of this section, the following terms are defined:

- 41 (1) "Armed security guard" means an individual employed by a contract  
42 security company or a proprietary security organization whose  
43 principal duty is that of an armed security watchman; armed armored

1 car service guard; armed alarm system company responder; private  
2 detective; or armed courier service guard who at any time wears,  
3 carries, or possesses a firearm in the performance of duty.

4 (2) "Contract security company" means any person, firm, association, or  
5 corporation engaging in a private protective services profession that  
6 provides services on a contractual basis for a fee or other valuable  
7 consideration to any other person, firm, association, or corporation.

8 (3) "Proprietary security organization" means any person, firm,  
9 association, or corporation or department thereof which employs  
10 security guards, alarm responders, armored car personnel, or couriers  
11 who are employed regularly and exclusively as an employee by an  
12 employer in connection with the business affairs of such employer.

13 (b) It shall be unlawful for any person, firm, association, or corporation and its  
14 agents and employees to employ an armed security guard and knowingly authorize or  
15 permit him to carry a firearm during the course of performing his duties as an armed  
16 security guard if the Board has not issued him a firearm registration permit under this  
17 section or if the person, firm, association, or corporation permits an armed security  
18 guard to carry a firearm during the course of performing his duties whose firearm  
19 registration permit has been suspended, revoked, or has otherwise expired:

20 (1) An armed security guard firearm registration permit grants authority to  
21 the armed security guard, while in the performance of his duties or  
22 ~~travelling~~ traveling directly to and from work, to carry a standard .38  
23 caliber or .32 caliber revolver or any other firearm approved by the  
24 Board and not otherwise prohibited by law. The use of any firearm not  
25 approved by the Board is prohibited.

26 (2) All firearms carried by authorized armed security guards in the  
27 performance of their duties shall be owned or leased by the employer.  
28 Personally owned firearms shall not be carried by an armed security  
29 guard in the performance of his duties.

30 (c) The applicant for an armed security guard firearm registration permit shall  
31 submit an application to the Board on a form provided by the Board.

32 (d) Each armed security guard firearm registration permit issued under this  
33 section shall be in the form of a pocket card designed by the Board and shall identify the  
34 contract security company or proprietary security organization by whom the holder of  
35 the firearm registration permit is employed. An armed security guard firearm  
36 registration permit expires one year after the date of its issuance and must be renewed  
37 annually unless the permit holder's employment terminates before the expiration of the  
38 permit.

39 (e) If the holder of an armed security guard firearm registration permit terminates  
40 his employment with the contract security company or proprietary security organization,  
41 the firearm registration permit expires and must be returned to the Board within 15  
42 working days of the date of termination of the employee.

1 (f) A contract security company or proprietary security organization shall be  
2 allowed to employ an individual for 30 days as an armed security guard pending  
3 completion of the firearms training required by this Chapter, if the contract security  
4 company or proprietary security organization obtains prior approval from the  
5 ~~Administrator~~Director. The Board and the Attorney General shall provide by rule the  
6 procedure by which a contract security company or a proprietary security organization  
7 applicant may be issued a temporary firearm registration permit by the ~~Administrator~~  
8 Director of the Board pending a determination by the Board of whether to grant or deny  
9 an applicant a firearm registration permit.

10 (g) The Board may suspend, revoke, or deny an armed security guard firearm  
11 registration permit if the holder or applicant has been convicted of any crime involving  
12 moral turpitude or any crime involving the illegal use, carrying, or possession of a  
13 deadly weapon or for violation of this section or rules promulgated by the Board to  
14 implement this section. The ~~Administrator~~Director may summarily suspend an armed  
15 security guard firearm registration permit pending resolution of charges involving the  
16 illegal use, carrying, or possession of a firearm lodged against the holder of the permit.

17 (h) The Board and the Attorney General shall establish a training program for  
18 armed security guards to be conducted by agencies and institutions approved by the  
19 Board and the Attorney General. The Board and the Attorney General may approve  
20 training programs conducted by a contract security company and the security  
21 department of a proprietary security organization, if the contract security company or  
22 security department of a proprietary security organization offers the courses listed in  
23 subdivision (1) of this subsection and if the instructors of the training program are  
24 certified trainers approved by the Board and the Attorney General:

- 25 (1) The basic training course approved by the Board and the Attorney  
26 General shall consist of a minimum of four hours of classroom training  
27 which shall include:
- 28 a. Legal limitations on the use of hand guns and on the powers  
29 and authority of an armed security guard,
  - 30 b. Familiarity with this section,
  - 31 c. Range firing and procedure and hand gun safety and  
32 maintenance, and
  - 33 d. Any other topics of armed security guard training curriculum  
34 which the Board deems necessary.
- 35 (2) An applicant for an armed security guard firearm registration permit  
36 must fire a minimum qualifying score to be determined by the Board  
37 and the Attorney General on any approved target course approved by  
38 the Board and the Attorney General.
- 39 (3) An armed security guard must complete a refresher course and shall  
40 requalify on the prescribed target course prior to the renewal of his  
41 firearm registration permit.

1 (4) The Board and the Attorney General shall have the authority to  
2 promulgate all rules necessary to administer the provisions of this  
3 section concerning the training requirements of this section.

4 (i) The Board may not issue an armed security guard firearm registration permit  
5 to an applicant until the applicant's employer submits evidence satisfactory to the Board  
6 that the applicant:

7 (1) Has satisfactorily completed an approved training course.

8 (2) Meets all the qualifications established by this section and by the rules  
9 promulgated to implement this section.

10 (3) Is mentally and physically capable of handling a firearm within the  
11 guidelines set forth by the Board and the Attorney General.

12 (j) The Board and the Attorney General are authorized to prescribe reasonable  
13 rules to implement this section, including rules for periodic requalification with the  
14 firearm and for the maintenance of records relating to persons issued an armed security  
15 guard firearm registration permit by the Board.

16 (k) All fees collected pursuant to G.S. 74C-9(e)(7) and (8) shall be expended, under  
17 the direction of the Board, for the purpose of defraying the expense of administering the  
18 firearms provisions of this Chapter.

19 (l) The Board and the Attorney General shall establish a training program for  
20 certified trainers to be conducted by agencies and institutions approved by the Board  
21 and the Attorney General. The Board or the Attorney General shall have the authority to  
22 promulgate all rules necessary to administer the provisions of this subsection.

23 (1) The Board and the Attorney General shall also establish renewal  
24 requirements for certified trainers.

25 (2) No certified trainer shall certify an armed security guard unless the  
26 armed security guard has successfully completed the training  
27 requirements set out above in subsection (h) of this section.

28 (m) The Board and the Attorney General shall establish a training program for  
29 unarmed security guards to be conducted by agencies and institutions approved by the  
30 Board and the Attorney General. The Board and the Attorney General shall have the  
31 authority to promulgate all rules necessary to administer the provisions of this  
32 subsection."

33 **SECTION 64.(i)** G.S. 74C-15(a) reads as rewritten:

34 "(a) Upon the issuance of a license or trainee permit, a pocket identification card  
35 of design, size, and content approved by the Board shall be issued by the Board without  
36 charge to each licensee or trainee. The holder must have this card in his possession at all  
37 times when he is on duty and working within the scope of his employment. When a  
38 licensee or trainee to whom a card has been issued terminates his position as a licensee  
39 or trainee, the card must be surrendered to the ~~Administrator~~Director of the Board  
40 within 10 working days thereafter."

41 **SECTION 64.(j)** G.S. 74C-18(b) reads as rewritten:

42 "(b) The ~~Administrator~~Director, in his discretion and subject to the approval of  
43 the Board, may issue a temporary permit to a nonresident who has complied with the

1 provisions of G.S. 74C-10 and who is validly licensed in another state to engage in a  
2 private protective service activity incidental to a specific case originating in another  
3 state. A temporary permit may be issued for a period of no more than 30 days and may  
4 be renewed. A temporary permit may contain such restrictions which the Board, in its  
5 discretion, deems appropriate."

6 **SECTION 65.(a)** G.S. 74D-5.1 reads as rewritten:

7 "**§ 74D-5.1. Position of ~~Administrator~~Director created.**

8 The position of ~~Administrator~~Director of the Alarm Systems Licensing Board is  
9 hereby created within the Department of Justice. The Attorney General shall appoint a  
10 person to fill this full-time position. The ~~Administrator's~~Director's duties shall be to  
11 administer the directives contained in this Chapter and the rules promulgated by the  
12 Board to implement this Chapter and to carry out the administrative duties incident to  
13 the functioning of the Board in order to actively police the alarm systems industry to  
14 insure compliance with the law in all aspects. The ~~Administrator~~Director may issue a  
15 temporary grant or denial of a request for registration subject to final action by the  
16 Board at its next regularly scheduled meeting."

17 **SECTION 65.(b)** G.S. 74D-7(d) reads as rewritten:

18 "(d) Any branch office of an alarm systems business shall obtain a branch office  
19 certificate. A separate certificate stating the location and licensed qualifying agent shall  
20 be posted at all times in a conspicuous place in each branch office. Every business  
21 covered under the provisions of this Chapter shall file in writing with the Board the  
22 addresses of each of its branch offices. All licensees of a branch office shall notify the  
23 Board in writing, within 10 working days after the establishment, closing, or changing  
24 of the location of any branch office. A licensed qualifying agent may be responsible for  
25 more than one branch office of an alarm systems business with the prior approval of the  
26 Board. Temporary approval may be granted by the ~~Administrator~~Director, upon  
27 application of the qualifying agent, for a period of time not to exceed 10 working days  
28 after the adjournment of the next regularly scheduled meeting of the Board unless the  
29 Board determines that the application should be denied."

30 **SECTION 65.(c)** G.S. 74D-8 reads as rewritten:

31 "**§ 74D-8. Registration of persons employed.**

- 32 (a) (1) All licensees of an alarm systems business shall register with the  
33 Board within 20 days after the employment begins, all of the licensee's  
34 employees that are within the State, unless in the discretion of the  
35 ~~Administrator~~Director, the time period is extended for good cause. To  
36 register an employee, a licensee shall submit to the Board as to the  
37 employee: set(s) of classifiable fingerprints on standard F.B.I.  
38 applicant cards; recent color photograph(s) of acceptable quality for  
39 identification; and statements of any criminal records obtained from  
40 the appropriate authority in each area where the employee has resided  
41 within the immediately preceding 48 months.
- 42 (2) Except during the period allowed for registration in subdivision (a)(1)  
43 of this section, no alarm systems business may employ any employee



1 unless the employee's registration has been approved by the Board as  
2 set forth in this section.

3 (b) The ~~Administrator~~ Director shall be notified in writing of the termination of  
4 any employee registered under this Chapter within 20 days after the termination.

5 (c) The Board shall issue a registration card to each employee of a licensee who  
6 is registered under this Chapter. The registration card shall expire two years after its  
7 date of issuance and shall be renewed before the expiration of the term of the  
8 registration. If a registered person changes employment to another licensee, the  
9 registration card may remain valid; however, persons changing employment must pay  
10 the fee authorized by G.S. 74D-7(e)(5).

11 (d) If all required documents, properly completed, have been submitted to the  
12 Board no later than 20 days after an employee begins employment, the employer of  
13 each applicant for registration shall give the applicant a copy of the complete  
14 application which the employee can use until a registration card issued by the Board is  
15 received."

16 **SECTION 66.(a)** G.S. 95-230 reads as rewritten:

17 "**§ 95-230. Purpose.**

18 The General Assembly finds that individuals should be protected from unreliable  
19 and inadequate examinations and screening for controlled substances. The General  
20 Assembly also finds that employers who test employees for controlled substances shall  
21 use reliable and minimally invasive examinations and screenings and be afforded the  
22 opportunity to select from a range of cost-effective and advanced drug testing  
23 technologies. The purpose of this Article is to establish procedural and other  
24 requirements for the administration of controlled substance examinations."

25 **SECTION 66.(b)** The Commissioner of Labor shall adopt, within 30 days of  
26 the effective date of this act, temporary rules allowing employers who are subject to  
27 Article 20 of Chapter 95 of the General Statutes to collect the oral fluids of examinees  
28 as samples in connection with examinations and screenings for controlled substances.

29 **SECTION 67.(a)** G.S. 105-164.4B, as enacted by Section 6 of S.L.  
30 2001-430, is recodified as G.S. 105-164.4C.

31 **SECTION 67.(b)** G.S. 105-164.4(a)(4c), as rewritten by Section 4 of S.L.  
32 2001-430, reads as rewritten:

33 "(4c) The rate of four and one-half percent (4.5%) applies to the gross  
34 receipts derived from providing telecommunications service. A person  
35 who provides telecommunications service is considered a retailer  
36 under this Article. Telecommunications service is taxed in accordance  
37 with ~~G.S. 105-164.4B~~ G.S. 105-164.4C."

38 **SECTION 67.(c)** G.S. 105-164.4C(f), as enacted by S.L. 2001-430 and  
39 recodified by Section 67.(a) of this act, reads as rewritten:

40 "(f) Call Center Cap. – The gross receipts tax on interstate telecommunications  
41 service that originates outside this State, terminates in this State, and is provided to a  
42 call center that has a direct pay ~~certificate-permit~~ issued by the Department under G.S.

1 105-164.27A may not exceed fifty thousand dollars (\$50,000) a calendar year. This cap  
2 applies separately to each legal entity."

3 **SECTION 67.(d)** G.S. 105-164.44F, as enacted by S.L. 2001-430, is  
4 amended by renumbering subsection (d) as subsection (e) and by adding a new  
5 subsection to read:

6 "(d) Share of Cities Served by a Telephone Membership Corporation. – The share  
7 of a city served by a telephone membership corporation, as described in Chapter 117 of  
8 the General Statutes, is computed as if the city was incorporated on or after January 1,  
9 2001, under subsection (b) of this section. If a city is served by a telephone membership  
10 corporation and another provider, then its per capita share under this subsection applies  
11 only to the population of the area served by the telephone membership corporation."

