

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

S

4

SENATE BILL 1279
Judiciary Committee Substitute Adopted 8/10/98
Third Edition Engrossed 8/12/98
House Committee Substitute Favorable 10/7/98

Short Title: 1998 Technical Corrections.

(Public)

Sponsors:

Referred to:

May 27, 1998

A BILL TO BE ENTITLED
AN ACT TO MAKE VARIOUS TECHNICAL AMENDMENTS TO THE GENERAL
STATUTES AS RECOMMENDED BY THE GENERAL STATUTES
COMMISSION, AND TO MAKE OTHER TECHNICAL CORRECTIONS AND
OTHER CHANGES TO THE GENERAL STATUTES AND SESSION LAWS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 14-34.6(a)(2) reads as rewritten:

"(2) ~~An~~ A medical responder."

Section 2. G.S. 14-399(c) reads as rewritten:

"(c) Any person who violates this section in an amount not exceeding 15 pounds and not for commercial purposes is guilty of a Class 3 misdemeanor punishable by a fine of not less than one hundred dollars (\$100.00) nor more than five hundred dollars (\$500.00) for the first offense. In addition, the court may require the violator to perform community service of not less than eight hours nor more than 24 hours. The community service required shall be to pick up litter if feasible, and if not feasible, to perform other labor commensurate with the offense committed. Any second or subsequent offense within three years after the date of a prior offense is punishable by a fine of not less than

1 one hundred dollars (\$100.00) nor more than one thousand dollars (\$1,000). In addition,
2 the court may require the violator to perform community service of not less than 16 hours
3 nor more than 50 hours. The community service required shall be to pick up litter if
4 feasible, and if not feasible, to perform other labor commensurate with the offense
5 committed."

6 Section 3. (a) G.S. 14-408 reads as rewritten:

7 "§ 14-408. Violation of § 14-406 ~~or 14-407~~ **Any person, firm, or corporation violating**
8 **any of the provisions of G.S. 14-406 ~~or 14-407~~ shall be guilty of a Class 2**
9 **misdemeanor."**

10 (b) This section becomes effective December 1, 1998. Prosecutions for
11 offenses committed before the effective date of this section are not abated or affected by
12 this section, and the statutes that would be applicable but for this section remain
13 applicable to those prosecutions.

14 Section 4. (a) G.S. 14-74 reads as rewritten:

15 "**§ 14-74. Larceny by servants and other employees.**

16 If any servant or other employee, to whom any money, goods or other chattels, or any
17 of the articles, securities or choses in action mentioned in ~~the following section, G.S. 14-~~
18 75, by his master shall be delivered safely to be kept to the use of his master, shall
19 withdraw himself from his master and go away with such money, goods or other chattels,
20 or any of the articles, securities or choses in action mentioned as aforesaid, or any part
21 thereof, with intent to steal the same and defraud his master thereof, contrary to the trust
22 and confidence in him reposed by his said master; or if any servant, being in the service
23 of his master, without the assent of his master, shall embezzle such money, goods or
24 other chattels, or any of the articles, securities or choses in action mentioned as aforesaid,
25 or any part thereof, or otherwise convert the same to his own use, with like purpose to
26 steal them, or to defraud his master thereof, the servant so offending shall be guilty of a
27 felony: Provided, that nothing contained in this section shall extend to apprentices or
28 servants within the age of 16 years. If the value of the money, goods, or other chattels, or
29 any of the articles, securities, or choses in action mentioned in G.S. 14-75, is one hundred
30 thousand dollars (\$100,000) or more, the person is guilty of a Class C felony. If the value
31 of the money, goods, or other chattels, or any of the articles, securities, or choses in
32 action mentioned in G.S. 14-75, is less than one hundred thousand dollars (\$100,000), the
33 person is guilty of a Class H felony."

34 (b) G.S. 25-7-502 reads as rewritten:

35 "**§ 25-7-502. Rights acquired by due negotiation.**

36 (1) Subject to ~~the following section G.S. 25-7-503~~ and to the provisions of G.S. 25-
37 7-205 on fungible goods, a holder to whom a negotiable document of title has been duly
38 negotiated acquires thereby:

39 (a) title to the document;

40 (b) title to the goods;

41 (c) all rights accruing under the law of agency or estoppel, including rights
42 to goods delivered to the bailee after the document was issued; and

1 (d) the direct obligation of the issuer to hold or deliver the goods according
2 to the terms of the document free of any defense or claim by him except
3 those arising under the terms of the document or under this article. In
4 the case of a delivery order the bailee's obligation accrues only upon
5 acceptance and the obligation acquired by the holder is that the issuer
6 and any indorser will procure the acceptance of the bailee.

7 (2) Subject to ~~the following section, G.S. 25-7-503,~~ title and rights so acquired are
8 not defeated by any stoppage of the goods represented by the document or by surrender
9 of such goods by the bailee, and are not impaired even though the negotiation or any
10 prior negotiation constituted a breach of duty or even though any person has been
11 deprived of possession of the document by misrepresentation, fraud, accident, mistake,
12 duress, loss, theft or conversion, or even though a previous sale or other transfer of the
13 goods or document has been made to a third person."

14 (c) G.S. 25-7-507 reads as rewritten:

15 **"§ 25-7-507. Warranties on negotiation or transfer of receipt or bill.**

16 Where a person negotiates or transfers a document of title for value otherwise than as
17 a mere intermediary under ~~the next following section, G.S. 25-7-508,~~ then unless otherwise
18 agreed he warrants to his immediate purchaser only in addition to any warranty made in
19 selling the goods

20 (a) that the document is genuine; and

21 (b) that he has no knowledge of any fact which would impair its validity or
22 worth; and

23 (c) that his negotiation or transfer is rightful and fully effective with respect
24 to the title to the document and the goods it represents."

25 (d) G.S. 44A-21 reads as rewritten:

26 **"§ 44A-21. Pro rata payments.**

27 In the event that the funds in the hands of the obligor and the obligor's personal
28 liability, if any, under ~~the previous section G.S. 44A-20~~ are less than the amount of valid
29 lien claims that have been filed with the obligor under this Article the parties entitled to
30 liens shall share the funds on a pro rata basis."

31 Section 5. G.S. 25-8-103(a) reads as rewritten:

32 "(a) A share ~~of~~ or similar equity interest issued by a corporation, business trust,
33 joint stock company, or similar entity is a security."

34 Section 6. G.S. 39-23.3(b) reads as rewritten:

35 "(b) For the purposes of G.S. 39-23.4(a)(2) and G.S. 39-23.5, a person gives a
36 reasonably equivalent value if the person acquires an interest of the debtor in an asset
37 pursuant to a regularly conducted, ~~nonexclusive~~ noncollusive foreclosure sale or execution
38 of a power of sale for the acquisition or disposition of the interest of the debtor upon
39 default under a mortgage, deed of trust, or security agreement."

40 Section 7. (a) G.S. 50-11(e) reads as rewritten:

41 "(e) An absolute divorce obtained within this State shall destroy the right of a spouse
42 to ~~an equitable distribution of the marital property~~ under G.S. 50-20 unless the right is
43 asserted prior to judgment of absolute divorce; except, the defendant may bring an action

1 or file a motion in the cause for equitable distribution within six months from the date of
2 the judgment in such a case if service of process upon the defendant was by publication
3 pursuant to G.S. 1A-1, Rule 4 and the defendant failed to appear in the action for
4 divorce."

