

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2015

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SENATE BILL 821*
Judiciary I Committee Substitute Adopted 6/21/16

Short Title: GSC Technical Corrections 1. (Public)

Sponsors:

Referred to:

May 10, 2016

A BILL TO BE ENTITLED

AN ACT TO MAKE TECHNICAL CORRECTIONS TO THE GENERAL STATUTES, AS
RECOMMENDED BY THE GENERAL STATUTES COMMISSION, AND TO MAKE
ADDITIONAL TECHNICAL AND OTHER AMENDMENTS TO THE GENERAL
STATUTES.

The General Assembly of North Carolina enacts:

**PART I. TECHNICAL CORRECTIONS RECOMMENDED BY THE GENERAL
STATUTES COMMISSION**

SECTION 1. G.S. 14-118.6(b1) reads as rewritten:

"(b1) When a lien or encumbrance is presented to a clerk of superior court for filing and the clerk of court has a reasonable suspicion that the lien or encumbrance is false as described in subsection (a) of this section, the clerk of court may refuse to file the lien or encumbrance. Neither the clerk of court nor the clerk's staff shall be liable for filing or the refusal to file a lien or encumbrance under this subsection. The clerk of superior court shall not file, index, or docket the document against the property of a public officer or public employee until that document is approved by any judge of the judicial district having subject matter jurisdiction for filing by the clerk of superior court by any judge of the judicial district having subject matter jurisdiction. If the judge determines that the filing is not false, the clerk shall index the claim of lien. A lien or encumbrance filed upon order of the court under this subsection shall have a priority interest as of the date and time of indexing by the clerk of superior court. If the court finds that there is no statutory or contractual basis for the proposed filing, the court shall enter an order that the proposed filing is null and void as a matter of law, and that it shall not be filed or indexed. The clerk of superior court shall serve the order and return the original denied filing to the person or entity that presented it. The person or entity shall have 30 days from the entry of the order to appeal the order. If the order is not appealed within the applicable time period, the clerk may destroy the filing."

SECTION 1.1. G.S. 14-159.3(a1) reads as rewritten:

"(a1) A landowner who gives a person written consent to operate an all-terrain vehicle on his or her the landowner's property owes the person the same duty of care that he or she the landowner owes a trespasser."

SECTION 2. G.S. 14-208.6 reads as rewritten:

"§ 14-208.6. Definitions.

The following definitions apply in this Article:

...



(5) "Sexually violent offense" means a violation of former G.S. 14-27.6 (attempted rape or sexual offense), G.S. 14-27.21 (first-degree forcible rape), G.S. 14-27.22 (second-degree forcible rape), G.S. 14-27.23 (statutory rape of a child by an adult), G.S. 14-27.24 (first-degree statutory rape), G.S. 14-27.25(a) (statutory rape of a person who is 15 years of age or younger and where the defendant is at least six years older), G.S. 14-27.26 (first-degree forcible sexual offense), G.S. 14-27.27 (second-degree forcible sexual offense), G.S. 14-27.28 (statutory sexual offense with a child by an adult), G.S. 14-27.29 (first-degree statutory sexual offense), G.S. 14-27.30(a) (statutory sexual offense with a person who is 15 years of age or younger and where the defendant is at least six years older), G.S. 14-27.31 (sexual activity by a substitute parent or custodian), G.S. 14-27.32 (sexual activity with a student), G.S. 14-27.33 (sexual battery), G.S. 14-43.11 (human trafficking) if (i) the offense is committed against a minor who is less than 18 years of age or (ii) the offense is committed against any person with the intent that they be held in sexual servitude, G.S. 14-43.13 (subjecting or maintaining a person for sexual servitude), G.S. 14-178 (incest between near relatives), G.S. 14-190.6 (employing or permitting minor to assist in offenses against public morality and decency), G.S. 14-190.9(a1) (felonious indecent exposure), G.S. 14-190.16 (first degree sexual exploitation of a minor), G.S. 14-190.17 (second degree sexual exploitation of a minor), G.S. 14-190.17A (third degree sexual exploitation of a minor), G.S. 14-202.1 (taking indecent liberties with children), G.S. 14-202.3 (Solicitation of child by computer or certain other electronic devices to commit an unlawful sex act), G.S. 14-202.4(a) (taking indecent liberties with a student), G.S. 14-205.2(c) or (d) (patronizing a prostitute who is a minor or a mentally disabled person), G.S. 14-205.3(b) (promoting prostitution of a minor or a mentally disabled person), G.S. 14-318.4(a1) (parent or caretaker commit or permit act of prostitution with or by a juvenile), or G.S. 14-318.4(a2) (commission or allowing of sexual act upon a juvenile by parent or guardian). The term also includes the following: a solicitation or conspiracy to commit any of these offenses; aiding and abetting any of these offenses.

...."

SECTION 2.1. G.S. 20-45 reads as rewritten:

"§ 20-45. Seizure of documents and plates.

(a) The Division is ~~hereby~~ authorized to take possession of any certificate of title, registration card, permit, license, or registration plate issued by it upon expiration, revocation, cancellation, or suspension thereof, or which is fictitious, or which has been unlawfully or erroneously issued, or which has been unlawfully used.

(b) The Division may give notice to the owner, licensee or lessee of its authority to take possession of any certificate of title, registration card, permit, license, or registration plate issued by it and require that person to surrender it to the Commissioner or his ~~the Commissioner's~~ officers or agents. Any person who fails to surrender the certificate of title, registration card, permit, license, or registration plate or any duplicate thereof, upon personal service of notice or within 10 days after receipt of notice by mail as provided in G.S. 20-48, shall be guilty of a Class 2 misdemeanor.

(c) Any sworn law enforcement officer with jurisdiction, including a member of the State Highway Patrol, is authorized to seize the certificate of title, registration card, permit, license, or registration plate, if the officer has electronic or other notification from the Division that the item has been revoked or cancelled, or otherwise has probable cause to believe that the item has been revoked or cancelled under any law or statute, including ~~G.S. 20-309(e)~~ G.S. 20-311. If a criminal proceeding relating to a certificate of title, registration card, permit, or license is pending, the law

1 enforcement officer in possession of that item shall retain the item pending the entry of a final
2 judgment by a court with jurisdiction. If there is no criminal proceeding pending, the law
3 enforcement officer shall deliver the item to the Division.

4 (d) Any law enforcement officer who seizes a registration plate pursuant to this section
5 shall report the seizure to the Division within 48 hours of the seizure and shall return the
6 registration plate, but not a fictitious registration plate, to the Division within 10 business days of
7 the seizure."

8 **SECTION 3.** The catch line of G.S. 20-171.24 reads as rewritten:

9 "**§ 20-171.24. Motorized all-terrain vehicle use by municipal and county employees of listed**
10 **municipalities and counties permitted on certain highways.**"

11 **SECTION 3.1.** G.S. 24-10.1(a) reads as rewritten:

12 "(a) Subject to the limitations contained in subsection (b) of this section, any lender may
13 charge a party to a loan or extension of credit governed by the provisions of ~~G.S. 24-1.1, 24-1.2,~~
14 G.S. 24-1.1 or G.S. 24-1.1A a late payment charge as agreed upon by the parties in the loan
15 contract."

16 **SECTION 4.** G.S. 28A-2-4 reads as rewritten:

17 "**§ 28A-2-4. Subject matter jurisdiction of the clerk of superior court in estate proceedings.**

18 (a) The clerks of superior court of this State, as ex officio judges of probate, shall have
19 original jurisdiction of estate proceedings. Except as provided in subdivision (4) of this subsection,
20 the jurisdiction of the clerk of superior court is exclusive. Estate proceedings include, but are not
21 limited to, the following:

- 22 (1) Probate of wills.
- 23 (2) Granting and revoking of letters testamentary and letters of administration, or
24 other proper letters of authority for the administration of estates.
- 25 (3) Determination of the elective share for a surviving spouse as provided in
26 G.S. 30-3.
- 27 (4) Proceedings to ascertain heirs or devisees, to approve settlement agreements
28 pursuant to G.S. 28A-2-10, to determine questions of construction of wills, to
29 determine priority among creditors, to determine whether a person is in
30 possession of property belonging to an estate, to order the recovery of property
31 of the estate in possession of third parties, and to determine the existence or
32 nonexistence of any immunity, power, privilege, duty, or right. Any party or the
33 clerk of superior court may file a notice of transfer of a proceeding pursuant to
34 this subdivision to the Superior Court Division of the General Court of Justice
35 as provided in G.S. 28A-2-6(h). In the absence of a transfer to superior court,
36 Article 26 of Chapter 1 of the General Statutes shall apply to ~~a trust~~ an estate
37 proceeding pending before the clerk of superior court to the extent consistent
38 with this Article.

39 (b) Nothing in this section shall affect the right of a person to file an action in the Superior
40 Court Division of the General Court of Justice for declaratory relief under Article 26 of Chapter 1
41 of the General Statutes. In the event that either the petitioner or the respondent in an estate
42 proceeding requests declaratory relief under Article 26 of Chapter 1 of the General Statutes, either
43 party may move for a transfer of the proceeding to the Superior Court Division of the General
44 Court of Justice as provided in Article 21 of Chapter 7A of the General Statutes. In the absence of
45 a removal to superior court, Article 26 of Chapter 1 of the General Statutes shall apply to an estate
46 proceeding to the extent consistent with this Article.

47 (c) Without otherwise limiting the jurisdiction of the Superior Court Division of the
48 General Court of Justice, the clerk of superior court shall not have jurisdiction under subsection (a)
49 or ~~(e)-(b)~~ of this section or G.S. 28A-2-5 of the following:

- 50 (1) Actions by or against creditors or debtors of an estate, except as provided in
51 Article 19 of this Chapter.

- 1 (2) Actions involving claims for monetary damages, including claims for breach of
2 fiduciary duty, fraud, and negligence.
3 (3) Caveats, except as provided under G.S. 31-36.
4 (4) Proceeding to determine proper county of venue as provided in G.S. 28A-3-2.
5 (5) Recovery of property transferred or conveyed by a decedent with intent to
6 hinder, delay, or defraud creditors, pursuant to G.S. 28A-15-10(b)."

7 **SECTION 5.** Reserved.

8 **SECTION 6.** G.S. 28A-19-5(b) reads as rewritten:

9 "(b) With respect to a contingent or unliquidated claim rejected by a personal representative
10 pursuant to G.S. 28A-19-16, the claimant may, within the three-month period prescribed by
11 G.S. 28A-19-16, file a petition for an order of the clerk of superior court in accordance with
12 subsection (a) of this section, provided that nothing in this section shall require the clerk of
13 superior court to hear and determine the validity of, priority of, or amount of a contingent or
14 unliquidated claim that has not yet become absolute."

15 **SECTION 7.** G.S. 31B-1(a) reads as rewritten:

16 "(a) A person who succeeds to a property interest as:

17 ...

- 18 (8) ~~Appointee~~ Appointee, permissible appointee, or taker in default under a power
19 of appointment exercised by a testamentary instrument or a nontestamentary
20 instrument;

21 ...

22 may renounce at anytime, in whole or in part, the right of succession to any property or interest
23 therein, including a future interest, by filing a written instrument under the provisions of this
24 Chapter. A renunciation may be of a fractional share or any limited interest or estate. The
25 renunciation shall be deemed to include the entire interest of the person whose property or interest
26 is being renounced unless otherwise specifically limited. A person may renounce any interest in or
27 power over property, including a power of appointment, even if its creator imposed a spendthrift
28 provision or similar restriction on transfer or a restriction or limitation on the right to renounce.
29 Notwithstanding the foregoing, there shall be no right of partial renunciation if the instrument
30 creating the interest expressly so provides."

31 **SECTION 7.1.** G.S. 36C-8-816.1 reads as rewritten:

32 **"§ 36C-8-816.1. Trustee's special power to appoint to a second trust.**

33 (a) For purposes of this section, the following definitions apply:

- 34 (1) Current beneficiary. – A person who is a permissible distributee of trust income
35 or principal.
36 (2) Original trust. – A trust established under an irrevocable trust instrument
37 pursuant to the terms of which a trustee has a discretionary power to distribute
38 principal or income of the trust to or for the benefit of one or more current
39 beneficiaries of the trust.
40 (3) Second trust. – A trust established under an irrevocable trust instrument, the
41 current beneficiaries of which are one or more of the current beneficiaries of the
42 original trust. The second trust may be a trust created under the same trust
43 instrument as the original trust or under a different trust instrument.

44 (b) A trustee of an original trust may, without authorization by the court, exercise the
45 discretionary power to distribute principal or income to or for the benefit of one or more current
46 beneficiaries of the original trust by appointing all or part of the principal or income of the original
47 trust subject to the power in favor of a trustee of a second trust. The trustee of the original trust
48 may exercise this power whether or not there is a current need to distribute principal or income
49 under any standard provided in the terms of the original trust. The trustee's special power to
50 appoint trust principal or income in further trust under this section includes the power to create the
51 second trust. The second trust may have a duration that is longer than the duration of the first trust.