12 **SECTION 67.(e)** The introductory language to Section 13 of S.L. 2001-430  
13 reads as rewritten:

14 "~~SECTION 13. G.S. 105-467~~ G.S. 105-467(a), as amended by S.L. 2001-347, is  
15 amended by adding a new subdivision to read:"

16 **SECTION 67.(f)** This section becomes effective January 1, 2002.

17 **SECTION 68.** G.S. 105-187.6(a), as amended by Section 34.24 of S.L.  
18 2001-424, reads as rewritten:

19 "(a) Full Exemptions. – The tax imposed by this Article does not apply when a  
20 certificate of title is issued as the result of a transfer of a motor vehicle:

21 (1) To the insurer of the motor vehicle under G.S. 20-109.1 because the  
22 vehicle is a salvage vehicle.

23 (2) To either a manufacturer, as defined in G.S. 20-286, or a motor vehicle  
24 retailer for the purpose of resale.

25 (3) To the same owner to reflect a change or correction in the owner's  
26 name.

27 (3a) To one or more of the same co-owners to reflect the removal of one or  
28 more other co-owners, when there is no consideration for the transfer.

29 (4) By will or intestacy.

30 (5) By a gift between a husband and wife, a parent and child, or a  
31 stepparent and a stepchild.

32 (6) By a distribution of marital or divisible property incident to a marital  
33 separation or divorce.

34 (7) To a handicapped person from the Department of Health and Human  
35 Services after the vehicle has been equipped by the Department for use  
36 by the handicapped.

37 (8) To a local board of education for use in the driver education program  
38 of a public school when the motor vehicle is transferred:

39 a. By a retailer and is to be transferred back to the retailer within  
40 300 days after the transfer to the local board.

41 b. By a local board of education.

42 (9) To a volunteer fire department or volunteer rescue squad that is not  
43 part of a unit of local government, has no more than two paid

1 employees, and is exempt from State income tax under G.S.  
2 105-130.11, when the motor vehicle is one of the following:

- 3 a. A fire truck, a pump truck, a tanker truck, or a ladder truck used  
4 to suppress fire.  
5 b. A four-wheel drive vehicle intended to be mounted with a water  
6 tank and hose and used for forest fire fighting.  
7 c. An emergency services vehicle."

8 **SECTION 69.(a)** G.S. 105-228.5(e), as amended by Section 34.22(a) of S.L.  
9 2001-424, reads as rewritten:

10 "(e) Report and Payment. – Each taxpayer doing business in this State shall,  
11 within the first 15 days of March, file with the Secretary of Revenue a full and accurate  
12 report of the total gross premiums as defined in this section, the payroll and other  
13 information required by the Secretary in the case of a self-insurer, or the total gross  
14 collections from membership dues exclusive of receipts from cost plus plans collected  
15 in this State during the preceding calendar year. ~~The report shall be verified by the oath~~  
16 ~~of the official or other representative responsible for transmitting it; the~~The taxes  
17 imposed by this section shall be remitted to the Secretary with the report."

18 **SECTION 69.(b)** G.S. 105-164.4B(c), as enacted by S.L. 2001-430, and as  
19 recodified as G.S. 105-164.4C(c), is amended by adding a new subdivision to read:

20 "(16) Charges to a State agency or to a local unit of government for the  
21 North Carolina Information Highway and other data networks owned  
22 or leased by the State or unit of local government."

23 **SECTION 69.(c)** This section becomes effective January 1, 2002.

24 **SECTION 70.** G.S. 105-311, as rewritten by Section 3 of S.L. 2001-279,  
25 reads as rewritten:

26 "(b) Any abstract submitted by mail may be accepted or rejected by the assessor in  
27 ~~his~~ the assessor's discretion. However, the board of county commissioners, with the  
28 approval of the Department of Revenue, may by resolution provide for the general  
29 acceptance of completed abstracts submitted by mail or submitted electronically. In no  
30 event shall an abstract submitted by mail be accepted unless the affirmation on the  
31 abstract is signed by the individual prescribed in subsection (a) of this section. An  
32 electronic listing may be signed electronically in accordance with the Electronic  
33 Commerce Act, Article 11A of Chapter 66 of the General Statutes.

34 For the purpose of this Subchapter, abstracts submitted by mail are considered filed  
35 as of the date shown on the postmark affixed by the United States Postal Service. If no  
36 date is shown on the postmark, or if the postmark is not affixed by the United States  
37 Postal Service, the abstract is considered filed when received in the office of the  
38 assessor. Abstracts submitted by electronic listing are considered filed when received in  
39 the office of the assessor. In any dispute arising under this Subchapter, the burden of  
40 proof is on the taxpayer to show that the abstract was timely filed."

41 **SECTION 71.** G.S. 106-503.1(b) reads as rewritten:

42 "(b) Contracts and Leases; Pledge of Gate Receipts, etc. – For the further purpose  
43 of acquiring, constructing, operating and financing said properties and facilities on the

1 North Carolina State fairgrounds, the Board of Agriculture may enter into such  
2 agreements, contracts and leases as may be necessary for the purpose of this section,  
3 and may pledge, appropriate, and pay such sums out of the gate receipts or other  
4 revenues coming to the State Board of Agriculture from the operation of any facilities of  
5 the State fair as may be required to secure, repay, or meet the principal and interest  
6 charges on the loan herein authorized. Prior to execution, the Board of Agriculture shall  
7 consult with the Joint Legislative Commission on Governmental Operations on all  
8 agreements, contracts, and leases authorized under this subsection."

9 **SECTION 72.** G.S. 110-136.5(d) reads as rewritten:

10 "(d) Notice to payor and obligor. If an order for income withholding is entered, a  
11 notice of obligation to withhold shall be served on the payor as required by G.S. 1A-1,  
12 ~~Rule 4,~~ Rule 5, Rules of Civil Procedure. Copies of such notice shall be filed with the  
13 clerk of court and served upon the obligor by first class mail."

14 **SECTION 73.** G.S. 113-44.15(b), as amended by Section 1 of S.L.  
15 2001-114, reads as rewritten:

16 "(b) Funds in the Trust Fund are annually appropriated to the North Carolina  
17 Parks and Recreation Authority and, unless otherwise specified by the General  
18 Assembly or the terms or conditions of a gift or grant, shall be allocated and used as  
19 follows:

- 20 (1) Sixty-five percent (65%) for the State Parks System for capital  
21 projects, repairs and renovations of park facilities, and land  
22 acquisition.
- 23 (2) Thirty percent (30%) to provide matching funds to local governmental  
24 units or public authorities as defined in G.S. 159-7 on a  
25 dollar-for-dollar basis for local park and recreation purposes. The  
26 ~~approved~~-appraised value of land that is donated to a local government  
27 unit or public authority may be applied to the matching requirement of  
28 this subdivision. These funds shall be allocated by the North Carolina  
29 Parks and Recreation Authority based on criteria patterned after the  
30 Open Project Selection Process established for the Land and Water  
31 Conservation Fund administered by the National Park Service of the  
32 United States Department of the Interior.
- 33 (3) Five percent (5%) for the Coastal and Estuarine Water Beach Access  
34 Program.

35 In allocating funds in the Trust Fund under this subsection, the North Carolina Parks  
36 and Recreation Authority shall consider geographic distribution across the State to the  
37 extent practicable. Of the funds appropriated to the North Carolina Parks and Recreation  
38 Authority from the Trust Fund each year, no more than three percent (3%) may be used  
39 by the Department for operating expenses associated with managing capital  
40 improvements projects, acquiring land, and administration of local grants programs."

41 **SECTION 74.(a)** G.S. 115C-290.6, as rewritten by Section 28.25(e) of S.L.  
42 2001-424, reads as rewritten:

43 "**§ 115C-290.6. Application to the State Board of Education.**

1 An individual who seeks to be recommended by the Standards Board for  
2 certification by the State Board of Education, Education shall file a written application  
3 on a form provided by the State Board of Education. The application shall be  
4 accompanied by the required application and exam fees and shall include any  
5 information required by the Board."

6 **SECTION 74.(b)** G.S. 115C-290.8(c), as rewritten by Section 28.25(g) of  
7 S.L. 2001-424, reads as rewritten:

8 "(c) A person who is exempt from the requirements of this Article but applies for  
9 certification under this Article shall be subject to the Article."

10 **SECTION 74.(c)** G.S. 115C-325(a)(5a), as enacted by Section 28.24(b) of  
11 S.L. 1998-212 and rewritten by Section 67.1(a) of S.L. 1998-217 and by Section  
12 32.25(b) of S.L. 2001-424, reads as rewritten:

13 "(a) Definition of Terms. – As used in this section unless the context requires  
14 otherwise:

15 ...

16 (5a) **(Effective until June 30, 2003)** "Retired teacher" means a beneficiary  
17 of the Teachers' and State Employees' Retirement System of North  
18 Carolina who has been retired at least six months, has not been  
19 employed in any capacity, other than as a substitute ~~teacher~~, teacher or  
20 a part-time tutor, with a local board of education for at least six  
21 months, immediately preceding the effective date of reemployment, is  
22 determined by a local board of education to have had satisfactory  
23 performance during the last year of employment by a local board of  
24 education, and who is employed to teach as provided in G.S.  
25 135-3(8)c. A retired teacher shall be treated the same as a probationary  
26 teacher except that a retired teacher is not eligible for career status."

27 **SECTION 75.** G.S. 115C-391(d3) reads as rewritten:

28 "(d3) A local board of education or superintendent shall suspend for 365 calendar  
29 days any student who, by any means of communication to any person or group of  
30 persons, makes a report, knowing or having reason to know the report is false, that there  
31 is located on educational property or at a school-sponsored curricular or extracurricular  
32 activity off educational property any device designed to destroy or damage property by  
33 explosion, blasting, or burning, or who, with intent to perpetrate a hoax, conceals,  
34 places, or displays any device, machine, instrument, or artifact on educational property  
35 or at a school-sponsored curricular or extracurricular activity off educational property,  
36 so as to cause any person reasonably to believe the same to be a bomb or other device  
37 capable of causing injury to persons or property. The local board upon recommendation  
38 by the superintendent may modify either suspension requirement on a case-by-case  
39 basis that includes, but is not limited to, the procedures established for the discipline of  
40 students with disabilities and may also provide, or contract for the provision of,  
41 educational services to any student suspended under this subsection in an alternative  
42 school setting or in another setting that provides educational and other services. For

1 purposes of this subsection and subsection (d1) of this section, the term "educational  
2 property" has the same definition as in G.S. 14-269.2(a)(1)."

3 **SECTION 76.** G.S. 115D-1.1(a)(2)a., as enacted by Section 2 of S.L.  
4 2001-312, reads as rewritten:

5 "a. The local board of education, or the board's designee, for the  
6 ~~public-local~~ school administrative unit in which the student is  
7 enrolled."

8 **SECTION 77.** G.S. 120-2(d), as rewritten by S.L. 2001-459, reads as  
9 rewritten:

10 "(d) If any precinct boundary is changed, that change shall not change the  
11 boundary of a ~~senatorial-house~~ district, which shall remain the same."

12 **SECTION 78.** G.S. 120-20.1(a) reads as rewritten:

13 "(a) Whenever in any act:

14 (1) It is stated ~~that a~~ that:

15 a. A law "reads as rewritten:"; or

16 b. Laws "read as rewritten:"; and

17 (2) The law is set out showing material struck through or underlined, or  
18 both

19 the material struck through is being deleted from the existing law, and the material  
20 underlined is being added to the existing law."

21 **SECTION 79.** G.S. 120-36.8 is transferred to a new Article 7B of Chapter  
22 120 of the General Statutes and reads as rewritten:

23 "Article 7B.

24 "Research Division.

25 "**§ 120-36.8. Certification of legislation required by federal law.**

26 (a) Every bill and resolution introduced in the General Assembly proposing any  
27 change in the law which purports to implement federal law or to be required or  
28 necessary for compliance with federal law, or on which is conditioned the receipt of  
29 federal funds shall have attached to it at the time of its consideration by the General  
30 Assembly a certification prepared by the ~~Fiscal~~-Research Division, in consultation with  
31 the Bill Drafting and Fiscal Research Divisions, identifying the federal law requiring  
32 passage of the bill or resolution. The certification shall contain a statement setting forth  
33 the reasons why the bill or resolution is required by federal law. If the bill or resolution  
34 is not required by federal law or exceeds the requirements of federal law, then the  
35 certification shall state the reasons for that opinion. No comment or opinion shall be  
36 included in the certification with regard to the merits of the measure for which the  
37 certification is prepared. However, technical and mechanical defects may be noted.

38 (b) The sponsor of each bill or resolution to which this section applies shall  
39 present a copy of the bill or resolution with the request for certification to the ~~Fiscal~~  
40 Research Division. Upon receipt of the request and the copy of the bill or resolution, the  
41 ~~Fiscal~~-Research Division shall consult with the Bill Drafting and Fiscal Research  
42 Divisions, and may consult with the Office of State Budget, Planning, and Management  
43 or any State agency on preparation of the certification as promptly as possible. The

1 ~~Fiscal~~ Research Division shall prepare the certification and transmit it to the sponsor  
2 within two weeks after the request is made, unless the sponsor agrees to an extension of  
3 time.

4 (c) This certification shall be attached to the original of each proposed bill or  
5 resolution that is reported favorably by any committee of the General Assembly, but  
6 shall be separate from the bill or resolution and shall be clearly designated as a  
7 certification. A certification attached to a bill or resolution pursuant to this section is not  
8 a part of the bill or resolution and is not an expression of legislative intent proposed by  
9 the bill or resolution.

10 (d) If a committee of the General Assembly reports favorably a proposed bill or  
11 resolution with an amendment proposing any change in the law which purports to  
12 implement federal law or to be required or necessary for compliance with federal law,  
13 the chair of the committee shall obtain from the ~~Fiscal~~ Research Division and attach to  
14 the amended bill or resolution a certification as provided in this section."