5 (b) G.S. 50-11(f) reads as rewritten:

6 "(f) An absolute divorce by a court that lacked personal jurisdiction over the absent
7 spouse or lacked jurisdiction to dispose of the property shall not destroy the right of a
8 spouse to ~~an equitable distribution of marital property~~ under G.S. 50-20 if an action or
9 motion in the cause is filed within six months after the judgment of divorce is entered.
10 The validity of such divorce may be attacked in the action for equitable distribution."

11 (c) G.S. 50-20 reads as rewritten:

12 **"§ 50-20. Distribution by court of marital and divisible property upon divorce.**

13 (a) Upon application of a party, the court shall determine what is the marital
14 property and divisible property and shall provide for an equitable distribution of the
15 marital property and divisible property between the parties in accordance with the
16 provisions of this section.

17 (b) For purposes of this section:

18 (1) 'Marital property' means all real and personal property acquired by
19 either spouse or both spouses during the course of the marriage and
20 before the date of the separation of the parties, and presently owned,
21 except property determined to be separate property or divisible property
22 in accordance with subdivision (2) or (4) of this subsection. Marital
23 property includes all vested and nonvested pension, retirement, and
24 other deferred compensation rights, and vested and nonvested military
25 pensions eligible under the federal Uniformed Services Former Spouses'
26 Protection Act. It is presumed that all property acquired after the date of
27 marriage and before the date of separation is marital property except
28 property which is separate property under subdivision (2) of this
29 subsection. This presumption may be rebutted by the greater weight of
30 the evidence.

31 (2) 'Separate property' means all real and personal property acquired by a
32 spouse before marriage or acquired by a spouse by bequest, devise,
33 descent, or gift during the course of the marriage. However, property
34 acquired by gift from the other spouse during the course of the marriage
35 shall be considered separate property only if such an intention is stated
36 in the conveyance. Property acquired in exchange for separate property
37 shall remain separate property regardless of whether the title is in the
38 name of the husband or wife or both and shall not be considered to be
39 marital property unless a contrary intention is expressly stated in the
40 conveyance. The increase in value of separate property and the income
41 derived from separate property shall be considered separate property.
42 All professional licenses and business licenses which would terminate
43 on transfer shall be considered separate property.

- 1 (3) 'Distributive award' means payments that are payable either in a lump
2 sum or over a period of time in fixed amounts, but shall not include
3 alimony payments or other similar payments for support and
4 maintenance which are treated as ordinary income to the recipient under
5 the Internal Revenue Code.
- 6 (4) 'Divisible property' means all real and personal property as set forth
7 below:
- 8 a. All appreciation and diminution in value of marital property and
9 divisible property of the parties occurring after the date of
10 separation and prior to the date of distribution, except that
11 appreciation or diminution in value which is the result of
12 postseparation actions or activities of a spouse shall not be
13 treated as divisible property.
- 14 b. All property, property rights, or any portion thereof received after
15 the date of separation but before the date of distribution that was
16 acquired as a result of the efforts of either spouse during the
17 marriage and before the date of separation, including, but not
18 limited to, commissions, bonuses, and contractual rights.
- 19 c. Passive income from marital property received after the date of
20 separation, including, but not limited to, interest and dividends.
- 21 d. Increases in marital debt and financing charges and interest
22 related to marital debt.
- 23 (c) There shall be an equal division by using net value of marital property and not
24 value of divisible property unless the court determines that an equal division is not
25 equitable. If the court determines that an equal division is not equitable, the court shall
26 divide the marital property and divisible property equitably. Factors the court shall
27 consider under this subsection are as follows:
- 28 (1) The income, property, and liabilities of each party at the time the
29 division of property is to become effective;
- 30 (2) Any obligation for support arising out of a prior marriage;
- 31 (3) The duration of the marriage and the age and physical and mental health
32 of both parties;
- 33 (4) The need of a parent with custody of a child or children of the marriage
34 to occupy or own the marital residence and to use or own its household
35 effects;
- 36 (5) The expectation of pension, retirement, or other deferred compensation
37 rights that are not marital property;
- 38 (6) Any equitable claim to, interest in, or direct or indirect contribution
39 made to the acquisition of such marital property by the party not having
40 title, including joint efforts or expenditures and contributions and
41 services, or lack thereof, as a spouse, parent, wage earner or
42 homemaker;

- 1 (7) Any direct or indirect contribution made by one spouse to help educate
2 or develop the career potential of the other spouse;
- 3 (8) Any direct contribution to an increase in value of separate property
4 which occurs during the course of the marriage;
- 5 (9) The liquid or nonliquid character of all marital ~~property; property and~~
6 divisible property;
- 7 (10) The difficulty of evaluating any component asset or any interest in a
8 business, corporation or profession, and the economic desirability of
9 retaining such asset or interest, intact and free from any claim or
10 interference by the other party;
- 11 (11) The tax consequences to each party;
- 12 (11a) Acts of either party to maintain, preserve, develop, or expand; or to
13 waste, neglect, devalue or convert ~~such the marital property; property or~~
14 divisible property, or both, during the period after separation of the
15 parties and before the time of distribution; and
- 16 (12) Any other factor which the court finds to be just and proper.

17 (c1) Notwithstanding any other provision of law, a second or subsequent spouse
18 acquires no interest in the marital property and divisible property of his or her spouse
19 from a former marriage until a final determination of equitable distribution is made in the
20 marital property and divisible property of the spouse's former marriage.

21 (d) Before, during or after marriage the parties may by written agreement, duly
22 executed and acknowledged in accordance with the provisions of G.S. 52-10 and 52-10.1,
23 or by a written agreement valid in the jurisdiction where executed, provide for
24 distribution of the marital property or divisible property, or both, in a manner deemed by
25 the parties to be equitable and the agreement shall be binding on the parties.

26 (e) Subject to the presumption of subsection (c) of this section that an equal
27 division is equitable, it shall be presumed in every action that an in-kind distribution of
28 marital or divisible property is equitable. This presumption may be rebutted by the
29 greater weight of the evidence, or by evidence that the property is a closely held business
30 entity or is otherwise not susceptible of division in-kind. In any action in which the
31 presumption is rebutted, the court in lieu of in-kind distribution shall provide for a
32 distributive award in order to achieve equity between the parties. The court may provide
33 for a distributive award to facilitate, effectuate or supplement a distribution of marital or
34 divisible property. The court may provide that any distributive award payable over a
35 period of time be secured by a lien on specific property.

36 (f) The court shall provide for an equitable distribution without regard to alimony
37 for either party or support of the children of both parties. After the determination of an
38 equitable distribution, the court, upon request of either party, shall consider whether an
39 order for alimony or child support should be modified or vacated pursuant to G.S. 50-
40 16.9 or 50-13.7.

41 (g) If the court orders the transfer of real or personal property or an interest
42 therein, the court may also enter an order which shall transfer title, as provided in G.S.
43 1A-1, Rule 70 and G.S. 1-228.

1 (h) If either party claims that any real property is marital ~~property~~, property or
2 divisible property, that party may cause a notice of lis pendens to be recorded pursuant to
3 Article 11 of Chapter 1 of the General Statutes. Any person whose conveyance or
4 encumbrance is recorded or whose interest is obtained by descent, prior to the filing of
5 the lis pendens, shall take the real property free of any claim resulting from the equitable
6 distribution proceeding. The court may cancel the notice of lis pendens upon substitution
7 of a bond with surety in an amount determined by the court to be sufficient provided the
8 court finds that the claim of the spouse against property subject to the notice of lis
9 pendens can be satisfied by money damages.

