GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2021

SESSION LAW 2021-88
HOUSE BILL 67

AN ACT TO MAKE TECHNICAL CORRECTIONS TO THE GENERAL STATUTES AND SESSION LAWS, AS RECOMMENDED BY THE GENERAL STATUTES COMMISSION.

The General Assembly of North Carolina enacts:

SECTION 1.(a) G.S. 1-120.2 reads as rewritten:

"**§ 1-120.2. Filing of notice by cities and counties in certain cases.**

The governing body of a city or county may, by ordinance under ~~Part 5 of Article 19 of Chapter 160A~~ Article 11 of Chapter 160D of the General Statutes relating to building inspection, or ~~Part 6 of Article 19 of Chapter 160A~~ Article 12 of Chapter 160D of the General Statutes relating to minimum housing standards, ~~or Part 4 of Article 18 of Chapter 153A relating to building inspection,~~ provide that upon the issuance of a complaint and notice of hearing or order pursuant ~~thereto,~~ to it, a notice of lis pendens, with a copy of the complaint and notice of hearing or order attached ~~thereto,~~ to it, may be filed in the office of the clerk of superior court of the county where the property is located. When a notice of lis pendens and a copy of the complaint and notice of hearing or order is filed with the clerk of superior court, it shall be indexed and cross-indexed in accordance with the indexing procedures of G.S. 1-117. From the date and time of indexing, the complaint and notice of hearing or order ~~shall be~~ is binding upon the successors and assigns of the owners of and parties in interest in the building or dwelling. A copy of the notice of lis pendens shall be served upon the owners and parties in interest in the building or dwelling at the time of filing in accordance with ~~G.S. 160A-428, 160A-445, or 153A-368 as applicable.~~ G.S. 160D-1121 and G.S. 160D-1206. The notice of lis pendens ~~shall remain~~ remains in full force and effect until cancelled. The ordinance may authorize the cancellation of the notice of lis pendens under certain circumstances. Upon receipt of notice from the city, the clerk of superior court shall cancel the notice of lis pendens."

SECTION 1.(b) G.S. 160D-403 reads as rewritten:

"**§ 160D-403. Administrative development approvals and determinations.**

…

(b) Determinations and Notice of Determinations. – A development regulation enacted under the authority of this Chapter may designate the staff member or members charged with making determinations under the development regulation.

The officer making the determination shall give written notice to the owner of the property that is the subject of the determination and to the party who sought the determination, if different from the owner. The written notice shall be delivered by personal delivery, ~~electronic mail,~~ email, or ~~by~~ first-class mail. The notice shall be delivered to the last address listed for the owner of the affected property on the county tax abstract and to the address provided in the application or request for a determination if the party seeking the determination is different from the owner.

It is conclusively presumed that all persons with standing to appeal have constructive notice of the determination from the date a sign providing notice that a determination has been made is prominently posted on the property that is the subject of the determination, ~~provided~~ so long as the sign remains on the property for at least 10 days. ~~The~~ A posted sign shall contain the words

"Zoning Decision" or "Subdivision Decision" or similar language for other determinations in letters at least ~~6~~ six inches high and shall identify the means to contact a local government staff member for information about the determination. Posting of signs is not the only form of constructive notice. Any ~~such~~ sign posting is the responsibility of the landowner, applicant, or person ~~who~~ that sought the determination. Verification of the posting shall be provided to the staff member responsible for the determination. Absent an ordinance provision to the contrary, posting of signs ~~shall~~ is not ~~be~~ required.

…

(e) Inspections. – Administrative staff may inspect work undertaken pursuant to a development approval to assure that the work is being done in accordance with applicable State and local laws and ~~of~~ the terms of the approval. In exercising this power, staff ~~are authorized to~~ may enter any premises within the jurisdiction of the local government at all reasonable hours for the purposes of inspection or other enforcement action, upon presentation of proper ~~credentials; provided, however, that~~ credentials, so long as the appropriate consent has been given for inspection of areas not open to the public or ~~that~~ an appropriate inspection warrant has been secured.

(f) Revocation of Development Approvals. – In addition to initiation of enforcement actions under G.S. 160D-404, development approvals may be revoked by the local government issuing the development approval by notifying the holder in writing stating the reason for the revocation. The local government shall follow the same development review and approval process required for issuance of the development approval, including any required notice or hearing, in the review and approval of any revocation of that approval. Development approvals shall be revoked for any substantial departure from the approved application, plans, or specifications; for refusal or failure to comply with the requirements of any applicable local development regulation or any State law delegated to the local government for enforcement purposes in lieu of the State; or for false statements or misrepresentations made in securing the approval. Any development approval mistakenly issued in violation of an applicable State or local law may also be revoked. The revocation of a development approval by a staff member may be appealed pursuant to G.S. 160D-405. If an appeal is filed regarding a development regulation adopted by a local government pursuant to this Chapter, the provisions of ~~G.S. 160D-405(e)~~ G.S. 160D-405(f) regarding stays apply.

(g) Certificate of Occupancy. – A local government may, upon completion of work or activity undertaken pursuant to a development approval, make final inspections and issue a certificate of compliance or occupancy if staff finds that the completed work complies with all applicable State and local laws and with the terms of the approval. No building, structure, or use of land that is subject to a building permit required by Article 11 of this Chapter shall be occupied or used until a certificate of occupancy or temporary certificate pursuant to ~~G.S. 160D-1114~~ G.S. 160D-1116 has been issued.

(h) Optional Communication Requirements. – A regulation adopted pursuant to this Chapter may require notice ~~and/or~~ or informational ~~meetings~~ meetings, or both, as part of the administrative decision-making process."

SECTION 1.(c) G.S. 160D-604 reads as rewritten:

"**§ 160D-604. Planning board review and comment.**

(a) Initial Zoning. – In order to exercise zoning powers conferred by this Chapter for the first time, a local government shall create or designate a planning board under the provisions of this Article or ~~of a special~~ a local act of the General Assembly. The planning board shall prepare or shall review and comment upon a proposed zoning regulation, including the full text of ~~such~~ the regulation and maps showing proposed district boundaries. The planning board may hold public meetings and legislative hearings in the course of preparing the regulation. Upon completion, the planning board shall make a written recommendation regarding adoption of the regulation to the governing board. The governing board shall not hold its required hearing or take

action until it has received a recommendation regarding the regulation from the planning board. Following its required hearing, the governing board may refer the regulation back to the planning board for any further recommendations that the board may wish to make prior to final action by the governing board in adopting, modifying and adopting, or rejecting the regulation.

…

(d) Plan Consistency. – When conducting a review of proposed zoning text or map amendments pursuant to this section, the planning board shall advise and comment on whether the proposed action is consistent with any comprehensive or land-use plan that has been adopted and any other officially adopted plan that is applicable. The planning board shall provide a written recommendation to the governing board that addresses plan consistency and other matters as deemed appropriate by the planning board, but a comment by the planning board that a proposed amendment is inconsistent with the comprehensive or land-use plan shall not preclude consideration or approval of the proposed amendment by the governing board. If a zoning map amendment qualifies as a "large-scale rezoning" under G.S. 160D-602(b), the planning board statement describing plan consistency may address the overall rezoning and describe how the analysis and policies in the relevant adopted plans were considered in the recommendation made.

(e) Separate Board Required. – Notwithstanding the authority to assign duties of the planning board to the governing board as provided by this Chapter, the review and comment required by this section shall not be assigned to the governing board and ~~must~~ shall be performed by a separate board."

SECTION 1.(d) G.S. 160D-605 reads as rewritten:

"**§ 160D-605. Governing board statement.**

(a) Plan Consistency. – When adopting or rejecting any zoning text or map amendment, the governing board shall approve a brief statement describing whether its action is consistent or inconsistent with an adopted comprehensive or land-use plan. The requirement for a plan consistency statement may also be met by a clear indication in the minutes of the governing board that at the time of action on the amendment the governing board was aware of and considered the planning board's recommendations and any relevant portions of an adopted comprehensive or land-use plan. If a zoning map amendment is adopted and the action was deemed inconsistent with the adopted plan, the zoning amendment ~~shall have~~ has the effect of also amending any future land-use map in the approved plan, and no additional request or application for a plan amendment ~~shall be~~ is required. A plan amendment and a zoning amendment may be considered concurrently. The plan consistency statement is not subject to judicial review. If a zoning map amendment qualifies as a "large-scale rezoning" under G.S. 160D-602(b), the governing board statement describing plan consistency may address the overall rezoning and describe how the analysis and policies in the relevant adopted plans were considered in the action taken.

…."

SECTION 1.(e) G.S. 160D-944 reads as rewritten:

"**§ 160D-944. Designation of historic districts.**

(a) Any local government may, as part of a zoning regulation adopted pursuant to Article 7 of this Chapter or as a development regulation enacted or amended pursuant to Article 6 of this Chapter, designate and from time to time amend one or more historic districts within the area subject to the regulation. Historic districts established pursuant to this Part shall consist of areas that are deemed to be of special significance in terms of their history, prehistory, architecture, or culture and to possess integrity of design, setting, materials, feeling, and association.

~~Such~~ A development regulation may treat historic districts either as a separate use district classification or as districts that overlay other zoning districts. Where historic districts are designated as separate use districts, the zoning regulation may include as uses by right or as special uses those uses found by the preservation commission to have existed during the period sought to be restored or preserved or to be compatible with the restoration or preservation of the district.

(b) No historic district or districts shall be designated under subsection (a) of this section until all of the following occur:

(1) An investigation and report describing the significance of the buildings, structures, features, sites, or surroundings included in ~~any such~~ the proposed district and a description of the boundaries of ~~such~~ the district ~~has~~ have been prepared.

(2) The Department of Natural and Cultural Resources, acting through the State Historic Preservation Officer or his or her designee, ~~shall have~~ has made an analysis of and recommendations concerning ~~such~~ the report and description of proposed boundaries. Failure of the ~~department~~ Department to submit its written analysis and recommendations to the governing board within 30 calendar days after a written request for ~~such~~ the analysis has been received by the Department ~~of Cultural Resources shall relieve~~ relieves the governing board of any responsibility for awaiting ~~such~~ the analysis, and the governing board may at any subsequent time ~~thereafter~~ take any necessary action to adopt or amend its zoning regulation.

(c) The governing board may also, in its discretion, refer the report and proposed boundaries under subsection (b) of this section to any local preservation commission or other interested body for its recommendations prior to taking action to amend the zoning regulation. With respect to any changes in the boundaries of ~~such~~ a district, subsequent to its initial establishment, or the creation of additional districts within the jurisdiction, the investigative studies and reports required by subdivision (1) of subsection (b) of this section shall be prepared by the preservation commission and shall be referred to the planning board for its review and comment according to procedures set forth in the zoning regulation. Changes in the boundaries of an initial district or proposal for additional districts shall also be submitted to the Department of Natural and Cultural Resources in accordance with the provisions of subdivision (2) of subsection (b) of this section.

On receipt of these reports and recommendations, the local government may proceed in the same manner as would otherwise be required for the adoption or amendment of any appropriate zoning regulation.

(d) ~~The provisions of G.S. 160D-910 apply~~ G.S. 160D-914 applies to zoning or other development regulations pertaining to historic districts, and the authority under ~~G.S. 160D-910(b)~~ that statute for the ordinance to regulate the location or screening of solar collectors may encompass requiring the use of plantings or other measures to ensure that the use of solar collectors is not incongruous with the special character of the district."