15 **SECTION 79.5.** G.S. 122C-117(a), as amended by Section 1.10 of S.L.  
16 2001-437, is amended by adding the following new subdivision to read:

17 "(13) Coordinate with Treatment Accountability for Safer Communities for  
18 the provision of services to criminal justice clients."

19 **SECTION 80.(a)** G.S. 122C-181(c), as enacted by Section 1.19 of S.L.  
20 2001-437, reads as rewritten:

21 "(c) Closure of a State facility under subsection (b) of this section becomes  
22 effective on the earlier of the 31st legislative day or the day of adjournment of the next  
23 regular session of the General Assembly that begins at least 10 days after the date the  
24 closure is approved, unless a different effective date applies under this subsection. If a  
25 bill that specifically disapproves the State facility closure is introduced in either house  
26 of the General Assembly before the thirty-first legislative day of that session, the  
27 closure becomes effective on the earlier of either the day an unfavorable final action is  
28 taken on the bill or the day that session of the General Assembly adjourns without  
29 ratifying a bill that specifically disapproves the State facility closure. If the Secretary  
30 specifies a later effective date for closure than the date that would otherwise apply under  
31 this subsection, the later date applies. Closure of a State facility does not become  
32 effective if the closure is specifically disapproved by a bill ~~ratified by the General~~  
33 ~~Assembly enacted into law~~ before it becomes effective. Notwithstanding any rule of  
34 either house of the General Assembly, any member of the General Assembly may  
35 introduce a bill during the first 30 legislative days of any regular session to disapprove  
36 closure of a facility that has been approved by the Governor and Council of State as  
37 provided in subsection (b) of this section. Nothing in this subsection shall be construed  
38 to impair the Secretary's power or duty otherwise imposed by law to close a State  
39 facility temporarily for the protection of health and safety."

40 **SECTION 80.(b)** G.S. 150B-21.3 reads as rewritten:

41 "**§ 150B-21.3. Effective date of rules.**

42 (a) Temporary Rule. – A temporary rule becomes effective on the date the  
43 Codifier of Rules enters the rule in the North Carolina Administrative Code.

1 (b) Permanent Rule. – A permanent rule approved by the Commission becomes  
2 effective on the earlier of the thirty-first legislative day or the day of adjournment of the  
3 next regular session of the General Assembly that begins at least 25 days after the date  
4 the Commission approved the rule, unless a different effective date applies under this  
5 section. If a bill that specifically disapproves the rule is introduced in either house of the  
6 General Assembly before the thirty-first legislative day of that session, the rule becomes  
7 effective on the earlier of either the day an unfavorable final action is taken on the bill  
8 or the day that session of the General Assembly adjourns without ratifying a bill that  
9 specifically disapproves the rule. If the agency adopting the rule specifies a later  
10 effective date than the date that would otherwise apply under this subsection, the later  
11 date applies. A permanent rule that is not approved by the Commission or that is  
12 specifically disapproved by a bill ~~ratified by the General Assembly~~ enacted into law  
13 before it becomes effective does not become effective.

14 A bill specifically disapproves a rule if it contains a provision that refers to the rule  
15 by appropriate North Carolina Administrative Code citation and states that the rule is  
16 disapproved. Notwithstanding any rule of either house of the General Assembly, any  
17 member of the General Assembly may introduce a bill during the first 30 legislative  
18 days of any regular session to disapprove a rule that has been approved by the  
19 Commission and that either has not become effective or has become effective by  
20 executive order under subsection (c) of this section.

21 (c) Executive Order Exception. – The Governor may, by executive order, make  
22 effective a permanent rule that has been approved by the Commission and has not  
23 become effective under subsection (b) of this section upon finding that it is necessary  
24 that the rule become effective in order to protect public health, safety, or welfare. A rule  
25 made effective by executive order becomes effective on the date the order is issued or at  
26 a later date specified in the order. When the Codifier of Rules enters in the North  
27 Carolina Administrative Code a rule made effective by executive order, the entry must  
28 reflect this action.

29 A rule that is made effective by executive order remains in effect unless it is  
30 specifically disapproved by the General Assembly in a bill ~~ratified~~ enacted into law on  
31 or before the day of adjournment of the regular session of the General Assembly that  
32 begins at least 25 days after the date the executive order is issued. A rule that is made  
33 effective by executive order and that is specifically disapproved by a bill ~~ratified by the~~  
34 ~~General Assembly~~ enacted into law is repealed as of the date specified in the bill. If a  
35 rule that is made effective by executive order is not specifically disapproved by a bill  
36 ~~ratified by the General Assembly~~ enacted into law within the time set by this subsection,  
37 the Codifier of Rules must note this in the North Carolina Administrative Code.

38 (d) Legislative Day and Day of Adjournment. – As used in this section:

- 39 (1) A "legislative day" is a day on which either house of the General  
40 Assembly convenes in regular session.
- 41 (2) The "day of adjournment" of a regular session held in an  
42 odd-numbered year is the day the General Assembly adjourns by joint  
43 resolution for more than 10 days.



1 (3) The "day of adjournment" of a regular session held in an  
2 even-numbered year is the day the General Assembly adjourns sine  
3 die.

4 (e) OSHA Standard. – A permanent rule concerning an occupational safety and  
5 health standard that is adopted by the Occupational Safety and Health Division of the  
6 Department of Labor and is identical to a federal regulation promulgated by the  
7 Secretary of the United States Department of Labor becomes effective on the date the  
8 Division delivers the rule to the Codifier of Rules, unless the Division specifies a later  
9 effective date. If the Division specifies a later effective date, the rule becomes effective  
10 on that date.

11 (f) Technical Change. – A permanent rule for which no notice or hearing is  
12 required under G.S. 150B-21.5(a)(1) through (a)(5) or G.S. 150B-21.5(b) becomes  
13 effective on the first day of the month following the month the rule is approved by the  
14 Rules Review Commission."

15 **SECTION 81.** G.S. 126-5(c1) reads as rewritten:

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

- 18 (1) Constitutional officers of the State.
- 19 (2) Officers and employees of the Judicial Department.
- 20 (3) Officers and employees of the General Assembly.
- 21 (4) Members of boards, committees, commissions, councils, and advisory  
22 councils compensated on a per diem basis.
- 23 (5) Officials or employees whose salaries are fixed by the General  
24 Assembly, or by the Governor, or by the Governor and Council of  
25 State, or by the Governor subject to the approval of the Council of  
26 State.
- 27 (6) Employees of the Office of the Governor that the Governor, at any  
28 time, in his discretion, exempts from the application of the provisions  
29 of this Chapter by means of a letter to the State Personnel Director  
30 designating these employees.
- 31 (7) Employees of the Office of the Lieutenant Governor, that the  
32 Lieutenant Governor, at any time, in his discretion, exempts from the  
33 application of the provisions of this Chapter by means of a letter to the  
34 State Personnel Director designating these employees.
- 35 (8) Instructional and research staff, physicians, and dentists of The  
36 University of North Carolina.
- 37 (9) Employees whose salaries are fixed under the authority vested in the  
38 Board of Governors of The University of North Carolina by the  
39 provisions of G.S. 116-11(4), 116-11(5), and 116-14.
- 40 (10) Repealed by Session Laws 1991, c. 84, s. 1.
- 41 (11) North Carolina School of Science and Mathematics' employees whose  
42 salaries are fixed in accordance with the provisions of G.S.  
43 116-235(c)(1) and G.S. 116-235(c)(2).

- 1 (12) Employees of the North Carolina Low-Level Radioactive Waste  
2 Management Authority whose salaries are fixed pursuant to G.S.  
3 104G-5(g)(1) and G.S. 104G-5(g)(2).
- 4 (13) Employees of the North Carolina Hazardous Waste Management  
5 Commission whose salaries are fixed pursuant to G.S. 130B-6(g)(1)  
6 and G.S. 130B-6(g)(2).
- 7 (14) Employees of the North Carolina State Ports Authority.
- 8 (15) Employees of the North Carolina Global TransPark Authority.
- 9 (16) The executive director and one associate director of the North Carolina  
10 Center for Nursing established under Article 9F of Chapter 90 of the  
11 General Statutes.
- 12 (17) The executive director of the independent staff of the Information  
13 Resources Management Commission established under G.S.  
14 143B-472.41A.
- 15 (18) Employees of the Tobacco Trust Fund Commission established in  
16 Article 75 of Chapter 143 of the General Statutes.
- 17 (19) Employees of the Health and Wellness Trust Fund Commission  
18 established in Article 21 of Chapter 130A of the General Statutes.
- 19 (20) Employees of the North Carolina Rural Redevelopment Authority  
20 created in Part 2D of Article 10 of Chapter 143B of the General  
21 Statutes.
- 22 (21) Employees of the Teachers' and State Employees' Comprehensive  
23 Major Medical Plan."

24 **SECTION 82.** Effective January 1, 2002, G.S. 128-26(e) reads as rewritten:

25 "(e) Creditable service at retirement on which the retirement allowance of a  
26 member shall be based shall consist of the membership service rendered by him since he  
27 last became a member, and also if he has a prior service certificate which is in full force  
28 and effect, the amount of the service certified on his prior service certificate; and if he  
29 has sick leave standing to his credit upon retirement on or after July 1, 1971, one month  
30 of credit for each 20 days or portion thereof ~~not to exceed 12 days of credit for each~~  
31 ~~year of prior and membership service or fraction thereof~~, but sick leave shall not be  
32 counted in computing creditable service for the purpose of determining eligibility for  
33 disability retirement or for a vested deferred allowance.

34 On and after July 1, 1971, a member whose account was closed on account of  
35 absence from service under the provisions of G.S. 128-24(1a) and who subsequently  
36 returns to service for a period of five years, may thereafter repay the amount withdrawn  
37 plus regular interest thereon from the date of withdrawal through the year of repayment  
38 and thereby increase his creditable service by the amount of creditable service lost when  
39 this account was closed.

40 On and after July 1, 1973, a member whose account in the Teachers' and State  
41 Employees' Retirement System was closed on account of absence from service under  
42 the provisions of G.S. 135-3(3) and who subsequently became or becomes a member of  
43 this System with credit for five years of service, may thereafter repay in a lump sum the

1 amount withdrawn from the Teachers' and State Employees' Retirement System plus  
2 regular interest thereon from the date of withdrawal through the year of repayment and  
3 thereby increase his creditable service in this System by the amount of creditable  
4 service lost when his account was closed.

5 Notwithstanding any other provision of this Chapter, any member who entered  
6 service or was restored to service prior to July 1, 1982, and was excluded from  
7 membership service solely on account of having attained the age of 62 years, in  
8 accordance with former G.S. 128-24(3a), may purchase membership service credits for  
9 such excluded service by making a lump-sum payment equal to the contributions that  
10 would have been deducted pursuant to G.S. 128-30(b) had he been a member of the  
11 Retirement System, increased by interest calculated at a rate of seven percent (7%) per  
12 annum. Creditable service for unused sick leave shall be allowed only for sick leave  
13 accrued monthly during employment under a duly adopted sick leave policy and for  
14 which the member may be able to take credits and be paid for sick leave without  
15 restriction.

16 On and after January 1, 1986, the creditable service of a member who was a member  
17 of the Law Enforcement Officers' Retirement System at the time of the transfer of law  
18 enforcement officers employed by participating employers from that System to this  
19 Retirement System and whose accumulated contributions are transferred from that  
20 System to this Retirement System, includes service that was creditable in the Law  
21 Enforcement Officers' Retirement System; and membership service with that System is  
22 membership service with this Retirement System; provided, notwithstanding any  
23 provisions of this Article to the contrary, any inchoate or accrued rights of such a  
24 member to purchase creditable service for military service, withdrawn service and prior  
25 service under the rules and regulations of the Law Enforcement Officers' Retirement  
26 System may not be diminished and may be purchased as creditable service with this  
27 Retirement System under the same conditions that would have otherwise applied."

28 **SECTION 83.** G.S. 130A-110(a), as amended by Section 15 of S.L.  
29 2001-62, reads as rewritten:

30 "(a) On or before the fifteenth day of the month, the register of deeds shall  
31 transmit to the State Registrar a record of each marriage ceremony performed ~~in the~~  
32 ~~county~~ during the preceding calendar ~~month~~ month for which a license was issued by  
33 the register of deeds. The State Registrar shall prescribe a form containing the  
34 information required by G.S. 51-16 and additional information to conform with the  
35 requirements of the federal agency responsible for national vital statistics. The form  
36 shall be the official form of a marriage license, certificate of marriage and application  
37 for marriage license."

38 **SECTION 84.(a)** G.S. 130A-235(a), as amended by S.L. 2001-109, reads as  
39 rewritten:

40 "(a) For protection of the public health, the Commission shall adopt rules to  
41 establish sanitation requirements for all institutions and facilities at which individuals  
42 are provided room or board and for which a license to operate is required to be obtained  
43 or a certificate for payment is obtained from the Department. The rules shall also apply

1 to facilities that provide room and board to individuals but are exempt from licensure  
2 under G.S. 131D-10.4(1). No other State agency may adopt rules to establish sanitation  
3 requirements for these institutions and facilities. The Department shall issue a license to  
4 operate or a certificate for payment to such an institution or facility only upon  
5 compliance with all applicable sanitation rules of the Commission, and the Department  
6 may suspend or revoke a license or a certificate for payment for violation of these rules.  
7 In adopting rules pursuant to this section, the Commission shall define categories of  
8 standards to which such institutions and facilities shall be subject and shall establish  
9 criteria for the placement of any such institution or facility into one of the categories.  
10 This section shall not apply to State institutions and facilities subject to inspection under  
11 G.S. 130A-5(10). This section shall not apply to a single-family dwelling that is used  
12 for a family foster home or a therapeutic foster home, as those terms are defined in G.S.  
13 ~~131D-10.2, or a therapeutic home. For purposes of this section, "therapeutic home"~~  
14 ~~means a 24 hour residential facility located in a private residence that provides~~  
15 ~~professionally trained parent substitutes who work intensively with children and~~  
16 ~~adolescents who are emotionally disturbed or who have a substance abuse problem.~~G.S.  
17 131D-10.2."