10 (i) Upon filing an action or motion in the cause requesting an equitable
11 distribution or alleging that an equitable distribution will be requested when it is timely to
12 do so, a party may seek injunctive relief pursuant to G.S. 1A-1, Rule 65 and Chapter 1,
13 Article 37, to prevent the disappearance, waste or conversion of property alleged to be
14 marital ~~property~~, property, divisible property, or separate property of the party seeking
15 relief. The court, in lieu of granting an injunction, may require a bond or other assurance
16 of sufficient amount to protect the interest of the other spouse in the ~~marital or separate~~
17 property. Upon application by the owner of separate property which was removed from
18 the marital home or possession of its owner by the other spouse, the court may enter an
19 order for reasonable counsel fees and costs of court incurred to regain its possession, but
20 such fees shall not exceed the fair market value of the separate property at the time it was
21 removed.

22 (i1) Unless good cause is shown that there should not be an interim distribution, the
23 court may, at any time after an action for equitable distribution has been filed and prior to
24 the final judgment of equitable distribution, enter orders declaring what is separate
25 property and may also enter orders dividing part of the marital property, divisible
26 property or debt, or marital debt between the parties. The partial distribution may provide
27 for a distributive award and may also provide for a distribution of marital property,
28 marital debt, divisible property, or divisible debt. Any such orders entered shall be taken
29 into consideration at trial and proper credit given.

30 Hearings held pursuant to this subsection may be held at sessions arranged by the
31 chief district court judge pursuant to G.S. 7A-146 and, if held at such sessions, shall not
32 be subject to the reporting requirements of G.S. 7A-198.

33 (j) In any order for the distribution of property made pursuant to this section, the
34 court shall make written findings of fact that support the determination that the marital
35 property and divisible property has been equitably divided.

36 (k) The rights of the parties to an equitable distribution of marital property and
37 divisible property are a species of common ownership, the rights of the respective parties
38 vesting at the time of the parties' separation."

39 Section 8. G.S. 62-268 reads as rewritten:

40 "**§ 62-268. Security for protection of public; liability insurance.**

41 No certificate or broker's license shall be issued or remain in force until the applicant
42 shall have procured and filed with the Division of Motor Vehicles such security bond,
43 insurance or self-insurance for the protection of the public as the Commission shall by

1 regulation require. The Commission shall require that every motor carrier for which a
2 certificate or license is required by the ~~provision~~ provisions of this Chapter, shall maintain
3 liability insurance or satisfactory surety of at least fifty thousand dollars (\$50,000)
4 because of bodily injury to or death of one person in any one accident and, subject to said
5 limit for one person, one hundred thousand dollars (\$100,000) because of bodily injury to
6 or death of two or more persons in any one accident, and fifty thousand dollars (\$50,000)
7 because of injury to or destruction of property of others in any one accident; and the
8 Commission may require any greater amount of insurance as may be necessary for the
9 protection of the public. Notwithstanding any rule or regulation to the contrary, the
10 Commission shall not require that any insurance procured and filed be provided in any
11 single policy of insurance or through a single insurer, if the insurers involved are
12 otherwise qualified. A motor carrier may satisfy the requirements of the Commission by
13 procuring insurance with coverage and limits of liability required by the Commission in
14 one or more policies of insurance issued by one or more insurers.

15 Notwithstanding any other provisions of this section or Chapter, bus companies shall
16 file with the Commission proof of financial responsibility in the form of bonds, policies
17 of insurance, or shall qualify as a self insurer, with minimum levels of financial
18 responsibility as prescribed for motor carriers of passengers pursuant to the provisions of
19 49 U.S.C. § ~~10927(a)(1)~~ 31138. Provided, further, that no bus company operating solely
20 within the State of North Carolina and which is exempt from regulation under the
21 provisions of G.S. 62-260(a)(7) shall be required to file with the Commission proof of the
22 financial responsibility in excess of one million five hundred thousand dollars
23 (\$1,500,000)."

24 Section 9. G.S. 78C-16(b) reads as rewritten:

25 "(b) It is unlawful for any person required to be registered as an investment adviser
26 under this Chapter to employ an investment adviser representative unless the investment
27 adviser representative is registered under this Chapter. The registration of an investment
28 adviser representative is not effective during any period when the investment adviser
29 representative is not employed by (i) an investment adviser registered under this Chapter;
30 or (ii) an investment adviser covered under federal law who has made a notice filing
31 pursuant to the provisions of G.S. 78C-17(a1). When an investment adviser
32 representative begins or terminates employment or association with an investment adviser
33 who is registered under this Chapter, the investment adviser shall notify promptly the
34 Administrator. When an investment adviser representative begins or terminates
35 employment or association with an investment adviser covered under federal law, the
36 investment adviser representative shall, and the investment adviser may, notify promptly
37 the Administrator. ~~No investment adviser representative may be registered with more than one~~
38 ~~investment adviser unless each of the investment advisers which employs or associates the~~
39 ~~investment adviser representative is under common ownership or control.~~—No investment
40 adviser representative may be registered with more than one investment adviser or
41 investment adviser covered under federal law unless each of the investment advisers
42 which employs or associates the investment adviser representative is under common
43 ownership or control."

1 Section 10. G.S. 90-113.40(a)(8) reads as rewritten:

2 "(8) The applicant ~~for~~ substance abuse counselor has completed either a total
3 of 6,000 hours of supervised experience in the field, whether paid or
4 volunteer, or, if a graduate of a Board-approved master's degree
5 program, a total of 3,000 hours of supervised experience in the field,
6 whether paid or volunteer. The applicant for substance abuse
7 prevention consultant has completed a total of 10,000 hours supervised
8 experience in the field, whether paid or volunteer, or 4,000 hours if the
9 applicant has at least a bachelors degree in a human services field."

10 Section 11. G.S. 110-91(10) reads as rewritten:

11 "(10) Each operator or staff member shall attend to any child in a
12 nurturing and appropriate manner, and in keeping with the child's
13 developmental needs.

14 Each ~~child~~ child care facility shall have a written policy on
15 discipline, describing the methods and practices used to discipline
16 children enrolled in that facility. This written policy shall be discussed
17 with, and a copy given to, each child's parent prior to the first time the
18 child attends the facility. Subsequently, any change in discipline
19 methods or practices shall be communicated in writing to the parents
20 prior to the effective date of the change.

21 The use of corporal punishment as a form of discipline is prohibited
22 in ~~child~~ child care facilities and may not be used by any operator or staff
23 member of any child care facility, except that corporal punishment may
24 be used in ~~religious sponsored child~~ religious sponsored child care
25 facilities as defined in G.S. 110-106, only if (i) the ~~religious sponsored~~
26 ~~child~~ religious sponsored child care facility files with the Department a
27 notice stating that corporal punishment is part of the religious training of
28 its program, and (ii) the ~~religious sponsored child~~ religious sponsored
29 child care facility clearly states in its written policy of discipline that
30 corporal punishment is part of the religious training of its program. The
31 written policy on discipline of ~~nonreligious sponsored child~~ nonreligious
32 sponsored child care facilities shall clearly state the prohibition on
33 corporal punishment."

34 Section 12. G.S. 115C-404(a) reads as rewritten:

35 "(a) Written notifications received in accordance with ~~G.S. 7A-675.1~~ G.S. 7A-675.2
36 are confidential records, are not public records as defined under G.S.132-1, and shall not
37 be made part of the student's official record under G.S. 115C-402. Immediately upon
38 receipt, the principal shall maintain these documents in a safe, locked record storage that
39 is separate from the student's other school records. The principal shall maintain these
40 documents until the principal receives notification that the judge dismissed the petition
41 under G.S. 7A-637, the judge transferred jurisdiction over the student to superior court
42 under G.S. 7A-608, or the judge granted the student's petition for expunction of the
43 records. At that time, the principal shall shred, burn, or otherwise destroy the documents

1 to protect the confidentiality of this information. In no case shall the principal make a
2 copy of these documents."