SECTION 1.(f) G.S. 160D-1102 reads as rewritten:

"**§ 160D-1102. Building code administration.**

A local government may create an inspection department and may appoint inspectors who may be given appropriate titles, such as building inspector, electrical inspector, plumbing inspector, housing inspector, zoning inspector, heating and air-conditioning inspector, fire prevention inspector, or deputy or assistant inspector, or ~~such other titles as may be~~ another title generally descriptive of the duties assigned. Every local government shall perform the duties and responsibilities set forth in ~~G.S. 160D-1105~~ G.S. 160D-1104 either by (i) creating its own inspection department, (ii) creating a joint inspection department in cooperation with one or more other units of local government, pursuant to ~~G.S. 160D-1105 or~~ Part 1 of Article 20 of Chapter 160A of the General Statutes, (iii) contracting with another unit of local government for the provision of inspection services pursuant to Part 1 of Article 20 of Chapter 160A of the General Statutes, or (iv) arranging for the county in which a city is located to perform inspection services within the city's jurisdiction as authorized by ~~G.S. 160D-1105~~ G.S. 160D-1104 and G.S. 160D-202.

In the event that any local government fails to provide inspection services or ceases to provide ~~such~~ inspection services, the Commissioner of Insurance shall arrange for the provision of ~~such~~ inspection services, either through personnel employed by the department or through an arrangement with other units of government. In either event, the Commissioner ~~shall have~~ has and may exercise within the local government's planning and development regulation jurisdiction all powers made available to the governing board with respect to building inspection under this Article and Part 1 of Article 20 of Chapter 160A of the General Statutes. Whenever the Commissioner has intervened in this manner, the local government may assume provision of inspection services only after giving the Commissioner two years' written notice of its intention to do so; ~~provided,~~ however, ~~that~~ the Commissioner may waive this requirement or permit assumption at an earlier date upon finding that ~~such~~ an earlier assumption will not unduly interfere with arrangements made for the provision of those services."

SECTION 1.(g) G.S. 160D-1111 reads as rewritten:

"**§ 160D-1111. Expiration of building permits.**

A building permit issued pursuant to this Article ~~shall expire~~ expires by limitation six months, or any lesser time fixed by ~~ordinance of the city council,~~ ordinance, after the date of issuance if the work authorized by the permit has not been commenced. If, after commencement, the work is discontinued for a period of 12 months, the permit ~~therefor~~ shall immediately expire. No work authorized by any building permit that has expired shall ~~thereafter~~ be performed until a new permit has been secured."

SECTION 1.(h) G.S. 160D-1202 reads as rewritten:

"**§ 160D-1202. Definitions.**

The following ~~terms shall have the meanings whenever used or referred to as indicated when used in this Part unless a different meaning clearly appears from the context:~~definitions apply in this Article:

(1) Owner. – The holder of the title in fee simple and every mortgagee of record.

(2) Parties in interest. – All individuals, associations, and corporations ~~who~~ that have interests of record in a dwelling and any ~~who~~ that are in possession ~~thereof.~~of a dwelling.

(3) Public authority. – Any housing authority or any officer ~~who~~ that is in charge of any department or branch of the government of the city, county, or State relating to health, fire, building regulations, or other activities concerning dwellings in the local government.

(4) Public officer. – The officer ~~or officers who are~~ authorized by ordinances adopted ~~hereunder~~ under this Article to exercise the powers prescribed by the ordinances and by this Article."

SECTION 2. G.S. 14-113.9 reads as rewritten:

"**§ 14-113.9. Financial transaction card theft.**

(a) A person is guilty of financial transaction card theft when the person does any of the following:

(1) Takes, ~~obtains~~ obtains, or withholds a financial transaction card from the person, possession, ~~custody~~ custody, or control of another without the cardholder's consent and with the intent to use it; or who, with knowledge that it has been so taken, ~~obtained~~ obtained, or withheld, receives the financial transaction card with intent to use it or to sell it, or to transfer it to a person other than the issuer or the cardholder.

(2) Receives a financial transaction card that he or she knows to have been lost, mislaid, or delivered under a mistake as to the identity or address of the cardholder, and ~~who~~ retains possession with intent to use it or to sell it or to transfer it to a person other than the issuer or the cardholder.

(3) Not being the issuer, sells a financial transaction card or buys a financial transaction card from a person other than the issuer.

(4) Not being the issuer, during any 12-month period, receives financial transaction cards issued in the names of two or more persons which he or she has reason to know were taken or retained under circumstances ~~which~~ that constitute a violation of G.S. 14-113.13(a)(3) and subdivision (3) of subsection (a) of this section.

(5) With the intent to defraud any person, either (i) uses a scanning device to access, read, obtain, memorize, or store, temporarily or permanently, information encoded on another person's financial transaction card, or (ii) receives the encoded information from another person's financial transaction card.

(b) ~~Credit~~ Financial transaction card theft is punishable as provided by G.S. 14-113.17(b)."

SECTION 3. G.S. 15A-151.5 reads as rewritten:

"**§ 15A-151.5. Prosecutor access to expunged files.**

(a) Notwithstanding any other provision of this Article, the Administrative Office of the Courts shall make all confidential files maintained under G.S. 15A-151 electronically available to all prosecutors of this State if the criminal record was expunged on or after July 1, 2018, under any of the following:

…

(7b) G.S. 15A-145.8A. Expunction of records for offenders under the age of 18 at the time of ~~conviction~~ commission of certain misdemeanors and felonies upon completion of the sentence.

…

(c) For any expungement granted on or after July 1, 2018, the information maintained by the Administrative Office of the Courts, and made available under subsection (a) of this section, ~~shall be~~ is prima facie evidence of the expunged conviction for the purposes provided in subsection (b) of this section and ~~shall be~~ is admissible into evidence. The expungement of a conviction shall not serve as a basis to challenge a conviction or sentence entered before the expungement of that conviction."

SECTION 4.(a) G.S. 18B-302 reads as rewritten:

"**§ 18B-302. Sale to or purchase by underage persons.**

(a) Sale. – It ~~shall be~~ is unlawful for any person ~~to:~~to do any of the following:

(1) Sell malt beverages or unfortified wine to anyone less than 21 years ~~old; or~~old.

(2) Sell fortified wine, spirituous liquor, or mixed beverages to anyone less than 21 years old.

(a1) Give. – It ~~shall be~~ is unlawful for any person ~~to:~~to do any of the following:

(1) Give malt beverages or unfortified wine to anyone less than 21 years ~~old; or~~old.

(2) Give fortified wine, spirituous liquor, or mixed beverages to anyone less than 21 years old.

(b) Purchase, Possession, or Consumption. – It ~~shall be~~ is unlawful ~~for:~~for a person less than 21 years old to do any of the following:

(1) ~~A person less than 21 years old to purchase, to~~ Purchase, attempt to purchase, or ~~to~~ possess malt beverages or unfortified ~~wine; or~~wine.

(2) ~~A person less than 21 years old to purchase, to~~ Purchase, attempt to purchase, or ~~to~~ possess fortified wine, spirituous liquor, or mixed ~~beverages; or~~beverages.

(3) ~~A person less than 21 years old to consume~~ Consume any alcoholic beverage.

(c) Aider and ~~Abettor.~~Abettor. –

(1) By Underage Person. – Any person who is under the lawful age to purchase and who aids or abets another in violation of subsection (a), (a1), or (b) of this section ~~shall be~~ is guilty of a Class 2 misdemeanor.

(2) By Person over Lawful Age. – Any person who is over the lawful age to purchase and who aids or abets another in violation of subsection (a), (a1), or (b) of this section ~~shall be~~ is guilty of a Class 1 misdemeanor.

(d) Defense. – It ~~shall be~~ is a defense to a violation of subsection (a) of this section if the ~~seller:~~seller does any of the following:

(1) Shows that the purchaser produced a driver's license, a special identification card issued under G.S. 20-37.7, a military identification card, or a passport, showing ~~his~~ the purchaser's age to be at least the required age for purchase and bearing a physical description of the person named on the card reasonably describing the ~~purchaser; or~~purchaser.

(2) Produces evidence of other facts that reasonably indicated at the time of sale that the purchaser was at least the required age.

(3) Shows that at the time of purchase, the purchaser utilized a biometric identification system that demonstrated (i) the purchaser's age to be at least the required age for the purchase and (ii) the purchaser had previously registered with the seller or seller's agent a drivers license, a special identification card issued under G.S. 20-37.7, a military identification card, or a passport showing the purchaser's date of birth and bearing a physical description of the person named on the document.

(e) Fraudulent Use of Identification. – It ~~shall be~~ is unlawful for any person to enter or attempt to enter a place where alcoholic beverages are sold or consumed, or to obtain or attempt to obtain alcoholic beverages, or to obtain or attempt to obtain permission to purchase alcoholic beverages, in violation of subsection (b) of this section, by using or attempting to use any of the following:

(1) A fraudulent or altered drivers license.

(2) A fraudulent or altered identification document other than a drivers license.

(3) A drivers license issued to another person.

(4) An identification document other than a drivers license issued to another person.

(5) Any other form or means of identification that indicates or symbolizes that the person is not prohibited from purchasing or possessing alcoholic beverages under this section.

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

…

(h) Handling in Course of Employment. – Nothing in this section ~~shall be construed to prohibit~~ prohibits an underage person from selling, transporting, ~~possessing~~ possessing, or dispensing alcoholic beverages in the course of employment, if the employment of the person for that purpose is lawful under applicable youth employment statutes and Commission rules.

(i) Purchase, Possession, or Consumption by 19 or 20-Year Old. – A violation of subdivision (b)(1) or (b)(3) of this section by a person who is 19 or 20 years old is a Class 3 misdemeanor.

(j) Screening Test. – Notwithstanding any other provisions of law, a law enforcement officer may require any person the officer has probable cause to believe is ~~under age 21~~ less than 21 years old and has consumed alcohol to submit to an alcohol screening test using a device approved by the Department of Health and Human Services. The results of any screening device administered in accordance with the rules of the Department of Health and Human Services ~~shall~~

~~be~~ are admissible in any court or administrative proceeding. A refusal to submit to an alcohol screening test ~~shall be~~ is admissible in any court or administrative proceeding.

(k) Exception. – Notwithstanding the provisions in this section, it ~~shall~~ is not ~~be~~ unlawful for a person less than 21 years old to consume unfortified wine or fortified wine during participation in an exempted activity under G.S. 18B-103(4), (8), or (11)."

SECTION 4.(b) G.S. 18B-900 reads as rewritten:

"**§ 18B-900. Qualifications for permit.**

(a) Requirements. – To be eligible to receive and to hold an ABC permit, a person must satisfy all of the following requirements:

(1) Be at least 21 years old.
~~selling only malt beverages and unfortified wine,~~

(2) Be a resident of North ~~Carolina unless:~~Carolina, unless any of the following apply:
   a. ~~He~~ The person is an officer, ~~director~~ director, or stockholder of a corporate applicant or permittee and is not a manager or otherwise responsible for the day-to-day operation of the ~~business; or~~business.
   b. ~~He~~ The person has executed a power of attorney designating a qualified resident of this State to serve as attorney in fact for the purposes of receiving service of process and managing the business for which permits are ~~sought; or~~sought.
   c. ~~He~~ The person is applying for a nonresident malt beverage vendor permit, a nonresident wine vendor permit, or a vendor representative permit.