18 **SECTION 84.(b)** G.S. 131D-10.2 is amended by adding a new subdivision  
19 to read:

20 "(14) "Therapeutic Foster Home" means a family foster home where, in  
21 addition to the provision of foster care, foster parents who receive  
22 appropriate training provide a child with behavioral health treatment  
23 services under the supervision of a county department of social  
24 services, an area mental health program, or a licensed private agency  
25 and in compliance with licensing rules adopted by the Commission."

26 **SECTION 85.(a)** G.S. 131D-4.3(a)(5), as amended by Section 1 of S.L.  
27 2001-85, reads as rewritten:

28 "(5) Adult care homes shall comply with all of the following staffing  
29 requirements:

- 30 a. First shift (morning): 0.4 hours of aide duty for each resident  
31 (licensed capacity or resident census), or 8.0 hours of aide  
32 duty per each 20 residents (licensed capacity or resident  
33 census) plus 3.0 hours for all other residents, whichever is  
34 greater;
- 35 b. Second shift (afternoon): 0.4 hours of aid duty for each  
36 resident (licensed capacity or resident census), or 8.0 hours  
37 of aide duty per each 20 residents plus 3.0 hours for all other  
38 residents (licensed capacity or resident census), whichever is  
39 greater;
- 40 c. Third shift (evening): 8.0 hours of aide duty per 30 or fewer  
41 residents (licensed capacity or resident census).

42 In addition to these requirements, the facility shall provide staff to  
43 meet the needs of the facility's heavy care residents equal to the

1 amount of time reimbursed by Medicaid. As used in this  
2 subdivision, the term "heavy care resident" means an individual  
3 residing in an adult care home who is defined "heavy care" by  
4 Medicaid and for which the facility is receiving enhanced Medicaid  
5 payments for such needs. Each facility shall post in a conspicuous  
6 place information about required staffing that enables residents and  
7 their families to ascertain each day the number of direct care staff  
8 and supervisors that are required by law to be on duty for each shift  
9 for that day."

10 **SECTION 85.(b)** G.S. 131E-114.1, as enacted by Section 2 of S.L. 2001-85,  
11 reads as rewritten:

12 "**§ 131E-114.1. Posting of information indicating number of staff on duty.**

13 Every nursing home subject to licensure under this Part shall post in a conspicuous  
14 place in the nursing home information about required staffing that enables residents and  
15 their families to readily ascertain each day the number of direct care staff and  
16 supervisors that are required by law to be on duty ~~for each shift~~ for that day."

17 **SECTION 85.5.** G.S. 135-39.5 is amended by adding a new subdivision to  
18 read:

19 "(27) The Executive Administrator may establish pilot programs to measure  
20 potential cost savings and improvements in patient care available  
21 through local, provider-driven medical management."

22 **SECTION 86.(a)** G.S. 135-40.2(b)(12) reads as rewritten:

23 "(12) Notwithstanding the provisions of G.S. 135-40.11, former employees  
24 covered by the provisions of G.S. 135-40.2(a)(6), and their spouses  
25 and eligible dependent children who were covered by the Plan at the  
26 time of the former employees' separation from service pursuant to G.S.  
27 135-40.2(a)(6), following expiration of the former employees'  
28 coverage provided by G.S. 135-40.2(a)(6). Election of coverage under  
29 this subdivision shall be made within 90 days after the termination of  
30 coverage provided under G.S. 135-40.2(a)(6)."

31 **SECTION 86.(b)** G.S. 135-40.6(8)b. reads as rewritten:

32 "b. Private Duty Nursing: Services of licensed nurses (not  
33 immediate relatives or members of the participant's household  
34 or private duty nursing used in lieu of or as a substitute for  
35 hospital staff nurses) ordered by the attending doctor for a  
36 condition requiring skilled nursing services. Private Duty  
37 Nursing ordered must be approved in advance by the Claims  
38 Processor as medically necessary. Allowances for Private Duty  
39 Nursing shall not exceed the lesser of the Plan's usual,  
40 customary and reasonable allowances or ninety percent (90%)  
41 of the daily semiprivate rate at skilled nursing facilities as  
42 determined by the Plan."

1           **SECTION 86.(c)** G.S. 135-40.8(c3), as enacted by Section 1(m) of S.L.  
2 2001-253, reads as rewritten:

3           "(c3) Notwithstanding any other provision of this Article, the Plan does not pay for  
4 the first fifteen dollars (\$15.00) of allowable charges for each home, office, or skilled  
5 nursing facility visit under the provisions of G.S. 135-40.6(7)a. and b., G.S. 135-  
6 40.6(4), ~~G.S. 135-40.6(8)e.(IV therapy)~~, G.S. 135-40.6(8)i., j., k., n., r., and s., and G.S.  
7 135-40.5(e). The ~~co-payment~~ co-payment assessed by this subsection shall be assessed  
8 only once per person per provider per day and shall not apply to laboratory, pathology,  
9 and radiology ~~services~~ services, or to charges for injected medications. The exclusion  
10 made under this subsection shall not count toward the deductible nor toward the  
11 maximum amount of coinsurance out-of-pocket costs."

12           **SECTION 86.(d)** In accordance with G.S. 135-40.8(c3), enacted by section  
13 1(m) of Session Law 2001-253, the first fifteen dollars (\$15.00) of allowable charges  
14 not paid by the Plan does not apply to cardiac rehabilitation benefits.

15           **SECTION 86.5.(a)** G.S. 143-48.3, as rewritten by Section 15.6(b) of S.L.  
16 2001-424, reads as rewritten:

17 **"§ 143-48.3. Electronic procurement.**

18           (a) The Department of Administration and the Office of the State Controller, in  
19 conjunction with the Office of Information Technology Services (ITS), the Department  
20 of State Auditor, the Department of State Treasurer, the University of North Carolina  
21 General Administration, the Community Colleges System Office, and the Department of  
22 Public Instruction shall collaborate to develop electronic or digital procurement  
23 standards.

24           (b) The Department of Administration, in conjunction with the Office of the State  
25 Controller and the Office of Information Technology Services may, upon request,  
26 provide to all State agencies, universities, local school administrative units, and the  
27 community colleges, training in the use of the electronic procurement system.

28           (c) The Office of Information Technology Services shall act as an Application  
29 Service Provider for an electronic procurement system and shall establish, manage, and  
30 operate this electronic procurement system and shall establish, manage, and operate,  
31 through State ownership or commercial leasing, in accordance with the requirements  
32 and operating standards developed by the Department of Administration, the Office of  
33 the State Controller, and ITS.

34           (d) This section does not otherwise modify existing law relating to procurement  
35 between The University of North Carolina, UNC Health Care, local school  
36 administrative units, community colleges, and the Department of Administration.

37           (e) ~~The Board of Governors of The University of North Carolina may exempt~~  
38 ~~North Carolina State University and the University of North Carolina at Chapel Hill and~~  
39 North Carolina State University are exempt, as purchasers or vendors, from the  
40 electronic procurement system authorized by this Article. An exempted institution shall  
41 consult with the Joint Legislative Commission on Governmental Operations and the  
42 Joint Select Committee on Information Technology prior to expanding the institution's  
43 electronic procurement system. ~~from the electronic procurement system authorized by~~

1 ~~this Article until May 1, 2003, if the Board of Governors determines that each~~  
2 ~~exemption is in the best interest of the respective constituent institutions. Each~~  
3 ~~exemption shall be subject to the Board of Governors' annual review and~~  
4 ~~reconsideration. Exempted constituent institutions shall continue working with the~~  
5 ~~North Carolina E-Procurement Service as that system evolves and shall ensure that their~~  
6 ~~proposed procurement systems are compatible with the North Carolina E-Procurement~~  
7 ~~Service so that they may take advantage of this service to the greatest degree possible.~~  
8 ~~Before an exempted institution expands any electronic procurement system, that~~  
9 ~~institution shall consult with the Joint Legislative Commission on Governmental~~  
10 ~~Operations and the Joint Select Committee on Information Technology. By~~

11 Prior to May 1, 2003, the General Assembly shall evaluate the efficacy of the State's  
12 electronic procurement system and the inclusion and participation of entities in the  
13 system.

14 (f) Any State entity, local school administrative unit, or community college  
15 operating a functional electronic procurement system established prior to September 1,  
16 2001, may until May 1, 2003, continue to operate that system independently or may opt  
17 into the North Carolina E-Procurement Service. Each entity subject to this section shall  
18 notify the Information Resources Management Commission by January 1, 2002, and  
19 annually thereafter, of its intent to participate in the North Carolina E-Procurement  
20 Service."

21 **SECTION 86.5.(b)** G.S. 143-49(8), as enacted by Section 15.6(d) of S.L.  
22 2001-424, reads as rewritten:

23 "(8) To establish and maintain a procurement card program for use by State  
24 agencies, community colleges, non-exempted constituent institutions  
25 of The University of North Carolina, and local school administrative  
26 units. The Secretary of Administration may adopt temporary rules for  
27 the implementation and operation of the program in accordance with  
28 the payment policies of the State Controller, after consultation with the  
29 Office of Information Technology Services. These rules would  
30 include the establishment of appropriate order limits that leverage the  
31 cost savings and efficiencies of the procurement card program in  
32 conjunction with the fullest possible use of the North Carolina E-  
33 Procurement Service. ~~Procurement cards shall be utilized only~~  
34 ~~through the E-Procurement Service. North Carolina State University~~  
35 ~~and the University of North Carolina at Chapel Hill may use~~  
36 ~~procurement cards consistent with the rules adopted by the Secretary,~~  
37 ~~provided that the procurement cards have a purchase limit of two~~  
38 ~~hundred fifty dollars (\$250.00) per month. Prior to implementing the~~  
39 ~~program, the Secretary shall consult with the State Controller, the~~  
40 ~~UNC General Administration, the Community Colleges System~~  
41 ~~Office, the State Auditor, the Department of Public Instruction, a~~  
42 representative chosen by the local school administrative units, and the  
43 Office of Information Technology Services. The Secretary may

1 periodically adjust the order limit authorized in this section after  
2 consulting with the State Controller, the UNC General Administration,  
3 the Community Colleges System Office, the Department of Public  
4 Instruction, and the Office of Information Technology Services.

5 The University of North Carolina at Chapel Hill and North Carolina State University  
6 are exempt from that procurement card program. The University of North Carolina at  
7 Chapel Hill and North Carolina State University may, however, implement and operate  
8 independent procurement card programs."

9 **SECTION 87.** G.S. 143-64.60, as enacted by Section 1 of S.L. 2001-256,  
10 reads as rewritten:

11 "**§143-64.60. State Privacy Act.**

12 (a) It is unlawful for any State or local government agency to deny to any  
13 individual any right, benefit, or privilege provided by law because of such individual's  
14 refusal to disclose his social security account number.

15 The provisions of this ~~section~~-subsection shall not apply with respect to:

- 16 (1) Any disclosure which is required or permitted by federal statute, or
- 17 (2) The disclosure of a social security number to any State or local agency  
18 maintaining a system of records in existence and operating before  
19 January 1, 1975, if such disclosure was required under statute or  
20 regulation adopted prior to such date to verify the identity of an  
21 individual.

22 (b) Any State or local government agency which requests an individual to  
23 disclose his social security account number shall inform that individual whether that  
24 disclosure is mandatory or voluntary, by what statutory or other authority such number  
25 is solicited, and what uses will be made of it."

26 **SECTION 88.** G.S. 143-129(e), as rewritten by Section 1 of S.L. 2001-328,  
27 reads as rewritten:

28 "(e) Exceptions. – The requirements of this Article do not apply to:

- 29 (1) The purchase, lease, or other acquisition of any apparatus, supplies,  
30 materials, or equipment from: (i) the United States of America or any  
31 agency thereof; or (ii) any other government unit or agency thereof  
32 within the United States. The Secretary of Administration or the  
33 governing board of any political subdivision of the State may  
34 designate any officer or employee of the State or political subdivision  
35 to enter a bid or bids in its behalf at any sale of apparatus, supplies,  
36 materials, equipment, or other property owned by: (i) the United States  
37 of America or any agency thereof; or (ii) any other governmental unit  
38 or agency thereof within the United States. The Secretary of  
39 Administration or the governing board of any political subdivision of  
40 the State may authorize the officer or employee to make any partial or  
41 down payment or payment in full that may be required by regulations  
42 of the governmental unit or agency disposing of the property.



- 1 (2) Cases of special emergency involving the health and safety of the  
2 people or their property.
- 3 (3) Purchases made through a competitive bidding group purchasing  
4 program, which is a formally organized program that offers  
5 competitively ~~bid~~ obtained purchasing services at discount prices to  
6 two or more public agencies.
- 7 (4) Construction or repair work undertaken during the progress of a  
8 construction or repair project initially begun pursuant to this section.
- 9 (5) Purchase of gasoline, diesel fuel, alcohol fuel, motor oil, fuel oil, or  
10 natural gas. These purchases are subject to G.S. 143-131.
- 11 (6) Purchases of apparatus, supplies, materials, or equipment when: (i)  
12 performance or price competition for a product are not available; (ii) a  
13 needed product is available from only one source of supply; or (iii)  
14 standardization or compatibility is the overriding consideration.  
15 Notwithstanding any other provision of this section, the governing  
16 board of a political subdivision of the State shall approve the purchases  
17 listed in the preceding sentence prior to the award of the contract.

18 In the case of purchases by hospitals, in addition to the other  
19 exceptions in this subsection, the provisions of this Article shall not  
20 apply when: (i) a particular medical item or prosthetic appliance is  
21 needed; (ii) a particular product is ordered by an attending physician  
22 for his patients; (iii) additional products are needed to complete an  
23 ongoing job or task; (iv) products are purchased for "over-the-counter"  
24 resale; (v) a particular product is needed or desired for experimental,  
25 developmental, or research work; or (vi) equipment is already  
26 installed, connected, and in service under a lease or other agreement  
27 and the governing body of the hospital determines that the equipment  
28 should be purchased. The governing body of a hospital shall keep a  
29 record of all purchases made pursuant to this ~~subsection~~ subdivision.  
30 These records are subject to public inspection.