- 1 (c) The terms of the second trust shall be subject to all of the following:
- 2 (1) The beneficiaries of the second trust may include only beneficiaries of the
- 3 original trust.
- 4 (2) A beneficiary who has only a future beneficial interest, vested or contingent, in
- 5 the original trust cannot have the future beneficial interest accelerated to a
- 6 present interest in the second trust.
- 7 (3) The terms of the second trust may not reduce any fixed income, annuity, or
- 8 unitrust interest of a beneficiary in the assets of the original trust if that interest
- 9 has come into effect with respect to the beneficiary.
- 10 (4) If any contribution to the original trust qualified for a marital or charitable
- 11 deduction for federal income, gift, or estate tax purposes under the Internal
- 12 Revenue Code, then the second trust shall not contain any provision that, if
- 13 included in the original trust, would have prevented the original trust from
- 14 qualifying for the deduction or that would have reduced the amount of the
- 15 deduction.
- 16 (5) If contributions to the original trust have been excluded from the gift tax by the
- 17 application of section 2503(b) and section 2503(c) of the Internal Revenue
- 18 Code, then the second trust shall provide that the beneficiary's remainder
- 19 interest in the contributions shall vest and become distributable no later than the
- 20 date upon which the interest would have vested and become distributable under
- 21 the terms of the original trust.
- 22 (6) If any beneficiary of the original trust has a power of withdrawal over trust
- 23 property, then either:
- 24 a. The terms of the second trust must provide a power of withdrawal in the
- 25 second trust identical to the power of withdrawal in the original trust; or
- 26 b. Sufficient trust property must remain in the original trust to satisfy the
- 27 outstanding power of withdrawal.
- 28 (7) If a trustee of an original trust exercises a power to distribute principal or
- 29 income that is subject to an ascertainable standard by appointing property to a
- 30 second trust, then the power to distribute income or principal in the second trust
- 31 must be subject to the same ascertainable standard as in the original trust and
- 32 must be exercisable in favor of the same current beneficiaries to whom such
- 33 distribution could be made in the original trust.
- 34 (8) The second trust may confer a power of appointment upon a beneficiary of the
- 35 original trust to whom or for the benefit of whom the trustee has the power to
- 36 distribute principal or income of the original trust. The permissible appointees
- 37 of the power of appointment conferred upon a beneficiary may include persons
- 38 who are not beneficiaries of the original or second trust. The power of
- 39 appointment conferred upon a beneficiary shall be subject to the provisions of
- 40 G.S. 41-23 specifying the permissible period allowed for the suspension of the
- 41 power of alienation of the original trust and the time from which that
- 42 permissible period is computed.
- 43 (9) The terms of the second trust shall not contain any provisions that would
- 44 jeopardize (i) the qualification of a transfer as a direct skip under section
- 45 2642(c) of the ~~Internal Revenue~~ Internal Revenue Code, (ii) if the first trust
- 46 owns subchapter S Corporation stock, the election to treat a corporation as a
- 47 subchapter S Corporation under section 1362 of the Internal Revenue Code,
- 48 (iii) if the first trust owns an interest in property subject to the minimum
- 49 distribution rules of section 401(a)(9) of the Internal Revenue Code, a favorable
- 50 distribution period by shortening the minimum distribution period, or (iv) any
- 51 other specific tax benefit for which a contribution originally the first trust was

1 clearly designed to qualify and for which the first trust qualified or would have
2 qualified for income, gift, estate, or generation-skipping transfer tax purposes.
3 but for the enactment of this section. In this subdivision, "tax benefit" means a
4 federal or State tax deduction, exemption, exclusion, or other benefit not
5 otherwise listed in this section, except for the benefit from having the settlor
6 considered the owner under sections 671 through 679 of the Internal Revenue
7 Code. Subject to clause (ii) above, the second trust may be a trust as to which
8 the settlor is not considered the owner under sections 671 through 679 of the
9 Internal Revenue Code even if the settlor is considered the owner of the first
10 trust, and the second trust may be a trust as to which the settlor of the first trust
11 is considered the owner under sections 671 through 679 of the Internal Revenue
12 Code, even if the settlor is not considered the owner of the first trust.

13 (10) Notwithstanding any other provision of this section, but subject to the
14 limitations of subdivisions (1), (2), (4), (5), and (9) of this subsection, a trustee
15 may exercise the power to appoint principal and income under subsection (b) of
16 this section with respect to a disabled beneficiary's interest in the original trust
17 to a second trust that is a supplemental needs trust that does not have (i) an
18 ascertainable standard (or has a different ascertainable standard); (ii) a fixed
19 income, annuity, or unitrust interest in the assets of the original trust; or (iii) a
20 right of withdrawal, if the trustee determines that it would be in the best interest
21 of the disabled beneficiary. For purposes of this subsection, the following
22 apply:

23 a. A "supplemental needs trust" means a trust that is a discretionary trust
24 under G.S. 36C-5-504 and relative to the original trust contains either
25 lesser or greater restrictions on the trustee's power to distribute income
26 or principal, and which the trustee believes would, if implemented,
27 allow the disabled beneficiary to receive greater governmental benefits
28 than the disabled beneficiary would receive if the power to appoint
29 principal and income had not been exercised.

30 b. "Governmental benefits" means medical assistance, financial aid, or
31 services from any local, State, or federal agency or department.

32 c. A "disabled beneficiary" means a current beneficiary of the original
33 trust who the trustee determines has a condition that substantially
34 impairs the beneficiary's ability to provide for his or her own support,
35 care, or custody whether or not the beneficiary has been adjudicated a
36 "disabled person" by any government agency or department.

37 d. The second supplemental needs trust shall not be liable to pay or
38 reimburse the State or any government or public agency for medical
39 assistance, financial aid, or services provided to the disabled beneficiary
40 except as provided in the second supplemental needs trust.

41 (d) A trustee may not exercise the power to appoint principal or income under subsection
42 (b) of this section if the trustee is a beneficiary of the original trust, but the remaining cotrustee or
43 a majority of the remaining cotrustees may act for the trust. If all the trustees are beneficiaries of
44 the original trust, then the court may appoint a special fiduciary with authority to exercise the
45 power to appoint principal or income under subsection (b) of this section.

46 (e) The exercise of the power to appoint principal or income under subsection (b) of this
47 section:

48 (1) Shall be considered the exercise of a power of appointment, other than a power
49 to appoint to the trustee, the trustee's creditors, the trustee's estate, or the
50 creditors of the trustee's estate; and

1 (2) Shall be subject to the provisions of G.S. 41-23 specifying the permissible
2 period allowed for the suspension of the power of alienation of the original trust
3 and the time from which that permissible period is computed; and
4 (3) Is not prohibited by a spendthrift provision or by a provision in the original
5 trust instrument that prohibits amendment or revocation of the trust.

6 (f) To effect the exercise of the power to appoint principal or income under subsection (b)
7 of this section, all of the following shall apply:

8 (1) The exercise of the power to appoint shall be made by an instrument in writing,
9 signed and acknowledged by the trustee, setting forth the manner of the
10 exercise of the power, including the terms of the second trust, and the effective
11 date of the exercise of the power. The instrument shall be filed with the records
12 of the original trust.

13 (2) The trustee shall give written notice to all qualified beneficiaries of the original
14 trust, at least 60 days prior to the effective date of the exercise of the power to
15 appoint, of the trustee's intention to exercise the power. The notice shall include
16 a copy of the instrument described in subdivision (1) of this subsection.

17 (3) If all qualified beneficiaries waive the notice period by a signed written
18 instrument delivered to the trustee, the trustee's power to appoint principal or
19 income shall be exercisable after notice is waived by all qualified beneficiaries,
20 notwithstanding the effective date of the exercise of the power.

21 (4) The trustee's notice under this subsection shall not limit the right of any
22 beneficiary to object to the exercise of the trustee's power to appoint and bring
23 an action for breach of trust seeking appropriate relief as provided by
24 G.S. 36C-10-1001.

25 (g) Nothing in this section shall be construed to create or imply a duty of the trustee to
26 exercise the power to distribute principal or income, and no inference of impropriety shall be made
27 as a result of a trustee not exercising the power to appoint principal or income conferred under
28 subsection (b) of this section. Nothing in this section shall be construed to abridge the right of any
29 trustee who has a power to appoint property in further trust that arises under the terms of the
30 original trust or under any other section of this Chapter or under another provision of law or under
31 common law.

32 (h) A trustee or beneficiary may commence a proceeding to approve or disapprove a
33 proposed exercise of the trustee's special power to appoint to a second trust pursuant to subsection
34 (b) of this section."

35 **SECTION 7.2.(a)** G.S. 39-33 and G.S. 39-34 are repealed.

36 **SECTION 7.2.(b)** G.S. 39-35 is recodified as G.S. 31D-5-505.

37 **SECTION 7.2.(c)** G.S. 39-36 is recodified as G.S. 31D-4-403.1.

38 **SECTION 7.3.** G.S. 42A-17(a) reads as rewritten:

39 "(a) A vacation rental agreement shall identify the name and address of the ~~bank or savings~~
40 ~~and loan association~~ federally insured depository institution in which the tenant's security deposit
41 and other advance payments are held in a trust account, and the landlord and real estate broker
42 shall provide the tenant with an accounting of such deposit and payments if the tenant makes a
43 reasonable request for an accounting prior to the tenant's occupancy of the property."

44 **SECTION 7.4.** G.S. 97-25(f) reads as rewritten:

45 "(f) In claims subject to G.S. 97-18(b) and (d), a party may file a motion as set forth in this
46 subsection regarding a request for medical compensation or a dispute involving medical issues.
47 The nonmoving party shall have the right to contest the motion. Motions and responses shall be
48 submitted contemporaneously via electronic ~~mail means~~ to the Commission and to the opposing
49 party or the opposing party's ~~attorney[, as follows]:~~ attorney, as follows:

50 (1) A party may file a motion with the Executive Secretary for an administrative
51 ruling regarding a request for medical compensation or a dispute involving

1 medical issues. The motion shall be decided administratively pursuant to rules
2 governing motions practices in contested cases. The Commission shall decide
3 the motion within 30 days of the filing of the motion unless an extension of
4 time to respond to the motion has been granted for good cause shown. Either
5 party may file a motion for reconsideration of the administrative order with the
6 Executive Secretary. Either party may request an expedited formal hearing
7 pursuant to G.S. 97-84 and subdivision (2) of this subsection to appeal the
8 decision of the Executive Secretary approving or denying the original motion or
9 the motion for reconsideration. Within five days of the filing of a request for an
10 expedited formal hearing pursuant to G.S. 97-84 and subdivision (2) of this
11 subsection to appeal the decision of the Executive Secretary, the Commission
12 shall assign a Deputy Commissioner to conduct the formal hearing. The
13 decision shall not be stayed during the pendency of an appeal pursuant to
14 G.S. 97-84 and subdivision (2) of this subsection except under those
15 circumstances set out in subdivision (4) of this subsection. A motion to stay
16 shall be filed with the Deputy Commissioner scheduled to conduct the formal
17 hearing pursuant to G.S. 97-84. Either party may appeal the decision of the
18 Deputy Commissioner pursuant to G.S. 97-84 to the Full Commission pursuant
19 to G.S. 97-85. The decision of the Deputy Commissioner shall not be stayed
20 during the pendency of an appeal except under those circumstances set out in
21 subdivision (4) of this subsection. A motion to stay the decision of the Deputy
22 Commissioner pursuant to G.S. 97-84 shall be directed to the Chair of the
23 Commission. The Full Commission shall render a decision on the appeal of the
24 Deputy Commissioner's decision on the motion within 60 days of the filing of
25 the notice of appeal.

- 26 (2) In lieu of filing a motion with the Executive Secretary for an administrative
27 ruling pursuant to subdivision (1) of this subsection, when appealing a ruling
28 made pursuant to subdivision (1) of this subsection or when appealing an
29 administrative ruling of the Chief Deputy or the Chief Deputy's designee on an
30 emergency motion, a party may request a full evidentiary hearing pursuant to
31 G.S. 97-84 on an expedited basis, limited to a request for medical compensation
32 or a dispute involving medical issues, by filing a motion with the Office of the
33 Chief Deputy Commissioner. The case will not be ordered into mediation based
34 upon a party's request for hearing on the motion or appeal under this
35 subdivision, except upon the consent of the parties. The Commission shall set
36 the date of the expedited hearing, which shall be held within 30 days of the
37 filing of the motion or appeal and shall notify the parties of the time and place
38 of the hearing on the motion or appeal. Upon request, the Commission may
39 order expedited discovery. The record shall be closed within 60 days of the
40 filing of the motion, or in the case of an appeal pursuant to subdivisions (1) and
41 (3) of this subsection, within 60 days of the filing of the appeal, unless the
42 parties agree otherwise or the Commission so orders. Transcripts of depositions
43 shall be expedited if necessary and paid pursuant to rules promulgated by the
44 Commission related to depositions and shall be submitted electronically to the
45 Commission. The Commission shall decide the issue in dispute and make
46 findings of fact based upon the preponderance of the evidence in view of the
47 entire record. The award, together with a statement of the findings of fact,
48 rulings of law, and other matters pertinent to the questions at issue shall be filed
49 with the record of the proceedings within 15 days of the close of the hearing
50 record, and a copy of the award shall immediately be sent to the parties. Either
51 party may appeal the decision of the Deputy Commissioner pursuant to

1 G.S. 97-84 to the Full Commission pursuant to G.S. 97-85. The decision of the
2 Deputy Commissioner pursuant to G.S. 97-84 shall not be stayed during the
3 pendency of an appeal except under those circumstances set out in subdivision
4 (4) of this subsection. A motion to stay the decision of the Deputy
5 Commissioner pursuant to G.S. 97-84 shall be directed to the Chair of the
6 Commission. The Full Commission shall render a decision on the appeal of the
7 Deputy Commissioner's decision on the motion within 60 days of the filing of
8 the notice of appeal.

9 (3) An emergency medical motion filed by either party shall be filed with the
10 Office of the Chief Deputy Commissioner. The Chief Deputy or Chief Deputy's
11 designee shall rule on the motion within five days of receipt unless the Chief
12 Deputy or Chief Deputy's designee determines that the motion is not an
13 emergency, in which case the motion shall be referred to the Executive
14 Secretary for an administrative ruling pursuant to subdivision (1) of this
15 subsection. Motions requesting emergency medical relief shall contain all of the
16 following:

- 17 a. An explanation of the medical diagnosis and treatment recommendation
18 of the health care provider that requires emergency attention.
- 19 b. A specific statement detailing the time-sensitive nature of the request to
20 include relevant dates and the potential for adverse consequences to the
21 movant if the recommended relief is not provided emergently.
- 22 c. An explanation of opinions known and in the possession of the movant
23 of additional medical or other relevant experts, independent medical
24 examiners, and second opinion examiners.
- 25 d. Documentation known and in the possession of the movant in support of
26 the request, including relevant medical records.
- 27 e. A representation that informal means of resolving the issue have been
28 attempted.

29 Either party may appeal the decision of the Chief Deputy or the Chief Deputy's
30 designee on the emergency motion by requesting an expedited formal hearing
31 pursuant to G.S. 97-84 and subdivision (2) of this subsection to appeal the
32 administrative decision of the Chief Deputy or the Chief Deputy's designee on
33 the emergency motion. Within five days of the filing of a request for an
34 expedited formal hearing pursuant to G.S. 97-84 and subdivision (2) of this
35 subsection, the Commission shall assign a Deputy Commissioner to conduct the
36 formal hearing. The decision of the Chief Deputy or the Chief Deputy's
37 designee shall not be stayed during the pendency of an appeal of the
38 administrative decision except under those circumstances set out in subdivision
39 (4) of this subsection. Any motion to stay shall be filed with the Deputy
40 Commissioner scheduled to conduct the expedited formal hearing pursuant to
41 G.S. 97-84 and subdivision (2) of this subsection. Either party may appeal the
42 decision of the Deputy Commissioner pursuant to G.S. 97-84 to the Full
43 Commission pursuant to G.S. 97-85. If so, the decision of the Deputy
44 Commissioner shall not be stayed during the pendency of an appeal except
45 under those circumstances set out in subdivision (4) of this subsection. Any
46 motion to stay the decision of the Deputy Commissioner pursuant to G.S. 97-84
47 shall be directed to the Chair of the Commission. The Full Commission shall
48 render a decision on the appeal of the Deputy Commissioner's decision on the
49 motion within 60 days of the filing of the notice of appeal.