(3) Not have been convicted of a felony within three years, and, if convicted of a felony before then, ~~has~~ have had his or her citizenship restored.

(4) Not have been convicted of an alcoholic beverage offense within two years.

(5) Not have been convicted of a misdemeanor controlled substance offense within two years.

(6) Not have had an alcoholic beverage permit revoked within three years, except where the revocation was based solely on a permittee's failure to pay the annual registration and inspection fee required in G.S. 18B-903(b1).

(7) Not have, whether as an individual or as an officer, director, shareholder or manager of a corporate permittee, an unsatisfied outstanding final judgment that was entered against him or her in an action under Article 1A of this Chapter.

(8) Be current in filing all applicable tax returns to the State and in payment of all taxes, interest, and penalties that are collectible under G.S. 105-241.22. This subdivision does not apply to the following ABC permits:
   a. Special occasion permit under G.S. 18B-1001(8).
   b. Limited special occasion permit under G.S. 18B-1001(9).
   c. Special one-time permit under G.S. 18B-1002.
   d. Salesman permit under G.S. 18B-1111.

To avoid undue hardship, however, the Commission may decline to take action under G.S. 18B-104 against a permittee who is in violation of subdivisions (3), (4), or ~~(5).~~(5) of this subsection.

(b) Definition of Conviction. – A person has been "convicted" for the purposes of subsection (a) of this section when ~~he~~ the person has been found guilty, or has entered a plea of guilty or nolo contendere, and judgment has been ~~entered against him.~~ entered. A felony conviction in another jurisdiction ~~shall disqualify~~ disqualifies a person from being eligible to receive or hold an ABC permit if ~~his~~ the conduct would also constitute a felony in North Carolina. A conviction of an alcoholic beverage offense or misdemeanor drug offense in another

jurisdiction ~~shall disqualify~~ disqualifies a person from being eligible to receive or hold an ABC permit if ~~his~~ the conduct would constitute an offense in North Carolina, unless the Commission determines that under North Carolina procedure judgment would not have been entered under the same circumstances. Revocation of a permit in another jurisdiction ~~shall disqualify~~ disqualifies a person if ~~his~~ the conduct would be grounds for revocation in North Carolina.

(c) Who Must Qualify; Exceptions. – For an ABC permit to be issued to and held for a business, each of the following persons associated with that business must qualify under subsection ~~(a):~~(a) of this section:

(1) The owner of a sole proprietorship.

(2) Each member of a firm, ~~association~~ association, or general partnership.

(2a) Each general partner in a limited partnership.

(2b) Each manager and any member with a twenty-five percent (25%) or greater interest in a limited liability company.

(3) Each officer, ~~director~~ director, and owner of twenty-five percent (25%) or more of the stock of a corporation except that the requirement of subdivision (a)(1) does not apply to ~~such an~~ the officer, director, or stockholder unless he or she is a manager or is otherwise responsible for the day-to-day operation of the business.

(4) The manager of an establishment operated by a corporation.

(5) Any manager who has been empowered as attorney-in-fact for a nonresident individual or partnership.

(6) Any manager or person otherwise responsible for the day-to-day operation of the business, if none of the persons listed in subdivisions (1) through (5) of this subsection ~~are~~ is a manager or person otherwise responsible for the day-to-day operation of the business.

(d) Manager of Off-Premises Establishment. – Although ~~he need~~ the manager of an establishment operated by a corporation and holding off-premises permits for malt beverages, unfortified wine, or fortified wine is not otherwise required to meet the requirements of this section, the manager ~~of an establishment operated by a corporation and holding off-premises permits for malt beverages, unfortified wine, or fortified wine shall~~ must be at least 19 years old and ~~shall~~ must meet the requirements of subdivisions (3), (4), (5) and (6) of subsection ~~(a).~~(a) of this section.

…

(f) Procedure to Confirm State Tax Compliance. – Upon request of the Commission, the Department of Revenue must provide information to the Commission to confirm a person's compliance with subdivision (a)(8) of this section. If the Department of Revenue notifies the Commission that a person is not in compliance, then the Commission ~~may~~ shall not issue or renew the person's permit until the Commission receives notice from the Department of Revenue that the person is in compliance. The requirement to pay all taxes, interest, and penalties may be satisfied by an operative agreement under G.S. 105-237 covering any amounts that are collectible under G.S. 105-241.22. Chapter 150B of the General Statutes does not apply to a Commission action on issuance, suspension, or revocation of an ABC permit under subdivision (a)(8) of this section."

SECTION 5. G.S. 42-34.1, as amended by Section 8 of S.L. 2021-47, reads as rewritten:

"**§ 42-34.1. Rent pending execution of judgment; post bond pending appeal.**

(a) If the judgment in district court is against the defendant appellant, it ~~shall be~~ is sufficient to stay execution of the judgment during the 30-day time period for taking an appeal provided for in Rule 3 of the North Carolina Rules of Appellate Procedure if the defendant appellant posts a bond as provided in ~~G.S. 42-34(b), and no~~ G.S. 42-34(b). No additional security under G.S. 1-292 is required. If the defendant appellant fails to make rental payments as provided

in the undertaking within five business days of the day rent is due under the terms of the residential rental agreement, the clerk of superior court shall, upon application of the plaintiff appellee, immediately issue a writ of possession, and the sheriff shall dispossess the defendant appellant as provided in G.S. 42-36.2.

(a1) If the judgment in district court is against the defendant appellant and the defendant appellant does not appeal the judgment, the defendant appellant shall pay rent to the plaintiff for the time the defendant appellant remains in possession of the premises after the judgment is given. Rent shall be prorated if the judgment is executed before the day rent would become due under the terms of the lease. The clerk of court shall ~~disperse~~ disburse any rent in arrears paid by the defendant appellant in accordance with a stipulation executed by all parties or, if there is no stipulation, in accordance with the judge's order.

(b) If the judgment in district court is against the defendant appellant and the defendant appellant appeals the judgment, it ~~shall be~~ is sufficient to stay execution of the judgment if the defendant appellant posts a bond as provided in ~~G.S. 42-34(b), and no~~ G.S. 42-34(b). No additional security under G.S. 1-292 is required. If the defendant appellant fails to perfect the appeal or the appellate court upholds the judgment of the district court, the execution of the judgment shall proceed. The clerk of court shall not ~~disperse~~ disburse any rent in arrears paid by the defendant appellant until all appeals have been resolved."

SECTION 6. G.S. 50-13.7 reads as rewritten:

"**§ 50-13.7. Modification of order for child support or custody.**

(a) ~~Except as otherwise provided in G.S. 50-13.7A, an~~ An order of a court of this State for support of a minor child may be modified or vacated at any time, upon motion in the cause and a showing of changed circumstances by either party or anyone interested subject to the limitations of G.S. 50-13.10. Subject to ~~the provisions of~~ G.S. 50A-201, 50A-202, and 50A-204, an order of a court of this State for custody of a minor child may be modified or vacated at any time, upon motion in the cause and a showing of changed circumstances by either party or anyone interested.

(b) When an order for support of a minor child has been entered by a court of another state, a court of this State may, upon gaining jurisdiction, and upon a showing of changed circumstances, enter a new order for support ~~which~~ that modifies or supersedes ~~such~~ the order for support, subject to the limitations of G.S. 50-13.10. Subject to ~~the provisions of~~ G.S. 50A-201, 50A-202, and 50A-204, when an order for custody of a minor child has been entered by a court of another state, a court of this State may, upon gaining jurisdiction, and a showing of changed circumstances, enter a new order for custody ~~which~~ that modifies or supersedes ~~such~~ the order for custody."

SECTION 7. G.S. 85B-3.2 reads as rewritten:

"**§ 85B-3.2. Criminal history record checks of applicants for licensure.**

(a) Definitions. – The following definitions ~~shall~~ apply in this section:

(1) Applicant. – An applicant for initial licensure as an auctioneer, apprentice auctioneer, or auction firm.

(2) Criminal history. – A State or federal history of conviction of a crime, whether a misdemeanor or felony, that bears upon an applicant's fitness to be licensed as an auctioneer, apprentice auctioneer, or auction firm.

…

(c) All releases of criminal history information to the Commission ~~shall be~~ are subject to, and ~~in compliance~~ shall comply with, rules governing the dissemination of criminal history record checks as adopted by the North Carolina Department of Public Safety. All of the information the Commission receives through the checking of the criminal history is for the exclusive use of the Commission and shall be kept confidential.

(d) If the applicant's verified criminal history record check reveals one or more convictions of a crime that is punishable as a felony offense, or the conviction of any crime

involving fraud or moral ~~turptitude,~~ turpitude, the Commission may deny the applicant's license. However, the conviction ~~shall~~ does not automatically prohibit licensure, and the following factors shall be considered by the Commission in determining whether ~~licensure shall be denied:~~to deny licensure:

(1) The level and seriousness of the crime.
(2) The date of the crime.
(3) The age of the person at the time of the crime.
(4) The circumstances surrounding the commission of the crime, if known.
(5) The nexus between the criminal conduct of the applicant and the applicant's duties as an auctioneer, apprentice auctioneer, or auction firm.
(6) The prison, jail, probation, parole, rehabilitation, and employment records of the applicant since the date the crime was committed.
(7) The subsequent commission by the person of a crime.

…."

SECTION 8. G.S. 90B-9.1 reads as rewritten:

"**§ 90B-9.1. Nonpracticing status.**

(a) Any person certified or licensed and desiring to retire temporarily from the practice of social work shall send written notice thereof to the Board. Upon receipt of ~~such~~ the notice, his or her certificate or license shall be placed on nonpracticing status. During a period of nonpracticing status, the certificate or license holder ~~shall not be~~ is not subject to payment of renewal fees and ~~shall not be~~ is not subject to continuing education requirements corresponding to his or her credential. Social workers whose certificate or license has been placed on nonpracticing status shall not refer to themselves as certified or licensed by the Board and shall not engage in social work practice that requires an active certificate or license under this Chapter.

(b) In order to reactivate a certificate or license that has been placed on nonpracticing status, a person shall apply to the Board by making a written request for reactivation. Upon payment of the renewal fee as provided in ~~G.S. 90-6.2,~~ G.S. 90B-6.2, and upon receipt of documentation to the satisfaction of the Board that continuing education requirements for the certification or licensure are complete, the Board shall reactivate the certificate or license of an applicant who is otherwise qualified under this Chapter."

SECTION 9.(a) Sub-subdivision (e)(3)b. of G.S. 108A-58.2 is recodified as sub-subdivision (e)(3)c1. of that section.

SECTION 9.(b) G.S. 108A-58.2, as amended by subsection (a) of this section, reads as rewritten:

"**§ 108A-58.2. Waiver of transfer of assets penalty due to undue hardship.**

…

(b) When a Medicaid applicant who is requesting Medicaid to pay for institutional care requests a waiver of a penalty period due to undue hardship, the determination of whether to waive the penalty period shall be processed as part of the Medicaid application and is subject to the application processing standards set forth in ~~10A NCAC 21B.0203.~~10A NCAC 23C .0201.

