

GENERAL ASSEMBLY OF NORTH CAROLINA
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HOUSE BILL 761
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Short Title: Regulatory Reform Act of 2014.

(Public)

Sponsors:

Referred to:

April 11, 2013

A BILL TO BE ENTITLED

AN ACT TO PROVIDE FURTHER REGULATORY RELIEF TO THE CITIZENS OF NORTH CAROLINA BY PROVIDING FOR VARIOUS ADMINISTRATIVE REFORMS, BY ELIMINATING CERTAIN UNNECESSARY OR OUTDATED STATUTES AND REGULATIONS AND MODERNIZING OR SIMPLIFYING CUMBERSOME OR OUTDATED REGULATIONS, AND BY MAKING VARIOUS OTHER STATUTORY CHANGES.

The General Assembly of North Carolina enacts:

PART I. ADMINISTRATIVE REFORMS

ELIMINATE, AS OBSOLETE, THE SMALL BUSINESS CONTRACTOR AUTHORITY, THE COMMITTEE ON DROPOUT PREVENTION, THE STATE EDUCATION COMMITTEE, THE STATE EDUCATION COMMISSION, THE NATIONAL HERITAGE AREA DESIGNATION COMMISSION, THE GOVERNOR'S MANAGEMENT COUNCIL, THE BOARD OF DIRECTORS OF THE NORTH CAROLINA CENTER FOR NURSING, AND THE BOARD OF CORRECTIONS

SECTION 1.1.(a) Part 20 of Article 10 of Chapter 143B of the General Statutes is repealed.

SECTION 1.1.(b) Article 6B of Chapter 115C of the General Statutes is repealed.

SECTION 1.1.(c) G.S. 116C-1 reads as rewritten:

"§ 116C-1. Education Cabinet created.

(a) The Education Cabinet is created. The Education Cabinet shall be located administratively within, and shall exercise its powers within existing resources of, the Office of the Governor. However, the Education Cabinet shall exercise its statutory powers independently of the Office of the Governor.

(b) The Education Cabinet shall consist of the Governor, who shall serve as chair, the President of The University of North Carolina, the State Superintendent of Public Instruction, the Chairman of the State Board of Education, the President of the North Carolina Community Colleges System, the Secretary of Health and Human Services, and the President of the North Carolina Independent Colleges and Universities. The Education Cabinet may invite other representatives of education to participate in its deliberations as adjunct members.

(c) The Education Cabinet shall be a nonvoting body that:



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- 1 (1) Works to resolve issues between existing providers of education.
2 ~~(2) Sets the agenda for the State Education Commission.~~
3 (3) Develops a strategic design for a continuum of education programs, in
4 accordance with G.S. 116C-3.
5 (4) Studies other issues referred to it by the Governor or the General Assembly.
6 (d) The Office of the Governor, in coordination with the staffs of The University of
7 North Carolina, the North Carolina Community College System, and the Department of Public
8 Instruction, shall provide staff to the Education Cabinet."

9 **SECTION 1.1.(d)** G.S. 116C-2 is repealed.

10 **SECTION 1.1.(e)** Article 26 of Chapter 143 of the General Statutes is repealed.

11 **SECTION 1.1.(f)** Section 18.10 of S.L. 2001-491 reads as rewritten:

12 "**SECTION 18.10.** Notwithstanding G.S. 158-8.1, the Western North Carolina Regional
13 Economic Development Commission shall develop a regional heritage tourism plan and shall
14 present the plan to the 2002 Regular Session of the 2001 General Assembly no later than May
15 1, 2002. The National Heritage Area Designation Commission created pursuant to Section 18.4
16 of this act shall terminate August 1, 2014."

17 **SECTION 1.1.(g)** Part 24 of Article 9 of Chapter 143B of the General Statutes is
18 repealed.

19 **SECTION 1.1.(h)** G.S. 90-171.71 is repealed.

20 **SECTION 1.1.(i)** G.S. 143B-711 reads as rewritten:

21 "**§ 143B-711. Division of Adult Correction of the Department of Public Safety –**
22 **organization.**

23 The Division of Adult Correction of the Department of Public Safety shall be organized
24 initially to include the Post-Release Supervision and Parole Commission, ~~the Board of~~
25 ~~Correction,~~ the Section of Prisons of the Division of Adult Correction, the Section of
26 Community Corrections, the Section of Alcoholism and Chemical Dependency Treatment
27 Programs, and such other divisions as may be established under the provisions of the Executive
28 Organization Act of 1973."

29 **SECTION 1.1.(j)** G.S. 143B-715 is repealed.
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31 **CLARIFY PROCESS FOR READOPTION OF EXISTING RULES**

32 **SECTION 1.2.** G.S. 150B-21.3A(d) reads as rewritten:

33 "(d) Timetable. – The Commission shall establish a schedule for the review and
34 readoption of existing rules in accordance with this section on a decennial basis as follows:

- 35 (1) With regard to the review process, the Commission shall assign by assigning
36 each Title of the Administrative Code a date by which the review required
37 by this section must be completed. In establishing the schedule, the
38 Commission shall consider the scope and complexity of rules subject to this
39 section and the resources required to conduct the review required by this
40 section. The Commission shall have broad authority to modify the schedule
41 and extend the time for review in appropriate circumstances. Except as
42 provided in ~~subsection~~ ~~subsections~~ (e) and (f) of this section, if the agency
43 fails to conduct the review by the date set by the Commission, the rules
44 contained in that Title which have not been reviewed will expire. The
45 Commission shall report to the Committee any agency that fails to conduct
46 the review. The Commission may exempt rules that have been adopted or
47 amended within the previous 10 years from the review required by this
48 section. However, any rule exempted on this basis must be reviewed in
49 accordance with this section no more than 10 years following the last time
50 the rule was amended.

(2) With regard to the readoption of rules as required by sub-subdivision (c)(2)g. of this section, once the final determination report becomes effective, the Commission shall establish a date by which the agency must readopt the rules. The Commission shall consult with the agency and shall consider the agency's rule-making priorities in establishing the readoption date. The agency may amend a rule as part of the readoption process. If a rule is readopted without substantive change, the agency is not required to prepare a fiscal note as provided by G.S. 150B-21.4."

AUTHORIZE LICENSING BOARDS TO ADOPT RULES FOR PROFESSIONAL CORPORATIONS

SECTION 1.3. G.S. 55B-12 reads as rewritten:

"§ 55B-12. Application of regulations of licensing boards.

(a) A professional corporation shall be subject to the applicable rules and regulations adopted by, and all the disciplinary powers of, the licensing board as herein defined. Nothing in this Chapter shall impair the disciplinary powers of any licensing board applicable to a licensee as herein defined. No professional corporation may do any act which its shareholders as licensees are prohibited from doing.

(b) Subject to the requirements of Article 2A of Chapter 150B of the General Statutes, any licensing board subject to this Chapter may adopt rules to implement the provisions of this Chapter, including any rules needed to establish fees within the limits set by this Chapter."

OCCUPATIONAL LICENSING BOARD REPORTING AMENDMENTS

SECTION 1.4. G.S. 93B-2 reads as rewritten:

"§ 93B-2. Annual reports required; contents; open to inspection; sanction for failure to report.

(a) No later than October 31 of each year, each occupational licensing board shall file electronically with the Secretary of State, the Attorney General, and the Joint ~~Regulatory Reform~~ Legislative Administrative Procedure Oversight Committee an annual report containing all of the following information:

(1) The address of the board, and the names of its members and officers.

(1a) The total number of licensees supervised by the board.

(2) The number of persons who applied to the board for examination.

(3) The number who were refused examination.

(4) The number who took the examination.

(5) The number to whom initial licenses were issued.

(5a) The number who failed the examination.

(6) The number who applied for license by reciprocity or comity.

(7) The number who were granted licenses by reciprocity or comity.

(7a) The number of official complaints received involving licensed and unlicensed activities.

(7b) The number of disciplinary actions taken against licensees, or other actions taken against nonlicensees, including injunctive relief.

(8) The number of licenses suspended or revoked.

(9) The number of licenses terminated for any reason other than failure to pay the required renewal fee.

(10) The substance of any anticipated request by the occupational licensing board to the General Assembly to amend statutes related to the occupational licensing board.

1 (11) The substance of any anticipated change in rules adopted by the
2 occupational licensing board or the substance of any anticipated adoption of
3 new rules by the occupational licensing board.

4 (b) No later than October 31 of each year, each occupational licensing board shall file
5 electronically with the Secretary of State, the Attorney General, the Office of State Budget and
6 Management, and the ~~Joint Regulatory Reform~~ Legislative Administrative Procedure Oversight
7 Committee a financial report that includes the source and amount of all funds credited to the
8 occupational licensing board and the purpose and amount of all funds disbursed by the
9 occupational licensing board during the previous fiscal year.

10 (c) The reports required by this section shall be open to public inspection.

11 (d) The Joint Legislative Administrative Procedure Oversight Committee shall notify
12 any board that fails to file the reports required by this section. Failure of a board to comply with
13 the reporting requirements of this section by October 31 of each year shall result in a
14 suspension of the board's authority to expend any funds until such time as the board files the
15 required reports. Suspension of a board's authority to expend funds under this subsection shall
16 not affect the board's duty to issue and renew licenses or the validity of any application or
17 license for which fees have been tendered in accordance with law. Each board shall adopt rules
18 establishing a procedure for implementing this subsection and shall maintain an escrow account
19 into which any fees tendered during a board's period of suspension under this subsection shall
20 be deposited."

21 OAH ELECTRONIC FILING

22 **SECTION 1.5.(a)** Article 3 of Chapter 150B of the General Statutes is amended by
23 adding a new section to read:

24 **"§ 150B-23.3. Electronic filing.**

25 In addition to any other method specified in G.S. 150B-23, documents filed and served in a
26 contested case may be filed and served electronically by means of an Electronic Filing Service
27 Provider. For purposes of this section, the following definitions apply:

28 (1) Electronic filing means the electronic transmission of the petition, notice of
29 hearing, pleadings, or any other documents filed in a contested case with the
30 Office of Administrative Hearings, as further defined by rules adopted by the
31 Office of Administrative Hearings.

32 (2) Electronic Filing Service Provider (EFSP) means the service provided by the
33 Office of Administrative Hearings for e-filing and e-service of documents
34 via the Internet.

35 (3) Electronic service means the electronic transmission of the petition, notice of
36 hearing, pleadings, or any other documents in a contested case, as further
37 defined by rules adopted by the Office of Administrative Hearings."

38 **SECTION 1.5.(b)** This section is effective when it becomes law and applies to
39 contested cases filed on or after that date.

40 STREAMLINE RULE-MAKING PROCESS

41 **SECTION 1.6.(a)** G.S. 150B-19.1(h) is repealed.

42 **SECTION 1.6.(b)** G.S. 150B-21.4 reads as rewritten:

43 **"§ 150B-21.4. Fiscal ~~notes~~ and regulatory impact analysis on rules.**

44 (a) State Funds. – Before an agency ~~adopts~~ publishes in the North Carolina Register the
45 proposed text of a permanent rule change that would require the expenditure or distribution of
46 funds subject to the State Budget Act, Chapter 143C of the General Statutes it must submit the
47 text of the proposed rule change, an analysis of the proposed rule change, and a fiscal note on
48 the proposed rule change to the Office of State Budget and Management and obtain
49 certification from the Office of State Budget and Management that the funds that would be
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1 required by the proposed rule change are available. ~~The agency shall submit the text of the~~
2 ~~proposed rule change, an analysis of the proposed rule change, and a fiscal note on the~~
3 ~~proposed rule change to the Office at the same time as the agency submits the notice of text for~~
4 ~~publication pursuant to G.S. 150B-21.2.~~ The fiscal note must state the amount of funds that
5 would be expended or distributed as a result of the proposed rule change and explain how the
6 amount was computed. The Office of State Budget and Management must certify a proposed
7 rule change if funds are available to cover the expenditure or distribution required by the
8 proposed rule change.

9 (a1) DOT Analyses. – In addition to the requirements of subsection (a) of this section,
10 any agency that adopts a rule affecting environmental permitting of Department of
11 Transportation projects shall conduct an analysis to determine if the rule will result in an
12 increased cost to the Department of Transportation. The analysis shall be conducted and
13 submitted to the Board of Transportation when the agency submits the notice of text for
14 publication. The agency shall consider any recommendations offered by the Board of
15 Transportation prior to adopting the rule. Once a rule subject to this subsection is adopted, the
16 Board of Transportation may submit any objection to the rule it may have to the Rules Review
17 Commission. If the Rules Review Commission receives an objection to a rule from the Board
18 of Transportation no later than 5:00 P.M. of the day following the day the Commission
19 approves the rule, then the rule shall only become effective as provided in G.S. 150B-21.3(b1).