3 Section 13. G.S. 130A-233 reads as rewritten:

4 **"§ 130A-233. Definitions.**

5 The following definitions apply to this Part:

6 (1) Coastal fishing ~~waters, as defined waters.~~ – Defined in G.S. 113-
7 129(4).

8 (2) Inland fishing ~~waters, as defined waters.~~ – Defined in G.S. 113-
9 129(9)."

10 Section 14. (a) G.S. 139-3.1 is repealed.

11 (b) The repeal of this section shall not be construed to affect any language
12 currently in the General Statutes.

13 Section 15. G.S. 143-53(a)(2) reads as rewritten:

14 "(2) Prescribing the routine, including consistent contract language, for
15 securing bids on items that do not ~~not~~ exceed the bid value
16 benchmark established under the provisions of G.S. 143-53.1 or G.S.
17 116-31.10.

18 The purchasing delegation for securing ~~offers,~~ offers (excluding the
19 special responsibility constituent institutions of The University of North
20 Carolina), for each State department, institution, agency, community
21 college, and public school administrative unit shall be determined by the
22 Director of the Division of Purchase and Contract. For the State
23 agencies this shall be done following the Director's consultation with the
24 State Budget Officer and the State Auditor. The Director for the
25 Division of Purchase and Contract may set or lower the delegation, or
26 raise the delegation upon written request by the agency, after
27 consideration of their overall capabilities, including staff resources,
28 purchasing compliance reviews, and audit reports of the individual
29 agency. The routine prescribed by the Secretary shall include contract
30 award protest procedures and consistent requirements for advertising of
31 solicitations for securing offers issued by State departments, institutions,
32 universities (including the special responsibility constituent institutions
33 of The University of North Carolina), agencies, community colleges,
34 and the public school administrative units."

35 Section 16. G.S. 143-129(f) reads as rewritten:

36 "(f) The provisions of this Article shall not apply to purchases of apparatus,
37 supplies, materials, or equipment when performance or price competition for a product
38 are not available; when a needed product is available from only one source of supply; or
39 when standardization or compatibility is the overriding consideration. Notwithstanding
40 any other provision of this section, the governing board of a municipality, county, or
41 other subdivision of the State shall approve ~~purchases made under this exception~~ the
42 purchases listed in the preceding sentence prior to the award of the contract. In the case
43 of purchases by hospitals, in addition to the other exceptions in this subsection, the

1 provisions of this Article shall not apply when a particular medical item or prosthetic
 2 appliance is needed; when a particular product is ordered by an attending physician for
 3 his patients; when additional products are needed to complete an ongoing job or task;
 4 when products are purchased for 'over-the-counter' resale; when a particular product is
 5 needed or desired for experimental, developmental, or research work; or when equipment
 6 is already installed, connected, and in service under a lease or other agreement and the
 7 governing body of the hospital determines that the equipment should be purchased. The
 8 governing body of a hospital, municipality, county or other political subdivision of the
 9 State shall keep a record of all purchases made pursuant to this ~~exception~~ subsection.
 10 These records are subject to public inspection."

11 Section 17. G.S. 143B-283(a)(8) reads as rewritten:

12 "(8) One who shall, at the time of appointment, be actively employed by,
 13 or recently retired from, an industrial manufacturing facility and
 14 knowledgeable in ~~in~~ the field of industrial air and water pollution
 15 control;"

16 Section 18. (a) G.S. 143B-289.52(e) reads as rewritten:

17 "(e) The Commission may adopt rules to implement or comply with a fisheries
 18 management plan adopted by the Atlantic States Marine Fisheries Commission or an
 19 interstate fisheries management council. Notwithstanding G.S. 150B-21.1(a), the
 20 Commission may adopt temporary rules under this subsection at any time within six
 21 months of the adoption of a fisheries management plan by the Atlantic States Marine
 22 Fisheries ~~Council~~ Commission or an interstate fisheries management council."

23 (b) If House Bill 1448, 1997 Regular Session becomes law prior to the date this
 24 act becomes law and amends G.S. 143B-289.52(e), then this section shall not become
 25 effective. If House Bill 1448, 1997 Regular Session becomes law after the date this act
 26 becomes law and amends G.S. 143B-289.52(e), then this section of this act is repealed.

27 Section 19. G.S. 143B-433 reads as rewritten:

28 **"§ 143B-433. Department of Commerce – organization.**

29 The Department of Commerce shall be organized to include:

30 (a) (1) The following agencies:

31 (1) a. The North Carolina Alcoholic Beverage Control ~~Commission,~~
 32 Commission.

33 (2) b. The North Carolina Utilities ~~Commission,~~ Commission.

34 (3) c. The Employment Security ~~Commission,~~ Commission.

35 (4) d. The North Carolina Industrial ~~Commission,~~ Commission.

36 (5) e. State Banking ~~Commission,~~ Commission.

37 (6) f. Savings and Loan Association ~~Division,~~ Division.

38 (7) g. The State Savings Institutions ~~Commission,~~ Commission.

39 (8) h. Credit Union ~~Commission,~~ Commission.

40 (9) i. The North Carolina Milk ~~Commission,~~ Commission.

41 (10) j. The North Carolina Mutual Burial Association ~~Commission,~~
 42 Commission.

43 (11) k. North Carolina Cemetery ~~Commission,~~ Commission.

- 1 (12) l. The North Carolina Rural Electrification ~~Authority,~~ Authority.
 2 (13) m. Repealed by Session Laws 1985, c. 757, s. 179(d).
 3 (14) n. North Carolina Science and Technology Research ~~Center,~~ Center.
 4 (15) o. The North Carolina State Ports ~~Authority,~~ Authority.
 5 (16) p. North Carolina National Park, Parkway and Forests Development
 6 ~~Council,~~ Council.
 7 (17) q. Economic Development ~~Board,~~ Board.
 8 (18) r. Labor Force Development ~~Council,~~ Council.
 9 (19) s. Energy Policy ~~Council,~~ Council.
 10 (20) t. Energy ~~Division,~~ Division.
 11 (21) u. Navigation and Pilotage Commissions established by Chapter 76 of
 12 the General Statutes.
 13 (22) v. Repealed by Session Laws 1993, c. 321, s. 313(b).
 14 (b) (2) Those agencies which are transferred to the Department of
 15 Commerce including the:
 16 (1) a. Community Assistance ~~Division,~~ Division.
 17 (2) b. Community Development ~~Council,~~ Council.
 18 (3) c. Employment and Training ~~Division,~~ and Division.
 19 (4) d. Job Training Coordinating ~~Council,~~ and Council.
 20 (e) (3) Such divisions as may be established pursuant to Article 1 of
 21 this Chapter."