…

(d) As required by 42 U.S.C. § 1396p(c)(2)(D), the facility in which an institutionalized individual is residing may request an undue hardship waiver on behalf of the institutionalized individual with the written consent of the individual or the personal representative of the individual. A facility applying for a waiver for an individual residing in the facility shall adhere to the requirements of this section but ~~shall not be~~ is not required to advance the costs of acquiring an attorney to aid the institutionalized individual.

(e) Except as provided for in subsection (f) of this section, undue hardship exists if the imposition of the penalty period would deprive the individual of medical care, such that the individual's health or life would be ~~endangered;~~ endangered, or of food, clothing, shelter, or other necessities of life. The individual must provide the information and documentation necessary to

demonstrate to the director of the county department of social services or the director's designee ~~that:~~all of the following:

(1) The individual currently has no alternative income or resources available to provide the medical care or food, clothing, shelter, or other necessities of life that the individual would be deprived of due to the imposition of the ~~penalty; and~~penalty.

(2) The individual or some other person acting on the individual's behalf is making a good faith effort to pursue all reasonable means to recover the transferred asset or the fair market value of the transferred asset, ~~which may include:~~including any of the following:

a. Seeking the advice of an attorney and pursuing legal or equitable remedies such as asset freezing, assignment, or ~~injunction; or~~ injunction.

a1. ~~seeking~~ Seeking modification, avoidance, or nullification of a financial instrument, promissory note, loan, mortgage or other property agreement, or other similar transfer ~~agreement; and~~agreement.

b. Cooperating with any attempt to recover the transferred asset or the fair market value of the transferred asset.

(3) The following definitions ~~shall apply to~~ apply in this ~~subsection.~~subsection:

a. ~~"Health or life would be endangered" means a~~ Health or life would be endangered. – A medical doctor with knowledge of the individual's medical condition certifies in writing that in his or her professional opinion, the individual will be in danger of death or the individual's health will suffer irreparable harm if a penalty period is imposed.

b. Recodified.

c. ~~"Income" means all~~ Income. – All income of the individual and the community spouse less a protected amount for the community spouse equal to the minimum monthly maintenance needs allowance as determined under 42 U.S.C. § 1396r-5(d), including in all circumstances the excess shelter allowance described under 42 U.S.C. § 1396r-5(d)(3)(A)(ii), without regard to any adjustment that would be made under 42 U.S.C. § 1396r-5(e), plus fifty percent (50%) of ~~such~~ the income in excess of the protected amount.

c1. ~~"Other necessities of life" includes~~ Other necessities of life. – Includes basic, life sustaining utilities, including water, heat, electricity, phone, and other items or activities that without which the individual's health or life would be endangered.

d. ~~"Resources" means all~~ Resources. – All resources of the individual and of the community spouse except the homesite in which the individual or community spouse has an equity interest not exceeding five hundred thousand dollars ($500,000), a motor vehicle in which the individual or community spouse has an equity interest not exceeding thirty thousand dollars ($30,000), personal property, and, in the case of a community spouse, a portion of such other resources in an amount equal to the community spouse resource allowance as defined by 42 U.S.C. § 1396r-5(f)(2), ~~provided that such amount shall~~ so long as the amount does not exceed sixty percent (60%) of the maximum community spouse resource allowance as defined by 42 U.S.C. § 1396r-5(f)(2)(A)(ii). For purposes of this sub-subdivision, "homesite" means the principal place of residence of the individual or the

community spouse in which the individual or community spouse has an equity interest.

(f) An undue hardship ~~shall~~ does not exist when the application of a transfer of assets penalty merely causes the individual an inconvenience or restricts the individual's lifestyle.

…

(i) While the determination on a request for a waiver of the penalty period due to undue hardship is pending, Medicaid shall not make payments for services in a nursing facility ~~services~~ or in an intermediate care facility for ~~the mentally retarded services~~ individuals with intellectual disabilities to hold a bed for the individual, as described in 42 U.S.C. § 1396p(c)(2)(D). However, if the individual is institutionalized and receiving Medicaid payment for services, Medicaid will maintain the same level of services until the last day of the month after the latter of the following:

(1) Expiration of the 10 workday period following the notice required by ~~G.S. 108A-79, or~~G.S. 108A-79.

(2) The date of the decision of a local appeal hearing described in G.S. 108A-79 is issued if the individual requests an appeal of the imposition of a transfer of assets penalty period within the 10 workday period described in subdivision (1) of subsection (i) of this section."

SECTION 9.(c) G.S. 108A-61.1 reads as rewritten:

"**§ 108A-61.1. Financial responsibility of a parent for a child under age 21 in a medical institution.**

Notwithstanding any other provisions of the law, for the purpose of determining eligibility for medical assistance under Title XIX of the Social Security Act, 42 U.S.C. § 1396 et seq., the income and financial resources of the natural or adoptive parents of a person who is under the age of 21 and who requires Medicaid covered services in a medical institution shall not be counted if the patient's physician certifies, and the Division of Health Benefits or its agents approve, that continuous care and treatment are expected to exceed 12 months. For purposes of this subsection, "medical institution" means licensed acute care inpatient medical facilities providing medical, surgical, and psychiatric or substance abuse treatment, or facilities providing skilled or intermediate care, including intermediate care for ~~the mentally retarded.~~individuals with intellectual disabilities."

SECTION 9.(d) Subdivision (b)(1) of G.S. 108A-70.5 is recodified as subdivision (b)(4) of that section. Sub-sub-subdivisions b.3a. and 4. of that subdivision are recodified as sub-sub-subdivisions b.4. and 5. of that subdivision, respectively.

SECTION 9.(e) G.S. 108A-70.5, as amended by subsection (d) of this section, reads as rewritten:

"**§ 108A-70.5. Medicaid Estate Recovery Plan.**

…

(b) The following definitions apply in this section:

(1) Recodified.

(2) Estate. – All the real and personal property considered assets of the estate available for the discharge of debt pursuant to G.S. 28A-15-1. The Department has all rights available to estate creditors, including the right to qualify as personal representative or collector of an estate. For individuals who have received benefits under a qualified long-term care partnership policy as described in G.S. 108A-70.4, ~~"estate"~~ this term also includes any other real and personal property and other assets in which the individual had any legal title or interest at the time of death (to the extent of ~~such~~ the interest), including assets conveyed to a survivor, heir, or assign of the deceased individual through joint tenancy, tenancy in common, survivorship, life estate, living trust, or other arrangement.

(3) Repealed by Session Laws 2007-442, s. 1, effective August 23, 2007.

(4) Medical assistance. – Medical care services paid for by the North Carolina Medicaid Program on behalf of the ~~recipient:~~recipient as follows:

a. If the recipient of any age is receiving medical care services as an inpatient in a nursing facility, intermediate care facility for ~~the mentally retarded,~~ individuals with intellectual disabilities, or other medical institution, and cannot reasonably be expected to be discharged to return ~~home; or~~home.

b. If the recipient is 55 years of age or older and is receiving one or more of the following medical care services:

1. Nursing facility services.
2. Home and community-based services.
3. Hospital care.
4. Prescription drugs.
5. Personal care services.

(c) The amount the Department recovers from the estate of any recipient shall not exceed the amount of medical assistance made on behalf of the recipient and ~~shall be~~ is recoverable only for medical care services prescribed in subsection (b) of this section. The Department is a sixth-class creditor, as prescribed in G.S. 28A-19-6, for purposes of determining the order of claims against an estate; ~~provided,~~ however, ~~that~~ judgments in favor of other sixth-class creditors docketed and in force before the Department seeks recovery for medical assistance shall be paid prior to recovery by the Department.

…."

SECTION 9.(f) G.S. 28A-14-1 reads as rewritten:

"**§ 28A-14-1. Notice for claims.**

(a) Every personal representative and collector after the granting of letters shall notify all persons, ~~firms~~ firms, and corporations having claims against the decedent to present ~~the same~~ their claims to ~~such~~ the personal representative or collector, on or before a day to be named in ~~such~~ the notice, which day must be at least three months from the day of the first publication or posting of ~~such~~ the notice. The notice shall set out a mailing address for the personal representative or collector. The notice shall be published once a week for four consecutive weeks in a newspaper qualified to publish legal advertisements, if any such newspaper is published in the county. If there is no newspaper published in the county, but there is a newspaper having general circulation in the county, then at the option of the personal representative, or collector, the notice shall be published once a week for four consecutive weeks in the newspaper having general circulation in the county and posted at the courthouse or the notice shall be posted at the courthouse and four other public places in the county. Personal representatives are not required to publish or mail notice to creditors if the only asset of the estate consists of a claim for damages arising from death by wrongful act. When any collector or personal representative of an estate has published or mailed the notice provided for by this section, no further publication or mailing shall be required by any other collector or personal representative.

(b) Prior to filing the proof of notice required by G.S. 28A-14-2, every personal representative and collector shall personally deliver or send by first class mail to the last known address a copy of the notice required by subsection (a) of this section to all persons, firms, and corporations having unsatisfied claims against the decedent ~~who~~ that are actually known or can be reasonably ascertained by the personal representative or collector within 75 days after the granting of letters and, if at the time of the decedent's death the decedent was receiving medical assistance as defined by ~~G.S. 108A-70.5(b)(1),~~ G.S. 108A-70.5(b), to the Division of Health Benefits of the Department of Health and Human ~~Services, Division of Health Benefits. Provided, however, no notice shall be~~ Services. No notice, however, is required to be delivered or mailed with respect to any claim that is recognized as a valid claim by the personal representative or collector.

(c) The personal representative or collector may personally deliver or mail by first class mail a copy of the notice required by subsection (a) of this section to all creditors of the estate whose names and addresses can be ascertained with reasonable diligence. If the personal representative or collector in good faith believes that the notice required by subsection (b) of this section to a particular creditor is or may be required and gives notice based on that belief, the personal representative or collector is not liable to any person for giving the notice, whether or not the notice is actually required by subsection (b) of this section. If the personal representative or collector in good faith fails to give notice required by subsection (b) of this section, the personal representative or collector is not liable to any person for ~~such~~ the failure."

SECTION 9.(g) G.S. 36C-8-818 reads as rewritten:

"**§ 36C-8-818. Notice of deceased Medicaid beneficiaries.**

If a trust was established by a person who at the time of that person's death was receiving medical assistance, as defined in ~~G.S. 108A-70.5(b)(1),~~ G.S. 108A-70.5(b), and the trust was revocable at the time of that person's death, then any trustee of that trust ~~who~~ that knows of the medical assistance within 90 days of the person's death shall provide notice of that person's death to the Division of Health Benefits of the Department of Health and Human Services, ~~Division of Health Benefits,~~ within 90 days of the person's death. This section does not apply to trustees of preneed funeral trusts established or created pursuant to Article 13D of Chapter 90 of the General Statutes."

SECTION 9.(h) G.S. 122C-23 reads as rewritten:

"**§ 122C-23. Licensure.**

(a) No person shall establish, maintain, or operate a licensable facility for ~~the mentally ill, developmentally disabled,~~ individuals with mental illnesses, individuals with intellectual or other developmental disabilities, or substance abusers without a current license issued by the Secretary.

(b) Each license is issued to the person only for the premises named in the application and ~~shall not be~~ is not transferrable or assignable except with prior written approval of the Secretary.

(c) Any person ~~who~~ that intends to establish, maintain, or operate a licensable facility shall apply to the Secretary for a license. The Secretary shall prescribe by rule the contents of the application forms.