50 (4) The Commission shall consider, among other factors, all of the following when
51 determining whether to grant a motion to stay filed pursuant to this subsection:

- 1 a. Whether there would be immediate and irreparable injury, harm, loss, or
2 damage to either party.
3 b. The nature and cost of the medical relief sought.
4 c. The risk for further injury or disability to the employee inherent in the
5 treatment or its delay.
6 d. Whether it has been recommended by an authorized physician.
7 e. Whether alternative therapeutic modalities are available and reasonable.
8 (5) If the Commission determines that any party has acted unreasonably by
9 initiating or objecting to a motion filed pursuant to this section, the Commission
10 may assess costs associated with any proceeding, including any reasonable
11 attorneys' fees and deposition costs, against the offending party."

12 **SECTION 8.** The catch line of G.S. 108A-70.21 reads as rewritten:

13 **"§ 108A-70.21. Program eligibility; benefits; enrollment fee and other cost-sharing;
14 coverage from private plans; ~~purchase of extended coverage plans.~~"**

15 **SECTION 9.** G.S. 120-4.16(b) reads as rewritten:

16 "(b) Purchase of Service Credits Through Rollover Contributions From Certain Other Plans.
17 – Notwithstanding any other provision of this Article, and without regard to any limitations on
18 contributions otherwise set forth in this Article, a member, who is eligible to restore or purchase
19 membership or creditable service pursuant to the provisions of this Article, may purchase such
20 service credits through rollover contributions to the Annuity Savings Fund from (i) an annuity
21 contract described in Section 403(b) of the Internal Revenue Code, (ii) an eligible plan under
22 Section 457(b) of the Internal Revenue Code which is maintained by a state, political subdivision
23 of a state, or any agency or instrumentality of a state or political subdivision of a state, (iii) an
24 individual retirement account or annuity described in Section 408(a) or 408(b) of the Internal
25 Revenue Code that is eligible to be rolled over and would otherwise be includible in gross income,
26 or (iv) a qualified plan described in Section 401(a) or 403(a) of the Internal Revenue Code.
27 Notwithstanding the foregoing, the Retirement System shall not accept any amount as a rollover
28 contribution unless such amount is eligible to be rolled over to a qualified trust in accordance with
29 applicable law and the member provides evidence satisfactory to the Retirement System that such
30 amount qualifies for rollover treatment. Unless received by the Retirement System in the form of a
31 direct rollover, the rollover contribution must be paid to the Retirement System on or before the
32 60th day after the date it was received by the member.

33 (b1) Purchase of Service Credits Through Plan-to-Plan Transfers. – Notwithstanding any
34 other provision of this Article, and without regard to any limitations on contributions otherwise set
35 forth in this Article, a member, who is eligible to restore or purchase membership or creditable
36 service pursuant to the provisions of this Article, may purchase such service credits through a
37 direct transfer to the Annuity Savings Fund of funds from (i) an annuity contract described in
38 Section 403(b) of the Internal Revenue Code or (ii) an eligible plan under Section 457(b) of the
39 Code which is maintained by a state, political subdivision of a state, or any agency or
40 instrumentality of a state or political subdivision of a state."

41 **SECTION 9.1.** G.S. 120-57 is repealed.

42 **SECTION 9.2.** G.S. 136-41.2(c) reads as rewritten:

43 "(c) No municipality shall be eligible to receive funds under G.S. 136-41.1 unless it has
44 formally adopted a budget ordinance in substantial compliance with ~~G.S. 160-410.3, G.S. 159-8~~
45 and G.S. 159-13, showing revenue received from all sources, and showing that funds have been
46 appropriated for at least two of the following municipal services if the municipality was
47 incorporated with an effective date prior to January 1, 2000, water distribution; sewage collection
48 or disposal; garbage and refuse collection or disposal; fire protection; police protection; street
49 maintenance, construction, or right-of-way acquisition; or street lighting, or at least four of the
50 following municipal services if the municipality was incorporated with an effective date of on or
51 after January 1, 2000: (i) police protection; (ii) fire protection; (iii) solid waste collection or

1 disposal; (iv) water distribution; (v) street maintenance; (vi) street construction or right-of-way
2 acquisition; (vii) street lighting; and (viii) zoning."

3 **SECTION 9.3.** G.S. 143-215.31(a1) reads as rewritten:

4 "(a1) The owner of a dam classified by the Department as a high-hazard dam or an
5 intermediate-hazard dam shall develop an Emergency Action Plan for the dam as provided in this
6 ~~subsection;~~subsection:

7 (1) The owner of the dam shall submit a proposed Emergency Action Plan for the
8 dam within 90 days after the dam is classified as a high-hazard dam or an
9 intermediate-hazard dam to the Department and the Department of Public
10 Safety for their review and approval. The Department and the Department of
11 Public Safety shall approve the Emergency Action Plan if they determine that it
12 complies with the requirements of this subsection and will protect public health,
13 safety, and welfare; the environment; and natural resources.

14 (2) The Emergency Action Plan shall include, at a minimum, all of the following:

- 15 a. A description of potential emergency conditions that could occur at the
16 dam, including security risks.
17 b. A description of actions to be taken in response to an emergency
18 condition at the dam.
19 c. Emergency notification procedures to aid in warning and evacuations
20 during an emergency condition at the dam.
21 d. A downstream inundation map depicting areas affected by a dam failure
22 and sudden release of the impoundment. A downstream inundation map
23 prepared pursuant to this section does not require preparation by a
24 licensed professional engineer or a person under the responsible charge
25 of a licensed professional engineer unless the dam is associated with a
26 coal combustion residuals surface impoundment, as defined by
27 G.S. 130A-309.201.

28 (3) The owner of the dam shall update the Emergency Action Plan annually and
29 shall submit it to the Department and the Department of Public Safety for their
30 review and approval within one year of the prior approval.

31 (4) The Department shall provide a copy of the Emergency Action Plan to the
32 regional offices of the Department that might respond to an emergency
33 condition at the dam.

34 (5) The Department of Public Safety shall provide a copy of the Emergency Action
35 Plan to all local emergency management agencies that might respond to an
36 emergency condition at the dam.

37 (6) Information included in an Emergency Action Plan that constitutes sensitive
38 public security information, as provided in G.S. 132-1.7, shall be maintained as
39 confidential information and shall not be subject to disclosure under the Public
40 Records Act. For purposes of this section, "sensitive public security
41 information" shall include Critical Energy Infrastructure Information protected
42 from disclosure under rules adopted by the Federal Energy Regulatory
43 Commission in ~~18 C.F.R. § 333.112.~~18 C.F.R. § 388.112."

44 **SECTION 9.4.** G.S. 143B-168.5 reads as rewritten:

45 **"§ 143B-168.5. Child Care – special unit.**

46 There is established within the Department of Health and Human ~~Services~~Services, Division
47 of Child Development and Early Education, a special unit to deal primarily with violations
48 involving child abuse and neglect in child care arrangements. The Child Care Commission shall
49 make rules for the investigation of reports of child abuse or neglect and for administrative action
50 when child abuse or neglect is substantiated, pursuant to G.S. 110-88(6a), 110-105,~~and~~
51 ~~110-105.2,~~110-105.3, 110-105.4, 110-105.5, and 110-105.6."

1 **SECTION 9.5.** G.S. 143B-931(b) reads as rewritten:

2 "(b) The Department of Public Safety may provide a criminal history record check to the
3 board of directors of a regional school of a person who is employed at a regional school or of a
4 person who has applied for employment at a regional school if the employee or applicant consents
5 to the record check. The Department may also provide a criminal history record check of school
6 personnel as defined in ~~G.S. 115C-238.56N~~ G.S. 115C-238.73 by fingerprint card to the board of
7 directors of the regional school from the National Repositories of Criminal Histories, in
8 accordance with ~~G.S. 115C-238.56N~~ G.S. 115C-238.73. The information shall be kept
9 confidential by the board of directors of the regional school as provided in ~~G.S. 115C-238.56N~~
10 G.S. 115C-238.73."

11 **SECTION 9.6.** G.S. 143C-6-4(b) reads as rewritten:

12 "(b) Budget Adjustments. – Notwithstanding the provisions of G.S. 143C-6-1, a State
13 agency may, with approval of the Director of the Budget, spend more than was appropriated in the
14 certified budget by adjusting the authorized budget for all of the following:

- 15 (1) Line items within programs. – An object or line item within a purpose or
16 program so long as the total amount expended for the purpose or program is no
17 more than was authorized in the certified budget for the purpose or program.
- 18 (2) Responses to extraordinary events. – A purpose or program if the
19 overexpenditure of the purpose or program is:
20 a. Required by a court or Industrial Commission order;
21 b. Authorized under ~~G.S. 166A-19.40(a)~~ G.S. 166A-19.40(a)(1) and (c) of
22 the North Carolina Emergency Management Act; or
23 c. Required to call out the North Carolina National Guard.
- 24 (3) Responses to unforeseen circumstances. – A purpose or program not subject to
25 the provisions of subdivision (b)(2) of this subsection, if each of the following
26 conditions is satisfied:
27 a. The overexpenditure is required to continue the purpose or programs
28 due to complications or changes in circumstances that could not have
29 been foreseen when the budget for the fiscal period was enacted.
30 b. The scope of the purpose or program is not increased.
31 c. The overexpenditure is authorized on a one-time nonrecurring basis for
32 one year only, unless the overexpenditure is the result of (i) salary
33 adjustments authorized by law or (ii) the establishment of time-limited
34 positions funded with agency receipts."

35 **SECTION 10.** G.S. 146-9(b) reads as rewritten:

36 "(b) Notwithstanding subsection (a) of this section, or any other provision of law, prior to
37 expiration of a lease of mineral deposits in State lands, the Department of Administration or other
38 entity designated by the Department shall solicit competitive bids for lease of such mineral
39 deposits, which shall include a process for upset bids as described in this subsection. An upset bid
40 is an increased or raised bid whereby a person offers to lease such mineral rights for an amount
41 exceeding the highest bid received in response to the initial solicitation for competitive bids, or the
42 last upset bid, as applicable, by a minimum of five percent (5%). The process shall provide that the
43 Department or other designated entity that issued the solicitation for competitive bids shall issue a
44 notice of high bid to the person submitting the highest bid in response to the initial solicitation for
45 competitive bids, or the person submitting the last upset bid, as applicable, and any other bidders
46 that have submitted a bid in an amount seventy-five percent (75%) or more of the highest bid
47 received in response to the initial solicitation for competitive bids, or the last upset bid, as
48 applicable, of the highest bid received at that point within 10 days of the closure of the bidding
49 period, as provided in the solicitation for competitive bids, through notice delivered by any means
50 authorized under G.S. 1A-1, Rule 4. Thereafter, an upset bid may be made by delivering to the
51 Department or other designated entity, subject to all of the following requirements and conditions:

1 ...

2 (4) When an upset bid is made as provided in this subsection, the Department or
3 other designated entity shall notify ~~to~~ the highest prior bidder, and any other
4 bidders that have submitted a bid in an amount seventy-five percent (75%) or
5 more of the current high bid received in response to the initial solicitation for
6 competitive bids, or the last upset bid, as applicable.

7"

8 **SECTION 10.1.** G.S. 147-12(a) reads as rewritten:

9 "(a) In addition to the powers and duties prescribed by the Constitution, the Governor has
10 the powers and duties prescribed in this and the following sections:

11 (1) To supervise the official conduct of all executive and ministerial officers; and
12 when the Governor deems it advisable to visit all State institutions for the
13 purpose of inquiring into the management and needs of the same.

14 ...

15 (12) To name and locate State government buildings, monuments, memorials, and
16 improvements, as provided by ~~G.S. 143B-373(1)~~. G.S. 143B-373(a)(1).

17"

18 **SECTION 11.** G.S. 153A-340(h) reads as rewritten:

19 "(h) As provided in this subsection, counties may adopt temporary moratoria on any ~~county~~
20 ~~development approval required by law~~. county development approval required by law, except for
21 the purpose of developing and adopting new or amended plans or ordinances as to residential uses.
22 The duration of any moratorium shall be reasonable in light of the specific conditions that warrant
23 imposition of the moratorium and may not exceed the period of time necessary to correct, modify,
24 or resolve such conditions. Except in cases of imminent and substantial threat to public health or
25 safety, before adopting an ordinance imposing a development moratorium with a duration of 60
26 days or any shorter period, the board of commissioners shall hold a public hearing and shall
27 publish a notice of the hearing in a newspaper having general circulation in the area not less than
28 seven days before the date set for the hearing. A development moratorium with a duration of 61
29 days or longer, and any extension of a moratorium so that the total duration is 61 days or longer, is
30 subject to the notice and hearing requirements of G.S. 153A-323. Absent an imminent threat to
31 public health or safety, a development moratorium adopted pursuant to this section shall not apply
32 to any project for which a valid building permit issued pursuant to G.S. 153A-357 is outstanding,
33 to any project for which a conditional use permit application or special use permit application has
34 been accepted, to development set forth in a site-specific or phased development plan approved
35 pursuant to G.S. 153A-344.1, to development for which substantial expenditures have already
36 been made in good faith reliance on a prior valid administrative or quasi-judicial permit or
37 approval, or to preliminary or final subdivision plats that have been accepted for review by the
38 county prior to the call for public hearing to adopt the moratorium. Any preliminary subdivision
39 plat accepted for review by the county prior to the call for public hearing, if subsequently
40 approved, shall be allowed to proceed to final plat approval without being subject to the
41 moratorium.

42 Any ordinance establishing a development moratorium must expressly include at the time of
43 adoption each of the following:

44 (1) A clear statement of the problems or conditions necessitating the moratorium
45 and what courses of action, alternative to a moratorium, were considered by the
46 county and why those alternative courses of action were not deemed adequate.

47 (2) A clear statement of the development approvals subject to the moratorium and
48 how a moratorium on those approvals will address the problems or conditions
49 leading to imposition of the moratorium.

1 (3) An express date for termination of the moratorium and a statement setting forth
2 why that duration is reasonably necessary to address the problems or conditions
3 leading to imposition of the moratorium.

4 (4) A clear statement of the actions, and the schedule for those actions, proposed to
5 be taken by the county during the duration of the moratorium to address the
6 problems or conditions leading to imposition of the moratorium.