20 (b) Local Funds. – Before an agency ~~adopts~~ publishes in the North Carolina Register
21 the proposed text of a permanent rule change that would affect the expenditures or revenues of
22 a unit of local government, it must submit the text of the proposed rule change and a fiscal note
23 on the proposed rule change to the Office of State Budget and Management as provided by
24 G.S. 150B-21.26, the Fiscal Research Division of the General Assembly, the North Carolina
25 Association of County Commissioners, and the North Carolina League of Municipalities. The
26 fiscal note must state the amount by which the proposed rule change would increase or
27 decrease expenditures or revenues of a unit of local government and must explain how the
28 amount was computed.

29 (b1) Substantial Economic Impact. – Before an agency ~~adopts~~ publishes in the North
30 Carolina Register the proposed text of a permanent rule change that would have a substantial
31 economic impact and that is not identical to a federal regulation that the agency is required to
32 adopt, the agency shall prepare a fiscal note for the proposed rule change and have the note
33 approved by the Office of State Budget and Management. The agency must also obtain from
34 the Office a certification that the agency adhered to the regulatory principles set forth in
35 G.S. 150B-19.1(a)(2), (5), and (6). The agency may request the Office of State Budget and
36 Management to prepare the fiscal note only after, working with the Office, it has exhausted all
37 resources, internal and external, to otherwise prepare the required fiscal note. If an agency
38 requests the Office of State Budget and Management to prepare a fiscal note for a proposed rule
39 change, that Office must prepare the note within 90 days after receiving a written request for
40 the note. If the Office of State Budget and Management fails to prepare a fiscal note within this
41 time period, the agency proposing the rule change shall prepare a fiscal note. A fiscal note
42 prepared in this circumstance does not require approval of the Office of State Budget and
43 Management.

44 If an agency prepares the required fiscal note, the agency must submit the note to the Office
45 of State Budget and Management for review. The Office of State Budget and Management
46 shall review the fiscal note within 14 days after it is submitted and either approve the note or
47 inform the agency in writing of the reasons why it does not approve the fiscal note. After
48 addressing these reasons, the agency may submit the revised fiscal note to that Office for its
49 review. If an agency is not sure whether a proposed rule change would have a substantial
50 economic impact, the agency shall ask the Office of State Budget and Management to
51 determine whether the proposed rule change has a substantial economic impact. Failure to

1 prepare or obtain approval of the fiscal note as required by this subsection shall be a basis for
2 objection to the rule under G.S. 150B-21.9(a)(4).

3 As used in this subsection, the term "substantial economic impact" means an aggregate
4 financial impact on all persons affected of at least one million dollars (\$1,000,000) in a
5 12-month period. In analyzing substantial economic impact, an agency shall do the following:

- 6 (1) Determine and identify the appropriate time frame of the analysis.
- 7 (2) Assess the baseline conditions against which the proposed rule is to be
8 measured.
- 9 (3) Describe the persons who would be subject to the proposed rule and the type
10 of expenditures these persons would be required to make.
- 11 (4) Estimate any additional costs that would be created by implementation of the
12 proposed rule by measuring the incremental difference between the baseline
13 and the future condition expected after implementation of the rule. The
14 analysis should include direct costs as well as opportunity costs. Cost
15 estimates must be monetized to the greatest extent possible. Where costs are
16 not monetized, they must be listed and described.
- 17 (5) For costs that occur in the future, the agency shall determine the net present
18 value of the costs by using a discount factor of seven percent (7%).

19 (b2) Content. – A fiscal note required by subsection (b1) of this section must contain the
20 following:

- 21 (1) A description of the persons who would be affected by the proposed rule
22 change.
- 23 (2) A description of the types of expenditures that persons affected by the
24 proposed rule change would have to make to comply with the rule and an
25 estimate of these expenditures.
- 26 (3) A description of the purpose and benefits of the proposed rule change.
- 27 (4) An explanation of how the estimate of expenditures was computed.
- 28 (5) A description of at least two alternatives to the proposed rule that were
29 considered by the agency and the reason the alternatives were rejected. The
30 alternatives may have been identified by the agency or by members of the
31 public.

32 (c) Errors. – An erroneous fiscal note prepared in good faith does not affect the validity
33 of a rule.

34 (d) If an agency proposes the repeal of an existing rule, the agency is not required to
35 prepare a fiscal note on the proposed rule change as provided by this section."

36 **SECTION 1.6.(c)** This section is effective when it becomes law and applies to
37 proposed rules published on or after that date.

38 **STATE BOARD OF EDUCATION RULE-MAKING CLARIFICATION**

39 **SECTION 1.7.(a)** G.S. 115C-12 reads as rewritten:

40 "**§ 115C-12. Powers and duties of the Board generally.**

41 The general supervision and administration of the free public school system shall be vested
42 in the State Board of Education. The State Board of Education shall establish policy for the
43 system of free public schools, subject to laws enacted by the General Assembly. The State
44 Board of Education is subject to Article 2A of Chapter 150B of the General Statutes. The State
45 Board of Education may not implement or enforce against any person a policy that meets the
46 definition of a rule contained in G.S. 150B-2(8a) if the policy has not been adopted as a rule in
47 accordance with Article 2A of Chapter 150B of the General Statutes. The powers and duties of
48 the State Board of Education are defined as follows:

49"

50 **SECTION 1.7.(b)** G.S. 150B-23 is amended by adding a new subsection to read:
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1 "(a4) If an agency fails to take any required action within the time period specified by
2 law, any person whose rights are substantially prejudiced by the agency's failure to act may
3 commence a contested case in accordance with this section seeking an order that the agency act
4 as required by law. If the administrative law judge finds that the agency has failed to act as
5 required by law, the administrative law judge may order that the agency take the required
6 action within a specified time period."

7 **SECTION 1.7.(c)** G.S. 150B-44 reads as rewritten:

8 "**§ 150B-44. Right to judicial intervention when final decision unreasonably delayed.**

9 ~~Unreasonable delay on the part of any agency or administrative law judge in taking any~~
10 ~~required action shall be justification for any person whose rights, duties, or privileges are~~
11 ~~adversely affected by such delay to seek a court order compelling action by the agency or~~
12 ~~administrative law judge. Failure of an administrative law judge subject to Article 3 of this~~
13 ~~Chapter or failure of an agency subject to Article 3A of this Chapter to make a final decision~~
14 ~~within 120 days of the close of the contested case hearing is justification for a person whose~~
15 ~~rights, duties, or privileges are adversely affected by the delay to seek a court order compelling~~
16 ~~action by the agency or by the administrative law judge. The Board of Trustees of the North~~
17 ~~Carolina State Health Plan for Teachers and State Employees is a "board" for purposes of this~~
18 ~~section."~~

20 **HARDISON AMENDMENT CLARIFICATION**

21 **SECTION 1.8.(a)** G.S. 150B-19.3 reads as rewritten:

22 "**§ 150B-19.3. Limitation on certain environmental rules.**

23 (a) An agency authorized to implement and enforce State and federal environmental
24 laws may not adopt a rule for the protection of the environment or natural resources that
25 imposes a more restrictive standard, limitation, or requirement than those imposed by federal
26 law or rule, if a federal law or rule pertaining to the same subject matter has been adopted,
27 unless adoption of the rule is required by one of the ~~following subdivisions of this subsection.~~
28 A rule required by one of the subdivisions of this subsection shall be subject to the provisions
29 of G.S. 150B-21.3(b1) as if the rule received written objections from 10 or more persons under
30 G.S. 150B-21.3(b2).

31 (1) A serious and unforeseen threat to the public health, safety, or welfare.

32 (2) An act of the General Assembly or United States Congress that expressly
33 requires the agency to adopt rules.

34 (3) A change in federal or State budgetary policy.

35 (4) A federal regulation required by an act of the United States Congress to be
36 adopted or administered by the State.

37 (5) A court order.

38 (b) For purposes of this section, "an agency authorized to implement and enforce State
39 and federal environmental laws" means any of the following:

40 (1) The Department of Environment and Natural Resources created pursuant to
41 G.S. 143B-279.1.

42 (2) The Environmental Management Commission created pursuant to
43 G.S. 143B-282.

44 (3) The Coastal Resources Commission established pursuant to G.S. 113A-104.

45 (4) The Marine Fisheries Commission created pursuant to G.S. 143B-289.51.

46 (5) The Wildlife Resources Commission created pursuant to G.S. 143-240.

47 (6) The Commission for Public Health created pursuant to G.S. 130A-29.

48 (7) The Sedimentation Control Commission created pursuant to G.S. 143B-298.

49 (8) The North Carolina Mining and Energy Commission created pursuant to
50 G.S. 143B-293.1.

51 (9) The Pesticide Board created pursuant to G.S. 143-436."

1 **SECTION 1.8.(b)** G.S. 150B-21.3A(a) reads as rewritten:

2 "**§ 150B-21.3A. Periodic review and expiration of existing rules.**

3 (a) Definitions. – For purposes of this section, the following definitions apply:

4 ...

5 (3) Necessary with substantive public interest. – Means any rule for which the
6 agency has received public comments within the past two years. A rule is
7 also "necessary with substantive public interest" if either or both of the
8 following applies:

9 a. ~~the~~ The rule affects the property interest of the regulated public and
10 the agency knows or suspects that any person may object to the rule.

11 b. The rule imposes a more restrictive standard, limitation, or
12 requirement than those imposed by federal law or rule, if a federal
13 law or rule pertaining to the same subject matter has been adopted.

14 "

15 **SECTION 1.8.(c)** Subsection (a) of this section becomes effective September 1,
16 2014, and applies to rules adopted or readopted on or after that date. Subsection (b) of this
17 section becomes effective August 23, 2013, and applies to rules reviewed on or after that date.

18 **REPRESENTATION OF SMALL BUSINESS ENTITIES IN ADMINISTRATIVE** 19 **APPEALS**

20 **SECTION 1.9.(a)** G.S. 150B-23(a) reads as rewritten:

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

32 (1) Exceeded its authority or jurisdiction;

33 (2) Acted erroneously;

34 (3) Failed to use proper procedure;

35 (4) Acted arbitrarily or capriciously; or

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

37 The parties in a contested case shall be given an opportunity for a hearing without undue
38 delay. Any person aggrieved may commence a contested case hereunder.

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

43 A business entity may represent itself using a nonattorney representative who is one or
44 more of the following of the business entity: (i) officer, (ii) manager or member-manager, if the
45 business entity is a limited liability company, (iii) employee whose income is reported on IRS
46 Form W-2, if the business entity authorizes the representation in writing, or (iv) owner of the
47 business entity, if the business entity authorizes the representation in writing and if the owner's
48 interest in the business entity is at least twenty-five percent (25%). Authority for and prior
49 notice of nonattorney representation shall be made in writing, under penalty of perjury, to the
50 Office on a form provided by the Office."
51

1 **SECTION 1.9.(b)** G.S. 105-290 is amended by adding a new subsection to read:

2 "(d2) Business Entity Representation. – If a property owner is a business entity, the
3 business entity may represent itself using a nonattorney representative who is one or more of
4 the following of the business entity: (i) officer, (ii) manager or member-manager, if the
5 business entity is a limited liability company, (iii) employee whose income is reported on IRS
6 Form W-2, if the business entity authorizes the representation in writing, or (iv) owner of the
7 business entity, if the business entity authorizes the representation in writing and if the owner's
8 interest in the business entity is at least twenty-five percent (25%). Authority for and prior
9 notice of nonattorney representation shall be made in writing, under penalty of perjury, to the
10 Commission on a form provided by the Commission."

11 **SECTION 1.9.(c)** This section is effective when it becomes law and applies to
12 contested cases and appeals commenced on or after that date.

13 **LEGISLATIVE APPOINTMENTS**

14 **SECTION 1.10.(a)** G.S. 120-121 is amended by adding two new subsections to
15 read:

16 "(e) The following applies in any case where the Speaker of the House of
17 Representatives or the President Pro Tempore of the Senate is directed by law to make a
18 recommendation for an appointment by the General Assembly and the legislator is also directed
19 to make the recommendation in consultation with or upon the recommendation of a third party:
20

21 (1) The recommendation or consultation is discretionary and is not binding upon
22 the legislator.

23 (2) The third party must submit the recommendation or consultation at least 60
24 days prior to the expiration of the term or within 10 business days from the
25 occurrence of a vacancy.

26 (3) Failure by the third party to submit the recommendation or consultation to
27 the legislator within the time periods required under this subsection shall be
28 deemed a waiver by the third party of the opportunity.

29 (f) The following applies in any case where the Speaker of the House of
30 Representatives or the President Pro Tempore of the Senate is directed by law to make a
31 recommendation for an appointment by the General Assembly and the legislator is also directed
32 to make the recommendation from nominees provided by a third party:

33 (1) The third party must submit the nominees at least 60 days prior to the
34 expiration of the term or within 10 business days from the occurrence of a
35 vacancy.