22 Section 20. G.S. 157-35 reads as rewritten:

23 "**§ 157-35. Creation of regional housing authority.**

24 If the board of county commissioners of each of two or more contiguous counties
 25 having an aggregate population of more than 60,000 by resolution declares that there is a
 26 need for one housing authority to be created for all of such counties to exercise powers
 27 and other functions herein prescribed for a housing authority in such counties, a public
 28 body corporate and politic to be known as a regional housing authority for all of such
 29 counties ~~to exercise powers and other functions herein prescribed for a housing authority in such~~
 30 ~~counties, a public body corporate and politic to be known as a regional housing authority for all~~
 31 ~~of such counties~~ shall (after the commissioners thereof file an application with the
 32 Secretary of State as hereinafter provided) thereupon exist for and exercise its powers and
 33 other functions in such counties; and thereupon any housing authority created for any of
 34 such counties shall cease to exist except for the purpose of winding up its affairs and
 35 executing a deed to the regional housing authority as hereinafter provided: Provided, that
 36 the board of county commissioners shall not adopt a resolution as aforesaid if there is a
 37 county housing authority created for such county which has any bonds or notes
 38 outstanding unless first, all holders of such bonds and notes consent in writing to the
 39 substitution of such regional housing authority in lieu of such county housing authority
 40 on all such bonds and notes; and second, the commissioners of such county housing
 41 authority adopt a resolution consenting to the transfer of all the rights, contracts,
 42 obligations, and property, real and personal, of such county housing authority to such
 43 regional housing authority as hereinafter provided: Provided, further, that when the above

1 conditions are complied with and such regional housing authority is created and
2 authorized to exercise its powers and other functions, all rights, contracts, agreements,
3 obligations, and property, real and personal, of such county housing authority shall be in
4 the name of and vest in such regional housing authority, and all obligations of such
5 county housing authority shall be the obligations of such regional housing authority and
6 all rights and remedies of any person against such county housing authority may be
7 asserted, enforced, and prosecuted against such regional housing authority to the same
8 extent as they might have been asserted, enforced, and prosecuted against such county
9 housing authority. When any real property of a county housing authority vests in a
10 regional housing authority as provided above, the county housing authority shall execute
11 a deed of such property to the regional housing authority which thereupon shall file such
12 deed in the office provided for the filing of deeds: Provided, that nothing contained in this
13 sentence shall affect the vesting of property in the regional housing authority as provided
14 above.

15 The board of county commissioners of each of two or more said contiguous counties
16 shall by resolution declare that there is a need for one regional housing authority to be
17 created for all of such counties to exercise powers and other functions herein prescribed
18 in such counties, if such board of county commissioners finds (and only if it finds)

19 (1) Insanitary or unsafe dwelling accommodations exist in the area of its
20 respective county and/or there is a lack of safe or sanitary dwelling
21 accommodations in the county available for all the inhabitants
22 thereof and

23 (2) That a regional housing authority for the proposed region would be a
24 more efficient or economical administrative unit than a housing
25 authority for an area having a smaller population to carry out the
26 purposes of the housing authorities law and any amendments thereto,
27 in such county.

28 In determining whether dwelling accommodations are unsafe or insanitary, the board of
29 county commissioners shall take into consideration the following: the physical condition
30 and age of the buildings; the degree of overcrowding; the percentage of land coverage;
31 the light and air available to the inhabitants of such dwelling accommodations; the size
32 and arrangement of the rooms; the sanitary facilities; and the extent to which conditions
33 exist in such buildings which endanger life or property by fire or other causes.

34 If it shall determine that both (1) and (2) of the above enumerated conditions
35 exist, the board of county commissioners shall adopt a resolution so finding (which need
36 not go into any detail other than the mere finding). After the appointment, as hereinafter
37 provided, of the commissioners to act as the regional housing authority, said authority
38 shall be a public body and a body corporate and politic upon the completion of the taking
39 of the following proceedings:

40 The commissioners shall present to the Secretary of State an application signed by
41 them, which shall set forth (without any detail other than the mere recital)

42 (1) That the boards of county commissioners made the aforesaid
43 determination and that they have been appointed as commissioners;

- 1 (2) The name, and official residence of each of the commissioners,
2 together with a certified copy of the appointment evidencing their
3 right to office, the date and place of induction into and taking oath of
4 office, and that they desire the housing authority to become a public
5 body and a body corporate and politic under this Article;
6 (3) The term of office of each of the commissioners;
7 (4) The name which is proposed for the corporation; and
8 (5) The location of the principal office of the proposed corporation.

9 The application shall be subscribed and sworn to by each of said commissioners before
10 an officer authorized by the laws of the State to take and certify oaths, who shall certify
11 upon the application that he personally knows the commissioners and knows them to be
12 the officers as asserted in the application, and that each subscribed and swore thereto in
13 the officer's presence. The Secretary of State shall examine the application and if he finds
14 that the name proposed for the corporation is not identical with that of a person or of any
15 other corporation of this State or so nearly similar as to lead to confusion and uncertainty
16 he shall receive and file it and shall record it in an appropriate book of record in his
17 office.

18 When the application has been made, filed and recorded, as herein provided, the
19 authority shall constitute a public body and a body corporate and politic under the name
20 proposed in the application; the Secretary of State shall make and issue to the said
21 commissioners, a certificate of incorporation pursuant to this Article, under the seal of the
22 State, and shall record the same with the application.

23 In any suit, action or proceeding involving the validity or enforcement of, or relating
24 to any contract of the regional housing authority, the regional housing authority shall be
25 conclusively deemed to have been established in accordance with the provisions of this
26 Article upon proof of the issuance of the aforesaid certificate by the Secretary of State. A
27 copy of such certificate, duly certified by the Secretary of State, shall be admissible in
28 evidence in any such suit, action or proceeding, and shall be conclusive proof of the
29 filing and contents thereof."

30 Section 21. Effective July 1, 1997, subsection (d) of Section 18.22 of S.L.
31 1997-443 reads as rewritten:

32 "(d) This ~~aet-section~~ applies only to Columbus, Durham, and Rockingham
33 Counties."

34 Section 22. Effective July 1, 1997, subsection (e) of Section 18.22 of S.L.
35 1997-443 reads as rewritten:

36 "(e) This ~~aet-section~~ becomes effective October 1, 1997, and expires June 30,
37 1998."

38 Section 23. The prefatory language of Section 6 of S.L. 1997-452 reads as
39 rewritten:

40 "Section 6. Section 115.6(b) of the Charter of the City of Durham, being Chapter
41 671 of the ~~1995-1975~~ Session Laws, as added by Chapter 476 of the 1989 Session Laws
42 and rewritten by Chapter 992 of the 1991 Session Laws, reads as rewritten:"

43 Section 24. G.S. 75E-3 reads as rewritten:

1 **"§ 75E-3. Investigative and regulatory powers of the Attorney General.**

2 The Attorney General may conduct such investigations as the Attorney General
3 deems necessary to determine compliance by all persons or entities with the provisions of
4 Articles 9 and 9A of Chapter 55 of the General Statutes; ~~Statutes;~~ and the Attorney
5 General may exempt from the provisions of Article 9 of Chapter 55 of the General
6 Statutes any business combination that is solely an internal corporate restructuring which
7 does not effect any material change in the ultimate ownership of the corporation and does
8 not affect the ongoing applicability of that Article to the
9 corporation or any other entity. In performing any such investigations, the Attorney
10 General shall have all the powers given him by G.S. 75-10. The provisions of G.S. 75-11
11 and G.S. 75-12 shall apply to this Chapter."

12 Section 25. (a) G.S. 90-113.38(b) reads as rewritten:

13 "(b) The fee to obtain a certificate of certification for a clinical addictions specialist
14 pursuant to ~~G.S. 90-113.41A—deemed status~~ may not exceed one hundred dollars
15 (\$100.00). The fee to renew a certificate may not exceed fifty dollars (\$50.00). The fee to
16 obtain a certificate of certification for a clinical addictions specialist ~~under G.S. 90-113.40~~
17 pursuant to all other procedures authorized by this Article may not exceed three hundred
18 twenty-five dollars (\$325.00). The fee to renew the certificate may not exceed one
19 hundred dollars (\$100.00)."