7 No moratorium may be subsequently renewed or extended for any additional period unless the
8 city shall have taken all reasonable and feasible steps proposed to be taken by the county in its
9 ordinance establishing the moratorium to address the problems or conditions leading to imposition
10 of the moratorium and unless new facts and conditions warrant an extension. Any ordinance
11 renewing or extending a development moratorium must expressly include, at the time of adoption,
12 the findings set forth in subdivisions (1) through (4) of this subsection, including what new facts
13 or conditions warrant the extension.

14 Any person aggrieved by the imposition of a moratorium on development approvals required
15 by law may apply to the appropriate division of the General Court of Justice for an order enjoining
16 the enforcement of the moratorium, and the court shall have jurisdiction to issue that order.
17 Actions brought pursuant to this section shall be set down for immediate hearing, and subsequent
18 proceedings in those actions shall be accorded priority by the trial and appellate courts. In any
19 such action, the county shall have the burden of showing compliance with the procedural
20 requirements of this subsection."

21 **SECTION 12.** G.S. 160A-332(a) reads as rewritten:

22 "(a) The suppliers of electric service inside the corporate limits of any city in which a
23 secondary supplier was furnishing electric service on the determination ~~date (as defined in G.S.~~
24 ~~160A-331(1))~~date, as defined in G.S. 160A-331(1b), shall have rights and be subject to restrictions
25 as follows:

26"

27 **SECTION 13.(a)** G.S. 160A-372(e) reads as rewritten:

28 "(e) The ordinance may provide that a developer may provide funds to the city whereby the
29 city may acquire recreational land or areas to serve the development or subdivision, including the
30 purchase of land that may be used to serve more than one subdivision or development within the
31 immediate area. All funds received by the city pursuant to this ~~paragraph [subsection]~~subsection
32 shall be used only for the acquisition or development of recreation, park, or open space sites. Any
33 formula enacted to determine the amount of funds that are to be provided under this ~~paragraph~~
34 ~~[subsection]~~subsection shall be based on the value of the development or subdivision for property
35 tax purposes. The ordinance may allow a combination or partial payment of funds and partial
36 dedication of land when the governing body of the city determines that this combination is in the
37 best interests of the citizens of the area to be served."

38 **SECTION 13.(b)** G.S. 160A-372(f) reads as rewritten:

39 "(f) The ordinance may provide that in lieu of required street construction, a developer may
40 be required to provide funds that the city may use for the construction of roads to serve the
41 occupants, residents, or invitees of the subdivision or development and these funds may be used
42 for roads which serve more than one subdivision or development within the area. All funds
43 received by the city pursuant to this ~~paragraph [subsection]~~subsection shall be used only for
44 development of roads, including design, land acquisition, and construction. However, a city may
45 undertake these activities in conjunction with the Department of Transportation under an
46 agreement between the city and the Department of Transportation. Any formula adopted to
47 determine the amount of funds the developer is to pay in lieu of required street construction shall
48 be based on the trips generated from the subdivision or development. The ordinance may require a
49 combination of partial payment of funds and partial dedication of constructed streets when the
50 governing body of the city determines that a combination is in the best interests of the citizens of
51 the area to be served."

1 **SECTION 14.(a)** Section 7.1 of S.L. 2014-107 reads as rewritten:
2 "**SECTION 7.1.** Section 5.1 of this act applies to all trusts created before, on, or after the
3 effective date of this act. Except as otherwise provided, this act is effective when it becomes law."

4 **SECTION 14.(b)** This section becomes retroactively effective August 6, 2014.

5 **SECTION 14.1.** The introductory language of Section 54.5(b) of S.L. 2015-264 reads
6 as rewritten:

7 "**SECTION 54.5.(b)** ~~Section 32.2(e)~~ Section 32.3(c) of S.L. 2015-241 reads as rewritten:"

9 **PART II. ADDITIONAL TECHNICAL AND OTHER AMENDMENTS**

10 **SECTION 15.(a)** G.S. 1A-1, Rule 22, reads as rewritten:

11 **"Rule 22. Interpleader.**

12 (a) Persons having claims against the plaintiff may be joined as defendants and required to
13 interplead when their claims expose or may expose the plaintiff to double or multiple liability. It is
14 not ground for objection to the joinder that the claims of the several claimants or the titles on
15 which their claims depend do not have a common origin or are not identical but are adverse to and
16 independent of one another, or that the plaintiff avers that he is not liable in whole or in part to any
17 or all of the claimants. A defendant exposed to similar liability may obtain such interpleader by
18 way of crossclaim or counterclaim. The provisions of this rule supplement and do not in any way
19 limit the joinder of parties permitted in Rule 20.

20 (b) Where funds are subject to competing claims by parties to the action, the court may
21 order the party in possession of the funds either to deposit the funds in an interest bearing account
22 in a ~~bank, savings and loan, or trust company licensed to do business in this State~~ federally insured
23 depository institution or a trust institution authorized to do business in this State or to deposit the
24 funds with the clerk. If the funds are deposited in a ~~bank, savings and loan, or trust company,~~
25 federally insured depository institution or a trust institution authorized to do business in this State,
26 the court shall specify the type of interest bearing account to be used. Funds deposited with the
27 clerk shall be invested or deposited as provided in G.S. 7A-112 and G.S. 7A-112.1. Upon
28 determination of the action, the judgment shall provide for disbursement of the principal and
29 interest earned on the funds while so deposited."

30 **SECTION 15.(b)** G.S. 20-63.01 reads as rewritten:

31 **"§ 20-63.01. Bonds required for commission contractors.**

32 (a) A guaranty bond is required for each commission contractor that is not a governmental
33 subdivision of this State that is granted a contract to issue license plates or conduct business
34 pursuant to G.S. 20-63. Provided, however, a commission contractor that is unable to secure a
35 bond may, with the consent of the Division, provide an alternative to a guaranty bond, as provided
36 in subsection (c) of this section.

37 The Division may revoke, with cause, a contract with a commission contractor that fails to
38 maintain a bond or an alternative to a bond, pursuant to this section.

39 (b) (1) When application is made for a contract or contract renewal, the applicant shall
40 file a guaranty bond with the clerk of the superior court and/or the register of
41 deeds of the county in which the commission contractor will be located. The
42 bond shall be in favor of the Division. The bond shall be executed by the
43 applicant as principal and by a bonding company authorized to do business in
44 this State. The bond shall be conditioned to provide indemnification to the
45 Division for a loss of revenue for any reason, including bankruptcy, employee
46 embezzlement or theft, foreclosure, or ceasing to operate.

47 (2) The bond shall be in an amount determined by the Division to be adequate to
48 provide indemnification to the Division under the terms of the bond. The bond
49 amount shall be at least one hundred thousand dollars (\$100,000).

50 (3) The bond shall remain in force and effect until cancelled by the guarantor. The
51 guarantor may cancel the bond upon 30 days' notice to the Division.

1 Cancellation of the bond shall not affect any liability incurred or accrued prior
2 to the termination of the notice period.

- 3 (4) The Division may be able to negotiate bonds for contractors who qualify for
4 bonds as a group under favorable rates or circumstances. If so, the Division
5 may require those contractors who can qualify for the group bond to obtain
6 their bond as part of a group of contractors. The Division may deduct the
7 premiums for any bonds it may be able to negotiate at group rates from the
8 commissioned contractors' compensation.

9 (c) An applicant that is unable to secure a bond may seek a waiver of the guaranty bond
10 from the Division and approval of one of the guaranty bond alternatives set forth in this
11 subsection. With the approval of the Division, an applicant may file with the clerk of the superior
12 court and/or the register of deeds of the county in which the commission contractor will be
13 located, in lieu of a bond:

- 14 (1) An assignment of a savings account in an amount equal to the bond required (i)
15 which is in a form acceptable to the Division; (ii) which is executed by the
16 applicant; (iii) which is executed by a ~~state or federal savings and loan~~
17 ~~association, state bank, or national bank that is doing business in North~~
18 ~~Carolina and whose accounts are insured by a federal depositors corporation;~~
19 federally insured depository institution lawfully doing business in this State;
20 and (iv) for which access to the account in favor of the State of North Carolina
21 is subject to the same conditions as for a bond in subsection (b) of this section.

- 22 (2) A certificate of deposit (i) which is executed by a ~~state or federal savings and~~
23 ~~loan association, state bank, or national bank which is doing business in North~~
24 ~~Carolina and whose accounts are insured by a federal depositors corporation;~~
25 federally insured depository institution lawfully doing business in this State; (ii)
26 which is either payable to the State of North Carolina, unrestrictively endorsed
27 to the Division of Motor Vehicles; in the case of a negotiable certificate of
28 deposit, is unrestrictively endorsed to the Division of Motor Vehicles; or in the
29 case of a nonnegotiable certificate of deposit, is assigned to the Division of
30 Motor Vehicles in a form satisfactory to the Division; and (iii) for which access
31 to the certificate of deposit in favor of the State of North Carolina is subject to
32 the same conditions as for a bond in subsection (b) of this section."

33 **SECTION 15.(c)** G.S. 85B-7.1(a) reads as rewritten:

34 "(a) Each licensee who does not disburse all funds to the seller on auction day shall
35 maintain a trust or escrow account and shall deposit in the account all funds that are received for
36 the benefit of another person and are not disbursed to the seller on auction day. The licensee shall
37 deposit funds that are not disbursed on auction day with ~~an insured bank or savings and loan~~
38 ~~association~~ a federally insured depository institution located in North Carolina. At or before the
39 time of all final settlements, the auctioneer shall provide the seller or consignor with a settlement
40 statement, which includes a description of all goods sold, the selling price of the goods sold, the
41 net proceeds due to the seller or consignor, the name and address of the person receiving the
42 disbursement, and the amount of the disbursement. All settlement statements shall be signed by
43 the licensee or the licensee's agent and by the person receiving the disbursement."

44 **SECTION 15.(d)** G.S. 85B-8 reads as rewritten:

45 "**§ 85B-8. Prohibited acts; assessment of civil penalty; denial, suspension, or revocation of**
46 **license.**

47 (a) The following shall be grounds for the assessment of a civil penalty in accordance with
48 G.S. 85B-3.1(b) or the denial, suspension, or revocation of an auctioneer, auctioneer apprentice, or
49 auction firm license:

50 ...

- 1 (7) Commingling the funds or property of a client with the licensee's own or failing
 2 to maintain and deposit in a trust or escrow account in ~~an insured bank or~~
 3 ~~savings and loan association~~ a federally insured depository institution located in
 4 North Carolina funds received for another person through sale at auction.

5"

6 **SECTION 15.(e)** G.S. 86A-22 reads as rewritten:

7 **"§ 86A-22. Licensing and regulating barber schools and colleges.**

8 The North Carolina State Board of Barber Examiners may approve barber schools or colleges
 9 in the State, and may prescribe rules and regulations for their operation. The Board shall adopt
 10 rules establishing criteria for barber schools and colleges to maintain their accreditation. No barber
 11 school or college shall be approved by the Board unless the school or college meets all of the
 12 following requirements:

13 ...

- 14 (7) a. Each school shall provide a guaranty bond unless the school has already
 15 provided a bond or an alternative to a bond under G.S. 115D-95.

16 The North Carolina State Board of Barber Examiners may revoke
 17 the approval of a school that fails to maintain a bond or an alternative to
 18 a bond pursuant to this subdivision or G.S. 115D-95.

- 19 b. When application is made for approval or renewal of approval, the
 20 applicant shall file a guaranty bond with the clerk of the superior court
 21 of the county in which the school will be located. The bond shall be in
 22 favor of the students. The bond shall be executed by the applicant as
 23 principal and by a bonding company authorized to do business in this
 24 State. The bond shall be conditioned to provide indemnification to any
 25 student, or his parent or guardian, who has suffered a loss of tuition or
 26 any fees by reason of the failure of the school to offer or complete
 27 student instruction, academic services, or other goods and services
 28 related to course enrollment for any reason, including the suspension,
 29 revocation, or nonrenewal of a school's approval, bankruptcy,
 30 foreclosure, or the school ceasing to operate.

31 The bond shall be in an amount determined by the Board to be
 32 adequate to provide indemnification to any student, or his parent or
 33 guardian, under the terms of the bond. The bond amount for a school
 34 shall be at least equal to the maximum amount of prepaid tuition held at
 35 any time during the last fiscal year by the school. The bond amount
 36 shall also be at least ten thousand dollars (\$10,000).

37 Each application for approval shall include a letter signed by an
 38 authorized representative of the school showing in detail the
 39 calculations made and the method of computing the amount of the bond
 40 pursuant to this subpart and the rules of the Board. If the Board finds
 41 that the calculations made and the method of computing the amount of
 42 the bond are inaccurate or that the amount of the bond is otherwise
 43 inadequate to provide indemnification under the terms of the bond, the
 44 Board may require the applicant to provide an additional bond.

45 The bond shall remain in force and effect until cancelled by the
 46 guarantor. The guarantor may cancel the bond upon 30 days notice to
 47 the Board. Cancellation of the bond shall not affect any liability
 48 incurred or accrued prior to the termination of the notice period.

- 49 c. An applicant that is unable to secure a bond may seek a waiver of the
 50 guaranty bond from the Board and approval of one of the guaranty bond
 51 alternatives set forth in this subpart. With the approval of the Board, an

applicant may file with the clerk of the superior court of the county in which the school will be located, in lieu of a bond:

1. An assignment of a savings account in an amount equal to the bond required (i) which is in a form acceptable to the Board; (ii) which is executed by the applicant; and (iii) which is executed by a ~~state or federal savings and loan association, state bank, or national bank, that is doing business in North Carolina and whose accounts are insured by a federal depositors corporation;~~ federally insured depository institution lawfully doing business in this State; and (iv) for which access to the account in favor of the State of North Carolina is subject to the same conditions as for a bond in subpart b. above.
2. A certificate of deposit (i) which is executed by a ~~state or federal savings and loan association, state bank, or national bank, which is doing business in North Carolina and whose accounts are insured by a federal depositors corporation;~~ federally insured depository institution lawfully doing business in this State; and (ii) which is either payable to the State of North Carolina, unrestrictively endorsed to the Board; in the case of a negotiable certificate of deposit, is unrestrictively endorsed to the Board; or in the case of a nonnegotiable certificate of deposit, is assigned to the Board in a form satisfactory to the Board; and (iii) for which access to the certificate of deposit in favor of the State of North Carolina is subject to the same conditions as for a bond in subpart b. above."

SECTION 15.(f) G.S. 88B-17 reads as rewritten:

"§ 88B-17. Bond required for private cosmetic art schools.