36 (2) Failure by the third party to submit the nomination to the legislator within
37 the time periods required under this subsection shall be deemed a waiver by
38 the third party of the opportunity."

39 **SECTION 1.10.(b)** Article 16 of Chapter 120 of the General Statutes is amended
40 by adding a new section to read:

41 **"§ 120-124. Appointments made by legislators.**

42 (a) In any case where a legislator is called upon by law to appoint a member to a board
43 or commission upon the recommendation of or in consultation with a third party, the
44 recommendation or consultation is discretionary and is not binding upon the legislator. The
45 third party must submit the recommendation or consultation at least 60 days prior to the
46 expiration of the term or within 10 business days from the occurrence of a vacancy.

47 (b) In any case where a legislator is called upon by law to appoint a member to a board
48 or commission from nominees provided by a third party, the third party must submit the
49 nominees at least 60 days prior to the expiration of the term or within 10 business days from the
50 occurrence of a vacancy. This subsection does not apply to nominations made under
51 G.S. 120-99(a) or G.S. 120-100(b).

1 (c) Failure to submit the recommendation, consultation, or nomination within the time
2 periods required under this section shall be deemed a waiver by the third party of the
3 opportunity."

4 **SECTION 1.10.(c)** This section is effective when it becomes law and applies to
5 recommendations, consultations, and nominations made on or after that date.

6 7 **PART II. BUSINESS REGULATION**

8 9 **PROHIBIT CERTAIN HEADLIGHTS**

10 **SECTION 2.1.(a)** G.S. 20-131 reads as rewritten:

11 **"§ 20-131. Requirements as to headlamps and auxiliary driving lamps.**

12 (a) The headlamps of motor vehicles shall be so constructed, arranged, and adjusted
13 that, except as provided in subsection (c) of this section, they will at all times mentioned in
14 G.S. 20-129, and under normal atmospheric conditions and on a level road, produce a driving
15 light sufficient to render clearly discernible a person 200 feet ahead, but any person operating a
16 motor vehicle upon the highways, when meeting another vehicle, shall so control the lights of
17 the vehicle operated by him by shifting, depressing, deflecting, tilting, or dimming the
18 headlight beams in such manner as shall not project a glaring or dazzling light to persons within
19 a distance of 500 feet in front of such headlamp. Every new motor vehicle, other than a
20 motorcycle or motor-driven cycle, registered in this State after January 1, 1956, which has
21 multiple-beam road-lighting equipment shall be equipped with a beam indicator, which shall be
22 lighted whenever the uppermost distribution of light from the headlamps is in use, and shall not
23 otherwise be lighted. Said indicator shall be so designed and located that when lighted it will be
24 readily visible without glare to the driver of the vehicle so equipped.

25 (b) Headlamps shall be deemed to comply with the foregoing provisions prohibiting
26 glaring and dazzling lights if none of the main bright portion of the headlamp beams rises
27 above a horizontal plane passing through the lamp centers parallel to the level road upon which
28 the loaded vehicle stands, and in no case higher than 42 inches, 75 feet ahead of the vehicle.

29 **(b1) No person shall operate a motor vehicle that is equipped with any headlamps that (i)**
30 **change the original design or performance of the headlamps and (ii) do not comply with**
31 **Federal Motor Vehicle Safety Standard No. 108, as adopted by the National Highway Traffic**
32 **Safety Administration. Any person who violates this subsection is guilty of an infraction**
33 **punishable by a penalty of not more than one hundred dollars (\$100.00).**

34 (c) Whenever a motor vehicle is being operated upon a highway, or portion thereof,
35 which is sufficiently lighted to reveal a person on the highway at a distance of 200 feet ahead of
36 the vehicle, it shall be permissible to dim the headlamps or to tilt the beams downward or to
37 substitute therefor the light from an auxiliary driving lamp or pair of such lamps, subject to the
38 restrictions as to tilted beams and auxiliary driving lamps set forth in this section.

39 (d) Whenever a motor vehicle meets another vehicle on any highway it shall be
40 permissible to tilt the beams of the headlamps downward or to substitute therefor the light from
41 an auxiliary driving lamp or pair of such lamps subject to the requirement that the tilted
42 headlamps or auxiliary lamp or lamps shall give sufficient illumination under normal
43 atmospheric conditions and on a level road to render clearly discernible a person 75 feet ahead,
44 but shall not project a glaring or dazzling light to persons in front of the vehicle: Provided, that
45 at all times required in G.S. 20-129 at least two lights shall be displayed on the front of and on
46 opposite sides of every motor vehicle other than a motorcycle, road roller, road machinery, or
47 farm tractor.

48 (e) No city or town shall enact an ordinance in conflict with this section."

49 **SECTION 2.1.(b)** This section becomes effective December 1, 2014, and applies
50 to offenses committed on or after that date.

BAIL BOND SHIELD AMENDMENT

SECTION 2.2.(a) G.S. 58-71-40(d1) reads as rewritten:

"(d1) While engaged in official duties, a licensee is authorized to carry, possess, and display a shield as described in this subsection. The shield shall fulfill all of the following requirements:

- (1) Be an exact duplicate in size, shape, color, and design of the shield approved under G.S. 74C-5(12) and pictured in 12 NCAC 07D. 0405 on ~~May 1, 2013~~ May 1, 2013, except that the design may be altered by stamping, inlaying, embossing, enameling, or engraving to accommodate the license number. With respect to size of the shield, the shield shall be 1.88 inches wide and 2.36 inches high.
- (2) Include the licensee's last name and corresponding license number in the same locations as the shield referenced in subdivision (1) of this subsection.
- (3) With reference to the shield described in subdivision (1) of this subsection, in lieu of the word "Private," the shield shall have the words "North Carolina," and in lieu of the word "Investigator," the shield shall have the words "Bail Agent."

Any shield that deviates from the design requirements as specified in this section shall be an unauthorized shield and its possession by a licensee shall constitute a violation of the statute by the licensee."

SECTION 2.2.(b) G.S. 15A-540 is amended by adding a new subsection to read:

"(d) A surety may utilize the services and assistance of any surety bondsman, professional bondsman, or runner licensed under G.S. 58-71-40 to effect the arrest or surrender of a defendant under subsection (a) or (b) of this section."

REPEAL OUTDATED PUBLIC UTILITIES STATUTES OR REPORTS

SECTION 2.3.(a) G.S. 62-36A and G.S. 62-36.1 are repealed.

SECTION 2.3.(b) G.S. 62-158(d) reads as rewritten:

"(d) The Commission, after hearing, may adopt rules to implement this section, including rules for the establishment of expansion funds, for the use of such funds, for the remittance to the expansion fund or to customers of supplier and transporter refunds and expansion surcharges or other funds that were sources of the expansion fund, and for appropriate accounting, reporting and ratemaking treatment. ~~The Commission and Public Staff shall report to the Joint Legislative Commission on Governmental Operations on the operation of any expansion funds in conjunction with the reports required under G.S. 62-36A.~~"

SECTION 2.3.(c) G.S. 62-159(d) reads as rewritten:

"(d) The Commission, after hearing, shall adopt rules to implement this section as soon as practicable. ~~The Commission and Public Staff shall report to the Joint Legislative Commission on Governmental Operations on the use of funding provided under this section in conjunction with the reports required under G.S. 62-36A.~~"

SECTION 2.3.(d) G.S. 62-133.2(g) is repealed.

SECTION 2.3.(e) Section 14 of S.L. 2002-4 is repealed.

SECTION 2.3.(f) Section 14 of S.L. 2007-397 is repealed.

SECTION 2.3.(g) Section 6.1 of S.L. 1995-27 is repealed.

MERCHANT EXEMPTION FROM LOCKSMITH LICENSING

SECTION 2.4. G.S. 74F-16 reads as rewritten:

"§ 74F-16. Exemptions.

The provisions of this Chapter do not apply to:

...

(6) ~~A merchant, or retail or hardware store, when the merchant or store does not purport to be a locksmith and lawfully (i) rekeys a lock at the time of sale of the lock, (ii) duplicates a key, except for duplicating a transponder type key that requires programming, or (iii) installs as a service a lock on a door if both the door and lock were purchased from the same merchant store, so long as all of the following apply:~~

- a. It is lawfully duplicating keys or installing, servicing, repairing, rebuilding, reprogramming, rekeying, or maintaining locks in the normal course of its business.
- b. It maintains a physical location in this State.
- c. It maintains a sales and use tax permit in accordance with G.S. 105-164.16.
- d. It does not represent itself as a locksmith.

...."

CLARIFY PROFESSIONAL ENGINEER EXEMPTION

SECTION 2.5.(a) G.S. 89C-25 reads as rewritten:

"§ 89C-25. Limitations on application of Chapter.

This Chapter shall not be construed to prevent or affect: prevent the following activities:

- (1) ~~The practice of architecture, architecture as defined in Chapter 83A of the General Statutes, landscape architecture, landscape architecture as defined in Chapter 89A of the General Statutes, or contracting or any other legally recognized profession or trade, contracting as defined in Articles 1, 2, 4, and 5 of Chapter 87 of the General Statutes.~~
- (2) Repealed by Session Laws 2011-304, s. 7, effective June 26, 2011.
- (3) Repealed by Session Laws 2011-304, s. 7, effective June 26, 2011.
- (4) Engaging in engineering or land surveying as an employee or assistant under the responsible charge of a professional engineer or professional land surveyor or as an employee or assistant of a nonresident professional engineer or a nonresident professional land surveyor provided for in subdivisions (2) and (3) of this section, provided that the work as an employee may not include responsible charge of design or supervision. surveyor.
- (5) The practice of professional engineering or land surveying by any person not a resident of, and having no established place of business in this State, as a consulting associate of a professional engineer or professional land surveyor licensed under the provisions of this Chapter; provided, the nonresident is qualified for performing the professional service in the person's own state or country.
- (6) Practice by members of the Armed Forces of the United States; employees of the government of the United States while engaged in the practice of engineering or land surveying solely for the government on government-owned works and projects; or practice by those employees of the Natural Resources Conservation Service, county employees, or employees of the Soil and Water Conservation Districts who have federal engineering job approval authority that involves the planning, designing, or implementation of best management practices on agricultural lands.
- (7) ~~The internal engineering or surveying activities of a person, firm or corporation engaged in manufacturing, processing, or producing a product, including the activities of public service corporations, public utility companies, authorities, State agencies, railroads, or membership~~

1 ~~cooperatives, or the installation and servicing of their product in the field; or~~
2 ~~research and development in connection with the manufacture of that~~
3 ~~product or their service; or of their research affiliates; or their employees in~~
4 ~~the course of their employment in connection with the manufacture,~~
5 ~~installation, or servicing of their product or service in the field, or~~
6 ~~on the premises maintenance of machinery, equipment, or apparatus~~
7 ~~incidental to the manufacture or installation of the product or service of a~~
8 ~~firm by the employees of the firm upon property owned, leased or used by~~
9 ~~the firm; inspection, maintenance and service work done by employees of~~
10 ~~the State of North Carolina, any political subdivision of the State, or any~~
11 ~~municipality including construction, installation, servicing, maintenance by~~
12 ~~regular full-time employees of streets, street lighting, traffic control signals,~~
13 ~~police and fire alarm systems, waterworks, steam, electric and sewage~~
14 ~~treatment and disposal plants; the services of superintendents, inspectors or~~
15 ~~foremen regularly employed by the State of North Carolina or any political~~
16 ~~subdivision of the State or a municipal corporation; provided, however, that~~
17 ~~the internal engineering or surveying activity is not a holding out to or an~~
18 ~~offer to the public of engineering or any service thereof as prohibited by this~~
19 ~~Chapter. Engineering work, not related to the foregoing exemptions, where~~
20 ~~the safety of the public is directly involved shall be under the responsible~~
21 ~~charge of a licensed professional engineer, or in accordance with standards~~
22 ~~prepared or approved by a licensed professional engineer.~~

23 (7a) The engineering or surveying activities of a person as defined by
24 G.S. 89C-3(5) who is engaged in manufacturing, processing, producing, or
25 transmitting and delivering a product, and which activities are reasonably
26 necessary and connected with the primary services performed by individuals
27 regularly employed in the ordinary course of business by the person,
28 provided that the engineering or surveying activity is not a holding out or an
29 offer to the public of engineering or surveying services, as prohibited by this
30 Chapter. The engineering and surveying services may not be offered,
31 performed, or rendered independently from the primary services rendered by
32 the person. For purposes of this subdivision, "activities reasonably necessary
33 and connected with the primary service" include the following:

- 34 a. Installation or servicing of the person's product by employees of the
35 person conducted outside the premises of the person's business.
36 b. Design, acquisition, installation, or maintenance of machinery,
37 equipment, or apparatus incidental to the manufacture or installation
38 of the product performed by employees of the person upon property
39 owned, leased, or used by the person.
40 c. Research and development performed in connection with the
41 manufacturing, processing, or production of the person's product by
42 employees of the person.