(d) The Secretary shall issue a license if the Secretary finds that the person complies with this Article and the rules of the Commission and Secretary.

(e) Initial licenses issued under ~~the authority of~~ this section ~~shall be~~ are valid for not more than 15 months. Licenses shall be renewed annually thereafter and shall expire at the end of the calendar year. The expiration date of a license shall be specified on the license when issued. Renewal of a regular license is contingent upon receipt of information required by the Secretary for renewal and continued compliance with this Article and the rules of the Commission and the Secretary. Licenses for facilities that have not served any clients during the previous 12 months are not eligible for renewal.

The Secretary may issue a provisional license for a period up to six months to a person obtaining the initial license for a facility. The licensee must demonstrate substantial compliance prior to being issued a full license.

A provisional license for a period not to exceed six months may be granted by the Secretary to a person ~~who~~ that is temporarily unable to comply with a rule when the noncompliance does not present an immediate threat to the health and safety of the individuals in the licensable facility. During this period the licensable facility shall correct the noncompliance based on a plan submitted to and approved by the Secretary. A provisional license for an additional period of time to meet the noncompliance ~~may~~ shall not be issued.

(e1) Except as provided in subsection (e2) of this section, the Secretary shall not enroll any new provider for Medicaid Home or Community Based services or other Medicaid services,

as defined in 42 C.F.R. 440.90, 42 C.F.R. 440.130(d), and 42 C.F.R. 440.180, or issue a license for a new facility or a new service to any applicant meeting any of the following criteria:

(1) The applicant was the owner, principal, or affiliate of a licensable facility under Chapter 122C, Chapter 131D, or Article 7 of Chapter 110 of the General Statutes that had its license revoked until 60 months after the date of the revocation.

(2) The applicant is the owner, principal, or affiliate of a licensable facility that was assessed a penalty for a Type A or Type B violation under Article 3 of this Chapter, or any combination thereof, and any one of the following conditions exist:

a. A single violation has been assessed in the six months prior to the application.

b. Two violations have been assessed in the 18 months prior to the application and 18 months have not passed from the date of the most recent violation.

c. Three violations have been assessed in the 36 months prior to the application and 36 months have not passed from the date of the most recent violation.

d. Four or more violations have been assessed in the 60 months prior to application and 60 months have not passed from the date of the most recent violation.

(3) The applicant is the owner, principal, or affiliate of a licensable facility that had its license summarily suspended or downgraded to provisional status as a result of violations under G.S. 122C-24.1(a) until 60 months after the date of reinstatement or restoration of the license.

(4) The applicant is the owner, principal, or affiliate of a licensable facility that had its license summarily suspended or downgraded to provisional status as a result of violations under Article 1A of Chapter 131D of the General Statutes until 60 months after the date of reinstatement or restoration of the license.

…

(e3) ~~For purposes of subdivision (e1)(2), fines assessed prior to October 23, 2002, are not applicable to this provision. However, licensure~~ Licensure or enrollment shall be denied if an applicant's history as a provider under Chapter 131D, Chapter 122C, or Article 7 of Chapter 110 of the General Statutes is such that the Secretary has concluded the applicant will likely be unable to comply with licensing or enrollment statutes, rules, or regulations. In the event the Secretary denies licensure or enrollment under this subsection, the reasons for the denial and appeal rights pursuant to Article 3 of Chapter 150B shall be given to the provider in writing.

(f) Upon written application and in accordance with rules of the Commission, the Secretary may for good cause waive any of the rules implementing this Article, ~~provided~~ so long as those rules do not affect the health, safety, or welfare of the individuals within the licensable facility. Decisions made pursuant to this subsection may be appealed to the Commission for a hearing in accordance with Chapter 150B of the General Statutes.

(g) The Secretary may suspend the admission of any new clients to a facility licensed under this Article where the conditions of the facility are detrimental to the health or safety of the clients. This suspension shall be for the period determined by the Secretary and shall remain in effect until the Secretary is satisfied that conditions or circumstances merit removal of the suspension. In suspending admissions under this subsection, the Secretary shall consider the following factors:

(1) The degree of sanctions necessary to ensure compliance with this section and rules adopted to implement this ~~subsection, and~~subsection.

(2) The character and degree of impact of the conditions at the facility on the health or safety of its clients.

A facility may contest a suspension of admissions under this subsection in accordance with Chapter 150B of the General Statutes. In contesting the suspension of admissions, the facility must file a petition for a contested case within 20 days after the Department mails notice of suspension of admissions to the licensee.

(h) The Department shall charge facilities licensed under this Chapter a nonrefundable annual base license fee plus a nonrefundable annual per-bed fee as follows:

Type of Facility	Number of Beds	Base Fee	Per-Bed Fee
Facilities ~~(non-ICF/MR):~~			
(non-ICF/IID):	0 beds	$215.00	$0
	1 to 6 beds	$305.00	$0
	More than 6 beds	$475.00	$17.50
~~ICF/MR~~ ICF/IID Only:	1 to 6 beds	$845.00	$0
	More than 6 beds	$800.00	$17.50

…."

SECTION 9.(i) G.S. 131E-267 reads as rewritten:

"**§ 131E-267. Fees for departmental review of licensed health care facility or Medical Care Commission bond-financed construction projects.**

(a) The Department of Health and Human Services shall charge a fee for the review of each health care facility construction project to ensure that project plans and construction are in compliance with State law. The fee shall be charged on a one-time, per-project basis as provided in this section. In no event ~~may~~ shall a fee imposed under this section exceed two hundred thousand dollars ($200,000) for any single project. The first seven hundred twelve thousand six hundred twenty-six dollars ($712,626) in fees collected under this section shall remain in the Division of Health Service Regulation. Additional fees collected shall be credited to the General Fund as nontax revenue and are intended to offset rather than replace appropriations made for this purpose.

…

(g) The fee imposed for the review of the following residential construction projects is:

Residential Project	**Project Fee**
Family Care Homes	$225.00 flat fee
~~ICF/MR~~ ICF/IID Group Homes	$350.00 flat fee
Group Homes: 1-3 beds	$125.00 flat fee
Group Homes: 4-6 beds	$225.00 flat fee
Group Homes: 7-9 beds	$275.00 flat fee
Adult Day Care	
Overnight Respite Facility	$225.00 flat fee
Adult Day Health	
Overnight Respite Facility	$225.00 flat fee
Other residential:	
More than 9 beds	$275.00 plus $0.15 per square foot of project space."

SECTION 9.(j) G.S. 131E-272 reads as rewritten:

"**§ 131E-272. Initial licensure fees for new facilities.**

The following fees are initial licensure fees for new facilities and are applicable as follows:

Facility Type	**Number of Beds**	**Initial License Fee**	**Initial Bed Fee**
Adult Care Licensure	More than 6	$400.00	$19.00

	6 or Fewer	$350.00	$ -
Acute and Home Care			
General Acute Hospitals	1-49	$550.00	$19.00
	50-99	$750.00	$19.00
	100-199	$950.00	$19.00
	200-399	$1150.00	$19.00
	400-699	$1550.00	$19.00
	700+	$1950.00	$19.00
Other Hospitals		$1050.00	$19.00
Home Care	-	$560.00	$ -
Ambulatory Surgical Ctrs.	-	$900.00	$85.00
Hospice (Free Standing)	-	$450.00	$ -
Abortion Clinics	-	$750.00	$ -
Cardiac Rehab. Centers	-	$425.00	$ -
Nursing Home & L&C			
Nursing Homes		$470.00	$19.00
All Others		$ -	$19.00
Mental Health Facilities			
Nonresidential		$265.00	$ -
~~Non ICF-MR~~Non ICF/IID	6 or fewer	$350.00	$ -
~~ICF-MR~~ ICF/IID only	6 or fewer	$900.00	$ -
~~Non ICF-MR~~Non ICF/IID	More than 6	$525.00	$19.00
~~ICF-MR~~ ICF/IID only	More than 6	$850.00	$19.00."

SECTION 9.(k) G.S. 160D-907 reads as rewritten:

"**§ 160D-907. Family care homes.**

(a) The General Assembly finds it is the public policy of this State to provide persons with disabilities with the opportunity to live in a normal residential environment.

(b) As used in this section, the following definitions apply:

(1) Family care home. – A home with support and supervisory personnel that provides room and board, personal care, and habilitation services in a family environment for not more than six resident persons with disabilities.

(2) Person with disabilities. – A person with a temporary or permanent physical, emotional, or mental disability, including, but not limited to, ~~mental retardation,~~ an intellectual or other developmental disability, cerebral palsy, epilepsy, autism, hearing and sight impairments, emotional disturbances, and orthopedic impairments but not including ~~mentally ill~~ persons with a mental illness who are dangerous to others as defined in G.S. 122C-3(11)b.

(c) A family care home ~~shall be~~ is deemed a residential use of property for zoning purposes and ~~shall be~~ is a permissible use in all residential districts. No local government ~~may~~ shall require that a family care home, its owner, or operator obtain, because of the use, a special use permit or variance from any such zoning regulation; ~~provided,~~ however, ~~that~~ a local government may prohibit a family care home from being located within a one-half mile radius of an existing family care home.

(d) A family care home ~~shall be~~ is deemed a residential use of property for the purposes of determining charges or assessments imposed by local governments or businesses for water, sewer, power, telephone service, cable television, garbage and trash collection, repairs or improvements to roads, streets, and sidewalks, and other services, utilities, and improvements."

SECTION 10. G.S. 113-276 reads as rewritten:

"**§ 113-276. Exemptions and exceptions to license and permit requirements.**

(a), (b) Repealed by Session Laws 1979, c. 830, s. 1.

(c) Except as otherwise provided in this Subchapter, every landholder, ~~his~~ landholder's spouse, and dependents under 18 years of age residing with ~~him~~ the landholder may take wildlife upon the land held by the landholder without any license required by G.S. 113-270.1B or G.S. 113-270.3(a), except that ~~such~~ these persons are not exempt from the American alligator licenses established in G.S. 113-270.3(b)(6) and G.S. 113-270.3(b)(7), elk licenses established in G.S. 113-270.3(b)(8) and G.S. 113-270.3(b)(9), bear management stamp established in G.S. 113-270.3(b)(1b), and the falconry license described in G.S. 113-270.3(b)(4).

(d) Except as otherwise provided in this Subchapter, individuals under 16 years of age are exempt from the hunting and trapping license requirements of G.S. 113-270.1B(a) and G.S. 113-270.3, except that ~~such~~ these individuals are not exempt from the American alligator licenses established in G.S. 113-270.3(b)(6) and G.S. 113-270.3(b)(7), elk licenses established in G.S. 113-270.3(b)(8) and G.S. 113-270.3(b)(9), and the falconry license described in G.S. 113-270.3(b)(4). Individuals under 16 years of age may hunt under this exemption, ~~provided that~~ so long as the hunter is accompanied by an adult of at least 18 years of age who is licensed to hunt in this State. For purposes of this section, "accompanied" means that the licensed adult maintains a proximity that enables the adult to monitor the activities of the hunter by remaining within sight and hearing distance at all times without use of electronic devices. Upon successfully obtaining the hunter education certificate of competency required by G.S. 113-270.1A(a), a hunter may hunt under the license exemption until age 16 without adult accompaniment. Individuals under 16 years of age are exempt from the fishing license requirements of ~~G.S. 113-270.1B(a), 113-272,~~ G.S. 113.270.1B(a) and ~~113-271.~~G.S. 113-271.