(a) Each private cosmetic art school shall provide a guaranty bond unless the school has already provided a bond or an alternative to a bond under G.S. 115D-95. The Board may restrict, suspend, revoke, or refuse to renew or reinstate the license of a school that fails to maintain a bond or an alternative to a bond pursuant to this section or G.S. 115D-95.

(b) (1) The applicant shall file the guaranty bond with the clerk of superior court in the county in which the school is located. The bond shall be in favor of the students. The bond shall be executed by the applicant as principal and by a bonding company authorized to do business in this State. The bond shall be conditioned to provide indemnification to any student or the student's parent or guardian who has suffered loss of tuition or any fees by reason of the failure of the school to offer or complete student instruction, academic services, or other goods and services as related to course enrollment for any reason, including suspension, revocation, or nonrenewal of a school's approval, bankruptcy, foreclosure, or the school's ceasing to operate.

(2) The bond amount shall be at least equal to the maximum amount of prepaid tuition held at any time by the school during the last fiscal year, but in no case shall be less than ten thousand dollars (\$10,000). Each application for license or license renewal shall include a letter signed by an authorized representative of the school showing the calculations made and the method of computing the amount of the bond in accordance with rules prescribed by the Board. If the Board finds that the calculations made and the method of computing the amount of the bond are inaccurate or that the amount of the bond is otherwise inadequate to provide indemnification under the terms of the bond, the Board may require the applicant to provide an additional bond.

1 (3) The bond shall remain in force and effect until canceled by the guarantor. The
2 guarantor may cancel the bond upon 30 days' notice to the Board. Cancellation
3 of the bond shall not affect any liability incurred or accrued prior to the
4 termination of the notice period.

5 (c) An applicant who is unable to secure a bond may seek from the Board a waiver of the
6 guaranty bond requirement and approval of one of the guaranty bond alternatives set forth in this
7 subsection. With the approval of the Board, an applicant may file one of the following instead of a
8 bond with the clerk of court in the county in which the school is located:

9 (1) An assignment of a savings account in an amount equal to the bond required
10 that is in a form acceptable to the Board, and is executed by the applicant and a
11 ~~state or federal savings and loan association, state bank, or national bank that is~~
12 ~~doing business in this State and whose accounts are insured by a federal~~
13 ~~depositor's corporation, federally insured depository institution lawfully doing~~
14 ~~business in this State,~~ and access to the account is subject to the same
15 conditions as those for a bond in subsection (b) of this section.

16 (2) A certificate of deposit that is executed by a ~~state or federal savings and loan~~
17 ~~association, state bank, or national bank that is doing business in this State and~~
18 ~~whose accounts are insured by a federal depositor's corporation~~ federally
19 insured depository institution lawfully doing business in this State and access to
20 the certificate of deposit is subject to the same conditions as those for a bond in
21 subsection (b) of this section."

22 **SECTION 15.(g)** G.S. 90-171.55 reads as rewritten:

23 **"§ 90-171.55. Nurses Aides Registry.**

24 (a) The Board of Nursing, established pursuant to G.S. 90-171.21, shall establish a Nurses
25 Aides Registry for persons functioning as nurses aides regardless of title. The Board shall consider
26 those Level I nurses aides employed in State licensed or Medicare/Medicaid certified nursing
27 facilities who meet applicable State and federal registry requirements as adopted by the North
28 Carolina Medical Care Commission as having fulfilled the training and registry requirements of
29 the Board. The Board may not charge an annual fee to a nurse aide I registry applicant. The Board
30 may charge an annual fee of twelve dollars (\$12.00) for each nurse aide II registry applicant. The
31 Board shall adopt rules to ensure that whenever possible, the fee is collected through the employer
32 or prospective employer of the registry applicant. Fees collected may be used by the Board in
33 administering the registry. The Board's authority granted by this Article shall not conflict with the
34 authority of the Medical Care Commission.

35 (b) (1) Each nurses aide training program, except for those operated by (i) institutions
36 under the Board of Governors of The University of North Carolina, (ii)
37 institutions of the North Carolina Community College System, (iii) public high
38 schools, and (iv) hospital authorities acting pursuant to G.S. 131E-23(31), shall
39 provide a guaranty bond unless the program has already provided a bond or an
40 alternative to a bond under G.S. 115D-95. The Board of Nursing may revoke
41 the approval of a program that fails to maintain a bond or an alternative to a
42 bond pursuant to this subsection or G.S. 115D-95.

43 (2) When application is made for approval or renewal of approval, the applicant
44 shall file a guaranty bond with the clerk of the superior court of the county in
45 which the program will be located. The bond shall be in favor of the students.
46 The bond shall be executed by the applicant as principal and by a bonding
47 company authorized to do business in this State. The bond shall be conditioned
48 to provide indemnification to any student, or his parent or guardian, who has
49 suffered a loss of tuition or any fees by reason of the failure of the program to
50 offer or complete student instruction, academic services, or other goods and
51 services related to course enrollment for any reason, including the suspension,

1 revocation, or nonrenewal of a program's approval, bankruptcy, foreclosure, or
2 the program ceasing to operate.

3 The bond shall be in an amount determined by the Board to be adequate to
4 provide indemnification to any student, or his parent or guardian, under the
5 terms of the bond. The bond amount for a program shall be at least equal to the
6 maximum amount of prepaid tuition held at any time during the last fiscal year
7 by the program. The bond amount shall also be at least ten thousand dollars
8 (\$10,000).

9 Each application for a license shall include a letter signed by an authorized
10 representative of the program showing in detail the calculations made and the
11 method of computing the amount of the bond pursuant to this subdivision and
12 the rules of the Board. If the Board finds that the calculations made and the
13 method of computing the amount of the bond are inaccurate or that the amount
14 of the bond is otherwise inadequate to provide indemnification under the terms
15 of the bond, the Board may require the applicant to provide an additional bond.

16 The bond shall remain in force and effect until cancelled by the guarantor.
17 The guarantor may cancel the bond upon 30 days notice to the Board.
18 Cancellation of the bond shall not affect any liability incurred or accrued prior
19 to the termination of the notice period.

20 (3) An applicant that is unable to secure a bond may seek a waiver of the guaranty
21 bond from the Board and approval of one of the guaranty bond alternatives set
22 forth in this subdivision. With the approval of the Board, an applicant may file
23 with the clerk of the superior court of the county in which the program will be
24 located, in lieu of a bond:

25 a. An assignment of a savings account in an amount equal to the bond
26 required (i) which is in a form acceptable to the Board; (ii) which is
27 executed by the applicant; and (iii) which is executed by a ~~state or~~
28 ~~federal savings and loan association, state bank, or national bank, that is~~
29 ~~doing business in North Carolina and whose accounts are insured by a~~
30 ~~federal depositories corporation;~~ federally insured depository institution
31 lawfully doing business in this State; and (iv) for which access to the
32 account in favor of the State of North Carolina is subject to the same
33 conditions as for a bond in subdivision (2) of this subsection.

34 b. A certificate of deposit (i) which is executed by a ~~state or federal~~
35 ~~savings and loan association, state bank, or national bank, which is~~
36 ~~doing business in North Carolina and whose accounts are insured by a~~
37 ~~federal depositories corporation;~~ federally insured depository institution
38 lawfully doing business in this State; and (ii) which is either payable to
39 the State of North Carolina, unrestrictively endorsed to the Board; in the
40 case of a negotiable certificate of deposit, is unrestrictively endorsed to
41 the Board; or in the case of a nonnegotiable certificate of deposit, is
42 assigned to the Board in a form satisfactory to the Board; and (iii) for
43 which access to the certificate of deposit in favor of the State of North
44 Carolina is subject to the same conditions as for a bond in subdivision
45 (2) of this subsection."

46 **SECTION 15.(h)** G.S. 90-210.86 reads as rewritten:

47 **"§ 90-210.86. Deposit or investment of funds of mutual burial associations.**

48 Funds belonging to each mutual burial association over and above the amount determined by
49 the Board of Funeral Service to be necessary for operating capital shall be invested in:

50 (1) Deposits in any ~~bank or trust company in this State.~~ federally insured depository
51 institution or any trust institution authorized to do business in this State.

- 1 (2) Obligations of the United States of America.
 2 (3) Obligations of any agency or instrumentality of the United States of America if
 3 the payment of interest and principal of such obligations is fully guaranteed by
 4 the United States of America.
 5 (4) Obligations of the State of North Carolina.
 6 (5) Bonds and notes of any North Carolina local government or public authority,
 7 subject to such restrictions as the Board of Funeral Service may impose.
 8 (6) Shares of or deposits in any savings and loan association organized under the
 9 laws of this State and shares of or deposits in any federal savings and loan
 10 association having its principal office in this State, provided that any such
 11 savings and loan association is insured by the United States of America or any
 12 agency thereof or by any mutual deposit guaranty association authorized by the
 13 Commissioner of Insurance of North Carolina to do business in North Carolina
 14 pursuant to Article 7A of Chapter 54 of the General Statutes.
 15 (7) Obligations of the Federal Intermediate Credit Banks, the Federal Home Loan
 16 Banks, Fannie Mae, the Banks for Cooperatives, and the Federal Land Banks,
 17 maturing no later than 18 months after the date of purchase.

18 Violation of the provisions of this section shall, after hearing, be cause for revocation or
 19 suspension of license to operate a mutual burial association."

20 **SECTION 15.(i)** G.S. 93A-3 reads as rewritten:

21 "**§ 93A-3. Commission created; compensation; organization.**

22 ...

23 (b) The provisions of G.S. 93B-5 notwithstanding, members of the Commission shall
 24 receive as compensation for each day spent on work for the Commission a per diem in an amount
 25 established by the Commission by rule, and mileage reimbursement for transportation by privately
 26 owned automobile at the business standard mileage rate set by the Internal Revenue Service per
 27 mile of travel along with actual cost of tolls paid. The total expense of the administration of this
 28 Chapter shall not exceed the total income therefrom; and none of the expenses of said Commission
 29 or the compensation or expenses of any office thereof or any employee shall ever be paid or
 30 payable out of the treasury of the State of North Carolina; and neither the Commission nor any
 31 officer or employee thereof shall have any power or authority to make or incur any expense, debt
 32 or other financial obligation binding upon the State of North Carolina. After all expenses of
 33 operation, the Commission may set aside an expense reserve each year. The Commission may
 34 deposit moneys in accounts, certificates of deposit, or time deposits as the Commission may
 35 approve, in any ~~bank, savings and loan association, or trust company.~~ federally insured depository
 36 institution or any trust institution authorized to do business in this State. Moneys also may be
 37 invested in the same classes of securities referenced in G.S. 159-30(c).

38"

39 **SECTION 15.(j)** G.S. 93A-42 reads as rewritten:

40 "**§ 93A-42. Time shares deemed real estate.**

41 ...

42 (d) The independent escrow agent provided by G.S. 93A-42(c)(2) shall deposit and
 43 maintain the purchaser's payments in an insured trust or escrow account in a ~~bank or savings and~~
 44 ~~loan association located in this State.~~ federally insured depository institution lawfully doing
 45 business in this State. The trust or escrow account may be interest-bearing and the interest earned
 46 shall belong to the developer, if agreed upon in writing by the purchaser; provided, however, if the
 47 time share instrument is not recorded within the time periods specified in this section, then the
 48 interest earned shall belong to the purchaser. The independent escrow agent shall return all
 49 payments to the purchaser at the expiration of 180 days following the execution of the contract of
 50 sale by the purchaser, unless prior to that time the time share instrument has been recorded.
 51 However, if prior to the expiration of 180 days following the execution of the contract of sale, the

1 developer and the purchaser provide their written consent to the independent escrow agent, the
2 developer's obligation to record the time share instrument and the escrow period may be extended
3 for an additional period of 120 days. Upon recordation of the time share instrument, the
4 independent escrow agent shall pay the purchaser's funds to the developer. Upon request by the
5 Commission, the independent escrow agent shall promptly make available to the Commission
6 inspection of records of money held by the independent escrow agent.

7"

8 **SECTION 15.(k)** G.S. 93A-45 reads as rewritten:

9 "**§ 93A-45. Purchaser's right to cancel; escrow; violation.**

10 ...

11 (c) Any payments received by a time share developer or time share salesperson in
12 connection with the sale of the time share shall be immediately deposited by such developer or
13 salesperson in a trust or escrow account in ~~an insured bank or savings and loan association in~~
14 ~~North Carolina~~ a federally insured depository institution lawfully doing business in this State and
15 shall remain in such account for 10 days or cancellation by the purchaser, whichever occurs first.
16 Payments held in such trust or escrow accounts shall be deemed to belong to the purchaser and not
17 the developer. In lieu of such escrow requirements, the Commission shall have the authority to
18 accept, in its discretion, alternative financial assurances adequate to protect the purchaser's interest
19 during the contract cancellation period, including but not limited to a surety bond, corporate bond,
20 cash deposit or irrevocable letter of credit in an amount equal to the escrow requirements.

21"

22 **SECTION 16.(a)** G.S. 20-63.01, as amended by Section 15(b) of this act, reads as
23 rewritten:

24 "**§ 20-63.01. Bonds required for commission contractors.**

25 (a) A guaranty bond is required for each commission contractor that is not a governmental
26 subdivision of this State that is granted a contract to issue license plates or conduct business
27 pursuant to G.S. 20-63. Provided, however, a commission contractor that is unable to secure a
28 bond may, with the consent of the Division, provide an alternative to a guaranty bond, as provided
29 in subsection (c) of this section.

30 The Division may revoke, with cause, a contract with a commission contractor that fails to
31 maintain a bond or an alternative to a bond, pursuant to this section.

- 32 (b) (1) When application is made for a contract or contract renewal, the applicant shall
33 file a guaranty bond with the clerk of the superior court and/or the register of
34 deeds of the county in which the commission contractor will be located. The
35 bond shall be in favor of the Division. The bond shall be executed by the
36 applicant as principal and by a bonding company authorized to do business in
37 this State. The bond shall be conditioned to provide indemnification to the
38 Division for a loss of revenue for any reason, including bankruptcy, employee
39 embezzlement or theft, foreclosure, or ceasing to operate.
- 40 (2) The bond shall be in an amount determined by the Division to be adequate to
41 provide indemnification to the Division under the terms of the bond. The bond
42 amount shall be at least one hundred thousand dollars (\$100,000).
- 43 (3) The bond shall remain in force and effect until cancelled by the guarantor. The
44 guarantor may cancel the bond upon 30 days' notice to the Division.
45 Cancellation of the bond shall not affect any liability incurred or accrued prior
46 to the termination of the notice period.
- 47 (4) The Division may be able to negotiate bonds for contractors who qualify for
48 bonds as a group under favorable rates or circumstances. If so, the Division
49 may require those contractors who can qualify for the group bond to obtain
50 their bond as part of a group of contractors. The Division may deduct the

1 premiums for any bonds it may be able to negotiate at group rates from the
2 commissioned contractors' compensation.