43 Engineering or surveying activities performed pursuant to this subdivision,
44 where the safety of the public is directly involved, shall be under the
45 responsible charge of a licensed professional engineer or licensed
46 professional surveyor.

47 (8) The (i) preparation of fire sprinkler planning and design drawings by a fire
48 sprinkler contractor licensed under Article 2 of Chapter 87 of the General
49 Statutes, or (ii) the performance of internal engineering or survey work by a
50 manufacturing or communications common carrier company, or by a
51 research and development company, or by employees of those corporations

1 provided that the work is in connection with, or incidental to products of, or
2 nonengineering services rendered by those corporations or their affiliates.

3 (9) The routine maintenance or servicing of machinery, equipment, facilities or
4 structures, the work of mechanics in the performance of their established
5 functions, or the inspection or supervision of construction by a foreman,
6 superintendent, or agent of the architect or professional engineer, or services
7 of an operational nature performed by an employee of a laboratory, a
8 manufacturing plant, a public service corporation, or governmental
9 operation.

10 (10) The design of land application irrigation systems for an animal waste
11 management plan, required by G.S. 143-215.10C, by a designer who
12 exhibits, by at least three years of relevant experience, proficiency in soil
13 science and basic hydraulics, and who is thereby listed as an Irrigation
14 Design Technical Specialist by the North Carolina Soil and Water
15 Conservation Commission."

16 **SECTION 2.5.(b)** G.S. 89C-19 reads as rewritten:

17 **"§ 89C-19. Public works; requirements where public safety involved.**

18 This State and its political subdivisions such as counties, cities, towns, or other political
19 entities or legally constituted boards, commissions, public utility companies, or authorities, or
20 officials, or employees of these entities shall not engage in the practice of engineering or land
21 surveying involving either public or private property where the safety of the public is directly
22 involved without the project being under the direct supervision of a professional engineer for
23 ~~the preparations of plans and specifications for~~ engineering projects, or a professional land
24 surveyor for land surveying projects, as provided for the practice of the respective professions
25 by this Chapter.

26 An official or employee of the State or any political subdivision specified in this section,
27 holding the positions set out in this section as of June 19, 1975, shall be exempt from the
28 provisions of this section so long as such official or employee is engaged in substantially the
29 same type of work as is involved in the present position.

30 Nothing in this section shall be construed to prohibit inspection, maintenance and service
31 work done by employees of the State of North Carolina, any political subdivision of the State,
32 or any municipality including construction, installation, servicing, and maintenance by regular
33 full-time employees of, secondary roads and drawings incidental to work on secondary roads,
34 streets, street lighting, traffic-control signals, police and fire alarm systems, waterworks, steam,
35 electric and sewage treatment and disposal plants, the services of superintendents, inspectors or
36 foremen regularly employed by the State of North Carolina or any political subdivision of the
37 State, or municipal corporation.

38 The provisions in this section shall not be construed to alter or modify the requirements of
39 Article 1 of Chapter 133 of the General Statutes."
40

41 **CLARIFY EFFECTIVE DATE OF DEFINITION OF DISCHARGE OF WASTE**

42 **SECTION 2.6.(a)** Section 17 of S.L. 2012-187 reads as rewritten:

43 **"SECTION 17.** Section 11 of this act is effective when it becomes law and applies to
44 contested cases filed or pending on or after that date. Except as otherwise provided, this act is
45 effective when it becomes law."

46 **SECTION 2.6.(b)** This section becomes effective July 16, 2012.
47

48 **ADA REQUIREMENTS FOR PRIVATE POOLS**

49 **SECTION 2.7.(a)** Notwithstanding Section 1109.14 of the 2012 NC State Building
50 Code (Building Code), swimming pools shall be required to be accessible only to the extent

1 required by the Americans with Disabilities Act, 42 U.S.C. § 12101, et seq., and federal rules
2 and regulations adopted pursuant to that Act.

3 **SECTION 2.7.(b)** The Building Code Council shall adopt a rule to amend Section
4 1109.14 of the 2012 NC State Building Code (Building Code) consistent with Section 2.11(a)
5 of this act.

6 **SECTION 2.7.(c)** Section 2.7(a) of this act expires on the date that the rule adopted
7 pursuant to Section 2.7(b) of this act becomes effective.

8 9 UNCLAIMED LIFE INSURANCE BENEFITS

10 **SECTION 2.11.(a)** Article 58 of Chapter 58 of the North Carolina General Statutes
11 is amended by adding a new Part to read:

12 "Part 7. Unclaimed Life Insurance Benefits.

13 **§ 58-58-360. Purpose.**

14 This Part shall be known as the "Unclaimed Life Insurance Benefits Act."

15 **§ 58-58-370. No preemption of Unclaimed Property Act.**

16 Nothing in this Part shall be construed to amend, modify, or supersede the North Carolina
17 Unclaimed Property Act, Article 4 of Chapter 116B of the General Statutes.

18 **§ 58-58-380. Definitions.**

19 The following definitions apply in this Part:

- 20 (1) Account owner. – The owner of a retained asset account opened after July 1,
21 2015, by a resident of this State.
- 22 (2) Annuity. – Any active annuity contract issued in this State after July 1, 2015,
23 other than an annuity used to fund an employment-based retirement plan or
24 program where the insurer is not committed by terms of the annuity contract
25 to pay death benefits to the beneficiaries of specific plan participants or that
26 is used to fund a preneed funeral contract as defined in G.S. 90-210.60.
- 27 (3) Beneficiary. – An individual or other entity entitled to benefits under a
28 policy or annuity.
- 29 (4) Death master file or DMF. – The death master file from the United States
30 Social Security Administration or any other database or service that an
31 insurer may determine is substantially as inclusive as the death master file
32 for determining that a person has reportedly died.
- 33 (5) Death master file match or DMF match. – A search of a DMF that results in
34 a match of a person's Social Security number or name and date of birth.
- 35 (6) Insurer. – Any insurance company authorized to transact life insurance
36 business in this State.
- 37 (7) Person. – The policy insured, annuity owner, annuitant, or account owner, as
38 applicable under the policy, annuity, or retained asset account subject to this
39 Part.
- 40 (8) Policy. – Any policy or certificate of life insurance issued in this State after
41 July 1, 2015, but does not include any policy or certificate of life insurance
42 that provides a death benefit under any of the following:
- 43 a. An employee benefit plan subject to the Employee Retirement
44 Income Security Act of 1974, as periodically amended, compiled at
45 29 U.S.C. § 1002, et seq.
- 46 b. Any federal employee benefit program.
- 47 c. Government plans or church plans as defined in the Employee
48 Retirement Income Security Act of 1974, as periodically amended,
49 29 U.S.C. § 1002, et seq.
- 50 d. A policy or certificate of life insurance that is used to fund a preneed
51 funeral contract as defined in G.S. 90-210.60.

- 1 e. A policy or certificate of credit life or accident and health insurance.
2 f. A policy of industrial life insurance as defined in G.S. 58-58-5.
3 (9) Record-keeping services. – Those circumstances under which the insurer has
4 agreed with a group life insurance policyholder to be responsible for
5 obtaining, maintaining, and administering in its own systems information
6 about each individual insured under the policyholder's group life insurance
7 contract at least the following information:
8 a. Individual insured's Social Security number or name and date of
9 birth.
10 b. Beneficiary designation information.
11 c. Coverage eligibility.
12 d. Benefit amount.
13 e. Premium payment status.

14 **"§ 58-58-390. Requirements for insurers.**

15 (a) To the extent that an insurer's records of its in-force policies, annuities, and account
16 owners are available electronically, an insurer shall perform a comparison of such in-force
17 policies, annuities, and account owners against a death master file, on a semiannual basis, to
18 identify potential death master file matches. To the extent that an insurer's records of its
19 in-force policies, annuities, and account owners are not available electronically, an insurer shall
20 perform a comparison of such in-force policies, annuities, and account owners against a death
21 master file, on a semiannual basis, to identify potential death master file matches, using the
22 records most easily accessible by the insurer.

- 23 (1) This section shall not apply to policies or annuities for which the insurer has
24 received premiums from outside the policy value or by check, bank draft,
25 payroll deduction, or any other similar method of active premium payment,
26 within the 18 months immediately preceding the death master file
27 comparison.
28 (2) An insurer may comply with the requirements of this section by using the
29 full death master file once and thereafter using the death master file update
30 files for future comparisons.

31 (b) If an insurer learns of the possible death of a person, through a DMF match or
32 otherwise, then the insurer shall within 90 days complete a good-faith effort, which shall be
33 documented by the insurer, to do the following:

- 34 (1) Confirm the death of such person against other available records and
35 information.
36 (2) Review its records to determine whether such deceased person had
37 purchased any other products with the insurer.
38 (3) Determine whether benefits may be due in accordance with any applicable
39 policy, annuity, or retained asset account.
40 (4) Provide the appropriate claims forms or instructions to the beneficiary to
41 make a claim and notify the beneficiary of the actions necessary to submit a
42 valid claim.

43 (c) Except as prohibited by law, an insurer may disclose only the minimum necessary
44 identifying personal information about such an insured, annuitant, account owner, or
45 beneficiary to a person who the insurer reasonably believes may be able to assist the insurer in
46 locating the beneficiary or a person otherwise entitled to payment of the claims proceeds.

47 (d) In the event an insurer is unable to confirm the death of a person following a DMF
48 match, an insurer may determine that no further good-faith efforts, as described in subsection
49 (b) of this section, are required of it with respect to such policy, annuity, or retained asset
50 account.

1 (e) An insurer or its service provider shall not charge any beneficiary or other person
2 who may be entitled to benefits any fees or costs associated with a DMF search or the
3 verification of a DMF match conducted pursuant to this section.

4 (f) The benefits from life insurance policies, annuities, or retained asset accounts, any
5 applicable accrued contractual interest, and interest payable under G.S. 58-58-110 shall first be
6 payable to the beneficiaries or account owners as provided for in such policies, annuities, or
7 retained asset accounts. In the event the beneficiaries or account owners cannot be found, the
8 benefits and any associated interest shall escheat to the State as unclaimed property as set forth
9 in Article 4 of Chapter 116B of the General Statutes.

10 (g) The Commissioner may exempt an insurer from the DMF comparisons required
11 under subsection (a) of this section if the insurer demonstrates to the commissioner's
12 satisfaction that compliance would result in hardship to the insurer.

13 (h) Nothing in this section limits an insurer from requiring a valid death certificate as
14 part of any claims validation process or otherwise requiring compliance with the terms and
15 conditions of the policy or annuity relative to filing and payment of claims.

16 **"§ 58-58-400. Noncompliance may constitute unfair claims settlement practice.**

17 A pattern of failures to meet the requirements of this Part may constitute an unfair claims
18 settlement practice under G.S. 58-3-100(a)(5) and G.S. 58-63-15. Nothing in this Part shall be
19 construed to create or imply a private cause of action for a violation of this Part."

20 **SECTION 2.11.(b)** The Commissioner of Insurance is authorized to adopt rules
21 under Article 2A of Chapter 150B of the General Statutes to implement Section 2.11(a) of this
22 section, provided such rules shall not impose any duty or requirements not stated in this
23 section.

24 25 **EXEMPT SMALL BUSINESS ENTITIES BUYING OR SELLING ENTITY-OWNED** 26 **PROPERTY**

27 **SECTION 2.12.** G.S. 93A-2(c)(1) reads as rewritten:

28 "(c) The provisions of G.S. 93A-1 and G.S. 93A-2 do not apply to and do not include:

29 (1) Any partnership, corporation, limited liability company, association, or other
30 business entity that, as owner or lessor, shall perform any of the acts
31 aforesaid with reference to property owned or leased by them, where the acts
32 are performed in the regular course of or as incident to the management of
33 that property and the investment therein. The exemption from licensure
34 under this subsection shall extend to the following persons when those
35 persons are engaged in acts or services for which the corporation,
36 partnership, limited liability company, or other business entity would be
37 exempt hereunder:

38 a. The officers and employees whose income is reported on IRS Form
39 W-2 of an exempt corporation, the corporation.

40 b. The general partners and employees whose income is reported on
41 IRS Form W-2 of an exempt partnership, and the partnership.

42 c. The managers—managers, member-managers, and employees whose
43 income is reported on IRS Form W-2 of an exempt limited liability
44 company when said persons are engaged in acts or services for which
45 the corporation, partnership, or limited liability company would be
46 exempt hereunder, company.