- 31 (7) Purchases of information technology through contracts established by  
32 the State Office of Information Technology Services as provided in  
33 G.S. 147-33.82(b) and G.S. 147-33.92(b).
- 34 (8) Guaranteed energy savings contracts, which are governed by Article  
35 3B of Chapter 143 of the General Statutes.
- 36 (9) Purchases from contracts established by the State or any agency of the  
37 State, if the contractor is willing to extend to a political subdivision of  
38 the State the same or more favorable prices, terms, ~~or~~ and conditions  
39 as established in the State contract.
- 40 (10) Purchase of used apparatus, supplies, materials, or equipment. For  
41 purposes of this subdivision, ~~remanufactured or refabricated~~  
42 remanufactured, refabricated or demo apparatus, supplies, materials, or  
43 equipment are not included in the exception. A demo item is one that

1                    is used for demonstration and is sold by the manufacturer or retailer at  
2                    a discount."

3                    **SECTION 89.** G.S. 143-166.13(a) reads as rewritten:

4                    "(a) The following persons who are subject to the Criminal Justice Training and  
5 Standards Act are entitled to benefits under this Article:

- 6                    (1) State Government Security Officers, Department of Administration;
- 7                    (2) State Correctional Officers, Department of Corrections;
- 8                    (3) State Probation and Parole Officers, Department of Corrections;
- 9                    (4) Sworn State Law-Enforcement Officers with the power of arrest,  
10 Department of Corrections;
- 11                    (5) Alcohol Law-Enforcement Agents, Department of Crime Control and  
12 Public Safety;
- 13                    (6) State Highway Patrol Officers, Department of Crime Control and  
14 Public Safety;
- 15                    (7) State Legislative Building Special Police, General Assembly;
- 16                    (8) Sworn State Law-Enforcement Officers with the power of arrest,  
17 Department of Health and Human Services;
- 18                    (9) ~~Youth Correctional Officers, Department of Health and Human~~  
19 ~~Services; Juvenile Justice Officers, Department of Juvenile Justice and~~  
20 ~~Delinquency Prevention;~~
- 21                    (10) Insurance Investigators, Department of Insurance;
- 22                    (11) State Bureau of Investigation Officers and Agents, Department of  
23 Justice;
- 24                    (12) Director and Assistant Director, License and Theft Enforcement  
25 Section, Division of Motor Vehicles, Department of Transportation;
- 26                    (13) Members of License and Theft Enforcement Section, Division of  
27 Motor Vehicles, Department of Transportation, designated by the  
28 Commissioner of Motor Vehicles as either "inspectors" or uniformed  
29 weigh station personnel;
- 30                    (14) Utilities Commission Transportation Inspectors and Special  
31 Investigators;
- 32                    (15) North Carolina Ports Authority Police, Department of Commerce;
- 33                    (16) Sworn State Law-Enforcement Officers with the power of arrest,  
34 Department of Environment and Natural Resources;
- 35                    (17) Sworn State Law-Enforcement Officers with the power of arrest,  
36 Department of Crime Control and Public Safety.
- 37                    (18) Sworn State Law-Enforcement Officers with the power of arrest,  
38 Department of Revenue.
- 39                    (19) Sworn State Law-Enforcement Officers with the power of arrest,  
40 University System."

41                    **SECTION 90.** G.S. 143-661(b), as rewritten by Section 23.6.(b) of S.L.  
42 2001-424, reads as rewritten:

43                    "(b) The Board shall consist of ~~20~~21 members, appointed as follows:

- 1 (1) ~~Four~~Five members appointed by the Governor, including one member  
2 who is a director or employee of a State correction agency for a term  
3 to begin September 1, 1996 and to expire on June 30, 1997, one  
4 member who is an employee of the North Carolina Department of  
5 Crime Control and Public Safety for a term beginning September 1,  
6 1996 and to expire on June 30, 1997, and one member selected from  
7 the North Carolina Association of Chiefs of Police for a term to begin  
8 September 1, 1996 and to expire on June 30, 1999, ~~and one member~~  
9 who is an employee of the Department of Juvenile Justice and  
10 Delinquency ~~Prevention~~Prevention, and one member who represents  
11 the Division of Motor Vehicles.

12 ..."

13 **SECTION 90.5.** G.S. 143B-148, as amended by Section 1.21(b) of S.L.  
14 2001-437, reads as rewritten:

15 "**§ 143B-148. Commission for Mental Health, Developmental Disabilities, and**  
16 **Substance Abuse Services – members; selection; quorum; compensation.**

17 (a) The Commission for Mental Health, Developmental Disabilities, and  
18 Substance Abuse Services of the Department of Health and Human Services shall  
19 consist of ~~26~~29 members:

- 20 (1) ~~Four~~Six of whom shall be appointed by the General Assembly,  
21 ~~two~~three upon the recommendation of the Speaker of the House of  
22 Representatives, and ~~two~~three upon the recommendation of the  
23 President Pro Tempore of the Senate in accordance with G.S. 120-121.  
24 These members shall be individuals who are concerned about the  
25 needs of individuals for mental health, developmental disabilities, and  
26 substance abuse services. Members shall serve for two-year terms  
27 beginning July 1 of odd-numbered years. A member shall serve not  
28 more than three consecutive two-year terms. Vacancies in  
29 appointments made by the General Assembly shall be filled in  
30 accordance with G.S. 120-122;

- 31 (2) ~~Twenty-two~~Twenty-three of whom shall be appointed by the  
32 Governor, one from each congressional district in the State in  
33 accordance with G.S. 147-12(3)b, and ~~10~~the remainder at-large  
34 members.

- 35 a. Of these ~~22~~23 members, three shall have a special interest in  
36 mental health, three shall have a special interest in mental  
37 retardation, three shall have a special interest in developmental  
38 disabilities other than mental retardation, three shall have a  
39 special interest in alcohol abuse and alcoholism and three shall  
40 have a special interest in drug abuse. Each group of three shall  
41 be made up of one member who is a consumer representative;  
42 one other who is a representative of a local or State citizen

1 organization or association; and one other who is a professional  
2 in the field.

3 b. The remaining ~~seven~~eight members shall be appointed from the  
4 general public, other citizen groups, area mental health,  
5 developmental disabilities, and substance abuse authorities, or  
6 from other related agencies.

7 c. Of these ~~22~~23 appointments, at least one shall be a licensed  
8 physician and at least one other shall be a licensed attorney.

9 d. ~~The Governor shall appoint members to the Commission in~~  
10 ~~accordance with the foregoing provisions. The terms of all~~  
11 ~~Commission members appointed or reappointed by the~~  
12 ~~Governor on or after July 1, 2002, shall be four~~two years. ~~The~~  
13 ~~initial term of the person representing the 12th Congressional~~  
14 ~~District shall begin January 3, 1993, and expire June 30, 1996.~~  
15 All Commission members shall serve their designated terms  
16 and until their successors are duly appointed and qualified. All  
17 Commission members may succeed themselves. A member  
18 shall serve not more than three consecutive terms.

19 (3) All appointments shall be made pursuant to current federal rules and  
20 regulations, when not inconsistent with State law, which prescribe the  
21 selection process and demographic characteristics as a necessary  
22 condition to the receipt of federal aid.

23 (b) Except as otherwise provided in this section, the provisions of G.S. 143B-13  
24 through 143B-20 relating to appointment, qualifications, terms and removal of members  
25 shall apply to all members of the Commission for Mental Health, Developmental  
26 Disabilities, and Substance Abuse Services.

27 (c) Commission members shall receive per diem, travel and subsistence  
28 allowances in accordance with G.S. 138-5 and G.S. 138-6, as appropriate.

29 (d) A majority of the Commission shall constitute a quorum for the transaction of  
30 business.

31 (e) All clerical and other services required by the Commission shall be supplied  
32 by the Secretary of the Department of Health and Human Services."

33 **SECTION 91.(a)** G.S. 143B-475.1 is recodified as G.S. 143B-262.4.

34 **SECTION 91.(b)** G.S. 143B-262.4, as recodified by Section 91(a) of this  
35 act, reads as rewritten:

36 "**§ ~~143B-475.1.143B-262.4.~~ Deferred prosecution, community service restitution,**  
37 **and volunteer program.**

38 (a) The Department of ~~Crime Control and Public Safety~~Correction may conduct  
39 a deferred prosecution, community service restitution, and volunteer program for  
40 youthful and adult offenders. The Secretary of ~~Crime Control and Public Safety~~  
41 Correction may assign one or more coordinators to each district court district as defined  
42 in G.S. 7A-133 to assure and report to the Court the offender's compliance with the  
43 requirements of the program. The appointment of each coordinator shall be made in

1 consultation with the chief district court judge in the district to which the coordinator is  
2 assigned. Each county shall provide office space in the courthouse or other convenient  
3 place, for the use of each coordinator assigned to that county.

4 (b) Unless a fee is assessed pursuant to G.S. 20-179.4 or G.S. 15A-1371(i), a fee  
5 of one hundred dollars (\$100.00) shall be paid by all persons who participate in the  
6 program or receive services from the program staff. If the person is convicted in a court  
7 in this State, the fee shall be paid to the clerk of court in the county in which he is  
8 convicted. If the person is participating in the program as a result of a deferred  
9 prosecution or similar program, the fee shall be paid to the clerk of court in the county  
10 in which the agreement is filed. Persons participating in the program for any other  
11 reason shall pay the fee to the clerk of court in the county in which the services are  
12 provided by the program staff. The fee shall be paid in full within two weeks from the  
13 date the person is ordered to perform the community service, and before he begins his  
14 community service, except that:

- 15 (1) A person convicted in a court in this State may be given an extension  
16 of time or allowed to begin the community service before he pays the  
17 fee by the court in which he is convicted; or
- 18 (2) A person performing community service pursuant to a deferred  
19 prosecution or similar agreement may be given an extension of time or  
20 allowed to begin his community service before the fee is paid by the  
21 official or agency representing the State in the agreement.

22 Fees collected pursuant to this subsection shall be deposited in the General Fund.

23 (c) The Secretary may designate the same person to serve as a coordinator under  
24 this section and under G.S. 20-179.4.

25 (d) A person is not liable for damages for any injury or loss sustained by an  
26 individual performing community or reparation service under this section unless the  
27 injury is caused by the person's gross negligence or intentional wrongdoing. As used in  
28 this subsection, "person" includes any governmental unit or agency, nonprofit  
29 corporation, or other nonprofit agency that is supervising the individual, or for whom  
30 the individual is performing community service work, as well as any person employed  
31 by the agency or corporation while acting in the scope and course of the person's  
32 employment. This subsection does not affect the immunity from civil liability in tort  
33 available to local governmental units or agencies. Notice of the provisions of this  
34 subsection shall be furnished to the individual at the time of assignment of community  
35 service work by the community service coordinator.

36 (e) In order to maximize the efficiency and effectiveness of the community  
37 service program, (i) beginning September 1, 1995, community service program districts  
38 shall have the same boundaries as the district court districts established in G.S. 7A-133  
39 and (ii) beginning with persons hired on or after September 1, 1995, all community  
40 service program district supervisors employed by the Department of ~~Crime Control and~~  
41 ~~Public Safety-Correction~~ to supervise each of the community service program districts  
42 shall reside in the district in which the supervisor works.

1 (f) The community service staff shall report to the court in which the community  
2 service was ordered, a significant violation of the terms of the probation, or deferred  
3 prosecution, related to community service. The community service staff shall give  
4 notice of the hearing to determine if there is a willful failure to comply to the person  
5 who was ordered to perform the community service. This notice shall be given by either  
6 personal delivery to the person to be notified or by depositing the notice in the United  
7 States mail in an envelope with postage prepaid, addressed to the person at the address  
8 shown on the records of the community service staff. The notice shall be mailed at least  
9 10 days prior to any hearing and shall state the basis of the alleged willful failure to  
10 comply. The court shall then conduct a hearing, even if the person ordered to perform  
11 the community service fails to appear, to determine if there is a willful failure to  
12 complete the work as ordered by the community service staff within the applicable time  
13 limits. If the court determines there is a willful failure to comply, it shall revoke any  
14 drivers [driver's] license issued to the person and notify the Division of Motor Vehicles  
15 to revoke any drivers [driver's] license issued to the person until the community service  
16 requirement has been met. In addition, if the person is present, the court may take any  
17 further action authorized by Article 82 of Chapter 15A of the General Statutes for  
18 violation of a condition of probation."

19 **SECTION 92.** G.S. 147-12(13) reads as rewritten:

20 "(13) To oversee and approve all memoranda of understanding and  
21 agreements between the State and foreign governments, as defined in  
22 ~~G.S. 66-275(e)~~, G.S. 66-280(c), and international organizations. Any  
23 memoranda of understanding or agreements under this subsection to be  
24 signed on behalf of the State must first be approved by the Governor  
25 after review by the Attorney General, and after execution filed with the  
26 Secretary of State in accordance with ~~G.S. 66-275~~, G.S. 66-280."

27 **SECTION 93.** G.S. 147-49 reads as rewritten:

28 "**§ 147-49. Disposition of damaged and unsaleable publications.**

29 The Secretary of State is hereby authorized and empowered to dispose of damaged  
30 and unsaleable House and Senate Journals and ~~Public-Session~~ Laws of various years at a  
31 price to be determined by the Secretary of State."