20 (b) Section 17 of S.L. 1997-492 reads as rewritten:

21 "Section 17. Notwithstanding G.S. 90-113.40(c), as enacted by Section 9 of this act,
22 the North Carolina Substance Abuse Professional Certification Board (Board) may certify
23 a person as a 'Clinical Addictions Specialist' during a limited period of one year after the
24 effective date of this act upon completion of any prescribed continuing education
25 requirements that are required during the course of this year for renewal of the original
26 certification, payment of the fee as required for renewal of the original certification,
27 payment of the clinical addictions specialist certification fee, and the submission of proof
28 of one of the following to the Board:

- 29 (1) Certification as a substance abuse counselor holding a master's
30 degree with a clinical application in a human services field; the
31 equivalent of two years of full-time post-graduate supervised
32 substance abuse experience; and three letters of reference from
33 certified substance abuse professionals who have master's degrees.
- 34 (2) Certification as a substance abuse counselor with a bachelors degree
35 in a human services field; the equivalent of five years of full-time,
36 post-graduate, supervised substance abuse experience; a passing
37 score on a master's level written examination; and submission of
38 three letters of reference from certified substance abuse
39 professionals who have master's degrees.
- 40 (3) Certification as a clinical supervisor; a master's degree with a
41 clinical application in a human services field; and three letters of
42 reference from certified substance abuse professionals who have
43 master's degrees.

- 1 (4) Certification as a substance abuse counselor; a master's degree with
2 a clinical application in a human services field with a substance
3 abuse specialty; and three letters of reference from certified
4 substance abuse professionals who have master's degrees.
- 5 (5) Certification before July 1, 1994, as an alcohol counselor, a drug and
6 alcohol counselor, or a substance abuse counselor; the equivalent of
7 10 years of documented full-time substance abuse work experience;
8 and three letters of reference from certified substance abuse
9 professionals who have master's degrees.
- 10 (6) Certification, licensure, or membership in good standing with a
11 professional discipline that has been granted deemed status under
12 G.S. 90-113.41A, as enacted by Section 11 of this act."

13 (c) Section 18 of S.L. 1997-492 reads as rewritten:

14 "Section 18. Notwithstanding G.S. 90-113.40(c), as enacted by Section 9 of this act,
15 the Board may certify an applicant as a 'Clinical Addictions Specialist' during a limited
16 period of three years beginning October 1, 1998, if the applicant completes any
17 prescribed continuing education requirements that are required during the course of these
18 years for renewal of the original certification, pays the fee as required for renewal of the
19 original certification, pays the clinical addictions specialist certification fee, and submits
20 proof to the Board that the applicant: (i) has been certified as a substance abuse
21 counselor; (ii) has the equivalent of 10 years of supervised, full-time, substance abuse
22 counseling experience; (iii) has passed a master's level oral and written examination and;
23 (iv) submits three letters of reference from certified substance abuse professionals who
24 hold master's degrees."

25 (d) This section is effective on and after October 1, 1997.

26 Section 26. G.S. 95-97 is repealed.

27 Section 27. G.S. 95-128(3) and (4) read as rewritten:

- 28 "(3) Employees whose safety and health are subject to protection under
29 the Federal Coal Mine Health and Safety Act of 1969 (30 U.S.C.
30 801) and the Federal Metal and Nonmetallic Mine Safety Act (30
31 U.S.C. 725), or ~~the Federal Railroad Safety Act of 1970 (45 U.S.C. 431-~~
32 ~~41); Subtitle V of Title 49 of the United States Code;~~
- 33 (4) Railroad employees whose safety and health are subject to protection
34 under ~~the Federal Safety Appliance Act (45 U.S.C. 1-50), or the Federal~~
35 ~~Railroad Safety Act of 1970 (45 U.S.C. 431-41); Subtitle V of Title 49~~
36 ~~of the United States Code;".~~

37 Section 28. G.S. 95-174(k) reads as rewritten:

38 "(k) 'Hazardous chemical' shall mean any element, chemical compound or mixture
39 of elements and/or compounds which is a physical hazard or health hazard as defined in
40 subsection (c) of the ~~NCOSHA-OSHNC~~ Standard or a hazardous substance as defined in
41 ~~subsection (d)(3) of the NCOSHA Standard.~~ standards adopted by the Occupational Safety
42 and Health Division of the North Carolina Department of Labor in Title 13, Chapter 7 of
43 the North Carolina Administrative Code (13 NCAC 7)."

1 Section 29. G.S. 95-174(p) reads as rewritten:

2 "(p) 'Material Safety Data Sheets' or 'MSDS' shall mean chemical information
3 sheets drawn up in conformity to standards for material safety data sheets adopted by the
4 Occupational Safety and Health Division of the North Carolina Department of Labor in
5 Title 13, Chapter 7 of the North Carolina Administrative Code (13 NCAC 7). ~~in 13 North~~
6 ~~Carolina Administrative Code 7C .0101(a)(99) (hereinafter designated as 13 N.C.A.C. 7C~~
7 ~~.0101(a)(99))."~~

8 Section 30. G.S. 95-174(r) reads as rewritten:

9 "(r) '~~NCOSHA-OSHNC Standard~~' shall mean the ~~currently adopted current~~ Hazard
10 Communication Standard adopted by the Occupational Safety and Health Division of
11 North Carolina Department of Labor in Title 13, Chapter 7 of the North Carolina
12 Administrative Code (13 NCAC 7). ~~13 North Carolina Administrative Code 7C .0101(a)(99),~~
13 ~~as amended."~~

14 Section 31. G.S. 95-198(b) reads as rewritten:

15 "(b) In nonemergency situations, a chemical manufacturer, importer, or employer
16 shall, upon request, disclose a specific chemical identity, otherwise permitted to be
17 withheld under this section, to a ~~health professional, responsible party,~~ as defined in ~~13~~
18 ~~N.C.A.C. 7C .0101(a)(99),~~ the standards adopted in Title 13, Subchapter 7F of the North
19 Carolina Administrative Code (13 NCAC 7F), providing medical or other occupational
20 health services to exposed persons if the request is in writing and states the medical need
21 for the information. The employer may require that the ~~health care provider~~ responsible
22 party sign a confidentiality agreement prior to release of the information. The parties are
23 not precluded from pursuing noncontractual remedies to the extent permitted by law."

24 Section 31.5. (a)Article 1 of Chapter 97 of the General Statutes is amended by adding
25 a new section to read:

26 **"§ 97-101.1. Commission may issue writs of habeas corpus.**

27 The Industrial Commission may issue a writ of habeas corpus ad testificandum under
28 G.S. 17-41 although it is not a court of record."

29 (b) G.S. 143-296 reads as rewritten:

30 **"§ 143-296. Powers of Industrial Commission; deputies.**

31 The members of the Industrial Commission, or a deputy thereof, shall have power to
32 issue subpoenas, administer oaths, conduct hearings, take evidence, enter orders,
33 opinions, and awards based thereon, ~~and punish for contempt-contempt,~~ and issue writs of
34 habeas corpus ad testificandum pursuant to G.S. 97-101.1. The Industrial Commission is
35 authorized to appoint deputies and clerical assistants to carry out the purpose and intent
36 of this Article, and such deputy or deputies are hereby vested with the same power and
37 authority to hear and determine tort claims against State departments, institutions, and
38 agencies as is by this Article vested in the members of the Industrial Commission. Such
39 deputy or deputies shall also have and are hereby vested with the same power and
40 authority to hear and determine cases arising under the Workers' Compensation Act when
41 assigned to do so by the Industrial Commission. The Commission may order parties to
42 participate in mediation, under rules substantially similar to those approved by the
43 Supreme Court for use in the Superior Court division, except the Commission shall

1 determine the manner in which payment of the costs of the mediated settlement
2 conference is assessed."