47 d. The natural person owners of an exempt closely held business entity.
48 For purposes of this subdivision, a closely held business entity is a
49 limited liability company or a corporation, neither having more than
50 two legal owners.

e. The officers, managers, member-managers, and employees whose income is reported on IRS Form W-2 of a closely held business entity when acting as an agent for an exempt business entity, if the closely held business entity is owned by a natural person either (i) owning fifty percent (50%) or more ownership interest in it and the exempt business entity or (ii) owning fifty percent (50%) or more of a closely held business entity that owns a fifty percent (50%) or more ownership interest in the exempt business entity.

When a person conducts a real estate transaction pursuant to an exemption under this subdivision, the person shall disclose, in writing, to all parties to the transaction (i) that the person is not licensed as a real estate broker or salesperson under Article 1 of this Chapter, (ii) the specific exemption under this subdivision that applies, (iii) the legal name and physical address of the owner of the subject property. This disclosure may be included on the face of a lease or contract executed in compliance with an exemption under this subdivision."

ADD LIMITED LIABILITY COMPANIES TO THE TYPES OF CORPORATIONS THAT MAY LEASE OR PURCHASE HOSPITAL FACILITIES

SECTION 2.13.(a) G.S. 131E-6(3) reads as rewritten:

"(3) "Corporation, foreign or domestic, authorized to do business in North Carolina" ~~means~~means any of the following:

- a. A corporation for profit or having a capital stock which is created and organized under Chapter 55 of the General Statutes or any other general or special act of this State, or a State.
- b. A foreign corporation which has procured a certificate of authority to transact business in this State pursuant to Article 10 of Chapter 55 of the General Statutes.
- c. A limited liability company formed under Chapter 57D of the General Statutes.
- d. A foreign limited liability company that has procured a certificate of authority to transact business in this State pursuant to Article 7 of Chapter 57D of the General Statutes."

SECTION 2.13.(b) This section becomes effective October 1, 2014.

CLARIFY MEMBERSHIP UNDER INSURANCE GUARANTY ASSOCIATION ACT

SECTION 2.14.(a) G.S. 58-48-20 reads as rewritten:

"§ 58-48-20. Definitions.

As used in this Article:

- ...
- (4) "Covered claim" means an unpaid claim, including one of unearned premiums, which is in excess of fifty dollars (\$50.00) and arises out of and is within the coverage and not in excess of the applicable limits of an insurance policy to which this Article applies as issued by an insurer, if such insurer becomes an insolvent insurer after the effective date of this Article and (i) the claimant or insured is a resident of this State at the time of the insured event; or (ii) the property from which the claim arises is permanently located in this State. "Covered claim" shall not include any amount awarded (i) as punitive or exemplary damages; (ii) sought as a return of premium under any retrospective rating plan; or (iii) due any reinsurer, insurer, insurance pool, or underwriting association, as subrogation or contribution recoveries or

1 otherwise. "Covered claim" also shall not include fines or penalties,
2 including attorneys fees, imposed against an insolvent insurer or its insured
3 or claims of any claimant whose net worth exceeds fifty million dollars
4 (\$50,000,000) on December 31 of the year preceding the date the insurer
5 becomes insolvent. The term "covered claim" includes all claims incurred
6 against a workers' compensation group self-insurer, licensed and regulated
7 under Part 1 of Article 47 of this Chapter, that merged with a member
8 insurer on or after January 1, 1997.

9 "

10 **SECTION 2.14.(b)** G.S. 97-131 reads as rewritten:

11 **"§ 97-131. Creation.**

12 (a) There is created a nonprofit unincorporated legal entity to be known as the North
13 Carolina Self-Insurance Security Association. The Association is to provide mechanisms for
14 the payment of covered claims against member self-insurers, to avoid excessive delay in
15 payment of covered claims, to avoid financial loss to claimants because of the insolvency of a
16 member self-insurer, to assist the Commissioner in the detection of self-insurer insolvencies, to
17 fund the Association Aggregate Security System, and to capitalize the Fund to ensure the
18 availability of financial resources to pay covered claims and to fund the activities of the
19 Association.

20 (b) All individual self-insurers and group self-insurers shall be and remain members of
21 the Association as a condition of being licensed to self-insure in this State. The Association
22 shall perform its functions under a Plan of Operation established or amended, or both, by the
23 Board and shall exercise its powers through the Board.

24 (1) An individual self-insurer or a group self-insurer shall be deemed to be a
25 member of the Association for purposes of another member's insolvency, as
26 defined in G.S. 97-135, when:

- 27 a. The individual self-insurer or group self-insurer is a member of the
28 Association when an insolvency occurs, or
29 b. The individual self-insurer or group self-insurer has been a member
30 of the Association at some point in time during the 12-month period
31 immediately preceding the insolvency in question.

32 (2) An individual self-insurer or a group self-insurer shall be deemed to be a
33 member of the Association for purposes of its own insolvency if it is a
34 member when the compensable injury occurs.

35 (3) In determining the membership of the Association for the purposes of
36 subdivisions (1) and (2) of this subsection for any date after the effective
37 date of this Article, no individual self-insurer or group self-insurer may be
38 deemed to be a member of the Association on any date after the effective
39 date of this Article, unless that employer is on that date licensed as an
40 individual self-insurer by the Commissioner under Article 5 of this Chapter
41 or a group of employers is at that time licensed as a group self-insurer by the
42 Commissioner under Article 47 of Chapter 58 of the General Statutes.

43 (c) The membership in the Association of an individual self-insurer or group
44 self-insurer shall terminate for purposes of another member's insolvency or any other purpose
45 upon the merger of the individual self-insurer or group self-insurer to a mutual insurance
46 company pursuant to Article 8 of Chapter 58 of the General Statutes or a stock insurance
47 company pursuant to Article 7 of Chapter 58 of the General Statutes and Article 11 of Chapter
48 55 of the General Statutes on or after January 1, 1997."

49
50 **BROKER-IN-CHARGE**

51 **SECTION 2.15.(a)** G.S. 93A-4(a1) reads as rewritten:

1 "(a1) Each person who is issued a real estate broker license on or after April 1, 2006, shall
2 initially be classified as a provisional broker and shall, within three years following initial
3 licensure, satisfactorily complete, at a school approved by the Commission, a postlicensing
4 education program consisting of 90 hours of classroom instruction in subjects determined by
5 the Commission or shall possess real estate education or experience in real estate transactions
6 which the Commission shall find equivalent to the education program. The Commission shall
7 determine trust accounts to be a subject within the 90 hours of classroom instruction. The
8 Commission may, by rule, establish a schedule for completion of the prescribed postlicensing
9 education that requires provisional brokers to complete portions of the 90-hour postlicensing
10 education program in less than three years, and provisional brokers must comply with this
11 schedule in order to be entitled to actively engage in real estate brokerage. Upon completion of
12 the postlicensing education program, the provisional status of the broker's license shall be
13 terminated. When a provisional broker fails to complete all 90 hours of required postlicensing
14 education within three years following initial licensure, the broker's license shall be placed on
15 inactive status. The broker's license shall not be returned to active status until he or she has
16 satisfied such requirements as the Commission may by rule require. Every license cancelled
17 after April 1, 2009, because the licensee failed to complete postlicensing education shall be
18 reinstated on inactive status until such time as the licensee satisfies the requirements for
19 returning to active status as the Commission may by rule require."

20 **SECTION 2.15.(b)** G.S. 93A-4.2 reads as rewritten:

21 "**§ 93A-4.2. Broker-in-charge qualification.**

22 (a) To be qualified to serve as a broker-in-charge of a real estate office, a real estate
23 broker shall possess at least two years of full-time real estate brokerage experience or
24 equivalent part-time real estate brokerage experience within the previous five years or real
25 estate education or experience in real estate transactions that the Commission finds equivalent
26 to such experience and shall complete, within a time prescribed by the Commission, a course of
27 study prescribed by the Commission for brokers-in-charge not to exceed 12 classroom hours of
28 instruction. A provisional broker may not be designated as a broker-in-charge.

29 (b) A real estate broker operating as a sole proprietor shall not be required to obtain the
30 designation of a broker-in-charge if that real estate broker has completed the trust accounts
31 subject course of study portion of the classroom instruction required by G.S. 93A-4(a1)."

32 **SECTION 2.15.(c)** The Real Estate Commission shall permit any real estate broker
33 operating as a sole proprietor who has completed the 90 hours of classroom instruction on or
34 before July 1, 2014, but has not completed the trust accounts subject course of study portion of
35 the classroom instruction required by G.S. 93A-4(a1), as enacted by this act, to complete just
36 the trust accounts subject course of study in order to qualify for the exemption under
37 G.S. 93A-4(b).

38 **SECTION 2.15.(d)** No later than December 1, 2014, the Real Estate Commission
39 shall adopt temporary rules to implement the provisions of this section.

40 **SECTION 2.15.(d)** Subsections (a) and (b) of this section become effective
41 December 1, 2014. Subsection (c) of this section becomes effective December 1, 2014, and
42 expires December 31, 2016.

43 **PART III. STATE AND LOCAL GOVERNMENT REGULATION**

44 **NOTIFY PROPERTY OWNERS OF RIGHT-OF-WAY TRANSFERS**

45 **SECTION 3.1.(a)** G.S. 136-66.10 reads as rewritten:

46 "**§ 136-66.10. Dedication of right-of-way under local ordinances.**

47 (a) Whenever a tract of land located within the territorial jurisdiction of a city or
48 county's zoning or subdivision control ordinance or any other land use control ordinance
49 authorized by local act is proposed for subdivision or for use pursuant to a zoning or building
50
51

1 permit, and a portion of it is embraced within a corridor for a street or highway on a plan
2 established and adopted pursuant to G.S. 136-66.2, a city or county zoning or subdivision
3 ordinance may provide for the dedication of right-of-way within that corridor pursuant to any
4 applicable legal authority, or:

5 (1) A city or county may require an applicant for subdivision plat approval or
6 for a special use permit, conditional use permit, or special exception, or for
7 any other permission pursuant to a land use control ordinance authorized by
8 local act to dedicate for street or highway purpose, the right-of-way within
9 such corridor if the city or county allows the applicant to transfer density
10 credits attributable to the dedicated right-of-way to contiguous land owned
11 by the applicant. No dedication of right-of-way shall be required pursuant to
12 this subdivision unless the board or agency granting final subdivision plat
13 approval or the special use permit, conditional use permit, special exception,
14 or permission shall find, prior to the grant, that the dedication does not result
15 in the deprivation of a reasonable use of the original tract and that the
16 dedication is either reasonably related to the traffic generated by the
17 proposed subdivision or use of the remaining land or the impact of the
18 dedication is mitigated by measures provided in the local ordinance.

19 (2) If a city or county does not require the dedication of right-of-way within the
20 corridor pursuant to subdivision (1) of this subsection or other applicable
21 legal authority, but an applicant for subdivision plat approval or a zoning or
22 building permit, or any other permission pursuant to a land use control
23 ordinance authorized by local act elects to dedicate the right-of-way, the city
24 or county may allow the applicant to transfer density credits attributable to
25 the dedicated right-of-way to contiguous land that is part of a common
26 development plan or to transfer severable development rights attributable to
27 the dedicated right-of-way to noncontiguous land in designated receiving
28 districts pursuant to G.S. 136-66.11.

29 (3) Units of local government that require or accept right-of-way dedications
30 under this subsection shall notify the applicant and the property owner when
31 the local government begins review of or negotiations for a right-of-way
32 dedication and associated density credit transfer, whichever first occurs. If
33 the property owner is not the applicant, then the property owner shall be
34 given notification of right-of-way dedications and any related density credit
35 transfers under this subsection. The notification shall be sent to the last
36 known address for the owner and shall include a copy of this section and any
37 local ordinances, policies, or procedures governing the calculation and
38 application of the density credit transfer.

39 (b) When used in this section, the term "density credit" means the potential for the
40 improvement or subdivision of part or all of a parcel of real property, as permitted under the
41 terms of a zoning and/or subdivision ordinance, and/or other land use control ordinance
42 authorized by local act, expressed in dwelling unit equivalents or other measures of
43 development density or intensity or a fraction or multiple of that potential that may be
44 transferred to other portions of the same parcel or to contiguous land in that is part of a
45 common development plan."

46 **SECTION 3.1.(b)** This section becomes effective October 1, 2014, and applies to
47 dedications occurring on or after that date.