32 **SECTION 94.** G.S. 159C-5 reads as rewritten:

33 "**§ 159C-5. General powers.**

34 Each authority shall have all of the powers necessary or convenient to carry out and  
35 effectuate the purposes and provisions of this Chapter, including, but without limiting  
36 the generality of the foregoing, the powers:

- 37 (1) To adopt bylaws for the regulation of its affairs and the conduct of its  
38 business and to prescribe rules, regulations and policies in connection  
39 with the performance of its functions and duties;
- 40 (2) To adopt an official seal and alter the same at pleasure;
- 41 (3) To maintain an office at such place or places within the boundaries of  
42 the county for which it was created as it may determine;
- 43 (4) To sue and be sued in its own name, plead and be impleaded;

- 1 (5) To receive, administer and comply with the conditions and  
2 requirements respecting any gift, grant or donation of any property or  
3 money;
- 4 (6) To make and execute financing agreements, security documents and  
5 other contracts and instruments necessary or convenient in the exercise  
6 of the powers and functions of the authority under this Chapter;
- 7 (7) To acquire by purchase, lease, gift or otherwise, but not by eminent  
8 domain, or to obtain options for the acquisition of, any property, real  
9 or personal, improved or unimproved, and interests in land less than  
10 the fee ~~thereof,~~interest, for the construction, operation or maintenance  
11 of any project;
- 12 ~~(7a) To acquire by purchase, lease, gift, or otherwise, but not by eminent  
13 domain, or to obtain options for the acquisition of, any property, real  
14 or personal, improved or unimproved, and interests in land less than  
15 the fee interest, for the construction, operation, or maintenance of any  
16 project;~~
- 17 (8) To sell, lease, exchange, transfer or otherwise dispose of, or to grant  
18 options for any such purposes with respect to, any real or personal  
19 property or interest therein;
- 20 (9) To pledge or assign revenues of the authority;
- 21 (10) To construct, acquire, own, repair, maintain, extend, improve,  
22 rehabilitate, renovate, furnish and equip one or more projects and to  
23 pay all or any part of the costs thereof from the proceeds of bonds of  
24 the authority or from any contribution, gift or donation or other funds  
25 made available to the authority for such purpose;
- 26 (11) To fix, charge and collect revenues with respect to any project;
- 27 (12) To employ consulting engineers, architects, attorneys, real estate  
28 counselors, appraisers and such other consultants and employees as  
29 may be required in the judgment of the authority and to fix and pay  
30 their compensation from funds available to the authority therefor and  
31 to select and retain subject to approval of the Local Government  
32 Commission the financial consultants, underwriters and bond attorneys  
33 to be associated with the issuance of any bonds and to pay for services  
34 rendered by underwriters, financial consultants or bond attorneys out  
35 of the proceeds of any such issue with regard to which the services  
36 were performed; and
- 37 (13) To do all acts and things necessary, convenient or desirable to carry  
38 out the purposes, and to exercise the powers herein granted."

39 **SECTION 95.** G.S. 162-33 reads as rewritten:

40 "**§ 162-33. Prisoner may furnish necessities.**

41 ~~Prisoners~~With the sheriff's approval, prisoners shall be allowed to purchase and  
42 procure such necessities, in addition to the diet furnished by the jailer, as they may

1 think proper; and to provide their own bedding, linen and clothing, without paying any  
2 perquisite to the jailer for such indulgence proper."

3 **SECTION 96.** G.S. 163-132.3(d)(1)a., as enacted by Section 10.1 of S.L.  
4 2001-319, reads as rewritten:

5 "a. Is likely to be designated by the Census Bureau as a block  
6 boundary in the next federal decennial ~~Census~~ Census."

7 **SECTION 97.(a)** G.S. 163-278.19(e) reads as rewritten:

8 "(e) Notwithstanding the prohibitions specified in this Article and Article 22 of  
9 this Chapter, a political committee organized under provisions of this Article shall be  
10 entitled to receive and the corporation, business entity, labor union, professional  
11 association, or insurance company designated on the committee's organizational report  
12 as the parent entity of the employees or members who organized the committee is  
13 authorized to give reasonable administrative support that shall include, but not be  
14 limited to, record keeping, computer services, billings, mailings to members of the  
15 committee, and such other support as is reasonably necessary for the administration of  
16 the committee.

17 The approximate cost of any record keeping, computer services, billings, mailings,  
18 office supplies, and office space provided on a continuing basis shall be submitted to the  
19 committee, in writing, and the committee shall include that cost on the ~~annual~~ report  
20 required by G.S. 163-278.9(a)(6). Also included in the report shall be the approximate  
21 allocable portion of the compensation of any officer or employee of the corporation,  
22 business entity, labor union, professional association, or insurance company who has  
23 devoted more than thirty-five percent (35%) of his time during normal business hours of  
24 the corporation, business entity, labor union, professional association, or insurance  
25 company during the period covered by the required report. The approximate cost  
26 submitted by the parent corporation, business entity, labor union, professional  
27 association, or insurance company shall be entered on the committee's ~~annual~~ report as  
28 the final entry on its list of "contributions" and a copy of the written approximate cost  
29 received by it shall be attached.

30 The administrative support given by a corporation, business entity, labor union,  
31 professional association, or insurance company shall be designated on the books of the  
32 corporation, business entity, labor union, professional association, or insurance  
33 company as such and may not be treated by it as a business deduction for State income  
34 tax purposes."

35 **SECTION 97.(b)** The prefatory clause of G.S. 163-278.9(a) reads as  
36 rewritten:

37 "(a) Except as provided in G.S. 163-278.10A, the treasurer of each candidate and  
38 of each political committee shall file with the Board under verification certification of  
39 the treasurer as true and correct to the best of the knowledge of that officer with the  
40 Board the following reports:"

41 **SECTION 98.** G.S. 166A-6A(b)(2), as enacted by Section 4 of S.L.  
42 2001-214, reads as rewritten:



- 1           "(2) ~~Public Assistance~~-assistance. – State disaster assistance in the form of  
2 public assistance grants may be made available to eligible entities  
3 located within the disaster area on the following terms and conditions:  
4           a. Eligible entities shall meet the following qualifications:  
5               1. The eligible entity suffers a minimum of ten thousand  
6 dollars (\$10,000) in uninsurable losses;  
7               2. The eligible entity suffers uninsurable losses in an  
8 amount equal to or exceeding one-half percent (0.5%) of  
9 the annual operating budget;  
10              3. For a state of disaster proclaimed pursuant to G.S.  
11 166A-6(a) after August 1, 2002, the eligible entity shall  
12 have a hazard mitigation plan approved pursuant to the  
13 Stafford Act; and  
14              4. For a state of disaster proclaimed pursuant to G.S.  
15 166A-6(a) after August 1, 2002, the eligible entity shall  
16 be participating in the National Flood Insurance Program  
17 in order to receive public assistance for flooding damage.  
18           b. Eligible entities shall be required to provide non-State matching  
19 funds equal to twenty-five percent (25%) of the eligible costs of  
20 the public assistance grant.  
21           c. An eligible entity that receives a public assistance grant  
22 pursuant to this subsection may use the grant for the following  
23 purposes only:  
24               1. Debris clearance.  
25               2. Emergency protective measures.  
26               3. Roads and bridges.  
27               4. Crisis counseling.  
28               5. Assistance with public transportation needs."

29           **SECTION 99.** Section 2 of S.L. 1998-106, as rewritten by Section 1 of S.L.  
30 2001-354, reads as rewritten:

31           "Sec. 2. The Cabarrus County demonstration Work Over Welfare Program for  
32 certain Work First and Food Stamp recipients shall:

- 33           (1) Provide job opportunities to all able-bodied Work First and Food  
34 Stamp recipients who are required to participate in the Work First  
35 employment program;  
36           (2) Create job opportunities in the public, the private, nonprofit, and the  
37 private, for-profit sector, primarily in the human services areas by  
38 allowing Cabarrus County to use grant diversions, consisting of the  
39 Work First benefits and the cash value of Food Stamps that would be  
40 paid to otherwise eligible recipients to match employer funds, to  
41 subsidize the employment of these recipients. Human service area jobs  
42 will meet such socially necessary needs as day care work, nursing  
43 home aide work, and in-home aide work;

- 1 (3) Allow wages paid to these recipients, which contain grant-diverted  
2 funds, to be exempt from income for purposes of determining  
3 eligibility for assistance;
- 4 (4) Structure payment of wages to these recipients such that they will be  
5 considered income, in order to make recipients eligible for the federal  
6 earned income tax credit;
- 7 (5) Create work experience opportunities in the private sector more  
8 realistically to reflect the world of work;
- 9 (6) Require these recipients to participate in the development of an  
10 opportunity agreement outlining the responsibilities of the recipient  
11 and agency, as well as the incentives for compliance and the sanctions  
12 for noncompliance;
- 13 (7) Require all these recipients who participate in the program to pursue  
14 and accept employment, full or part time, subsidized or unsubsidized,  
15 as a condition for continued eligibility for Work First and Food Stamp  
16 assistance;
- 17 (8) Require job search training of all participants;
- 18 (9) Require monitored job search of all participants until employment is  
19 found or until other work activities of up to 40 hours per week are in  
20 place;
- 21 (10) Create a positive work incentive by providing wage incentives to  
22 participants who are in compliance with the program by using the job  
23 bonus as outlined in the Work First Policy Manual for both Work First  
24 and Food Stamp benefits;
- 25 (11) Provide for a system in which the Work First cash assistance case is  
26 terminated following the first month of noncompliance, with  
27 restoration of assistance after the client agrees to comply with  
28 requirements and files a new application. To ensure that children in  
29 terminated households are not harmed, provide social worker  
30 monitoring and the use of direct vendor payments or assistance from  
31 other community resources for rent, utilities, or other basic needs of  
32 children as necessary, during the period in which assistance for the  
33 household is terminated. This period of social worker monitoring shall  
34 coincide with the period of time that the household would have been,  
35 as a Work First case, under a three-month pay-for-performance  
36 sanction system and shall not exceed three months from the date of  
37 ~~termination-termination~~;
- 38 (12) Provide for all individuals to be evaluated for ongoing Medicaid and  
39 children to be evaluated for Health Choice eligibility any time Work  
40 First terminates. This act shall not alter any individual's eligibility for  
41 Medicaid or Health Choice as set out in State and Federal law or  
42 ~~regulation-regulation~~;

- 1 (13) Require that a recipient who voluntarily terminates employment  
2 without good cause be ineligible for Work First until the individual  
3 returns to work, provided work opportunities are available. Provide  
4 employment services for 30 days to assist the individual in obtaining  
5 employment;
- 6 (14) Require applicants for Work First to meet with child support staff  
7 within 10 days of application. Failure or refusal to pursue child support  
8 without good cause is grounds for denial of benefits;
- 9 (15) Provide that an applicant may be eligible for a one-time Work First  
10 diversion payment in an amount not exceeding one thousand two  
11 hundred dollars (\$1,200). Applicants receiving the diversion payment  
12 shall not be eligible for ongoing Work First benefits for a period of  
13 three months from the date of receipt of the diversion payment.  
14 Individuals receiving a diversion payment must attend budgetary  
15 counseling and may be required to have a protective payee for the  
16 diversion payment;
- 17 (16) Provide that the period of exemption from participation in employment  
18 services for a parent of a newborn child is three months. If a recipient  
19 returns to work within six weeks of childbirth, the recipient may  
20 reclaim the remainder of the three-month exemption if the recipient  
21 chooses not to continue working during the initial six-week period;
- 22 (17) In ongoing Work First cases, require family reassessment of service  
23 needs when the family circumstance changes due to an able-bodied,  
24 financially responsible adult moving into the home. Family  
25 reassessment may result in benefit diversion, change in services, or  
26 termination from Work First program participation;
- 27 (18) Not sanction individuals who demonstrate that they cannot meet  
28 program requirements because necessary child care is not available."

29 **SECTION 100.** Section 2 of S.L. 2001-177 reads as rewritten:

30 "**SECTION 2.** This act becomes effective October 1, 2001, and applies to ~~actions~~  
31 ~~on payment bonds filed~~ labor and materials furnished on or after that date."

32 **SECTION 101.** Section 29 of S.L. 2001-208 reads as rewritten:

33 "**SECTION 29.** ~~This Section 15 of this act becomes effective January 1, 2002, and~~  
34 applies to relinquishments executed on or after that date. The remainder of this act  
35 becomes effective January 1, 2002, and applies to actions pending or filed on or after  
36 that date."

37 **SECTION 102.(a)** S.L. 2001-216 is amended by adding a new section to  
38 read:

39 "**SECTION 6.1.** In the event that a court of competent jurisdiction holds that any  
40 provision of this act is unconstitutional or otherwise invalid, the invalidity does not  
41 affect other provisions or applications of this act that can be given effect without the  
42 invalid provisions or application, and to this end the provisions of each section of this  
43 act are severable one from the other and from the remainder of this act."

1           **SECTION 102.(b)** Section 7 of S.L. 2001-216 reads as rewritten:

2           "**SECTION 7.** This act is effective when it becomes ~~law-law~~ and applies to all cases  
3 pending on or after the effective date except those cases in which a health benefit plan  
4 has intervened before the Industrial Commission prior to the effective date."

5           **SECTION 102.(c)** This section becomes effective June 15, 2001.

6           **SECTION 103.(a)** Section 24.5 of S.L. 2001-223 reads as rewritten:

7           "**SECTION 24.5.** This ~~section-Part~~ applies to estates that are pending."

8           **SECTION 103.(b)** G.S. 58-7-178(a), as rewritten by Section 8.11 of S.L.  
9 2001-223, reads as rewritten:

10          "(a) An insurer authorized to transact insurance in a foreign country or any U.S.  
11 territory may have funds invested in securities that may be required for that authority  
12 and for the transaction of that business, provided the funds and securities are  
13 substantially of the same kinds, classes, and investment grades as those otherwise  
14 eligible for investment under this Chapter. ~~ereent (5%) of admitted assets.~~ The  
15 aggregate amount of investments under this subsection shall not exceed the amount that  
16 the insurer is required by law to invest in the foreign country or United States territory,  
17 or one and one-half times the amount of reserves and other obligations under the  
18 contracts, whichever is greater."