3 Section 32. (a) G.S. 105-116(a), as amended by S.L. 1998-22, reads as
4 rewritten:

5 "(a) Tax. – An annual franchise or privilege tax is imposed on the following:

6 (1) An electric power company engaged in the business of furnishing
7 electricity, electric lights, current, or power.

8 (2) Repealed by S.L. 1998-22, s.2.

9 (2a) Repealed by S.L. 1998-22, s.2.

10 (3) A water company engaged in owning or operating a water system
11 subject to regulation by the North Carolina Utilities Commission.

12 (4) A public sewerage company engaged in owning or operating a
13 public sewerage system.

14 The tax on an electric power company is three and twenty-two hundredths percent
15 (3.22%) of the company's taxable gross receipts from the business of furnishing
16 electricity, electric lights, current, or power. ~~The tax on a regional natural gas district is three~~
17 ~~and twenty two hundredths percent (3.22%) of the district's taxable gross receipts from the~~
18 ~~furnishing of piped natural gas.~~ The tax on a water company is four percent (4%) of the
19 company's taxable gross receipts from owning or operating a water system subject to
20 regulation by the North Carolina Utilities Commission. The tax on a public sewerage
21 company is six percent (6%) of the company's taxable gross receipts from owning or
22 operating a public sewerage company. A company's taxable gross receipts are its gross
23 receipts from business inside the State less the amount of gross receipts from sales
24 reported under subdivision (b)(2). A company that engages in more than one business
25 taxed under this section shall pay tax on each business. A company is allowed a credit
26 against the tax imposed by this section for the company's investments in certain entities
27 in accordance with Division V of Article 4 of this Chapter."

28 (b) G.S. 105-187.44(a), as enacted by S.L. 1998-22, reads as rewritten:

29 "(a) City Information. – A monthly return filed under this Article must indicate the
30 amount of tax attributable to the following: ~~if a tax return does not state this information, the~~
31 ~~Secretary must determine how much of the tax proceeds are to be attributed to each city:~~

32 (1) Piped natural gas delivered during the month to sales or
33 transportation customers in each city in the State.

34 (2) Piped natural gas received during the month in each city in the State
35 by persons who have direct access to an interstate gas pipeline and
36 who receive the gas for their own consumption.

37 If a tax return does not state this information, the Secretary must determine how much of
38 the tax proceeds are to be attributed to each city."

39 (c) This section becomes effective July 1, 1999.

40 Section 33. G.S. 130A-24(b) reads as rewritten:

41 "(b) Appeals concerning the enforcement of rules adopted by the local board of
42 health and concerning the imposition of administrative penalties by a local health director
43 shall be conducted in accordance with this subsection and subsections (b), (c) and (d) of

1 this section. The aggrieved person shall give written notice of appeal to the local health
2 director within 30 days of the challenged action. The notice shall contain the name and
3 address of the aggrieved person, a description of the challenged action and a statement of
4 the reasons why the challenged action is incorrect. Upon filing of the notice, the local
5 health director shall, within five working days, transmit to the local board of health the
6 notice of appeal and the papers and materials upon which the challenged action was
7 taken."

8 Section 34. G.S. 143B-475.1 is rewritten by adding a new subsection to read:

9 "(f) The community service staff shall report to the court in which the community
10 service was ordered, a significant violation of the terms of the probation, or deferred
11 prosecution, related to community service. The community service staff shall give notice
12 of the hearing to determine if there is a willful failure to comply to the person who was
13 ordered to perform the community service. This notice shall be given by either personal
14 delivery to the person to be notified or by depositing the notice in the United States mail
15 in an envelope with postage prepaid, addressed to the person at the address shown on the
16 records of the community service staff. The notice shall be mailed at least 10 days prior
17 to any hearing and shall state the basis of the alleged willful failure to comply. The court
18 shall then conduct a hearing, even if the person ordered to perform the community
19 service fails to appear, to determine if there is a willful failure to complete the work as
20 ordered by the community service staff within the applicable time limits. If the court
21 determines there is a willful failure to comply, it shall revoke any drivers license issued
22 to the person and notify the Division of Motor Vehicles to revoke any drivers license issued
23 to the person until the community service requirement has been met. In addition, if the
24 person is present, the court may take any further action authorized by Article 82 of
25 Chapter 15A of the General Statutes for violation of a condition of probation."

26 Section 35. (a) G.S. 146-12(c) reads as rewritten:

27 "(c) Voluntary Easement Applications for Existing Structures. – Riparian or littoral
28 property owners of existing structures may voluntarily obtain an easement under
29 subsection (b) of this section in accordance with the procedures set forth in this section.
30 For purposes of this section, the term 'existing structures' means all presently existing
31 piers, docks, marinas, wharves, and other structures located over or upon State-owned
32 lands covered by navigable waters. Applications for voluntary easements shall be
33 received by the State Property Office ~~within 36 months of the effective date of this section.~~
34 no later than 1 October 2001."

35 (b) This section is effective retroactively to October 1, 1998, and applies to
36 applications for voluntary easements received by the State Property Office on or after that
37 date.

38 Section 36. (a) G.S. 163-323(e) reads as rewritten:

39 "(e) Candidacy for More Than One Office Prohibited. – No person may file a notice
40 of candidacy for more than one office or group of offices described in subsection (b) of
41 ~~this section~~ this section, or for an office or group of offices described in subsection (b) of this
42 section and an office described in G.S. 163-106(c), for any one election. If a person has
43 filed a notice of candidacy with a board of elections under this section or under G.S. 163-

1 106(c) for one office or group of offices, then a notice of candidacy may not later be filed
2 for any other office or group of offices under this section when the election is on the
3 same date unless the notice of candidacy for the first office is withdrawn under
4 subsection (c) of this section."

5 (b) This section is effective on and after February 1, 1999.

6 Section 37. The prefatory language of Section 1 of S.L. 1998-37 reads as
7 rewritten:

8 "Section 1. G.S. 153A-335, as it applies to Stanly County under Chapter 930 of the
9 1987 Session Laws, as amended by Chapter 504 of the 1991 Session Laws and Chapter
10 574 of the 1993 Session Laws, reads as rewritten:"

11 Section 38. Section 5.1 of the Charter of the Town of Forest Hills, being
12 Section 1 of S.L. 1997-345, reads as rewritten:

13 "Section 5.1. **Mayor-Council Plan.** The Village of Forest Hills operates under the
14 Mayor-Council Plan as provided by Part 3 of Article 7 of Chapter ~~460B-160A~~ of the
15 General Statutes. The Mayor shall vote only in those cases necessary to break a tie."

16 Section 39. The prefatory language of Section 1 of S.L. 1998-72 reads as
17 rewritten:

18 "Section 1. G.S. 115D-15 reads ~~are~~ as rewritten:"

19 Section 40. G.S. 40A-5(a) reads as rewritten:

20 "(a) A condemnor listed in G.S. 40A-3(a), (b) or (c) shall not possess the power of
21 eminent domain with respect to property owned by the State of North Carolina or a
22 railroad company in which the State is the owner of all the voting stock unless the State
23 consents to the taking. The State's consent shall be given by the Council of State, or by
24 the Secretary of Administration if the Council of State delegates this authority to him. In
25 a condemnation proceeding against State property consented to by the State, the only
26 issue shall be the compensation to be paid for the property."