3 (c) An applicant that is unable to secure a bond may seek a waiver of the guaranty bond
4 from the Division and approval of one of the guaranty bond alternatives set forth in this
5 subsection. With the approval of the Division, an applicant may file with the clerk of the superior
6 court and/or the register of deeds of the county in which the commission contractor will be
7 located, in lieu of a bond:

8 (1) An assignment of a savings account in an amount equal to the bond required (i)
9 which is in a form acceptable to the Division; (ii) which is executed by the
10 applicant; (iii) which is executed by a federally insured depository institution
11 ~~lawfully doing business in this State;~~ or a trust institution authorized to do
12 business in this State; and (iv) for which access to the account in favor of the
13 State of North Carolina is subject to the same conditions as for a bond in
14 subsection (b) of this section.

15 (2) A certificate of deposit (i) which is executed by a federally insured depository
16 institution ~~lawfully doing business in this State;~~ or a trust institution authorized
17 to do business in this State; (ii) which is either payable to the State of North
18 Carolina, unrestrictively endorsed to the Division of Motor Vehicles; in the
19 case of a negotiable certificate of deposit, is unrestrictively endorsed to the
20 Division of Motor Vehicles; or in the case of a nonnegotiable certificate of
21 deposit, is assigned to the Division of Motor Vehicles in a form satisfactory to
22 the Division; and (iii) for which access to the certificate of deposit in favor of
23 the State of North Carolina is subject to the same conditions as for a bond in
24 subsection (b) of this section."

25 **SECTION 16.(b)** G.S. 42-50 reads as rewritten:

26 **"§ 42-50. Deposits from the tenant.**

27 Security deposits from the tenant in residential dwelling units shall be deposited in a trust
28 account with a licensed and federally insured depository institution ~~lawfully doing business in this~~
29 ~~State;~~ or a trust institution authorized to do business in this State, or the landlord may, at ~~his-the~~
30 landlord's option, furnish a bond from an insurance company licensed to do business in North
31 Carolina. The security deposits from the tenant may be held in a trust account outside of the State
32 of North Carolina only if the landlord provides the tenant with an adequate bond in the amount of
33 ~~said-the~~ deposits. The landlord or ~~his-the~~ landlord's agent shall notify the tenant within 30 days
34 after the beginning of the lease term of the name and address of the bank or institution where ~~his~~
35 the tenant's deposit is currently located or the name of the insurance company providing the bond."

36 **SECTION 16.(c)** G.S. 42A-15 reads as rewritten:

37 **"§ 42A-15. Trust account uses.**

38 A landlord or real estate broker may require a tenant to pay all or part of any required rent,
39 security deposit, or other fees permitted by law in advance of the commencement of a tenancy
40 under this Chapter if these payments are expressly authorized in the vacation rental agreement. If
41 the tenant is required to make any advance payments, other than a security deposit, whether the
42 payment is denominated as rent or otherwise, the landlord or real estate broker shall deposit these
43 payments in a trust account in a federally insured depository institution ~~lawfully doing business in~~
44 ~~this State;~~ or a trust institution authorized to do business in this State no later than three banking
45 days after the receipt of these payments. These payments deposited in a trust account shall not
46 earn interest unless the landlord and tenant agree in the vacation rental agreement that the
47 payments may be deposited in an interest-bearing account. The landlord and tenant shall also
48 provide in the agreement to whom the accrued interest shall be disbursed."

49 **SECTION 16.(d)** G.S. 42A-17(a), as amended by Section 7.3 of this act, reads as
50 rewritten:

1 "(a) A vacation rental agreement shall identify the name and address of the federally
2 insured depository institution or trust institution in which the tenant's security deposit and other
3 advance payments are held in a trust account, and the landlord and real estate broker shall provide
4 the tenant with an accounting of such deposit and payments if the tenant makes a reasonable
5 request for an accounting prior to the tenant's occupancy of the property."

6 **SECTION 16.(e)** G.S. 47C-4-110 reads as rewritten:

7 "**§ 47C-4-110. Escrow of deposits.**

8 (a) Any deposit made in connection with the purchase or reservation of a unit from a
9 person required to deliver a public offering statement pursuant to G.S. 47C-4-102(c) shall be
10 immediately deposited in a trust or escrow account in a federally insured depository institution
11 ~~lawfully doing business in this State~~ or a trust institution authorized to do business in this State
12 and shall remain in such account for such period of time as a purchaser is entitled to cancel
13 pursuant to G.S. 47C-4-108 or cancellation by the purchaser thereunder whichever occurs first.
14 Payments held in such trust or escrow accounts shall be deemed to belong to the purchaser and not
15 the seller.

16 (b) Except as provided in G.S. 47C-4-108, nothing in subsection (a) is intended to preclude
17 the parties to a contract from providing for the use of progress payments by the declarant during
18 construction."

19 **SECTION 16.(f)** G.S. 85B-7.1(a), as amended by Section 15(c) of this act, reads as
20 rewritten:

21 "(a) Each licensee who does not disburse all funds to the seller on auction day shall
22 maintain a trust or escrow account and shall deposit in the account all funds that are received for
23 the benefit of another person and are not disbursed to the seller on auction day. The licensee shall
24 deposit funds that are not disbursed on auction day with a federally insured depository institution
25 ~~located in North Carolina~~ or a trust institution authorized to do business in this State. At or before
26 the time of all final settlements, the auctioneer shall provide the seller or consignor with a
27 settlement statement, which includes a description of all goods sold, the selling price of the goods
28 sold, the net proceeds due to the seller or consignor, the name and address of the person receiving
29 the disbursement, and the amount of the disbursement. All settlement statements shall be signed
30 by the licensee or the licensee's agent and by the person receiving the disbursement."

31 **SECTION 16.(g)** G.S. 85B-8, as amended by Section 15(d) of this act, reads as
32 rewritten:

33 "**§ 85B-8. Prohibited acts; assessment of civil penalty; denial, suspension, or revocation of**
34 **license.**

35 (a) The following shall be grounds for the assessment of a civil penalty in accordance with
36 G.S. 85B-3.1(b) or the denial, suspension, or revocation of an auctioneer, auctioneer apprentice, or
37 auction firm license:

38 ...

39 (7) Commingling the funds or property of a client with the licensee's own or failing
40 to maintain and deposit in a trust or escrow account in a federally insured
41 depository institution ~~located in North Carolina~~ or a trust institution authorized
42 to do business in this State funds received for another person through sale at
43 auction.

44 "

45 **SECTION 16.(h)** G.S. 86A-22, as amended by Section 15(e) of this act, reads as
46 rewritten:

47 "**§ 86A-22. Licensing and regulating barber schools and colleges.**

48 The North Carolina State Board of Barber Examiners may approve barber schools or colleges
49 in the State, and may prescribe rules and regulations for their operation. The Board shall adopt
50 rules establishing criteria for barber schools and colleges to maintain their accreditation. No barber

1 school or college shall be approved by the Board unless the school or college meets all of the
2 following requirements:

- 3 ...
4 (7) a. Each school shall provide a guaranty bond unless the school has already
5 provided a bond or an alternative to a bond under G.S. 115D-95.

6 The North Carolina State Board of Barber Examiners may revoke
7 the approval of a school that fails to maintain a bond or an alternative to
8 a bond pursuant to this subdivision or G.S. 115D-95.

- 9 b. When application is made for approval or renewal of approval, the
10 applicant shall file a guaranty bond with the clerk of the superior court
11 of the county in which the school will be located. The bond shall be in
12 favor of the students. The bond shall be executed by the applicant as
13 principal and by a bonding company authorized to do business in this
14 State. The bond shall be conditioned to provide indemnification to any
15 student, or his parent or guardian, who has suffered a loss of tuition or
16 any fees by reason of the failure of the school to offer or complete
17 student instruction, academic services, or other goods and services
18 related to course enrollment for any reason, including the suspension,
19 revocation, or nonrenewal of a school's approval, bankruptcy,
20 foreclosure, or the school ceasing to operate.

21 The bond shall be in an amount determined by the Board to be
22 adequate to provide indemnification to any student, or his parent or
23 guardian, under the terms of the bond. The bond amount for a school
24 shall be at least equal to the maximum amount of prepaid tuition held at
25 any time during the last fiscal year by the school. The bond amount
26 shall also be at least ten thousand dollars (\$10,000).

27 Each application for approval shall include a letter signed by an
28 authorized representative of the school showing in detail the
29 calculations made and the method of computing the amount of the bond
30 pursuant to this subpart and the rules of the Board. If the Board finds
31 that the calculations made and the method of computing the amount of
32 the bond are inaccurate or that the amount of the bond is otherwise
33 inadequate to provide indemnification under the terms of the bond, the
34 Board may require the applicant to provide an additional bond.

35 The bond shall remain in force and effect until cancelled by the
36 guarantor. The guarantor may cancel the bond upon 30 days notice to
37 the Board. Cancellation of the bond shall not affect any liability
38 incurred or accrued prior to the termination of the notice period.

- 39 c. An applicant that is unable to secure a bond may seek a waiver of the
40 guaranty bond from the Board and approval of one of the guaranty bond
41 alternatives set forth in this subpart. With the approval of the Board, an
42 applicant may file with the clerk of the superior court of the county in
43 which the school will be located, in lieu of a bond:

- 44 1. An assignment of a savings account in an amount equal to the
45 bond required (i) which is in a form acceptable to the Board; (ii)
46 which is executed by the applicant; and (iii) which is executed
47 by a federally insured depository institution ~~lawfully doing~~
48 ~~business in this State; or a trust institution authorized to do~~
49 business in this State; and (iv) for which access to the account in
50 favor of the State of North Carolina is subject to the same
51 conditions as for a bond in subpart b. above.

1 account is subject to the same conditions as those for a bond in subsection (b)
2 of this section.

- 3 (2) A certificate of deposit that is executed by a federally insured depository
4 institution ~~lawfully doing business in this State~~ or a trust institution authorized
5 to do business in this State and access to the certificate of deposit is subject to
6 the same conditions as those for a bond in subsection (b) of this section."

7 **SECTION 16.(j)** G.S. 90-171.55, as amended by Section 15(g) of this act, reads as
8 rewritten:

9 **"§ 90-171.55. Nurses Aides Registry.**

10 (a) The Board of Nursing, established pursuant to G.S. 90-171.21, shall establish a Nurses
11 Aides Registry for persons functioning as nurses aides regardless of title. The Board shall consider
12 those Level I nurses aides employed in State licensed or Medicare/Medicaid certified nursing
13 facilities who meet applicable State and federal registry requirements as adopted by the North
14 Carolina Medical Care Commission as having fulfilled the training and registry requirements of
15 the Board. The Board may not charge an annual fee to a nurse aide I registry applicant. The Board
16 may charge an annual fee of twelve dollars (\$12.00) for each nurse aide II registry applicant. The
17 Board shall adopt rules to ensure that whenever possible, the fee is collected through the employer
18 or prospective employer of the registry applicant. Fees collected may be used by the Board in
19 administering the registry. The Board's authority granted by this Article shall not conflict with the
20 authority of the Medical Care Commission.

- 21 (b) (1) Each nurses aide training program, except for those operated by (i) institutions
22 under the Board of Governors of The University of North Carolina, (ii)
23 institutions of the North Carolina Community College System, (iii) public high
24 schools, and (iv) hospital authorities acting pursuant to G.S. 131E-23(31), shall
25 provide a guaranty bond unless the program has already provided a bond or an
26 alternative to a bond under G.S. 115D-95. The Board of Nursing may revoke
27 the approval of a program that fails to maintain a bond or an alternative to a
28 bond pursuant to this subsection or G.S. 115D-95.

- 29 (2) When application is made for approval or renewal of approval, the applicant
30 shall file a guaranty bond with the clerk of the superior court of the county in
31 which the program will be located. The bond shall be in favor of the students.
32 The bond shall be executed by the applicant as principal and by a bonding
33 company authorized to do business in this State. The bond shall be conditioned
34 to provide indemnification to any student, or his parent or guardian, who has
35 suffered a loss of tuition or any fees by reason of the failure of the program to
36 offer or complete student instruction, academic services, or other goods and
37 services related to course enrollment for any reason, including the suspension,
38 revocation, or nonrenewal of a program's approval, bankruptcy, foreclosure, or
39 the program ceasing to operate.

40 The bond shall be in an amount determined by the Board to be adequate to
41 provide indemnification to any student, or his parent or guardian, under the
42 terms of the bond. The bond amount for a program shall be at least equal to the
43 maximum amount of prepaid tuition held at any time during the last fiscal year
44 by the program. The bond amount shall also be at least ten thousand dollars
45 (\$10,000).

46 Each application for a license shall include a letter signed by an authorized
47 representative of the program showing in detail the calculations made and the
48 method of computing the amount of the bond pursuant to this subdivision and
49 the rules of the Board. If the Board finds that the calculations made and the
50 method of computing the amount of the bond are inaccurate or that the amount

1 of the bond is otherwise inadequate to provide indemnification under the terms
 2 of the bond, the Board may require the applicant to provide an additional bond.
 3 The bond shall remain in force and effect until cancelled by the guarantor.
 4 The guarantor may cancel the bond upon 30 days notice to the Board.
 5 Cancellation of the bond shall not affect any liability incurred or accrued prior
 6 to the termination of the notice period.

7 (3) An applicant that is unable to secure a bond may seek a waiver of the guaranty
 8 bond from the Board and approval of one of the guaranty bond alternatives set
 9 forth in this subdivision. With the approval of the Board, an applicant may file
 10 with the clerk of the superior court of the county in which the program will be
 11 located, in lieu of a bond:

12 a. An assignment of a savings account in an amount equal to the bond
 13 required (i) which is in a form acceptable to the Board; (ii) which is
 14 executed by the applicant; and (iii) which is executed by a federally
 15 insured depository institution ~~lawfully doing business in this State; or a~~
 16 trust institution authorized to do business in this State; and (iv) for
 17 which access to the account in favor of the State of North Carolina is
 18 subject to the same conditions as for a bond in subdivision (2) of this
 19 subsection.