19          **SECTION 104.** The prefatory language of Section 2 of S.L. 2001-281 reads  
20 as rewritten:

21          "**SECTION 2.** ~~G.S. 20-182(e)~~ G.S. 90-182(c) reads as rewritten:"

22          **SECTION 105.(a)** The prefatory language of Section 2 of S.L. 2001-297 is  
23 rewritten to read:

24          "**SECTION 2.** G.S. 58-65-1 reads as rewritten:"

25          **SECTION 105.(b)** The statutory catch line in Section 2 of S.L. 2001-297 is  
26 rewritten to read:

27          "**§58-65-1. Regulation and definitions; application of other laws; profit**  
28 **and foreign corporations prohibited.**"

29          **SECTION 106.(a)** Effective October 1, 2001, Section 17.4 of S.L. 2001-334  
30 is repealed.

31          **SECTION 106.(b)** Effective October 1, 2001, G.S. 58-67-50(b), as rewritten  
32 by Section 8.1 of S.L. 2001-334, reads as rewritten:

33          "(b) (1) Premium approval. – No schedule of premiums for coverage for  
34 health care services, or any amendment to the schedule, shall be  
35 used in conjunction with any health care plan until a copy of the  
36 schedule or amendment has been filed with and approved by the  
37 Commissioner.

38          (2) Individual coverage. – Premiums shall be established in accordance  
39 with actuarial principles for various categories of enrollees.  
40 Premiums applicable to an enrollee shall not be individually  
41 determined based on the status of the enrollee's health. Premiums  
42 shall not be excessive, inadequate or unfairly discriminatory; and  
43 shall exhibit a reasonable relationship to the benefits provided by

1 the evidence of coverage. The premiums or any premium revisions  
2 ~~to the premiums with respect to~~ for nongroup enrollee coverage  
3 shall be guaranteed, as to every enrollee covered under the same  
4 category of enrollee coverage, for a period of not less than 12  
5 months. As an alternative to giving this guarantee for nongroup  
6 enrollee coverage, the premium or premium revisions may be made  
7 applicable to all similar ~~category~~ categories of enrollee coverage at  
8 one time if the health maintenance organization chooses to apply  
9 for the premium revision with respect to ~~such~~ the categories of  
10 coverages no more frequently than once in any 12-month period.  
11 The premium revision shall be applicable to all categories of  
12 nongroup enrollee coverage of the same type; provided that no  
13 premium revision may become effective for any category of  
14 enrollee coverage unless the HMO has given written notice of the  
15 premium revision to the enrollee 45 days before the effective date  
16 of the revision. The enrollee ~~thereafter~~ then pay the revised  
17 premium in order to continue the contract in force. The  
18 Commissioner may adopt reasonable rules, after notice and  
19 hearing, to require the submittal of supporting data and such  
20 information as the Commissioner considers necessary to determine  
21 whether the rate revisions meet the standards in this subdivision. In  
22 adopting the rules under this subsection, the Commissioner may  
23 require identification of the types of rating methodologies used by  
24 filers and may also address standards for data in HMO rate filings  
25 for initial filings, filings by recently licensed HMOs, and rate  
26 revision filings; data requirements for service area expansion  
27 requests; policy reserves used in rating; incurred loss ratio  
28 standards; and other recognized actuarial principles of the NAIC,  
29 the American Academy of Actuaries, and the Society of Actuaries.

- 30 (3) Group coverage. – Employer group premiums shall be established  
31 in accordance with actuarial principles for various categories of  
32 enrollees, provided that premiums applicable to an enrollee shall  
33 not be individually determined based on the status of the enrollee's  
34 health. Premiums shall not be excessive, inadequate, or unfairly  
35 discriminatory, and shall exhibit a reasonable relationship to the  
36 benefits provided by the evidence of coverage. The premiums or  
37 any revisions to the premiums for employer group coverage shall  
38 be guaranteed for a period of not less than 12 months. No premium  
39 revision shall become effective for any category of group coverage  
40 unless the HMO has given written notice of the premium revision  
41 to the master group contract holder upon receipt of the group's  
42 finalized benefits or 45 days before the effective date of the  
43 revision, whichever is earlier. The master group contract holder

1                   thereafter must pay the revised premium in order to continue the  
2                   contract in force. The Commissioner may adopt reasonable rules,  
3                   after notice and hearing, to require the submittal of supporting data  
4                   and such information as the Commissioner considers necessary to  
5                   determine whether the rate revisions meet the standards in this  
6                   subdivision."

7                   **SECTION 107.(a)** Section 14.(b) of S.L. 2001-358 reads as rewritten:

8                   "**SECTION 14.(b)** G.S. 55-4-02, 55-4-03, 55-4-04, and 55-4-05 are recodified as  
9                   G.S. 55D-23, 55D-24, 55D-25, and 55D-26, and ~~55D-27~~, respectively, in Article 3 of  
10                  Chapter 55D of the General Statutes."

11                  **SECTION 107.(b)** G.S. 59-62(c), as enacted by Section 41 of S.L.  
12                  2001-358, reads as rewritten:

13                  "(c) The name of a registered limited liability ~~company~~ partnership becomes  
14                  available for use by another entity as provided in G.S. 55D-21."

15                  **SECTION 107.5.(a)** Section 9 of S.L. 2001-379 reads as rewritten:

16                  "**SECTION 9.** Section 3 of this act becomes effective October 1, 2001 and applies  
17                  to actions filed before, on or after that date. Section 7 of this act is effective when it  
18                  becomes law and applies to actions pending on or after that date. The remainder of this  
19                  act becomes effective October 1, 2001, and applies to actions filed on or after that date."

20                  **SECTION 107.5.(b)** This section is effective October 1, 2001.

21                  **SECTION 108.** Section 5.1 of S.L. 2001-424 is amended by adding a new  
22                  subsection to read:

23                  "**SECTION 5.1.(bb)** If the Department of Health and Human Services determines  
24                  that sufficient funds are not available within the Work First Cash Assistance Program  
25                  and the Cash Assistance Reserve to provide cash assistance payments to all eligible  
26                  families in the 2001-2002 fiscal year, the Department may reduce the allocations under  
27                  the TANF Block Grant in this section to non cash assistance programs and services in  
28                  order to ensure that cash assistance payments to all eligible families continue throughout  
29                  the 2001-2002 fiscal year."

30                  **SECTION 109.** Section 6.20(c) of S.L. 2001-424 reads as rewritten:

31                  "**SECTION 6.20.(c)** The provisions of S.L. 2001-250, S.L. 2001-287, S.L.  
32                  2001-322, and ~~S.L. 2001-395~~, ~~S.L. 2001-~~S.L. 2001-395 remain in effect for the  
33                  2001-2002 fiscal year except to the extent that:

- 34                  (1) Those provisions are expressly repealed or amended in this act or  
35                  (2) Those provisions conflict with the provisions of this act. To the  
36                  extent of such a conflict, the provisions of this act shall prevail.  
37                  (3) Those provisions expire or expired pursuant to the provisions of  
38                  those acts."

39                  **SECTION 110.** Section 21.14(b) of S.L. 424 reads as rewritten:

40                  "**SECTION 21.14.(b)** Under the direction of the Secretary of Health and Human  
41                  Services, the Director of the Office of Policy and Planning shall have the authority to  
42                  direct Divisions, offices, and programs within the Department to conduct periodic  
43                  reviews of policies, plans, and rules and shall advise the Secretary when it is determined

1 to be appropriate or necessary to modify, amend, and repeal departmental policies,  
2 plans, and rules. All professional and supervisory employees in policy and management  
3 positions within the Office of Policy and Planning are exempt from Chapter 126 of the  
4 General Statutes except for Articles 6, 7, and 14 of that Chapter. ~~positions as that term is~~  
5 defined in G.S. 126-5. Exempt positions within the Office of Policy and Planning shall  
6 not count toward the exempt position totals authorized by G.S. 126-5(d)(1)."

7 **SECTION 111.** S.L. 2001-424 is amended by adding a new section to read:

8 "SECTION 21.18E. In addition to the requirements of G.S. 143-6.1, as a condition  
9 of receipt of funds appropriated by this act, the Child Advocacy Institute shall report to  
10 the Senate Appropriations Committee on Health and Human Services, the House of  
11 Representatives Appropriations Subcommittee on Health and Human Services, and the  
12 Fiscal Research Division by May 1, 2002, on the following:

- 13 (1) A detailed explanation of the use of funds appropriated by the General  
14 Assembly to the Child Advocacy Institute.
- 15 (2) A detailed explanation, including specific examples, of how the work  
16 of the Child Advocacy Institute has benefited the children of North  
17 Carolina.
- 18 (3) A detailed description of the demographic profile of the Child  
19 Advocacy Institute's constituents and a description of any outreach  
20 efforts to minority communities.
- 21 (4) A detailed report on the output of the Child Advocacy Institute over  
22 the past five years, including a list of publications and reports released  
23 by the Institute and training modules developed by the Institute.
- 24 (5) A detailed description of the relationship between the Child Advocacy  
25 Institute and the Covenant with North Carolina's Children, including  
26 an accounting of any State funds that support the work of the Covenant  
27 with North Carolina's Children."

28 **SECTION 112.** Section 21.76B(b) of S.L. 2001-424 reads as rewritten:

29 "SECTION 21.76B.(b) The Department of Health and Human Services and the  
30 Department of Public Instruction shall establish the "More at Four" Pre-K Task Force to  
31 oversee development and implementation of the pilot program. The membership shall  
32 include:

- 33 (1) Parents of at-risk children.
- 34 (2) Representatives with expertise in early childhood development.
- 35 (3) Classroom teachers who are certified in early childhood education.
- 36 (4) Representatives of the private not-for-profit and for-profit child care  
37 providers in North Carolina.
- 38 (5) Employees of the Department of Health and Human Services who are  
39 knowledgeable in the areas of early childhood development, current  
40 State and federally funded efforts in child development, and providing  
41 child care.
- 42 (6) Representatives of the North Carolina Partnership for Children, Inc.,  
43 and of local Smart Start partnerships.

- 1 (7) Representatives of local school administrative units.  
2 (8) Representatives of Head Start prekindergarten programs in North  
3 Carolina.  
4 (9) Employees of the Department of Public Instruction."

5 **SECTION 113.** Section 21.84(a) of S.L. 2001-424 reads as rewritten:

6 "SECTION 21.84.(a) The Department of Health and Human Services, Division of  
7 Public Health shall not expand the ~~Student Information Management System~~  
8 interagency database system pilot program statewide during the 2001-2002 fiscal year.  
9 The Department shall maintain, evaluate, and improve the three pilot projects  
10 implemented in the 2000-2001 fiscal year, and provide a report on the status of the  
11 system to the Senate Appropriations Committee on Health and Human Services, the  
12 House of Representatives Appropriations Subcommittee on Health and Human  
13 Services, and the Fiscal Research Division by October 1, 2001. The report shall include  
14 the status of the operations of the database, a plan for statewide expansion, and the costs  
15 associated with the expansion."

16 **SECTION 114.(a)** The heading of Section 22.8 of S.L. 2001-424 reads as  
17 rewritten:

18 "AUTHORIZE FAMILY DRUG TREATMENT COURTS TO SERVE  
19 ADDICTED PARENTS OF ABUSED AND NEGLECTED CHILDREN AND TO  
20 SERVE SUBSTANCE-ABUSING JUVENILE OFFENDERS WHO COME  
21 UNDER THE COURTS' JURISDICTION/DRUG TREATMENT COURT  
22 PROGRAM FOR JUDICIAL ~~DISTRICT~~ DISTRICTS 3B AND 28."

23 **SECTION 114.(b)** Subsection (h) of Section 22.8 of S.L. 2001-424 reads as  
24 rewritten:

25 **SECTION 22.8.(h)** The Judicial Department may seek non-State funds and provide  
26 technical assistance to the local drug treatment court planning committee for the  
27 purpose of implementing a drug treatment court program in ~~the 28<sup>th</sup> Judicial~~  
28 District, Judicial Districts 3B and 28."

29 **SECTION 114.5.(a)** Subdivision (3) of Section 26.11 of S.L. 2001-424 is  
30 repealed, and the position eliminated thereby is restored.

31 **SECTION 114.5.(b)** There is established within the Department of Crime  
32 Control and Public Safety an additional position of Law Enforcement Program  
33 Specialist.

34 **SECTION 114.5.(c)** There is appropriated from the General Fund to the  
35 Department of Crime Control and Public Safety the sum of sixty-five thousand nine  
36 hundred sixty-eight dollars (\$65,968) for the 2001-2002 fiscal year and the sum of one  
37 hundred thirty-one thousand nine hundred thirty-six dollars (\$131,936) for the 2002-  
38 2003 fiscal year to fund the positions authorized by this section.

39 **SECTION 114.6.** Section 28.45 of S.L. 2001-424 reads as rewritten:

40 "SECTION 28.45. The State Auditor shall audit ExplorNet, Incorporated, for fiscal  
41 year 1999-2000 and fiscal year 2000-2001, under G.S. 143-6.1(f). No State funds  
42 appropriated for distribution to ExplorNet, Incorporated, shall be disbursed until the  
43 State Auditor and the Office of State Budget and Management certify that ExplorNet,



1 Incorporated, is capable of managing the funds in accordance with law and has  
2 established adequate financial procedures and controls. If the State Auditor does not  
3 complete the audit prior to March 15, 2002, the Office of State Budget and Management  
4 shall authorize the State Board of Education to disburse funds only for grants to local  
5 school administrative units. The State Board of Education shall consult with ExplorNet,  
6 Incorporated, prior to the disbursal of these funds.

7 A copy of the State Auditor's report shall be sent to the Joint Legislative Education  
8 Oversight Committee and to the Joint Legislative Commission on Governmental  
9 Operations.

10 Eighty percent (80%) of any funds disbursed pursuant to this section shall be  
11 distributed in the form of grants to local school administrative units."