(e) Repealed by Session Laws 2005-455, s. 1.11.

(f) A special device license is not required when a landing net is ~~used:~~used in any of the following applications:

(1) To take nongame fish in inland fishing ~~waters; or~~waters.

(2) To assist in taking fish in inland fishing waters when the initial and primary method of taking is by the use of hook and line – so long as applicable hook-and-line fishing-license requirements are met.

As used in this subsection, a "landing net" is a net with a handle not exceeding eight feet in length and with a hoop or frame to which the net is attached not exceeding 60 inches along its outer perimeter.

(g) Bow nets covered by a special device license may be used in waters and during the seasons authorized in the rules of the Wildlife Resources Commission by an individual other than the licensee with the permission of the licensee. The individual using another's bow net must also secure the net owner's special device license and keep it on or about ~~his~~ the individual's person while fishing in inland fishing waters.

(h) Repealed by Session Laws 1979, c. 830, s. 1.

(i) A food server may prepare edible wildlife lawfully taken and possessed by a patron for serving to the patron and any guest ~~he~~ the patron may have. The Executive Director may provide for the keeping of records by the food server necessary for administrative control and supervision with respect to wildlife brought in by patrons.

…

(k) Box-trapped rabbits may be released for the purpose of training dogs on an area of private land ~~which~~ that is completely enclosed with a metal fence through which rabbits may not escape or enter at any time. The Wildlife Resources Commission may establish rules to set standards for areas on which rabbits are released. A person may participate in a field trial for beagles without a hunting license if approved in advance by the Executive Director, conducted without the use or possession of firearms, and on an area of not more than 100 acres of private

land ~~which~~ that is completely and permanently enclosed with a metal fence through which rabbits may not escape or enter at any time.

…

(*l*2) A resident of this State who is a member of the Armed Forces of the United States serving outside the State, or who is serving on full-time active military duty outside the State in a reserve component of the Armed Forces of the United States as defined in 10 U.S.C. § 10101, is exempt from the hunting and fishing license requirements of G.S. 113-270.1B, G.S. 113-270.3(b)(1), G.S. 113-270.3(b)(3), G.S. 113-270.3(b)(5), G.S. 113-271, ~~G.S. 113-272.2(c)(1),~~ and the Coastal Recreational Fishing License requirements of G.S. 113-174.2 while that person is on leave in this State for 30 days or less. In order to qualify for the exemption provided under this subsection, the person shall have on his or her person at all times during the hunting or fishing activity the person's military identification card and a copy of the official document issued by the person's service unit confirming that the person is on authorized leave from a duty station outside this State.

A person exempted from licensing requirements under this subsection is responsible for complying with any reporting requirements prescribed by rule of the Wildlife Resources Commission, complying with the hunter education requirements of G.S. 113-270.1A, purchasing any federal migratory waterfowl stamps as a result of waterfowl hunting activity, and complying with any other requirements that apply to the holder of a North Carolina ~~license is subject to.~~license.

(m) The fourth day of July of each year is declared a free fishing day to promote the sport of fishing and no hook-and-line fishing license is required to fish in any of the public waters of the State on that day. All other laws and rules pertaining to hook-and-line fishing apply.

(n) The Wildlife Resources Commission may adopt rules to exempt individuals from the hunting and fishing license requirements of G.S. 113-270.1B, 113-270.3(b)(1), 113-270.3(b)(1a), 113-270.3(b)(1b), 113-270.3(b)(2), 113-270.3(b)(3), 113-270.3(b)(5), ~~113-271, and 113-272.2(c)(1)~~ and 113-271 who participate in organized hunting and fishing events for the specified time and place of the event when the purpose of the event is consistent with the conservation objectives of the Commission. A person exempted from licensing requirements under this subsection is responsible for complying with any reporting requirements prescribed by rule of the Wildlife Resources Commission, purchasing any federal migratory waterfowl stamps as a result of waterfowl hunting activity, and complying with any other requirements that apply to the holder of a North Carolina ~~license is subject to.~~ license. Those exempted persons shall comply with the hunter safety requirements of G.S. 113-270.1A or shall be accompanied by a properly licensed adult who maintains a proximity to the ~~license~~ exempt individual ~~which~~ that enables the adult to monitor the activities of, and communicate with, the individual at all times.

…."

SECTION 11. G.S. 115C-218.75 reads as rewritten:

"**§ 115C-218.75. General operating requirements.**

(a) Health and Safety Standards. – A charter school shall meet the same health and safety requirements required of a local school administrative unit. The Department of Public Instruction shall ensure that charter schools provide parents and guardians with information about meningococcal meningitis and influenza and their vaccines at the beginning of every school year. This information shall include the causes, symptoms, and how meningococcal meningitis and influenza are spread and the places where parents and guardians may obtain additional information and vaccinations for their children.

The Department of Public Instruction shall also ensure that charter schools provide parents and guardians with information about cervical cancer, cervical dysplasia, human papillomavirus, and the vaccines available to prevent these diseases. This information shall be provided at the beginning of the school year to parents of children entering grades five through 12. This

information shall include the causes and symptoms of these diseases, how they are transmitted, how they may be prevented by vaccination, including the benefits and possible side effects of vaccination, and the places where parents and guardians may obtain additional information and vaccinations for their children.

The Department of Public Instruction shall also ensure that charter schools provide students in grades seven through 12 with information annually on the preventable risks for preterm birth in subsequent pregnancies, including induced abortion, smoking, alcohol consumption, the use of illicit drugs, and inadequate prenatal care.

The Department of Public Instruction shall also ensure that charter schools provide students in grades nine through 12 with information annually on the manner in which a parent may lawfully abandon a newborn baby with a responsible person, in accordance with G.S. 7B-500.

The Department of Public Instruction shall also ensure that the guidelines for individual diabetes care plans adopted by the State Board of Education under G.S. 115C-12(31) are implemented in charter schools in which students with diabetes are enrolled and that charter schools otherwise comply with ~~the provisions of~~ G.S. 115C-375.3.

The Department of Public Instruction shall ensure that charter schools comply with G.S. 115C-375.2A. The board of directors of a charter school shall provide the school with a supply of emergency epinephrine auto-injectors necessary to ~~carry out~~ meet the ~~provisions~~ requirements of G.S. 115C-375.2A.

(b) School Risk Management Plan. – Each charter school, in coordination with local law enforcement and emergency management agencies, is encouraged to adopt a School Risk Management Plan (SRMP) relating to incidents of school violence. In constructing and maintaining these plans, charter schools may utilize the School Risk and Response Management System (SRRMS) established pursuant to G.S. 115C-105.49A. These plans are not considered a public record as the term "public record" is defined under G.S. 132-1 and ~~shall not be~~ are not subject to inspection and examination under G.S. 132-6.

Charter schools are encouraged to provide schematic diagrams and keys to the main entrance of school facilities to local law enforcement agencies, in addition to implementing ~~the provisions in~~ G.S. 115C-105.52.

…

(e) School Safety Information Provided to Division of Emergency Management. – A charter school is encouraged to provide the following: (i) schematic diagrams, including digital schematic diagrams, and (ii) emergency response information requested by the Division for the SRMP. The schematic diagrams and emergency response information are not considered public records as the term "public record" is defined under G.S. 132-1 and ~~shall not be~~ are not subject to inspection and examination under G.S. 132-6.

…

(h) School-Based Mental Health Plan Required. – A charter school shall adopt a school-based mental health plan, including a mental health training program and suicide risk referral protocol, in accordance with G.S. 115C-376.5."

SECTION 12. The title of Article 36 of Chapter 120 of the General Statutes reads as rewritten:

"Article 36.

"Joint Legislative Oversight Committee on Agriculture and Natural and Economic Resources."

SECTION 13. G.S. 143-318.18 reads as rewritten:

"**§ 143-318.18. Exceptions.**

This Article does not apply ~~to:~~to any of the following:

…

(4c) A caucus by members of the General Assembly; however, no member of the General Assembly shall participate in a caucus ~~which~~ that is called for the purpose of evading or subverting this Article.

(5) Law enforcement agencies.

(6) A public body authorized to investigate, examine, or determine the character and other qualifications of applicants for professional or occupational licenses or certificates or to take disciplinary actions against persons holding ~~such~~ these licenses or certificates, (i) while preparing, approving, administering, or grading examinations or (ii) while meeting with respect to an individual applicant for or holder of ~~such a~~ the license or certificate. This exception does not amend, repeal, or supersede any other statute that requires a public hearing or other practice and procedure in a proceeding before ~~such a~~ the public body.

(7) Any public body subject to the State Budget Act, Chapter 143C of the General ~~Statutes~~ Statutes, and exercising quasi-judicial functions, during a meeting or session held solely for the purpose of making a decision in an adjudicatory action or proceeding.

(8) The boards of trustees of endowment funds authorized by ~~G.S. 116-36 or G.S. 116-238.~~G.S. 116-36.

…."

SECTION 14.(a) G.S. 143A-96.1 is repealed.

SECTION 14.(b) G.S. 144-9 reads as rewritten:

"**§ 144-9. Retirement of a flag of the United States of America or the State of North Carolina.**

(a) A State institution or a political subdivision of the State in possession of a flag of the United States of America or the State of North Carolina that is no longer a fitting emblem for display because it is worn, tattered, or otherwise damaged shall make arrangements for its respectful disposal and may deliver the flag to the ~~Division of Veterans Affairs in the Department of Administration~~ Department of Military and Veterans Affairs for disposal. The ~~Division~~ Department shall accept a flag delivered to it and shall make arrangements for its respectful disposal.

(b) The ~~Division of Veterans Affairs~~ Department of Military and Veterans Affairs shall accept, at no charge, a worn, tattered, or otherwise damaged flag of the United States of America or the State of North Carolina from a citizen of the State and shall make arrangements for its respectful disposal. The ~~Division~~ Department shall establish a flag retirement program to encourage citizens to send in or drop off ~~such~~ worn, tattered, or otherwise damaged flags at the ~~Division's~~ Department's office in Raleigh and at any Veterans Home or Veterans Cemetery in the State and may establish other locations for flag drop-off as it deems appropriate. The ~~Division~~ Department shall advertise the flag retirement program on its ~~Web site~~ website and by printed posters placed at all flag drop-off locations. On or before December ~~31, 2016, and annually thereafter,~~ 31 annually, the ~~Division~~ Department shall report the number of flags received under the program to the Joint Legislative Committee on Governmental Operations.

(c) An official flag of the State that is no longer a fitting emblem for display because it is worn, tattered, or otherwise damaged may be respectfully retired by fire."

SECTION 15. G.S. 143B-1413(b) reads as rewritten:

"(b) In any civil action by a user of 911 services or next generation 911 services arising from an act or an omission by a PSAP, and the officers, directors, employees, vendors, agents, and authorizing government entity of the PSAP, in the performance of any lawful and prescribed actions pertaining to their assigned job duties as a ~~telecommunicator. The~~ telecommunicator, the plaintiff's burden of proof ~~shall be~~ is by clear and convincing evidence."

SECTION 16.(a) Subdivisions (1b) and (7) of G.S. 150B-2 are recodified as subdivisions (1a) and (5a) of G.S. 150B-2, respectively.