20 b. A certificate of deposit (i) which is executed by a federally insured
 21 depository institution ~~lawfully doing business in this State; or a trust~~
 22 institution authorized to do business in this State; and (ii) which is either
 23 payable to the State of North Carolina, unrestrictively endorsed to the
 24 Board; in the case of a negotiable certificate of deposit, is unrestrictively
 25 endorsed to the Board; or in the case of a nonnegotiable certificate of
 26 deposit, is assigned to the Board in a form satisfactory to the Board; and
 27 (iii) for which access to the certificate of deposit in favor of the State of
 28 North Carolina is subject to the same conditions as for a bond in
 29 subdivision (2) of this subsection."

30 **SECTION 16.(k)** G.S. 93A-42, as amended by Section 15(j) of this act, reads as

31 rewritten:

32 "**§ 93A-42. Time shares deemed real estate.**

33 ...

34 (d) The independent escrow agent provided by G.S. 93A-42(c)(2) shall deposit and
 35 maintain the purchaser's payments in an insured trust or escrow account in a federally insured
 36 depository institution ~~lawfully doing business in this State; or a trust institution authorized to do~~
 37 business in this State. The trust or escrow account may be interest-bearing and the interest earned
 38 shall belong to the developer, if agreed upon in writing by the purchaser; provided, however, if the
 39 time share instrument is not recorded within the time periods specified in this section, then the
 40 interest earned shall belong to the purchaser. The independent escrow agent shall return all
 41 payments to the purchaser at the expiration of 180 days following the execution of the contract of
 42 sale by the purchaser, unless prior to that time the time share instrument has been recorded.
 43 However, if prior to the expiration of 180 days following the execution of the contract of sale, the
 44 developer and the purchaser provide their written consent to the independent escrow agent, the
 45 developer's obligation to record the time share instrument and the escrow period may be extended
 46 for an additional period of 120 days. Upon recordation of the time share instrument, the
 47 independent escrow agent shall pay the purchaser's funds to the developer. Upon request by the
 48 Commission, the independent escrow agent shall promptly make available to the Commission
 49 inspection of records of money held by the independent escrow agent.

50"

1 **SECTION 16.(l)** G.S. 93A-45, as amended by Section 15(k) of this act, reads as
2 rewritten:

3 **"§ 93A-45. Purchaser's right to cancel; escrow; violation.**

4 ...
5 (c) Any payments received by a time share developer or time share salesperson in
6 connection with the sale of the time share shall be immediately deposited by such developer or
7 salesperson in a trust or escrow account in a federally insured depository institution ~~lawfully doing~~
8 ~~business in this State or a trust institution authorized to do business in this State~~ and shall remain
9 in such account for 10 days or cancellation by the purchaser, whichever occurs first. Payments
10 held in such trust or escrow accounts shall be deemed to belong to the purchaser and not the
11 developer. In lieu of such escrow requirements, the Commission shall have the authority to accept,
12 in its discretion, alternative financial assurances adequate to protect the purchaser's interest during
13 the contract cancellation period, including but not limited to a surety bond, corporate bond, cash
14 deposit or irrevocable letter of credit in an amount equal to the escrow requirements.

15"

16 **SECTION 16.1.** G.S. 14-27.23(c) and G.S. 14-27.28(c) are repealed.

17 **SECTION 16.3.** G.S. 28A-2B-2 reads as rewritten:

18 **"§ 28A-2B-2. Venue.**

19 The venue for a petition under G.S. 28A-2B-1 is the county of this State in which the
20 petitioner whose will or codicil is the subject of the petition ~~is domiciled, resides."~~

21 **SECTION 16.4.** G.S. 31D-5-505, as recodified by Section 7.2(b) of this act, reads as
22 rewritten:

23 **"§ 31D-5-505. Requisites of release ~~or limitation~~ as against creditors and purchasers for**
24 **value.**

25 No release ~~or limitation~~ of a power of appointment after March 8, 1943, which is made by the
26 owner of the legal title to real property in this State shall be valid as against creditors and
27 purchasers for a valuable consideration until an instrument in writing setting forth the release ~~or~~
28 ~~limitation~~ is executed and acknowledged in the manner required for a deed and recorded in the
29 county where the real property is."

30 **SECTION 16.5.** G.S. 36C-5-505 reads as rewritten:

31 **"§ 36C-5-505. Creditor's claim against settlor.**

32 ...
33 (c) Subject to the Uniform Voidable Transactions Act, Article 3A of Chapter 39 of the
34 General Statutes, for purposes of this section, property contributed to the following trusts is not
35 considered to have been contributed by the settlor and a person who would otherwise be treated as
36 a settlor or a deemed settlor of the following trusts may not be treated as a settlor:

- 37 (1) If the settlor is a beneficiary after the death of the settlor's spouse:
- 38 a. An irrevocable inter vivos marital trust that is treated as a general power
39 of appointment trust described in section 2523(e) of the Internal
40 Revenue Code.
 - 41 b. An irrevocable inter vivos marital trust that is treated as a qualified
42 terminable interest trust under section 2523(f) of the Internal Revenue
43 Code.
 - 44 c. An irrevocable inter vivos trust of which the settlor's spouse is a
45 beneficiary during the spouse's lifetime but which does not qualify for
46 the federal gift tax marital deduction, and during the lifetime of the
47 settlor's spouse (i) the settlor's spouse is the only beneficiary or (ii) the
48 settlor's spouse and ~~the settlor's issue~~ any issue of the settlor or the
49 settlor's spouse, or both, are the only beneficiaries.

1 d. Another trust, to the extent that the property of the other trust is
2 attributable to property passing from a trust described in
3 sub-subdivisions a., b., and c. of this subdivision.

4 For purposes of this subdivision, notwithstanding the provisions of
5 G.S. 36C-1-103(3), the settlor is a beneficiary whether so named under the
6 initial trust instrument or through the exercise of a limited or general power of
7 appointment.

8 (2) An irrevocable inter vivos trust for the benefit of a person if the settlor is the
9 person's spouse, regardless of whether or when that person was a settlor of an
10 irrevocable inter vivos trust for the benefit of the person's spouse.

11 For purposes of this subsection, the "settlor's spouse" refers to the person to whom the settlor
12 was married at the time the irrevocable inter vivos trust was created, notwithstanding a subsequent
13 dissolution of the marriage."

14 **SECTION 16.6.** G.S. 39-13.7 is amended by adding two new subsections to read:

15 "(f) Notice that the real property held in trust receives immunity from the claims of separate
16 creditors may be given in a statement in the conveyance of the tenancy by the entireties real
17 property to the trust that the real property is held under this section and that as of the date of the
18 conveyance, the requirements of subsection (b) of this section are met.

19 "(g) A person entering a transaction involving real property held in trust under this section
20 may request confirmation from the trustee whether the requirements of this section providing
21 immunity from the claims of separate creditors are met at the time of the transaction."

22 **SECTION 16.8.** G.S. 62-133.10 reads as rewritten:

23 "**§ 62-133.10. Retention of fuel and fuel-related cost savings associated with the purchase or**
24 **construction of a carbon offset facility.**

25 (a) The Commission shall permit an electric public utility that purchases or constructs a
26 carbon offset facility to adjust its fuel and fuel-related costs in G.S. 62-133.2 to retain the North
27 Carolina retail allocation of the system fuel and fuel-related cost savings resulting from the
28 purchase or construction of the facility, not to exceed the annual revenue requirement associated
29 with the allocated North Carolina retail portion of the facility as determined using the cost of
30 service methodology approved by the Commission in the utility's last general rate case.

31 (b) For purposes of this section, "carbon offset facility" means a facility in this State that
32 meets all of the following:

33 (1) The facility is purchased or constructed by an electric public ~~utility between~~
34 ~~July 1, 2009, and July 1, 2014.~~utility.

35 (2) The facility uses solar electric, solar thermal, wind, hydropower, geothermal, or
36 ocean current or wave energy to generate electricity or equivalent BTUs.

37 (3) The electricity or equivalent BTUs produced by the facility will displace
38 electric generation so as to reduce greenhouse gas emissions from existing
39 fossil fuel fired generating facilities used by the utility to meet the electricity
40 needs of its North Carolina customers.

41 (c) An electric public utility seeking the adjustment authorized by this section first shall
42 file with the Commission a petition requesting a determination that the facility the utility proposes
43 to purchase or construct is a carbon offset facility. The utility shall include in its petition all of the
44 following information in such form and detail as the Commission may require:

45 (1) Description and location of the facility.

46 (2) The benefit of the facility.

47 (3) A list of all necessary permitting and approvals and their status.

48 (4) Purchase or construction schedule, with in-service or completion date.

49 (5) Projected costs to purchase or construct and the annual revenue requirement for
50 the facility.

- 1 (6) Projected annual generation output of the facility and information detailing how
2 the generation projections were calculated.
- 3 (7) Information demonstrating that the operation of the facility will displace
4 electric generation resulting in a reduction of greenhouse gas emissions from
5 existing fossil fuel fired facilities used by the utility to meet the electricity
6 needs of its North Carolina customers.
- 7 (8) The projected fuel and fuel-related cost savings the utility seeks to retain and
8 how the savings were calculated.
- 9 (d) Upon the filing of the petition, the Public Staff shall conduct an investigation and shall
10 file a report with the Commission setting forth the results of its investigation and stating whether
11 the facility is a carbon offset facility. The Public Staff's report shall be filed not later than 45 days
12 after the date the petition was filed, unless the Commission grants an extension of time not to
13 exceed 15 days for good cause shown. Other interested persons may file comments in response to
14 the utility's petition and the Public Staff's report not later than 15 days after the Public Staff files
15 its report. The Commission shall enter an order either granting or denying the petition not later
16 than 105 days after the date the petition was filed. A finding by the Commission that the facility is
17 a carbon offset facility shall establish that the utility's decision to purchase or construct the facility
18 is reasonable and prudent.
- 19 (e) Nothing in this section shall be construed to exempt an electric public utility from
20 obtaining all applicable permits and certificates, including a certificate of public convenience and
21 necessity required by G.S. 62-110.1. An electric public utility shall file annual cost and schedule
22 updates with the Commission until the purchase or construction of an approved carbon offset
23 facility is completed.
- 24 (f) Upon placement into service of an approved carbon offset facility, the electric public
25 utility shall, in addition to the information and data provided under G.S. 62-133.2, submit the
26 following in conjunction with its application for a fuel and fuel-related charge adjustment:
- 27 (1) A calculation of the annual revenue requirement associated with the carbon
28 offset facility.
- 29 (2) Information demonstrating the specific items of costs associated with the
30 carbon offset facility's annual revenue requirement are reasonable and prudent.
- 31 (3) The fuel and fuel-related cost savings resulting from operation of the carbon
32 offset facility.
- 33 (4) Actual generation output of the carbon offset facility, including a demonstration
34 and quantification of how this generation displaced electric generation resulting
35 in reduced greenhouse gas emissions from existing fossil fuel fired facilities
36 used by the utility to meet the electricity needs of its North Carolina customers
37 during the test year.
- 38 (g) The Commission shall approve an estimate of the projected fuel and fuel-related cost
39 savings and an annual revenue requirement for an approved facility, as appropriate, in each
40 G.S. 62-133.2 proceeding. The Commission also may approve a true-up procedure for the
41 projected fuel and fuel-related cost savings. In the first G.S. 62-133.2 proceeding conducted after
42 the approved facility is placed in service, the Commission shall determine the reasonable and
43 prudent cost of the facility for ratemaking purposes. The revenue requirement associated with the
44 facility shall include but not be limited to: depreciation; operating and maintenance costs;
45 applicable taxes; and a return on investment, net of accumulated depreciation, accumulated
46 deferred income taxes, and other applicable savings or adjustments. The rate of return on
47 investment shall be based on the then current capital structure, embedded cost of preferred stock,
48 and embedded cost of debt of the public utility net of appropriate income taxes, and the cost of
49 common equity approved in the public utility's then most recent general rate case.
- 50 (h) The Commission shall authorize the electric public utility to utilize deferral accounting
51 for the fuel and fuel-related cost savings realized in conjunction with the operation of an approved

1 facility. The Commission shall, by rule or order, approve the terms and conditions of the deferral
2 accounting.

3 (i) The annual revenue requirement of the approved facility in excess of the annual fuel
4 and fuel-related cost savings shall be deemed recovered through the utility's then current base
5 rates.

6 (j) The adjustment authorized by this section shall terminate upon the establishment of
7 new rates in the electric public utility's next general rate case following the placement into service
8 and inclusion into base rates of the approved facility."

9 **SECTION 16.9.** If Senate Bill 734 of the 2016 Regular Session of the 2015 General
10 Assembly becomes law, then G.S. 90-12.7(b1), as enacted by Senate Bill 734, reads as rewritten:

11 "(b1) A pharmacist may dispense an opioid antagonist to a person described in subdivision
12 ~~(b)(1)(1)~~ of subsection (b) of this section pursuant to a prescription issued pursuant to subsection
13 (b) of this section. For purposes of this section, the term "pharmacist" is as defined in
14 G.S. 90-85.3."

15 **SECTION 17.** G.S. 90-91 reads as rewritten:

16 "**§ 90-91. Schedule III controlled substances.**

17 This schedule includes the controlled substances listed or to be listed by whatever official
18 name, common or usual name, chemical name, or trade name designated. In determining that a
19 substance comes within this schedule, the Commission shall find: a potential for abuse less than
20 the substances listed in Schedules I and II; currently accepted medical use in the United States;
21 and abuse may lead to moderate or low physical dependence or high psychological dependence.
22 The following controlled substances are included in this schedule:

23 ...

24 (k) Anabolic steroids. The term "anabolic steroid" means any drug or hormonal substance,
25 chemically and pharmacologically related to testosterone (other than estrogens, progestins, and
26 corticosteroids) that promotes muscle growth, including, but not limited to, the following:

- 27 1. Methandrostenolone,
- 28 2. Stanozolol,
- 29 3. Ethylestrenol,
- 30 4. Nandrolone phenpropionate,
- 31 5. Nandrolone decanoate,
- 32 6. Testosterone propionate,
- 33 7. Chorionic gonadotropin,
- 34 8. Boldenone,
- 35 9. Chlorotestosterone (4-chlorotestosterone),
- 36 10. Clostebol,
- 37 11. Dehydrochlormethyltestosterone,
- 38 12. Dihydrotestosterone (4-dihydrotestosterone),
- 39 13. Drostanolone,
- 40 14. Fluoxymesterone,
- 41 15. Formebolone (formebolone),
- 42 16. Mesterolene,
- 43 17. Methandienone,
- 44 18. Methandranone,
- 45 19. Methandriol,
- 46 20. Methenolene,
- 47 21. Methyltestosterone,
- 48 22. Mibolerone,
- 49 23. Nandrolene,
- 50 24. Norethandrolene,
- 51 25. Oxandrolone,

- 1 26. Oxymesterone,
- 2 27. Oxymetholone,
- 3 28. Stanolone,
- 4 29. Testolactone,
- 5 30. Testosterone,
- 6 31. Trenbolone, and
- 7 32. Any salt, ester, or isomer of a drug or substance described or listed in this
- 8 subsection, if that salt, ester, or isomer promotes muscle growth. ~~Except~~

9 Except such term does not include (i) an anabolic steroid which is expressly intended for
10 administration through implants to cattle or other nonhuman species and which has been approved
11 by the Secretary of Health and Human Services for such ~~administration~~ administration or (ii)
12 chorionic gonadotropin when administered by injection for veterinary use by or upon the order of
13 a licensed veterinarian. If any person prescribes, dispenses, or distributes such steroid for human
14 use, such person shall be considered to have prescribed, dispensed, or distributed an anabolic
15 steroid within the meaning of this subsection.