48 **CORRIDOR MAP CHANGES**

49 **SECTION 3.2.(a)** G.S. 136-44.51 reads as rewritten:
50 "§ 136-44.51. **Effect of transportation corridor official map.**
51

1 (a) After a transportation corridor official map is filed with the register of deeds, no
2 building permit shall be issued for any building or structure or part thereof located within the
3 transportation corridor, nor shall approval of a subdivision, as defined in G.S. 153A-335 and
4 G.S. 160A-376, be granted with respect to property within the transportation corridor. The
5 Secretary of Transportation or his designee, the director of a regional public transportation
6 authority, or the director of a regional transportation authority, as appropriate, shall be notified
7 within 10 days of all submittals for corridor map determination, as provided in subsections (b)
8 and (c) of this section.

9 (b) In any event, no application for building permit issuance or subdivision plat
10 approval for a tract subject to a valid transportation corridor official map shall be delayed by
11 the provisions of this section for more than ~~three years~~ two years from the date of its original
12 submittal to the appropriate local jurisdiction. A submittal to the local jurisdiction for corridor
13 map determination shall require only the name of the property owner, the street address of the
14 property parcel, the parcel number or tax identification number, a vicinity map showing the
15 location of the parcel with respect to nearby roads and other landmarks, a sketch of the parcel
16 showing all existing and proposed structures or other uses of the property, and a description of
17 the proposed improvements. If the impact of an adopted corridor on a property submittal for
18 corridor map determination is still being reviewed after the ~~three-year~~ two-year period
19 established pursuant to this subsection, the entity that adopted the transportation corridor
20 official map affecting the issuance of building permits or subdivision plat approval shall issue
21 approval for an otherwise eligible request or initiate acquisition proceedings on the affected
22 properties. If the entity that adopted the transportation corridor official map has not initiated
23 acquisition proceedings or issued approval within the time limit established pursuant to this
24 subsection, an applicant within the corridor may treat the real property as unencumbered and
25 free of any restriction on sale, transfer, or use established by this Article.

26 (c) No submittal to a local jurisdiction for corridor map determination shall be
27 construed to be an application for building permit issuance or subdivision plat approval. The
28 provisions of this section shall not apply to valid building permits issued prior to August 7,
29 1987, or to building permits for buildings and structures which existed prior to the filing of the
30 transportation corridor, provided the size of the building or structure is not increased and the
31 type of building code occupancy as set forth in the North Carolina Building Code is not
32 changed."

33 **SECTION 3.2.(b)** This section becomes effective October 1, 2014.

34 **NOTICE TO CHRONIC VIOLATORS**

35 **SECTION 3.3.(a)** G.S. 160A-200 is repealed.

36 **SECTION 3.3.(b)** G.S. 160A-200.1 reads as rewritten:

37 **"§ 160A-200.1. Annual notice to chronic violators of public nuisance ordinance.**

38 (a) A city may notify a chronic violator of the city's public nuisance ordinance that, if
39 the violator's property is found to be in violation of the ordinance, the city shall, without further
40 notice in the calendar year in which notice is given, take action to remedy the violation, and the
41 expense of the action shall become a lien upon the property and shall be collected as unpaid
42 taxes.

43 (b) The notice shall be sent by registered or certified ~~mail~~ mail to the address of record
44 for the property owner. When service is attempted by registered or certified mail, a copy of the
45 notice may also be sent by regular mail. Service shall be deemed sufficient if the registered or
46 certified mail is unclaimed or refused, but the regular mail is not returned by the post office
47 within 10 days after the mailing. If service by regular mail is used, a copy of the notice shall be
48 posted in a conspicuous place on the premises affected. ~~A chronic violator is a person who~~
49 ~~owns property whereupon, in the previous calendar year, the city gave notice of violation at~~
50 ~~least three times under any provision of the public nuisance ordinance.~~
51

1 (c) A city may also give notice to a chronic violator of the city's overgrown vegetation
2 ordinance in accordance with this section.

3 (d) For purposes of this section, a chronic violator is a person who is the property owner
4 of record whereupon, in the previous calendar year, the city gave notice of violation at least
5 three times in accordance with subsection (b) of this section."

7 **REPEAL OBSOLETE DEPARTMENT OF INSURANCE STATUTES**

8 **SECTION 3.4.(a)** G.S. 58-2-165(b) reads as rewritten:

9 "(b) The Commissioner may require statements under this ~~section, G.S. 58-2-170,~~
10 ~~section~~ and G.S. 58-2-190 to be filed in a format that can be read by electronic data processing
11 equipment, provided that this subsection does not apply to an audited financial statement
12 prepared by a certified public accountant that is submitted by a town or county mutual pursuant
13 to subsection (a1) of this section."

14 **SECTION 3.4.(b)** G.S. 58-2-170 is repealed.

15 **SECTION 3.4.(c)** G.S. 58-3-191(a) and (b1) are repealed.

16 **SECTION 3.4.(d)** G.S. 58-67-140(a)(7) is repealed.

17 **SECTION 3.4.(e)** G.S. 58-36-3(c) is repealed.

18 **SECTION 3.4.(f)** G.S. 58-40-130(e) is repealed.

19 **SECTION 3.4.(g)** G.S. 58-50-95 is repealed.
20

21 **STUDY POST-ARREST PHOTOGRAPHIC IMAGES NOT PUBLIC**

22 **SECTION 3.5.** The Administrative Office of the Courts and the Department of
23 Public Safety shall study whether or not photographs of individuals charged with a crime
24 should be a public record, including the admissibility of such photographs, posting on the
25 Internet of such photographs prior to conviction, and any other matters related to the use of
26 photographs of charged individuals. The Administrative Office of the Courts and the
27 Department of Public Safety shall report, with recommendations, to the Joint Legislative
28 Oversight Committee on Justice and Public Safety on or before December 31, 2014.
29

30 **COMPLIANCE WITH BUILDING CODE INSPECTION REQUIREMENTS**

31 **SECTION 3.6.(a)** G.S. 153A-360 reads as rewritten:

32 **"§ 153A-360. Inspections of work in progress.**

33 ~~As Subject to the provisions of G.S. 153A-352(b), as~~ the work pursuant to a permit
34 progresses, local inspectors shall make as many inspections of the work as may be necessary to
35 satisfy them that it is being done according to the provisions of the applicable State and local
36 laws and local ordinances and regulations and of the terms of the permit. In exercising this
37 power, each member of the inspection department has a right, upon presentation of proper
38 credentials, to enter on any premises within the territorial jurisdiction of the department at any
39 reasonable hour for the purposes of inspection or other enforcement action. If a permit has been
40 obtained by an owner exempt from licensure under G.S. 87-1(b)(2), no inspection shall be
41 conducted without the owner being personally present, unless the plans for the building were
42 drawn and sealed by an architect licensed pursuant to Chapter 83A of the General Statutes."
43

44 **SECTION 3.6.(b)** G.S. 160A-420 reads as rewritten:

45 **"§ 160A-420. Inspections of work in progress.**

46 ~~As Subject to the provisions of G.S. 160A-412(b), as~~ the work pursuant to a permit
47 progresses, local inspectors shall make as many inspections thereof as may be necessary to
48 satisfy them that the work is being done according to the provisions of any applicable State and
49 local laws and of the terms of the permit. In exercising this power, members of the inspection
50 department shall have a right to enter on any premises within the jurisdiction of the department
51 at all reasonable hours for the purposes of inspection or other enforcement action, upon
presentation of proper credentials. If a permit has been obtained by an owner exempt from

1 licensure under G.S. 87-1(b)(2), no inspection shall be conducted without the owner being
2 personally present, unless the plans for the building were drawn and sealed by an architect
3 licensed pursuant to Chapter 83A of the General Statutes."
4

5 **BUILDING CODE STUDY**

6 **SECTION 3.8.** The North Carolina Building Code Council shall undertake a study
7 of the authority granted to local building inspectors in those counties and cities where building
8 plans are reviewed and approved prior to the issuance of a building permit, pursuant to
9 G.S. 153A-357, 153A-359, 153A-360, 153A-362, 153A-365, 160A-417, 160A-419, 160A-420,
10 and any other statutes deemed relevant by the Council. The Council shall report to the 2015
11 General Assembly on or before January 15, 2015, on its findings and make recommendations
12 on any statutory amendments that are necessary to ensure local field inspectors cannot
13 disregard or independently require changes to any construction plans previously approved by a
14 county or city.
15

16 **EXTEND DEADLINE FOR ADOPTION OF DIVISION OF EMPLOYMENT** 17 **SECURITY RULES**

18 **SECTION 3.10.(a)** Section 1.10(c) of S.L. 2011-401 reads as rewritten:

19 "SECTION 1.10.(c) The Department of Commerce, Division of Employment Security,
20 shall adopt all existing rules and regulations in accordance with Article 2A of Chapter 150B of
21 the General Statutes. Any existing rule that has not been readopted by ~~December 31, 2012,~~
22 December 31, 2014, shall expire."
23

24 **SECTION 3.10.(b)** The Department of Commerce, Division of Employment
25 Security, shall report to the Joint Legislative Oversight Committee on Unemployment
26 Insurance on its progress toward the adoption of rules, as required by subsection (a) of this
27 section, on or before September 3, 2014.

28 **SECTION 3.10.(c)** G.S. 120-70.156 reads as rewritten:

29 "**§ 120-70.156. Purpose and powers of Committee.**

30 (a) Purpose. – The Joint Legislative Oversight Committee on Unemployment Insurance
31 is directed to study and review all unemployment insurance matters, workforce development
32 programs, and reemployment assistance efforts of the State. The following duties and powers,
33 which are enumerated by way of illustration, shall be liberally construed to provide maximum
34 review by the Committee of these matters:

- 35 (1) Study the unemployment insurance laws of North Carolina and the
36 administration of those laws.
- 37 (2) Review the State's unemployment insurance laws to determine which laws
38 need clarification, technical amendment, repeal, or other change to make the
39 laws concise, intelligible, and easy to administer.
- 40 (3) Monitor the payment of the debt owed by the Unemployment Trust Fund to
41 the federal government.
- 42 (4) Review and determine the adequacy of the balances in the Unemployment
43 Trust Fund and the Unemployment Insurance Reserve Fund.
- 44 (5) Study the workforce development programs and reemployment assistance
45 efforts of the Division of Workforce Solutions of the Department of
46 Commerce.
- 47 (6) Call upon the Department of Commerce to cooperate with it in the study of
48 the unemployment insurance laws and the workforce development efforts of
49 the State.
- 50 (7) Review rules adopted by the Division of Employment Security of the
51 Department of Commerce and recommend statutory policies and procedures,
if necessary, to ensure the Division is operating in conformity with the

1 provisions of Chapter 96 of the General Statutes and in compliance with
2 federal laws and regulations and written guidance promulgated and issued by
3 the U.S. Department of Labor.

4 (b) The Committee may report its findings and recommendations to any regular session
5 of the General Assembly. A report to the General Assembly may contain any legislation needed
6 to implement a recommendation of the Committee."

7 **SECTION 3.10.(d)** Section 3.10(a) becomes effective December 31, 2012. The
8 remainder of this section is effective when it becomes law.

10 **BUILDING CODE ALTERNATE APPROVAL METHODS STUDY**

11 **SECTION 3.11.** The North Carolina Building Code Council (Council) shall study
12 procedures and policies for the approval of alternative materials, designs, or methods. The
13 study shall address at least the following elements:

- 14 (1) Required content for initial applications and supporting information to
15 initiate and complete the approval process and to include specific project
16 applications for the specific installation in question.
- 17 (2) Time lines for the full application process, including initial application
18 submissions, Council review of applications and supporting information, and
19 final Council approval or denial of submitted applications. Time lines shall
20 allow for final determinations to be rendered on completed applications
21 within 30 days of the date of submission of a completed application.
- 22 (3) Procedures for appeal of Council denials of applications.

23 In conducting the study, the Council may utilize support services of staff from the
24 Engineering Division of the Department of Insurance. The Council shall report its findings and
25 recommendations, including any proposed legislative changes, to the 2015 General Assembly
26 on or before January 20, 2015.

28 **CLARIFY OFFICIAL MISCONDUCT FOR CODE OFFICIALS**

29 **SECTION 3.12.(a)** G.S. 143-151.8 reads as rewritten:

30 **"§ 143-151.8. Definitions.**

31 ...

32 (c) For purposes of this Article, "willful misconduct, gross negligence, or gross
33 incompetence," in addition to the meaning of those terms under other provisions of the General
34 Statutes or at common law, shall include any of the following:

- 35 (1) The enforcement of a Code requirement applicable to a certain area or set of
36 circumstances in other areas or circumstances not specified in the
37 requirement.
- 38 (2) For an alternative design or construction method that has been appealed
39 under G.S. 143-140.1 and found by the Department of Insurance to comply
40 with the Code, to refuse to accept the decision by the Department to allow
41 that alternative design or construction method under the conditions or
42 circumstances set forth in the Department's decision for that appeal.
- 43 (3) For an alternative construction method currently included in the Building
44 Code, to refuse to allow the alternative method under the conditions or
45 circumstances set forth in the Code for that alternative method.
- 46 (4) The enforcement of a requirement when the Code enforcement official has
47 actual knowledge that the requirement is more stringent than or otherwise
48 exceeds the Code requirement."