12 **SECTION 115.(a)** The heading of Section 27.29 of S.L. 2001-424 reads as  
13 rewritten:

14 **"RAIL DIVISION FUNDS FOR ~~RAILROAD BRIDGE REPLACEMENT~~**  
15 **~~PROJECT PLANNING AND PRELIMINARY ENGINEERING~~**  
16 **MAINTENANCE OF RAILROAD TRACK AND SIGNAL IMPROVEMENT"**

17 **SECTION 115.(b)** Section 27.29 of S.L. 2001-424 reads as rewritten:

18 **"SECTION 27.29.** Of funds appropriated to the Department of Transportation Rail  
19 Division, ~~up to eight hundred thousand dollars (\$800,000) shall be used for planning~~  
20 ~~and preliminary engineering of the Neuse Railroad Bridge east of Kinston replacement~~  
21 ~~project and the Highway 54 Railroad bridge in Research Triangle Park replacement~~  
22 ~~project.~~used for maintenance of track, signals and equipment."

23 **SECTION 116.** Section 28.17(h) of S.L. 2001-424 reads as rewritten:

24 **"SECTION 28.17.(h)** Students in a local school shall not be subject to field tests or  
25 national tests during the two-week period preceding the administration of the  
26 end-of-grade tests, end-of-course tests, or the school's regularly scheduled final exams.  
27 No school shall participate in more than two field tests at any one grade level during a  
28 school year ~~unless that:~~unless:

- 29 (1) That school volunteers, through a vote of its school improvement  
30 team, to participate in an expanded number of field tests.~~tests;~~ or  
31 (2) The State Board of Education makes written findings, based on  
32 information provided by the Department of Public Instruction, that an  
33 additional field test must be administered at that school to ensure the  
34 reliability and validity of a specific test."

35 **SECTION 117.** Section 32.24(c) of S.L. 2001-424 reads as rewritten:

36 **"SECTION 32.24A.(a)** This section becomes effective January 1, ~~2002.~~2003."

37 **SECTION 118.(a)** Section 6(e) of S.L. 2001-427 is repealed.

38 **SECTION 118.(b)** The introductory language of Section 13(a) of S.L.  
39 2001-427 reads as rewritten:

40 **"SECTION 13.(a)** G.S. 105-472(a) ~~and (b)~~reads read as rewritten:"

41 **SECTION 119.** Section 18 of S.L. 2001-430 reads as rewritten:

42 **"SECTION 18.** Pursuant to G.S. 62-31 and G.S. 62-32, the Utilities Commission  
43 must lower the ~~rate set for local telecommunications services~~rates set for

1 telecommunications services to reflect the repeal of G.S. 105-120 and the resulting  
2 liability of local telecommunications companies for the tax imposed under G.S.  
3 105-122."

4 **SECTION 120.** Section 11 of S.L. 2001-433 reads as rewritten:

5 "**SECTION 11.** This act becomes effective ~~October 1, 2001~~December 1, 2001."

6 **SECTION 121.** The prefatory language of Section 2 of S.L. 2001-450 reads  
7 as rewritten:

8 "**SECTION 2.** ~~G.S. 10-9~~G.S. 10A-9 is amended by adding the following  
9 subsections to read:"

10 **SECTION 121.5.** District 36 as described in Section 1 of S.L. 2001-458  
11 reads as rewritten:

12 "District 36: Franklin County: Precinct WEST YOUNGSVILLE, Precinct EAST  
13 HARRIS, Precinct PEARCES, Precinct EAST YOUNGSVILLE, Precinct WEST  
14 HARRIS; Wake County: Precinct 01-42, Precinct 01-45, Precinct 01-47, Precinct 02-  
15 01, Precinct 02-02, Precinct 02-03, Precinct 02-04, Precinct 02-05, Precinct 02-06,  
16 Precinct 05-00, Precinct 07-02, Precinct 07-03, Precinct 07-04, Precinct 07-05, Precinct  
17 07-06, Precinct 07-07, Precinct 07-10, Precinct 07-11, Precinct 07-12, Precinct 08-01,  
18 Precinct 08-02, Precinct 08-03, Precinct 08-04, Precinct 08-05, Precinct 08-06, Precinct  
19 08-08, Precinct 13-02: Tract 540.09: Block Group 2: Block 2000, Block 2001, Block  
20 2002, Block 2004, Block 2005, Block 2006, Block 2007, Block 2008, Block 2009,  
21 Block 2010, Block 2011, Block 2012, Block 2013, Block 2014, Block 2015, Block  
22 2016, Block 2017, Block 2018, Block 2019, Block 2020, Block 2021, Block 2022,  
23 Block 2023, Block 2024, Block 2025, Block 2026, Block 2027, Block 2028, Block  
24 2029, Block 2030, Block 2031, Block 2032, Block 2033, Block 2034, Block 2035,  
25 Block 2036, Block 2037, Block 2038, Block 2039, Block 2040, Block 2041, Block  
26 2042, Block 2043, Block 2044, Block 2045, Block 2046, Block 2047, Block 2048,  
27 Block 2049, Block 2050, Block 2051, Block 2052, Block 2053, Block 2054, Block  
28 2055, Block 2056, Block 2057, Block 2058, Block 2059, Block 2060, Block 2061,  
29 Block 2079, Block 2080, Block 2081, Block 2999; Tract 540.10: Block Group 1:  
30 Block 1000, Block 1001, Block 1002, Block 1003, Block 1004, Block 1005, Block  
31 1006, Block 1007, Block 1008, Block 1009, Block 1010, Block 1011, Block 1012,  
32 Block 1013, Block 1014, Block 1015, Block 1016, Block 1017, Block 1018, Block  
33 1019, Block 1020, Block 1021, Block 1022, Block 1023, Block 1024, Block 1025,  
34 Block 1026, Block 1027, Block 1028, Block 1029, Block 1030, Block 1031, Block  
35 1032, Block 1033, Block 1034, Block 1035, Block 1036, Block 1037, Block 1038,  
36 Block 1039, Block 1040, Block 1041, Block 1042, Block 1043, Block 1044, Block  
37 1045, Block 1048, Block 1049, Block 1051, Block 1054, Block 1055, Block 1058,  
38 Block 1059; Tract 542.01: Block Group 5: Block 5999; Precinct 14-01, Precinct 14-  
39 02, Precinct 19-01, Precinct 19-02, Precinct 19-03, Precinct 19-04, Precinct 19-05,  
40 Precinct 19-06, Precinct 19-07, Precinct 19-08."

41 **SECTION 122.(a)** G.S. 105-164.4(a)(1g)b., as enacted by S.L. 2001-476,  
42 reads as rewritten:

"b. Rates. – A single tax rate applies to all of the qualified electricity received by an industry or a plant in each fiscal year beginning July 1. That tax rate is determined based on the megawatt-hour volume of qualified electricity received by the industry or plant during the previous calendar year, in accordance with the following table. The rates set based on the table are subject to adjustment as provided in sub-subdivision f. of this subdivision.

Previous Year's Megawatt-Hours Received	Rate for Fiscal Year
<del>1,200,000</del> 900,000 or Less	2.83%
Over <del>1,200,000</del> 900,000	0.17%".

**SECTION 122.(b)** Section 17(f) of S.L. 2001-476 is amended as follows:

- (1) By deleting the phrase "~~1,200,000~~" and substituting the phrase "900,000"; and
- (2) By deleting the phrase "up to 1,200,000" and substituting the phrase "up to 900,000".

**SECTION 122.(c)** Section 17(g) of S.L. 2001-476 reads as rewritten:

"**SECTION 17.(g)** Subsections (b) and (c) of this section become effective ~~July~~ January 1, 2002, and apply to sales made on or after that date. Subsection (f) of this section becomes effective July 1, 2005, and applies to sales made on or after that date. The remainder of this section is effective when it becomes law."

**SECTION 122.(d)** This section is effective when it becomes law and applies to sales made on or after January 1, 2002.

**SECTION 123.** Section 8(c) of S.L. 2001-476 reads as rewritten:

"**SECTION 8.(c)** This section is effective for ~~taxable years beginning business activities occurring on or after January 1, 2002.~~ In addition, this section applies to business activities occurring before January 1, 2002, for which no application has been filed with the Department of Commerce as of January 1, 2003. For business activities occurring before January 1, 2002, for which no application for certification has been filed as of January 1, 2002, the taxpayer must file an application pursuant to G.S. 105-129.6, accompanied by any required fee, with the Department of Commerce. The Department of Commerce shall not make a determination regarding eligibility for credits under Article 3A of Chapter 105 of the General Statutes based on the application and shall not issue a certification, but shall instead mark on the application that the fee has been paid and return the application to the taxpayer. The taxpayer must then submit the application along with the relevant tax return. The relevant tax return is the first return on which the credit is claimed if that return is an amended return. In all other cases, the relevant return is the next return filed by the taxpayer. The Department of Commerce shall retain one-fourth of these fees collected during the 2002 calendar year for the costs of administering Article 3A of Chapter 105 of the General Statutes and

1 shall credit the remaining proceeds of these fees to the Department of Revenue for the  
2 costs of auditing and administering Article 3A of Chapter 105 of the General Statutes.  
3 The proceeds of these fees are receipts of the Department to which they are credited."

4 **SECTION 123.5.** If Senate Bill 649, 2001 General Assembly, becomes law,  
5 Section 6 reads as rewritten:

6 "SECTION 6. Sections 1, 2, and 3 of this act become effective December 4,  
7 31 2001. Section 5 of this act becomes effective upon ~~ratification and expires~~  
8 ~~November 1, 2001.~~ ratification. Section 4 of this act becomes effective December 31,  
9 2001. Section 6 becomes effective when it becomes law."

10 **SECTION 124.** Notwithstanding G.S. 150B-21.1(a)(2), the Health and  
11 Wellness Trust Fund Commission and the Tobacco Trust Fund Commission shall have  
12 the authority to adopt temporary rules as a recent act of the General Assembly through  
13 June 30, 2002, in order to adopt rules as authorized in S.L. 2000-147.

14 **SECTION 125.** The North Carolina Department of Transportation is  
15 authorized to expend funds as necessary to assist in implementing the objectives of G.S.  
16 143-641. The Department shall provide a report of any expenditures as authorized in  
17 this section no later than March 15 and October 15 of each year to the Joint Legislative  
18 Commission on Governmental Operations.

19 **SECTION 125.1.** G.S. 136-44 reads as rewritten:

20 "~~§ 136-44. Maintenance of grounds at home of Nathaniel Macon and grave of~~  
21 ~~Anne Carter Lee. grounds.~~

22 The Department of Transportation is hereby authorized and directed through the  
23 highway supervisor of the district that includes Warren County ~~District~~, to clean off and  
24 keep clean the premises and grounds at the old home of Nathaniel Macon, known as  
25 "Buck Springs," which are owned by the County of Warren, and also to look after the  
26 care and keeping the grounds surrounding the grave of Miss Anne Carter Lee, daughter  
27 of General Robert E. Lee, in Warren County.

28 The Department of Transportation is authorized and directed through the highway  
29 supervisor of the district that includes Pender County to maintain the grounds  
30 surrounding the grave of Governor Samuel Ashe in Pender County."

31 **SECTION 125.2.** Notwithstanding Part 6A of Article 16 of Chapter 115C of  
32 the General Statutes, the Winston-Salem/Forsyth Board of Education and the board of  
33 directors of a charter school may enter into a partnership agreement for the operation of  
34 that charter school upon any terms and conditions as are mutually agreeable to the  
35 parties. These terms and conditions may include, but are not limited to, the conversion  
36 of a public school to a charter school under the terms of G.S. 115C-238.29B(a) and the  
37 transfer of the charter to the local board of education.

38 **SECTION 125.3.** Article 22 of Chapter 53 of the General Statutes is  
39 amended by adding a new section to read:

40 "§ 53-281.1. No enforcement of deferred deposit transactions.

41 Notwithstanding G.S. 53-277(a)(1), no default on a deferred deposit transaction  
42 made by a bank through an independent contractor who originates, processes, arranges,  
43 or accepts or transmits applications for deferred deposit transactions in North Carolina

1 on behalf of the bank shall be enforced through the courts of this State. For purposes of  
2 this section, deferred deposit transaction means a check-cashing or similar loan  
3 transaction in which a person pays a cash advance to a customer in return for a payment  
4 device and agrees, for consideration, to hold the payment device for a period of days  
5 prior to deposit, presentment, or withdrawal. For purposes of this section, payment  
6 device means an electronic or written check, draft, money order, authorization for an  
7 electronic debit or withdrawal, or other electronic or written instrument or order for the  
8 transmission or payment of money or monetary value, whether or not the instrument is  
9 negotiable."

10 **SECTION 125.4.(a)** G.S. 147-12 is amended by adding a new subdivision to  
11 read:

12 "(14) To negotiate and enter into Class III Tribal-State gaming compacts,  
13 and amendments thereto, on behalf of the State consistent with State  
14 law and the Indian Gaming Regulatory Act, Public Law 100-497, as  
15 necessary to allow a federally recognized Indian tribe to operate  
16 gaming activities in this State as permitted under federal law."

17 **SECTION 125.4.(b)** Chapter 71A of the General Statutes is amended by  
18 adding a new section to read:

19 **"§ 71A-8. Authorization for federally recognized Indian tribes.**

20 In recognition of the governmental relationship between the State, federally  
21 recognized Indian tribes and the United States, a federally recognized Indian tribe may  
22 conduct games consistent with the Indian Gaming Regulatory Act, Public Law 100-497,  
23 that are in accordance with a valid Tribal-State compact executed by the Governor  
24 pursuant to G.S. 147-12(14) and approved by the U.S. Department of Interior under the  
25 Indian Gaming Regulatory Act, and such games shall not be unlawful or against the  
26 public policy of the State if the State permits such gaming for any purpose by any  
27 person, organization, or entity."

28 **SECTION 125.4.(c)** This section is effective August 1, 1994, and applies to  
29 compacts and amendments thereto executed on or after that date.

30 **SECTION 126.** Except as otherwise provided herein, this act is effective  
31 when it becomes law.