SECTION 16.(b) G.S. 150B-2, as amended by subsection (a) of this section, reads as rewritten:

"**§ 150B-2. Definitions.**

As used in this Chapter, the following definitions apply:

(1) ~~"Administrative law judge" means a~~ Administrative law judge. – A person appointed under G.S. 7A-752, 7A-753, or 7A-757.

(1a) ~~"Adopt" means to~~ Adopt. – To take final action to create, amend, or repeal a rule.

~~(1a)~~(1b) ~~"Agency" means an~~ Agency. – An agency or an officer in the executive branch of the government of this ~~State and~~ State. The term includes the Council of State, the Governor's Office, a board, a commission, a department, a division, a council, and any other unit of government in the executive branch. A local unit of government is not an agency.

(1c) ~~"Codifier of Rules" means the~~ Codifier of Rules. – The person appointed by the Chief Administrative Law Judge of the Office of Administrative Hearings pursuant to G.S. 7A-760(b).

(1d) ~~"Commission" means the~~ Commission. – The Rules Review Commission.

(2) ~~"Contested case" means an~~ Contested case. – An administrative proceeding pursuant to this Chapter to resolve a dispute between an agency and another person that involves the person's rights, duties, or privileges, including licensing or the levy of a monetary penalty. ~~"Contested case"~~ The term does not include rulemaking, declaratory rulings, or the award or denial of a scholarship, a grant, or a loan.

(2a) Repealed by Session Laws 1991, c. 418, s. 3.

(2b) ~~"Hearing officer" means a~~ Hearing officer. – A person or group of persons designated by an agency that is subject to Article 3A of this Chapter to preside in a contested case hearing conducted under that Article.

(3) ~~"License" means any~~ License. – Any certificate, ~~permit~~ permit, or other evidence, by whatever name called, of a right or privilege to engage in any activity, except licenses issued under Chapter 20 and Subchapter I of Chapter 105 of the General Statutes, occupational licenses, and certifications of electronic poll books, ballot duplication systems, or voting systems under G.S. 163-165.7.

(4) ~~"Licensing" means any~~ Licensing. – Any administrative action issuing, failing to issue, suspending, or revoking a license or occupational license. ~~"Licensing"~~ The term does not include controversies over whether an examination was fair or whether the applicant passed the examination.

(4a) ~~"Occupational license" means any~~ Occupational license. – Any certificate, permit, or other evidence, by whatever name called, of a right or privilege to engage in a profession, occupation, or field of endeavor that is issued by an occupational licensing agency.

(4b) ~~"Occupational licensing agency" means any~~ Occupational licensing agency. – Any board, commission, ~~committee~~ committee, or other agency of the State ~~of North Carolina which~~ that is established for the primary purpose of regulating the entry of persons into, ~~and/or~~ or the conduct of persons within a particular profession, ~~occupation~~ occupation, or field of endeavor, and ~~which~~ that is authorized to issue and revoke licenses. ~~"Occupational licensing agency"~~ The term does not include State agencies or departments ~~which~~ that may as only a part of their regular function issue permits or licenses.

(5) ~~"Party" means any~~ Party. – Any person or agency named or admitted as a party or properly seeking as of right to be admitted as a party and includes the agency as appropriate.

(5a) ~~"Person" means any~~ Person. – Any natural person, partnership, corporation, body ~~politic~~ politic, and any unincorporated association, organization, or society ~~which~~ that may sue or be sued under a common name.

(6) ~~"Person aggrieved" means any~~ Person aggrieved. – Any person or group of persons of common interest directly or indirectly affected substantially in ~~his~~ his, her, or its person, property, or employment by an administrative decision.

(7a) ~~"Policy" means any~~ Policy. – Any nonbinding interpretive statement within the delegated authority of an agency that merely defines, interprets, or explains the meaning of a statute or rule. The term includes any document issued by an agency ~~which~~ that is intended and used purely to assist a person to comply with the law, such as a guidance document.

(8) ~~"Residence" means domicile~~ Residence. – Domicile or principal place of business.

(8a) ~~"Rule" means any~~ Rule. – Any agency regulation, standard, or statement of general applicability that implements or interprets an enactment of the General Assembly or Congress or a regulation adopted by a federal agency or that describes the procedure or practice requirements of an agency. The term includes the establishment of a fee and the amendment or repeal of a prior rule. The term does not include the following:

…

b. Budgets and budget policies and procedures issued by the Director of the Budget, by the head of a department, as defined by G.S. 143A-2 or G.S. 143B-3, or by an occupational licensing board, as defined by G.S. 93B-1.

…

l. Standards adopted by the ~~Department of Information Technology~~ State Chief Information Officer and applied to information technology as defined ~~by G.S. 147-33.81.~~in G.S. 143B-1320.

(8b) Repealed by Session Laws 2011-398, s. 61.2, effective July 25, 2011.

(8c) ~~"Substantial evidence" means relevant~~ Substantial evidence. – Relevant evidence a reasonable mind might accept as adequate to support a conclusion.

(9) Repealed by Session Laws 1991, c. 418, s. 3."

SECTION 16.(c) G.S. 150B-38 reads as rewritten:

"**§ 150B-38. Scope; hearing required; notice; venue.**

(a) The provisions of this Article shall apply to:

(1) Occupational licensing agencies.

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

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

(4) The State Chief Information Officer in the administration of the provisions of Article 15 of Chapter 143B of the General Statutes.

(5) The North Carolina State Building Code Council.

(6) Repealed by Session Laws 2018-146, s. 4.4(b), effective December 27, 2018.

(b) Prior to any agency action in a contested case, the agency shall give the parties in the case an opportunity for a hearing without undue delay and notice not less than 15 days before the hearing. Notice to the parties shall ~~include:~~include all of the following:

(1) A statement of the date, hour, place, and nature of the ~~hearing;~~hearing.

(2) A reference to the particular sections of the statutes and rules ~~involved; and~~involved.

(3) A short and plain statement of the facts alleged.

(c) Notice shall be given by one of the methods for service of process under G.S. 1A-1, Rule 4(j) or Rule 4(j3). If given by registered or certified mail, by signature confirmation as provided by the United States Postal Service, or by designated delivery service authorized pursuant to 26 U.S.C. § 7502(f)(2) with delivery receipt, notice shall be deemed to have been given on the delivery date appearing on the return receipt, copy of proof of delivery provided by the United States Postal Service, or delivery receipt. If notice cannot be given by one of the methods for service of process under G.S. 1A-1, Rule 4(j) or Rule 4(j3), then notice shall be given in the manner provided in G.S. 1A-1, Rule 4(j1).

(d) A party ~~who~~ that has been served with a notice of hearing may file a written response with the agency. If a written response is filed, a copy of the response ~~must~~ shall be mailed to all other parties not less than 10 days before the date set for the hearing.

(e) All hearings conducted under this Article shall be open to the public. A hearing conducted by the agency shall be held in the county where the agency maintains its principal office. A hearing conducted for the agency by an administrative law judge requested under G.S. 150B-40 shall be held in a county in this State where any person whose property or rights are the subject matter of the hearing resides. If a different venue would promote the ends of justice or better serve the convenience of witnesses, the agency or the administrative law judge may designate another county. A person whose property or rights are the subject matter of the hearing waives ~~his~~ an objection to venue ~~if he proceeds~~ by proceeding in the hearing.

(f) Any person may petition to become a party by filing with the agency or hearing officer a motion to intervene in the manner provided by G.S. 1A-1, Rule 24. In addition, any person interested in a contested case under this Article may intervene and participate to the extent deemed appropriate by the agency hearing officer.

(g) When contested cases involving a common question of law or fact or multiple proceedings involving the same or related parties are pending before an agency, the agency may order a joint hearing of any matters at issue in the cases, order the cases consolidated, or make other orders to reduce costs or delay in the proceedings.

(h) Every agency shall adopt rules governing the conduct of hearings that are consistent with the provisions of this Article.

~~(i) Standards adopted by the State Chief Information Officer and applied to information technology as defined in G.S. 143B-1320.~~"

SECTION 16.(d) G.S. 122C-151.4 reads as rewritten:

"**§ 122C-151.4. Appeal to State MH/DD/SA Appeals Panel.**

(a) Definitions. – The following definitions apply in this section:

~~(1) "Appeals Panel" means the State MH/DD/SA Appeals Panel established under this section.~~

(1a) ~~"Client" means an~~ Client. – An individual who is admitted to or receiving public services from an area facility. ~~"Client"~~ The term includes the client's personal representative or designee.

(1b) ~~"Contract" means a~~ Contract. – A contract with an area authority or county program to provide services, other than personal services, to clients and other recipients of services.

(2) ~~"Contractor" means a~~ Contractor. – A person ~~who~~ that has a contract or ~~who~~ that had a contract during the current fiscal year.

(3) ~~"Former contractor" means a~~ Former contractor. – A person ~~who~~ that had a contract during the previous fiscal year.

(4) Panel. – The State MH/DD/SA Appeals Panel established under this section.

(b) Appeals Panel. – The State MH/DD/SA Appeals Panel is established. The Panel shall consist of three members appointed by the Secretary. The Secretary shall determine the qualifications of the Panel members. Panel members serve at the pleasure of the Secretary.

(c) ~~Who Can~~ Persons That May Appeal. – The following persons may appeal to the ~~State MH/DD/SA Appeals~~ Panel after having exhausted the appeals process at the appropriate area authority or county program:

(1) A contractor or a former contractor ~~who~~ that claims that an area authority or county program is not acting or has not acted within applicable State law or rules in denying the contractor's application for endorsement or in imposing a particular requirement on the contractor on fulfillment of the ~~contract;~~contract.

(2) A contractor or a former contractor ~~who~~ that claims that a requirement of the contract substantially compromises the ability of the contractor to fulfill the ~~contract;~~contract.

(3) A contractor or former contractor ~~who~~ that claims that an area authority or county program has acted arbitrarily and capriciously in reducing funding for the type of services provided or formerly provided by the contractor or former ~~contractor;~~contractor.

(4) A client or a person who was a client in the previous fiscal year, who claims that an area authority or county program has acted arbitrarily and capriciously in reducing funding for the type of services provided or formerly provided to the client directly by the area authority or county ~~program; and~~program.

(5) A person ~~who~~ that claims that an area authority or county program did not comply with a State law or a rule adopted by the Secretary or the Commission in developing the plans and budgets of the area authority or county program and that the failure to comply has adversely affected the ability of the person to participate in the development of the plans and budgets.

(d) Hearing. – All members of the ~~State MH/DD/SA Appeals~~ Panel shall hear an appeal to the Panel. An appeal shall be filed with the Panel within the time required by the Secretary and shall be heard by the Panel within the time required by the Secretary. A hearing shall be conducted at the place determined in accordance with the rules adopted by the Secretary. A hearing before the Panel shall be informal; no sworn testimony shall be taken and the rules of evidence do not apply. The person ~~who~~ that appeals to the Panel has the burden of proof. The Panel shall not stay a decision of an area authority during an appeal to the Panel.