49 **SECTION 3.12.(b)** The North Carolina Code Officials Qualification Board shall,
50 no later than October 1, 2014, notify all Code enforcement officials in the State of the
51 clarification to the grounds for disciplinary action enacted by this section.

ENFORCE MUNICIPAL FLOODPLAIN ORDINANCE IN ETJ**SECTION 3.13.** G.S. 160A-360(k) reads as rewritten:

"(k) As used in this subsection, "bona fide farm purposes" is as described in G.S. 153A-340. As used in this subsection, "property" means a single tract of property or an identifiable portion of a single tract. Property that is located in the geographic area of a municipality's extraterritorial jurisdiction and that is used for bona fide farm purposes is exempt from exercise of the municipality's extraterritorial jurisdiction under this Article. Property that is located in the geographic area of a municipality's extraterritorial jurisdiction and that ceases to be used for bona fide farm purposes shall become subject to exercise of the municipality's extraterritorial jurisdiction under this Article. For purposes of complying with 44 C.F.R. Part 60, Subpart A, property that is exempt from the exercise of extraterritorial jurisdiction pursuant to this subsection shall be subject to the county's floodplain ordinance or all floodplain regulation provisions of the county's unified development ordinance."

STATEWIDE VENUS FLYTRAP PENALTIES

SECTION 3.14.(a) Article 22 of Chapter 14 of the General Statutes is amended by adding a new section to read:

"§ 14-129.3. Felony taking of Venus flytrap.

(a) Any person, firm, or corporation who digs up, pulls up, takes, or carries away, or aids in taking or carrying away, any Venus flytrap (*Dionaea muscipula*) plant or the seed of any Venus flytrap plant growing upon the lands of another person, or from the public domain, with the intent to steal the Venus flytrap plant or seed is guilty of a Class H felony.

(b) This section shall not apply to any person, firm, or corporation that has a permit to dig up, pull up, take, or carry away the plant or seed, signed by the owner of the land, or the owner's duly authorized agent. At the time of the digging, pulling, taking, or carrying away, the permit shall be in the possession of the person, firm, or corporation on the land."

SECTION 3.14.(b) G.S. 14-129 reads as rewritten:

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

No person, firm or corporation shall dig up, pull up or take from the land of another or from any public domain, the whole or any part of any ~~Venus flytrap (*Dionaea muscipula*)~~, trailing arbutus, Aaron's Rod (*Thermopsis caroliniana*), Bird-foot Violet (*Viola pedata*), Bloodroot (*Sanguinaria canadensis*), Blue Dogbane (*Amsonia tabernaemontana*), Cardinal-flower (*Lobelia cardinalis*), Columbine (*Aquilegia canadensis*), Dutchman's Breeches (*Dicentra cucullaria*), Maidenhair Fern (*Adiantum pedatum*), Walking Fern (*Camptosorus rhizophyllus*), Gentians (*Gentiana*), Ground Cedar, Running Cedar, Hepatica (*Hepatica americana* and *acutiloba*), Jack-in-the-Pulpit (*Arisaema triphyllum*), Lily (*Lilium*), Lupine (*Lupinus*), Monkshood (*Aconitum uncinatum* and *reclinatum*), May Apple (*Podophyllum peltatum*), Orchids (all species), Pitcher Plant (*Sarracenia*), Shooting Star (*Dodecatheon meadia*), Oconee Bells (*Shortia galacifolia*), Solomon's Seal (*Polygonatum*), Trailing Christmas (*Greens-Lycopodium*), Trillium (*Trillium*), Virginia Bluebells (*Mertensia virginica*), and Fringe Tree (*Chionanthus virginicus*), American holly, white pine, red cedar, hemlock or other coniferous trees, or any flowering dogwood, any mountain laurel, any rhododendron, or any ground pine, or any Christmas greens, or any Judas tree, or any leucothea, or any azalea, without having in his possession a permit to dig up, pull up or take such plants, signed by the owner of such land, or by his duly authorized agent. Any person convicted of violating the provisions of this section shall be guilty of a Class 3 misdemeanor only punished by a fine of not less than ~~ten dollars (\$10.00)~~ seventy-five dollars (\$75.00) nor more than ~~fifty dollars (\$50.00)~~ one hundred seventy-five dollars (\$175.00) for each ~~offense~~ offense, with each plant taken in violation of this section constituting a separate offense. The Clerk of Court for the jurisdiction in which a conviction occurs under this section involving any species listed in this

1 section that also appears on the North Carolina Protected Plants list created under the authority
2 granted by Article 19B of Chapter 106 of the General Statutes shall report the conviction to the
3 Plant Conservation Board so the Board may consider a civil penalty under the authority of that
4 Article. The provisions of this section shall not apply to the Counties of Cabarrus, Carteret,
5 Catawba, Cherokee, Chowan, Cumberland, Currituck, Dare, Duplin, Edgecombe, Franklin,
6 Gaston, Granville, Hertford, McDowell, Pamlico, Pender, Person, Richmond, Rockingham,
7 Rowan and Swain."

8 **SECTION 3.14.(c)** If Senate Bill 38, Fifth Edition, 2013 Regular Session, becomes
9 law, Section 10 of that act is repealed.

10 **SECTION 3.14.(d)** This section becomes effective December 1, 2014, and applies
11 to offenses committed on or after that date.

12 **COMMUNITY COLLEGE BREWING WAIVER**

13 **SECTION 3.15.(a)** Article 11 of Chapter 18B of the General Statutes is amended
14 by adding a new section to read:

15 **"§ 18B-1114.6. Brewing, distillation, and fermentation course authorization.**

16 **(a) Authorization.** – The holder of a brewing, distillation, and fermentation course
17 authorization may:

- 18 **(1) Manufacture malt beverages on the school's campus or the school's**
19 **contracted or leased property for the purpose of providing instruction and**
20 **education on the making of malt beverages.**
- 21 **(2) Possess malt beverages manufactured during the brewing, distillation, and**
22 **fermentation program for the purpose of conducting malt beverage tasting**
23 **seminars and classes for students who are 21 years of age or older.**
- 24 **(3) Sell malt beverages produced during the course to wholesalers or to retailers**
25 **upon obtaining a malt beverages wholesaler permit under G.S. 18B-1109,**
26 **except that the permittee may not receive shipments of malt beverages from**
27 **other producers.**
- 28 **(4) Sell malt beverages produced during the course, upon obtaining a permit**
29 **under G.S. 18B-1001(2).**

30 **(b) Limitation.** – Authorization for a brewing, distillation, and fermentation course shall
31 **be granted by the Commission only for a community college or college that offers a brewing,**
32 **distillation, and fermentation program as a part of its curriculum offerings for students of the**
33 **school. For purposes of this section, the term "brewing, distillation, and fermentation program"**
34 **includes a fermentation sciences program offered by a community college or college as part of**
35 **its curriculum offerings for students of the school.**

36 **(c) Malt Beverage Special Event Permit.** – The holder of a brewing, distillation, and
37 **fermentation course authorization who obtains a malt beverages wholesaler permit under**
38 **G.S. 18B-1109 subject to the limitation in subsection (a) of this section may obtain a malt**
39 **beverage special event permit under G.S. 18B-1114.5 and where the permit is valid may**
40 **participate in approved events and sell at retail at those events any malt beverages produced**
41 **incident to the operation of the brewing, distillation, and fermentation program. The holder of a**
42 **brewing, distillation, and fermentation course authorization may participate in not more than**
43 **six malt beverage special events within a 12-month period and may sell up to 64 cases of malt**
44 **beverages, or the equivalent volume of 64 cases of malt beverages, at each event. For purposes**
45 **of this subsection, a "case of malt beverages" is a package containing not more than 24**
46 **12-ounce bottles of malt beverage. Net proceeds from the program's retail sale of malt**
47 **beverages pursuant to this subsection shall be retained by the school and used for support of the**
48 **brewing, distillation, and fermentation program.**
49

1 (d) Limited Application. – The holder of a brewing, distillation, and fermentation
2 course authorization shall not be considered a brewery for the purposes of this Chapter or
3 Chapter 105 of the General Statutes."

4 **SECTION 3.15.(b)** G.S. 18B-1114.5(a) reads as rewritten:

5 (a) Authorization. – The holder of a ~~brewery~~brewery permit, a malt beverage
6 importer~~beverages importer permit, a brewing, distillation, and fermentation course~~
7 authorization, or a nonresident malt beverage vendor permit may obtain a malt beverage special
8 event permit allowing the permittee to give free tastings of its malt beverages and to sell its
9 malt beverages by the glass or in closed containers at trade shows, conventions, shopping
10 malls, malt beverage festivals, street festivals, holiday festivals, agricultural festivals, balloon
11 races, local fund-raisers, and other similar events approved by the Commission. Except for a
12 brewery operating under the provisions of G.S. 18B-1104(7), all malt beverages sampled or
13 sold pursuant to this section must be purchased from a licensed malt beverages wholesaler."

14 **SECTION 3.15.(c)** G.S. 18B-1001(2) reads as rewritten:

15 **"§ 18B-1001. Kinds of ABC permits; places eligible.**

16 When the issuance of the permit is lawful in the jurisdiction in which the premises are
17 located, the Commission may issue the following kinds of permits:

18 ...

19 (2) Off-Premises Malt Beverage Permit. – An off-premises malt beverage
20 permit authorizes (i) the retail sale of malt beverages in the manufacturer's
21 original container for consumption off the premises, (ii) the retail sale of
22 malt beverages in a cleaned, sanitized, resealable container as defined in 4
23 NCAC 2T.0308(a) that is filled or refilled and sealed for consumption off
24 the premises, complies with 4 NCAC 2T.0303, 4 NCAC 2T.0305, and 4
25 NCAC 2T.0308(d)-(e), and the container identifies the permittee and the
26 date the container was filled or refilled, and (iii) the holder of the permit to
27 ship malt beverages in closed containers to individual purchasers inside and
28 outside the State. The permit may be issued for any of the following:

29 a. ~~Restaurants;~~Restaurants.

30 b. ~~Hotels;~~Hotels.

31 c. ~~Eating establishments;~~establishments.

32 d. ~~Food businesses;~~businesses.

33 e. Retail businesses.

34 f. The holder of a brewing, distillation, and fermentation course
35 authorization under G.S. 18B-1114.6. A school obtaining a permit
36 under this subdivision is authorized to sell malt beverages
37 manufactured during its brewing, distillation, and fermentation
38 program at one noncampus location in a county where the permittee
39 holds and offers classes on a regular full-time basis in a facility
40 owned by the permittee.

41 "

42 **SECTION 3.15.(d)** G.S. 66-58(c)(1a) reads as rewritten:

43 **"§ 66-58. Sale of merchandise or services by governmental units.**

44 ...

45 (c) The provisions of subsection (a) shall not prohibit:

46 ...

47 (1a) The sale of products raised or produced incident to the operation of a
48 community college or college viticulture/enology program as authorized by
49 G.S. 18B-1114.4.G.S. 18B-1114.4 or the operation of a community college
50 or college brewing, distillation, or fermentation program as authorized by
51 G.S. 18B-1114.6."

GOOD SAMARITAN LAW

SECTION 3.17. G.S. 90-21.14 reads as rewritten:

"§ 90-21.14. First aid or emergency treatment; liability limitation.

(a) Any person, including a volunteer medical or health care provider at a facility of a local health department as defined in G.S. 130A-2 or at a nonprofit community health center or a volunteer member of a rescue squad, who ~~receives no compensation for his services as an emergency medical care provider, who voluntarily and without expectation of compensation~~ renders first aid or emergency health care treatment to a person who is unconscious, ill or injured,

- (1) When the reasonably apparent circumstances require prompt decisions and actions in medical or other health care, and
- (2) When the necessity of immediate health care treatment is so reasonably apparent that any delay in the rendering of the treatment would seriously worsen the physical condition or endanger the life of the person,

shall not be liable for damages for injuries alleged to have been sustained by the person or for damages for the death of the person alleged to have occurred by reason of an act or omission in the rendering of the treatment unless it is established that the injuries were or the death was caused by gross negligence, wanton conduct or intentional wrongdoing on the part of the person rendering the treatment. The immunity conferred in this section also applies to any person who uses an automated external defibrillator (AED) and otherwise meets the requirements of this section.

...."

NOTICE PUBLICATION – CERTAIN LOCAL GOVERNMENTS

SECTION 3.18.(a) Chapter 153A of the General Statutes is amended by adding a new section to read:

"§ 153A-52.2. Electronic notice.