27 Section 41. G.S. 89C-13(b)(1)d., as amended by S.L. 1998-118, reads as
28 rewritten:

29 "d. Graduation from a high school or the completion of a high school
30 equivalency certificate and a record satisfactory to the Board of
31 seven years of progressive practical experience, six years of
32 which shall have been under a practicing licensed land surveyor,
33 and satisfactorily passing any oral and written examinations
34 required by the Board, all of which shall determine and indicate
35 that the candidate is competent to practice land surveying. The
36 applicant may be qualified by the Board to take the first
37 examination (Surveying Fundamentals) upon graduation from
38 high school or the completion of a high school equivalency
39 certificate and successfully completing ~~six~~ five years of
40 progressive practice experience, ~~five~~ four of which shall have
41 been under a practicing licensed land surveyor. ~~The applicant may~~
42 ~~apply to take the second examination (Principles and Practice of Land~~
43 ~~Surveying) upon passing the first examination and successfully~~

1 completing four years of progressive practical experience, two of
2 which shall have been under a practicing licensed land surveyor."

3 Section 42. G.S. 105-130.17(f) is repealed.

4 Section 43. G.S. 105-122(a) reads as rewritten:

5 "(a) Every corporation, domestic and foreign, incorporated, or, by an act,
6 domesticated under the laws of this State or doing business in this State, except as
7 otherwise provided in this Article or schedule, shall, on or before the fifteenth day of the
8 third month following the end of its income year, annually, make and deliver to the
9 Secretary of Revenue in such form as he may prescribe a full, accurate and complete
10 report and statement signed by either its president, vice-president, treasurer, assistant
11 treasurer, secretary or assistant secretary, containing such facts and information as may
12 be required by the Secretary of Revenue as shown by the books and records of the
13 corporation at the close of such income year.

14 There shall be annexed to the return required by this subsection the affirmation of the
15 officer signing the return in the following form: "~~Under penalties prescribed by law, I~~
16 ~~hereby affirm that to the best of my knowledge and belief this return, including any~~
17 ~~accompanying schedules and statements, is true and complete. If prepared by a person~~
18 ~~other than taxpayer, his affirmation is based on all information of which he has any~~
19 ~~knowledge.~~" return."

20 Section 44. G.S. 105-155(c) is repealed.

21 Section 45. G.S. 120-123(55) and (65) are repealed.

22 Section 46. (a) G.S. 130A-335(f1), as enacted by Section 1 of S.L. 1998-126, is
23 recodified as G.S. 130A-335(f2).

24 (b) This section is effective retroactively to August 28, 1998.

25 Section 47. G.S. 153A-15, as amended by S.L. 1998-110, reads as rewritten:

26 "**§ 153A-15. Consent of board of commissioners necessary in certain counties before**
27 **land may be condemned or acquired by a unit of local government outside**
28 **the county.**

29 (a) Notwithstanding the provisions of ~~G.S. 153A-159, Article 11 of Chapter 160A of~~
30 ~~the General Statutes, G.S. 130-130, Chapter 40-40A of the General Statutes, Statutes or any~~
31 other general law or local act conferring the power of eminent domain, before final
32 judgment may be entered in any action of condemnation initiated ~~(or in the case of Article~~
33 ~~11 of Chapter 160A, before a final condemnation resolution is adopted)~~ by a county, city or
34 town, special district, or other unit of local government which is located wholly or
35 primarily outside another county, whereby the condemnor seeks to acquire property
36 located in the other county, the condemnor shall furnish proof that the county board of
37 commissioners of the county where the land is located has consented to the taking.

38 (b) Notwithstanding the provisions of G.S. 153A-158, ~~Chapter 160A of the General~~
39 ~~Statutes-160A-240.1, Article 12 of Chapter 130 of the General Statutes, 130A-55, or any other~~
40 general law or local act conferring the power to acquire real property, before any county,
41 city or town, special district, or other unit of local government which is located wholly or
42 primarily outside another county acquires any real property located in the other county by

1 exchange, purchase or lease, it must have the approval of the county board of
2 commissioners of the county where the land is located.

3 (c) This section applies to Alamance, Alleghany, Anson, Ashe, Bertie, Bladen,
4 Brunswick, Burke, Buncombe, Cabarrus, Caldwell, Camden, Carteret, Caswell, Catawba,
5 Chatham, Cherokee, Clay, Cleveland, Columbus, Craven, Cumberland, Currituck,
6 Davidson, Davie, Duplin, Durham, Edgecombe, Forsyth, Franklin, Gaston, Graham,
7 Granville, Greene, Guilford, Halifax, Harnett, Haywood, Henderson, Hoke, Iredell,
8 Jackson, Johnston, Jones, Lee, Lincoln, Macon, Madison, Martin, McDowell,
9 Mecklenburg, Montgomery, Nash, New Hanover, Onslow, Orange, Pamlico, Pasquotank,
10 Pender, Perquimans, Person, Pitt, Polk, Richmond, Robeson, Rockingham, Rowan,
11 Sampson, Scotland, Stanly, Stokes, Surry, Swain, Transylvania, Union, Vance, Wake,
12 Warren, Watauga, Wilkes, and Yancey ~~counties~~ Counties only.

13 (d) This section does not apply as to any:

14 (1) ~~Condemnation; or~~

15 (2) ~~Acquisition~~

16 any condemnation or acquisition of real property or an interest in real property by a city
17 where the property to be condemned or acquired is within the corporate limits of that
18 city."

19 Section 48. G.S. 158-35(a) reads as rewritten:

20 "(a) Commission Membership. – The governing body of the Zone is the Global
21 TransPark Development Commission. The members of the Commission must be
22 residents of the Zone and shall be appointed as follows:

23 (1) The board of commissioners of each county participating in the Zone
24 shall appoint three voting members, one of whom shall be a minority
25 person as defined in ~~G.S. 143-128(e)~~ G.S. 143-128(f)(2) and one of
26 whom may be a member of the board of commissioners.

27 (2) The Authority shall appoint at least three but no more than seven
28 voting members. By the appointment of these members, the
29 Authority shall ensure that the voting membership of the
30 Commission includes at least seven women and seven members of a
31 racial minority described in ~~G.S. 143-128(e)~~ G.S. 143-128(f)(2). The
32 Authority shall appoint the fewest number of members necessary to
33 achieve these minimums.

34 (3) Four nonvoting members shall be appointed as follows:

35 a. One appointed by the Chancellor of East Carolina University to
36 represent the University.

37 b. One appointed by a majority vote of the presidents of the
38 community colleges located in the Zone, to represent the
39 community colleges.

40 c. One appointed by the chair of the State Ports Authority, to
41 represent the sea ports of the State.

42 d. One member of the board of directors of the Global TransPark
43 Foundation, Inc., appointed by that board."

1 Section 49. The Revisor of Statutes shall codify the first paragraph of Section
2 4 of S.L. 1997-129, as amended by Section 10 of S.L. 1997-257, as G.S. 75A-14.1, "Lake
3 Norman no-wake zone."

4 Section 50. Section 2 of S.L. 1998-113 is amended by deleting "1997-98", and
5 substituting "1998-99".

6 Section 51. Section 2 of Chapter 214 of the 1991 Session Laws is repealed.

7 Section 52. This act is effective when it becomes law.