(e) Decision. – The ~~State MH/DD/SA Appeals~~ Panel shall make a written decision on each appeal to the Panel within the time set by the Secretary. A decision may direct a contractor, an area authority, or a county program to take an action or to refrain from taking an action, but it shall not require a party to the appeal to pay any amount except payment due under the contract. In making a decision, the Panel shall determine the course of action that best protects or benefits the clients of the area authority or county program. If a party to an appeal fails to comply with a decision of the Panel and the Secretary determines that the failure deprives clients of the area authority or county program of a type of needed service, the Secretary may use funds previously allocated to the area authority or county program to provide the service.

(f) Chapter 150B Appeal. – A person ~~who~~ that is dissatisfied with a decision of the Panel may commence a contested case under Article 3 of Chapter 150B of the General Statutes. Notwithstanding ~~G.S. 150B-2(1a),~~ G.S. 150B-2(1b), an area authority or county program is considered an agency for purposes of the limited appeal authorized by this section. If the need to first appeal to the ~~State MH/DD/SA Appeals~~ Panel is waived by the Secretary, a contractor may appeal directly to the Office of Administrative Hearings after having exhausted the appeals process at the appropriate area authority or county program.

(g) Limitation of Applicability. – This section does not apply to LME/MCOs, enrollees, applicants, providers of emergency services, or network providers subject to Chapter 108D of the General Statutes."

SECTION 16.(e) G.S. 150B-23 reads as rewritten:

"**§ 150B-23. Commencement; assignment of administrative law judge; hearing required; notice; intervention.**

(a) A contested case shall be commenced by paying a fee in an amount established in G.S. 150B-23.2 and by filing a petition with the Office of Administrative Hearings and, except as provided in Article 3A of this Chapter, shall be conducted by that Office. The party ~~who~~ that files the petition shall serve a copy of the petition on all other parties and, if the dispute concerns a license, the person ~~who~~ that holds the license. A party ~~who~~ that files a petition shall file a certificate of service together with the petition. A petition shall be signed by a party, an attorney representing a party, or other representative of the party as may specifically be authorized by law, and, if filed by a party other than an agency, shall state facts tending to establish that the agency named as the respondent has deprived the petitioner of property, has ordered the petitioner to pay a fine or civil penalty, or has otherwise substantially prejudiced the petitioner's rights and that the ~~agency:~~agency did any of the following:

(1) Exceeded its authority or ~~jurisdiction;~~jurisdiction.

(2) Acted ~~erroneously;~~erroneously.

(3) Failed to use proper ~~procedure;~~procedure.

(4) Acted arbitrarily or ~~capriciously; or~~capriciously.

(5) Failed to act as required by law or rule.

The parties in a contested case shall be given an opportunity for a hearing without undue delay. Any person aggrieved may commence a contested case ~~hereunder.~~under this section.

A local government employee, applicant for employment, or former employee to whom Chapter 126 of the General Statutes applies may commence a contested case under this Article in the same manner as any other petitioner. The case shall be conducted in the same manner as other contested cases under this Article.

A business entity may represent itself using a nonattorney representative who is one or more of the following of the business entity: (i) officer, (ii) manager or member-manager, if the business entity is a limited liability company, (iii) employee whose income is reported on IRS Form W-2, if the business entity authorizes the representation in writing, or (iv) owner of the business entity, if the business entity authorizes the representation in writing and if the owner's interest in the business entity is at least twenty-five percent (25%). Authority for and prior notice of nonattorney representation shall be made in writing, under penalty of perjury, to the Office on a form provided by the Office.

(a1) Repealed by Session Laws 1985 (Regular Session, 1986), c. 1022, s. 1(9).

(a2) An administrative law judge assigned to a contested case may require a party to the case to file a prehearing statement. A party's prehearing statement ~~must~~ shall be served on all other parties to the contested case.

(a3) A Medicaid or NC Health Choice enrollee, or the enrollee's authorized representative, who appeals a notice of resolution issued by a managed care entity under Chapter 108D of the General Statutes may commence a contested case under this Article in the same manner as any other petitioner. The case shall be conducted in the same manner as other contested cases initiated by Medicaid or NC Health Choice enrollees under this Article. Solely and only for the purposes of contested cases commenced pursuant to G.S. 108D-15 by enrollees of LME/MCOs to appeal a notice of resolution issued by the LME/MCO, an LME/MCO is considered an agency as defined in ~~G.S. 150B-2(1a).~~ G.S. 150B-2. The LME/MCO ~~shall not be~~ is not considered an agency for any other purpose. When a prepaid health plan, as defined in G.S. 108D-1, other than an LME/MCO, is under contract with the Department of Health and Human Services to issue notices of resolution under Article 2 of Chapter 108D of the General Statutes, then solely and only for the purposes of contested cases commenced pursuant to G.S. 108D-15 to appeal a notice of resolution issued by the prepaid health plan, the prepaid health plan ~~shall be~~ is considered an agency as defined in ~~G.S. 150B-2(1a).~~ G.S. 150B-2. The prepaid health plan ~~shall not be~~ is not considered an agency for any other purpose.

…

(c) Notice shall be given by one of the methods for service of process under G.S. 1A-1, Rule 4(j) or Rule 4(j3). If given by registered or certified mail, by signature confirmation as provided by the United States Postal Service, or by designated delivery service authorized pursuant to 26 U.S.C. § 7502(f)(2) with delivery receipt, notice ~~shall be~~ is deemed to have been given on the delivery date appearing on the return receipt, copy of the proof of delivery provided by the United States Postal Service, or delivery receipt. If giving of notice cannot be accomplished by a method under G.S. 1A-1, Rule 4(j) or Rule 4(j3), notice shall then be given in the manner provided in G.S. 1A-1, Rule 4(j1).

…

(f) Unless another statute or a federal statute or regulation sets a time limitation for the filing of a petition in contested cases against a specified agency, the general limitation for the filing of a petition in a contested case is 60 days. The time limitation, whether established by another statute, federal statute, or federal regulation, or this section, ~~shall commence~~ commences when notice is given of the agency decision to all persons aggrieved ~~who~~ that are known to the agency by personal delivery, electronic delivery, or by the placing of the notice in an official depository of the United States Postal Service wrapped in a wrapper addressed to the person at the latest address given by the person to the agency. The notice shall be in writing, ~~and~~ shall set forth the agency action, and shall inform the persons of the right, the procedure, and the time limit to file a contested case petition. When no informal settlement request has been received by the agency prior to issuance of the notice, any subsequent informal settlement request shall not suspend the time limitation for the filing of a petition for a contested case hearing. When the Chief Justice of the North Carolina Supreme Court determines and declares that catastrophic conditions exist or have existed in one or more counties of the State and issues an order pursuant to G.S. 7A-39(b), the chief administrative law judge may by order entered pursuant to this subsection extend, to a date certain no fewer than 10 days after the effective date of the order, the time or period of limitation, whether established by another statute or this section, for the filing of a petition for a contested case. The order shall be in writing and ~~shall become~~ becomes effective for each affected county upon the date set forth in the order, and if no date is set forth in the order, then upon the date the order is signed by the chief administrative law judge. The order shall provide that it ~~shall expire~~ expires upon the expiration of the Chief Justice's order.

…."

SECTION 17. G.S. 150B-21.2 reads as rewritten:

"**§ 150B-21.2. Procedure for adopting a permanent rule.**

…

(c) Notice of Text. – A notice of the proposed text of a rule must include all of the following:

(1) The text of the proposed rule, unless the rule is a readoption without substantive changes to the existing rule proposed in accordance with G.S. 150B-21.3A.

(2) A short explanation of the reason for the proposed rule.

(2a) A link to the agency's ~~Web site~~ website containing the information required by G.S. 150B-19.1(c).

(3) A citation to the law that gives the agency the authority to adopt the rule.

(4) The proposed effective date of the rule.

(5) The date, time, and place of any public hearing scheduled on the rule.

(6) Instructions on how a person may demand a public hearing on a proposed rule if the notice does not schedule a public hearing on the proposed rule and subsection (e) of this section requires the agency to hold a public hearing on the proposed rule when requested to do so.

(7) The (i) period of time during which and ~~the~~ (ii) person within the agency to whom written comments may be submitted on the proposed rule.

(8) If a fiscal note has been prepared for the rule, a statement that a copy of the fiscal note can be obtained from the agency.

(9) Repealed by Session Laws 2013-143, s. 1, effective June 19, 2013.

(d) Mailing List. – An agency must maintain a mailing list of persons ~~who~~ that have requested notice of ~~rule-making.~~ rulemaking. When an agency publishes in the North Carolina Register a notice of text of a proposed rule, it must mail a copy of the notice ~~or~~ of text to each person on the mailing list ~~who~~ that has requested notice on the subject matter described in the notice or the rule affected. An agency may charge an annual fee to each person on the agency's mailing list to cover copying and mailing costs.

(e) Hearing. – An agency must hold a public hearing on a rule it proposes to adopt if the agency publishes the text of the proposed rule in the North Carolina Register and the agency receives a written request for a public hearing on the proposed rule within 15 days after the notice of text is published. The agency must accept comments at the public hearing on both the proposed rule and any fiscal note that has been prepared in connection with the proposed rule.

An agency may hold a public hearing on a proposed rule and fiscal note in other circumstances. When an agency is required to hold a public hearing on a proposed rule or decides to hold a public hearing on a proposed rule when it is not required to do so, the agency must publish in the North Carolina Register a notice of the date, time, and place of the public hearing. The hearing date of a public hearing held after the agency publishes notice of the hearing in the North Carolina Register must be at least 15 days after the date the notice is published. If notice of a public hearing has been published in the North Carolina Register and that public hearing has been cancelled, the agency ~~shall~~ must publish notice in the North Carolina Register at least 15 days prior to the date of any rescheduled hearing.

…

(g) Adoption. – An agency shall not adopt a rule until the time for commenting on the proposed text of the rule has elapsed and shall not adopt a rule if more than 12 months have elapsed since the end of the time for commenting on the proposed text of the rule. Prior to adoption, an agency ~~shall~~ must review any fiscal note that has been prepared for the proposed rule and consider any public comments received in connection with the proposed rule or the fiscal note. An agency shall not adopt a rule that differs substantially from the text of a proposed rule published in the North Carolina Register unless the agency publishes the text of the proposed different rule in the North Carolina Register and accepts comments on the proposed different rule for the time set in subsection (f) of this section.

An adopted rule differs substantially from a proposed rule if it does one or more of the following:

(1) Affects the interests of persons ~~who,~~ that, based on the proposed text of the rule published in the North Carolina Register, could not reasonably have determined that the rule would affect their interests.

(2) Addresses a subject matter or an issue that is not addressed in the proposed text of the rule.

(3) Produces an effect that could not reasonably have been expected based on the proposed text of the rule.

When an agency adopts a rule, it shall not take subsequent action on the rule without following the procedures in this Part. An agency must submit an adopted rule to the Rules Review Commission within 30 days of the agency's adoption of the rule.

…

(i) Record. – An agency must keep a record of a ~~rule-making~~ rulemaking proceeding. The record must include all written comments received, a transcript or recording of any public

hearing held on the rule, any fiscal note that has been prepared for the rule, and any written explanation made by the agency for adopting the rule."

SECTION 18. Section 5 of S.L. 2020-90 is repealed.

SECTION 19. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 14th day of July, 2021.

s/ Bill Rabon
Presiding Officer of the Senate

s/ Tim Moore
Speaker of the House of Representatives

s/ Roy Cooper
Governor

Approved 2:59 p.m. this 22nd day of July, 2021