16"

17 **SECTION 18.** G.S. 90-96 reads as rewritten:

18 "**§ 90-96. Conditional discharge for first offense.**

19 (a) Whenever any person who has not previously been convicted of (i) any felony offense
20 under any state or federal laws; (ii) any offense under this Article; or (iii) an offense under any
21 statute of the United States or any state relating to those substances included in Article 5 or 5A of
22 Chapter 90 or to that paraphernalia included in Article 5B of Chapter 90 of the General Statutes
23 pleads guilty to or is found guilty of (i) a misdemeanor under this Article by possessing a
24 controlled substance included within Schedules I through VI of this Article or by possessing drug
25 paraphernalia as prohibited by ~~G.S. 90-113.22~~, G.S. 90-113.22 or G.S. 90-113.22A, or (ii) a felony
26 under G.S. 90-95(a)(3), the court shall, without entering a judgment of guilt and with the consent
27 of ~~such the~~ the person, defer further proceedings and place ~~him the~~ the person on probation upon such
28 reasonable terms and conditions as it may require, unless the court determines with a written
29 finding, and with the agreement of the District Attorney, that the offender is inappropriate for a
30 conditional discharge for factors related to the offense. Notwithstanding the provisions of
31 G.S. 15A-1342(c) or any other statute or law, probation may be imposed under this section for an
32 offense under this Article for which the prescribed punishment includes only a fine. To fulfill the
33 terms and conditions of probation the court may allow the defendant to participate in a drug
34 education program approved for this purpose by the Department of Health and Human Services or
35 in the Treatment for Effective Community Supervision Program under Subpart B of Part 6 of
36 Article 13 of Chapter 143B of the General Statutes. Upon violation of a term or condition, the
37 court may enter an adjudication of guilt and proceed as otherwise provided. Upon fulfillment of
38 the terms and conditions, the court shall discharge ~~such the~~ the person and dismiss the ~~proceedings~~
39 ~~against him. proceedings.~~ Discharge and dismissal under this section shall be without court
40 adjudication of guilt and shall not be deemed a conviction for purposes of this section or for
41 purposes of disqualifications or disabilities imposed by law upon conviction of a crime including
42 the additional penalties imposed for second or subsequent convictions under this Article.
43 Discharge and dismissal under this section or G.S. 90-113.14 may occur only once with respect to
44 any person. Disposition of a case to determine discharge and dismissal under this section at the
45 district court division of the General Court of Justice shall be final for the purpose of appeal. Prior
46 to taking any action to discharge and dismiss under this section the court shall make a finding that
47 the defendant has no record of previous convictions as provided in this subsection.

48 (a1) Upon the first conviction only of any offense which qualifies under the provisions of
49 subsection (a) of this section, and the provisions of this subsection, the court may place defendant
50 on probation under this section for an offense under this Article including an offense for which the
51 prescribed punishment includes only a fine. The probation, if imposed, shall be for not less than

1 one year and shall contain a minimum condition that the defendant who was found guilty or pleads
2 guilty enroll in and successfully complete, within 150 days of the date of the imposition of said
3 probation, the program of instruction at the drug education school approved by the Department of
4 Health and Human Services pursuant to G.S. 90-96.01. The court may impose probation that does
5 not contain a condition that defendant successfully complete the program of instruction at a drug
6 education school if:

- 7 (1) There is no drug education school within a reasonable distance of the
8 defendant's residence; or
- 9 (2) There are specific, extenuating circumstances which make it likely that
10 defendant will not benefit from the program of instruction.

11 The court shall enter such specific findings in the record; provided that in the case of subdivision
12 (2) above, such findings shall include the specific, extenuating circumstances which make it likely
13 that the defendant will not benefit from the program of instruction.

14 Upon fulfillment of the terms and conditions of the probation, the court shall discharge such
15 person and dismiss the proceedings against the person.

16 For the purposes of determining whether the conviction is a first conviction or whether a
17 person has already had discharge and dismissal, no prior offense occurring more than seven years
18 before the date of the current offense shall be considered. In addition, convictions for violations of
19 a provision of G.S. 90-95(a)(1) or 90-95(a)(2) or 90-95(a)(3), or 90-113.10, or 90-113.11, or
20 90-113.12, or ~~90-113.22~~ 90-113.22, or 90-113.22A shall be considered previous convictions.

21 Failure to complete successfully an approved program of instruction at a drug education school
22 shall constitute grounds to revoke probation pursuant to this subsection and deny application for
23 expunction of all recordation of defendant's arrest, indictment, or information, trial, finding of
24 guilty, and dismissal and discharge pursuant to G.S. 15A-145.2. For purposes of this subsection,
25 the phrase "failure to complete successfully the prescribed program of instruction at a drug
26 education school" includes failure to attend scheduled classes without a valid excuse, failure to
27 complete the course within 150 days of imposition of probation, willful failure to pay the required
28 fee for the course as provided in G.S. 90-96.01(b), or any other manner in which the person fails
29 to complete the course successfully. The instructor of the course to which a person is assigned
30 shall report any failure of a person to complete successfully the program of instruction to the court
31 which imposed probation. Upon receipt of the instructor's report that the person failed to complete
32 the program successfully, the court shall revoke probation, shall not discharge such person, shall
33 not dismiss the proceedings against the person, and shall deny application for expunction of all
34 recordation of defendant's arrest, indictment, or information, trial, finding of guilty, and dismissal
35 and discharge pursuant to G.S. 15A-145.2. A person may obtain a hearing before the court of
36 original jurisdiction prior to revocation of probation or denial of application for expunction.

37 This subsection is supplemental and in addition to existing law and shall not be construed so as
38 to repeal any existing provision contained in the General Statutes of North Carolina.

39 (b) Upon the discharge of such person, and dismissal of the proceedings against the person
40 under subsection (a) or (a1) of this section, such person, if he or she was not over 21 years of age
41 at the time of the offense, may be eligible to apply for expunction of certain records relating to the
42 offense pursuant to G.S. 15A-145.2(a).

43 (c) Repealed by Session Laws 2009-510, s. 8(b), effective October 1, 2010.

44 (d) Whenever any person is charged with a misdemeanor under this Article by possessing
45 a controlled substance included within Schedules I through VI of this Article or a felony under
46 G.S. 90-95(a)(3), upon dismissal by the State of the charges against such person, upon entry of a
47 nolle prosequi, or upon a finding of not guilty or other adjudication of innocence, the person may
48 be eligible to apply for expunction of certain records relating to the offense pursuant to
49 G.S. 15A-145.2(b).

50 (e) Whenever any person who has not previously been convicted of (i) any felony offense
51 under any state or federal laws; (ii) any offense under this Article; or (iii) an offense under any

1 statute of the United States or any state relating to controlled substances included in any schedule
2 of this Article or to that paraphernalia included in Article 5B of Chapter 90 of the General Statutes
3 pleads guilty to or has been found guilty of (i) a misdemeanor under this Article by possessing a
4 controlled substance included within Schedules I through VI of this Article, or by possessing drug
5 paraphernalia as prohibited by G.S. 90-113.22 or G.S. 90-113.22A, or (ii) a felony under
6 G.S. 90-95(a)(3), the person may be eligible to apply for cancellation of the judgment and
7 expunction of certain records related to the offense pursuant to G.S. 15A-145.2(c).

8 (f) Repealed by Session Laws 2009-577, s. 6, effective December 1, 2009, and applicable
9 to petitions for expunctions filed on or after that date."

10 **SECTION 18.5.(a)** G.S. 115C-401.2(a)(8), as enacted by S.L. 2016-11, reads as
11 rewritten:

12 "(8) Targeted advertising. – Presenting an advertisement to a student where the
13 advertisement is selected based on information obtained or inferred over time
14 from that student's online behavior, usage of applications, or covered
15 information. Targeted advertising does not include (i) using covered
16 information to identify nonprofit institutions of higher education or scholarship
17 providers to students or (ii) advertising to a student at an online location based
18 upon that student's current visit to that location, or in response to that student's
19 request for information or feedback, without the retention of that student's
20 online activities or requests over time for the purpose of targeting subsequent
21 ads."

22 **SECTION 18.5.(b)** G.S. 115C-401.2(e), as enacted by S.L. 2016-11, reads as
23 rewritten:

24 "(e) Permissible Operator Actions. – This section does not prohibit an operator from doing
25 any of the following:

- 26 (1) Using covered information that is not associated with an identified student
27 within the operator's site, service, or application or other sites, services, or
28 applications owned by the operator to improve educational products.
- 29 (2) Using covered information that is not associated with an identified student to
30 demonstrate the effectiveness of the operator's products or services, including in
31 their marketing.
- 32 (3) Sharing covered information that is not associated with an identified student for
33 the development and improvement of educational sites, services, or
34 applications.
- 35 (4) Using recommendation engines to recommend to a student either of the
36 following:
- 37 a. Additional content relating to an educational, other learning, or
38 employment opportunity purpose within the operator's site, service, or
39 application if the recommendation is not determined in whole or in part
40 by payment or other consideration from a third ~~party-party,~~ excluding
41 nonprofit institutions of higher education or scholarship providers that
42 are seeking to enroll students who meet specific criteria.
- 43 b. Additional services relating to an educational, other learning, or
44 employment opportunity purpose within the operator's site, service, or
45 application if the recommendation is not determined in whole or in part
46 by payment or other consideration from a third party.
- 47 (5) Responding to a student's request for information or for feedback to help
48 improve learning without the information or response being determined in
49 whole or in part by payment or other consideration from a third ~~party-party,~~
50 excluding nonprofit institutions of higher education or scholarship providers
51 that are seeking to enroll students who meet specific criteria."

1 **SECTION 19.** G.S. 147-12(b) reads as rewritten:

2 "(b) The Department of Transportation, the Division of Adult Correction of the Department
3 of Public Safety, the State Highway Patrol, the Wildlife Resources Commission, the Division of
4 Parks and Recreation in the ~~Department of Natural and Natural Resources [Department of Natural
5 and Cultural Resources]~~, Department of Natural and Cultural Resources, and the Division of
6 Marine Fisheries in the Department of Environmental Quality shall deliver to the Governor by
7 February 1 of each year detailed information on the agency's litter enforcement, litter prevention,
8 and litter removal efforts. The Administrative Office of the Courts shall deliver to the Governor,
9 by February 1 of each year, detailed information on the enforcement of the littering laws of the
10 State, including the number of charges and convictions under the littering laws of the State. The
11 Governor shall gather the information submitted by the respective agencies and deliver a
12 consolidated annual report, on or before March 1 of each year, to the Environmental Review
13 Commission, the Joint Legislative Transportation Oversight Committee, and the House of
14 Representatives and the Senate appropriations committees with jurisdiction over natural and
15 economic resources."

16 **SECTION 19.2.** G.S. 147-86.59 reads as rewritten:

17 "**§ 147-86.59. Certification required.**

18 (a) A State agency shall ~~require~~ certify that a person that attempts to contract with the
19 State or political subdivision of the State, ~~including a contract renewal or assumption, to certify, at~~
20 ~~the time~~ State is not identified on a list created by the State Treasurer pursuant to G.S. 147-86.58
21 when the bid is submitted or the contract is entered into, renewed, or assigned, that the person or
22 the assignee is not identified on a list created by the State Treasurer pursuant to G.S. 147-86.58.
23 assigned. "Attempts to contract" include a contract renewal or assumption. A State agency shall
24 include certification information in the procurement record. If a State agency and the same person
25 enter into multiple contracts or multiple contract renewals or assumptions within 180 days after a
26 certification is made, a new certification need not be made.

27 (b) A person that contracts with the State or a political subdivision of the State, including a
28 contract renewal or assumption, shall not utilize on the contract with the State agency any
29 subcontractor that is identified on a list created pursuant to G.S. 147-86.58.

30 (c) Upon receiving information that a person who has ~~made the certification~~ been certified
31 as required by subsection (a) of this section is in violation thereof, the State agency shall review
32 the information and offer the person an opportunity to respond. If the person fails to demonstrate
33 that the person should not have been identified on the list created pursuant to G.S. 147-86.58
34 within 90 days after the determination of the violation, then the State agency shall take action as
35 may be appropriate and provided for by law, rule, or contract."

36 **SECTION 19.4.(a)** G.S. 153A-99(b) reads as rewritten:

37 "(b) Definitions. For the purposes of this section:

- 38 (1) "County employee" or "employee" means any person employed by a county or
39 any department or program thereof that is supported, in whole or in part, by
40 county ~~funds;~~ funds. For the purposes of this section, a deputy sheriff and an
41 employee of a sheriff are "county employees" or "employees";
42 (2) "On duty" means that time period when an employee is engaged in the duties of
43 his or her employment; and
44 (3) "Workplace" means any place where an employee engages in his or her job
45 duties."

46 **SECTION 19.4.(b)** This section becomes effective October 1, 2016.

47 **SECTION 20.** Section 1 of S.L. 2015-52 is repealed.

48 **SECTION 21.(a)** The Revisor of Statutes shall cause to be printed an explanatory
49 comment to G.S. 36C-1-112 prepared by the Estate Planning and Fiduciary Law Section of the
50 North Carolina Bar Association, that Section having originally prepared Chapter 36C of the
51 General Statutes for introduction in 2005, as the Revisor may deem appropriate.

1 **SECTION 21.(b)** The Revisor of Statutes shall cause to be printed all explanatory
2 comments of the drafters of Sections 7.1, 7.2(b) and (c), 16.4, and 16.5, as the Revisor may deem
3 appropriate.
4

5 **PART III. EFFECTIVE DATE**

6 **SECTION 22.** Except as otherwise provided in this act, this act is effective when it
7 becomes law.