(a) Except as provided in this section, the governing board may adopt an ordinance providing that any notice it is required by law to publish or advertise, whether under G.S. 1-597, under Article 8 of Chapter 143 of the General Statutes, under any other general law, or under any local act, may be published as provided by this section in lieu of or in addition to the required publication or advertisement. The ordinance may cover all notices required to be published or advertised or a selected class or classes of notice.

(b) Upon adoption of an ordinance under subsection (a) of this section, the governing board shall publish specific instructions as to how to access all notices published under an ordinance adopted pursuant to this section at least once a month for 12 months in a newspaper having a general circulation for that jurisdiction, as provided in G.S. 1-597.

(c) Any notice published under an ordinance adopted pursuant to subsection (a) of this section shall comply with all of the following:

- (1) The notice is published on the Web site of the governing board no later than the time that publication is required under the applicable statute or local act.
- (2) The Web site contains, on its main or index page, links to all notices or a link to another page with links to all notices.
- (3) Notices and links to all notices on the Web site must be maintained on that Web site for at least one year after publication.
- (4) A copy of the notice must be filed in a notice book maintained separate and apart from the ordinance book or minutes of the governing board. The notice book shall be appropriately indexed and maintained for public inspection in the office of the clerk or with some other person designated by the governing board.

1 (5) A copy of the notice must be mailed or e-mailed to a person that has filed a
2 written request for notice with the clerk or secretary of the governing board
3 or with some other person designated by the governing board. The governing
4 board may require each person submitting a written request for notice to
5 renew the request annually.

6 (d) Ordinances adopted pursuant to this section may not supersede any general law or
7 local act that requires notice by mail to certain persons or classes of persons or the posting of
8 signs on certain property.

9 (e) The ordinance adopted by the county may control notice given by any board
10 appointed by the governing board of the county, including the board of social services and
11 board of health.

12 (f) For purposes of this section, "governing body" means the body elected or appointed
13 as the board of county commissioners, city council, or county board of elections."

14 **SECTION 3.18.(b)** G.S. 160A-1(7) reads as rewritten:

15 (7) "Publish," "publication," and other forms of the verb "to publish" mean any
16 of the following:

17 a. ~~insertion~~Insertion in a newspaper qualified under G.S. 1-597 to
18 publish legal advertisements in the county or counties in which the
19 city is located.

20 b. Electronic notice, as provided in G.S. 153A-52.2, if an ordinance has
21 been adopted by the governing board.

22 c. Insertion in a news publication circulated in the city, published at
23 least once per week, and with an audited readership of at least 25,000
24 persons."

25 **SECTION 3.18.(c)** G.S. 153A-1(6) reads as rewritten:

26 (6) "Publish," "publication," and other forms of the verb "to publish" mean any
27 of the following:

28 a. ~~insertion~~Insertion in a newspaper qualified under G.S. 1-597 to
29 publish legal advertisements in the county.

30 b. Electronic notice, as provided in G.S. 153A-52.2, if an ordinance has
31 been adopted by the governing board.

32 c. Insertion in a news publication circulated in the county, published at
33 least once per week, and with an audited readership of at least 25,000
34 persons."

35 **SECTION 3.18.(d)** G.S. 159-1(b)(5) reads as rewritten:

36 (5) "Publish," "publication," and other forms of the word "publish" mean any of
37 the following:

38 a. ~~insertion~~Insertion in a newspaper qualified under G.S. 1-597 to
39 publish legal advertisements.

40 b. Electronic notice, as provided in G.S. 153A-52.2, if an ordinance has
41 been adopted by that governing board.

42 c. Insertion in a news publication circulated in the county, published at
43 least once per week, and with an audited readership of at least 25,000
44 persons."

45 **SECTION 3.18.(e)** G.S. 163-33(8) reads as rewritten:

46 **"§ 163-33. Powers and duties of county boards of elections.**

47 The county boards of elections within their respective jurisdictions shall exercise all powers
48 granted to such boards in this Chapter, and they shall perform all the duties imposed upon them
49 by law, which shall include the following:

50 ...

1 (8) To provide for the issuance of all notices, advertisements, and publications
2 concerning elections required by law. If the election is on a State bond issue,
3 an amendment to the Constitution, or approval of an act submitted to the
4 voters of the State, the State Board of Elections shall reimburse the county
5 boards of elections for their reasonable additional costs in placing such
6 notices, advertisements, and publications. In addition, the county board of
7 elections shall give notice at least 20 days prior to the date on which the
8 registration books or records are closed that there will be a primary, general
9 or special election, the date on which it will be held, and the hours the voting
10 places will be open for voting in that election. The notice also shall describe
11 the nature and type of election, and the issues, if any, to be submitted to the
12 voters at that election. Notice shall be given by advertisement at least once
13 weekly during the 20-day period in a newspaper having general circulation
14 in the county and by posting a copy of the notice at the courthouse door.
15 Notice may additionally be made on a radio or television station or both, but
16 such notice shall be in addition to the newspaper and other required notice.
17 This subdivision shall not apply in the case of bond elections called under
18 the provisions of Chapter 159. The county board may adopt a policy under
19 G.S. 160A-52.2 to provide for notices, advertisements, and publications to
20 be given electronically."

21 **SECTION 3.18.(f)** This section applies only to the Counties of Guilford and
22 Mecklenburg and to any municipality located wholly or partly within those counties.

23 **SECTION 3.18.(g)** This section becomes effective October 1, 2014, and applies to
24 notices given on or after that date.

25 **ABC PERMITS/SCHOOLS AND COLLEGES**

26 **SECTION 3.19.** G.S. 18B-1006(a) reads as rewritten:

27 "(a) School and College Campuses. – No permit for the sale of ~~malt beverages,~~
28 ~~unfortified wine, or fortified wine~~ alcoholic beverages shall be issued to a business on the
29 campus or property of a public school or college, ~~other than at a regional facility as defined by~~
30 ~~G.S. 160A-480.2 operated by a facility authority under Part 4 of Article 20 of Chapter 160A of~~
31 ~~the General Statutes except for a public school or college function, unless that business is a~~
32 ~~hotel or a nonprofit alumni organization with a mixed beverages permit or a special occasion~~
33 ~~permit. This subsection shall not apply on property owned by a local board of education which~~
34 ~~was leased for 99 years or more to a nonprofit auditorium authority created prior to 1991 whose~~
35 ~~governing board is appointed by a city board of aldermen, a county board of commissioners, or~~
36 ~~a local school board. This subsection shall also not apply to the constituent institutions of The~~
37 ~~University of North Carolina with respect to the sale of beer and wine at (i) performing arts~~
38 ~~centers located on property owned or leased by the institutions if the seating capacity does not~~
39 ~~exceed 2,000 seats; (ii) any golf courses owned or leased by the institutions and open to the~~
40 ~~public for use; or (iii) any stadiums that support a NASCAR sanctioned one fourth mile asphalt~~
41 ~~flat oval short track, that are owned or leased by the institutions, and that only sell malt~~
42 ~~beverages, unfortified wine, or fortified wine at events that are not sponsored or funded by the~~
43 ~~institutions. Notwithstanding this subsection, special one-time permits as described in~~
44 ~~G.S. 18B-1002(a)(5) may be issued to the University of North Carolina at Chapel Hill for the~~
45 ~~Loudermilk Center for Excellence facility~~ school, college, or university. This subsection shall
46 not apply to the following:

47 (1) A regional facility as defined by G.S. 160A-480.2 operated by a facility
48 authority under Part 4 of Article 20 of Chapter 160A of the General Statutes,
49 unless the permit is for a public school or public college or university
50 function.
51

- 1 (2) Property owned by a local board of education and leased for 99 years or
2 more to a nonprofit auditorium authority created prior to 1991 whose
3 governing board is appointed by a city governing board, a county board of
4 commissioners, or a local school board.
- 5 (3) A hotel.
- 6 (4) A nonprofit alumni organization.
- 7 (5) Restaurants, eating establishments, food businesses, or retail businesses on
8 the property defined by G.S. 116-198.33(4).
- 9 (6) Any golf courses owned or leased by the public college or university and
10 open to the public for use.
- 11 (7) The sale of malt beverages, unfortified wine, or fortified wine at the
12 following:
- 13 a. Performing arts centers located on property owned or leased by the
14 public college or university.
- 15 b. Any stadiums that support a NASCAR-sanctioned one-fourth mile
16 asphalt flat oval short track, that are owned or leased by the public
17 college or university, and that only sell malt beverages, unfortified
18 wine, or fortified wine at events that are not sponsored or funded by
19 the public college or university.
- 20 (8) Special one-time permits as described in G.S. 18B-1002(a)(5) for the
21 Loudermilk Center for Excellence facility at the University of North
22 Carolina at Chapel Hill."

DISTILLERY TASTINGS CLARIFICATION

25 **SECTION 3.20.** G.S. 18B-1001(19) reads as rewritten:

- 26 "(19) Spirituous liquor tasting permit. – The holder of any distillery permit
27 authorized by G.S. 18B-1105 may conduct a consumer tasting event on the
28 premises of the distillery subject to the following conditions:
- 29 a. Any person pouring spirituous liquor at a tasting shall be an
30 employee of the distillery and at least 21 years of age.
- 31 b. The person pouring the spirituous liquor shall be responsible for
32 checking the identification of patrons being served at the tasting.
- 33 c. Each consumer is limited to tasting samples of 0.25 ounce of each
34 spirituous liquor which total no more than 1.5 ounces of spirituous
35 liquor in any calendar day.
- 36 d. The consumer shall not be charged for any spirituous liquor tasting
37 sample.
- 38 e. The spirituous liquor used in the consumer tasting event shall be
39 distilled at the distillery where the event is being held by the permit
40 holder conducting the event.
- 41 f. A consumer tasting event shall not be allowed when the sale of
42 spirituous liquor is otherwise prohibited.
- 43 g. Tasting samples are not to be offered to, or allowed to be consumed
44 by, any person under the legal age for consuming spirituous liquor.
- 45 h. The tasting is held either in (i) the distillery itself or (ii) any other
46 building or structure on property contiguous to the property on which
47 the distillery is located and that the distillery permit holder has
48 control of through a lease, deed, or other legal process.

49 The distillery permit holder shall be solely liable for any violations of this
50 Chapter occurring in connection with the tasting. The Commission shall
51 adopt rules to assure that the tastings are limited to samplings and not a

1 subterfuge for the unlawful sale or distribution of spirituous liquor and that
2 the tastings are not used by industry members for unlawful inducements to
3 retail permit holders."
4

5 **PART IV. HEALTH AND SAFETY REGULATION**

6 **LIMITED FOOD SERVICES AT LODGING FACILITIES**

7 **SECTION 4.1.(a)** G.S. 130A-247(7) reads as rewritten:

8 "(7) "Limited food services establishment" means an establishment as described
9 in G.S. 130A-248(a4), with food handling operations that are restricted by
10 rules adopted by the Commission pursuant to G.S. 130A-248(a4) and that
11 prepares or serves food only in conjunction with amateur athletic events.
12 Limited food service establishment also includes lodging facilities that serve
13 only reheated food that has already been precooked."
14

15 **SECTION 4.1.(b)** G.S. 130A-148(a4) reads as rewritten:

16 "(a4) For the protection of the public health, the Commission shall adopt rules governing
17 the sanitation of limited food service establishments. In adopting the rules, the Commission
18 shall not limit the number of days that limited food service establishments may operate.
19 Limited food service establishment permits shall be issued only to the following:

- 20 (1) ~~political~~ Political subdivisions of the ~~State,~~ State.
- 21 (2) ~~establishments~~ Establishments operated by volunteers that prepare or serve
22 food in conjunction with amateur athletic ~~events,~~ events.
- 23 (3) Lodging facilities that serve only reheated food that has already been
24 precooked.
- 25 (4) ~~or for establishments~~ Establishments operated by organizations that are
26 exempt from federal income tax under section 501(c)(3) or section 501(c)(4)
27 of the Internal Revenue Code."

28 **SECTION 4.1.(c)** The Commission for Public Health shall adopt rules to conform
29 to the provisions of this section.
30

31 **NURSING HOME ADMINISTRATOR ACT REVISION**

32 **SECTION 4.2.** G.S. 90-280(a) reads as rewritten:

33 "(a) Each applicant for an examination ~~administered by the Board~~ and each applicant for
34 an administrator-in-training program and reciprocity endorsement shall pay a processing fee set
35 by the Board not to exceed five hundred dollars (\$500.00) plus the actual cost of the exam."
36

37 **REPORT ON SEEK**

38 **SECTION 4.3.** The Division of Child Development and Early Education shall
39 report to the Joint Legislative Oversight Committee on Health and Human Services and the
40 2015 General Assembly prior to statewide implementation of the Subsidized Early Education
41 for Kids (SEEK) system. The report shall be due no later than March 15, 2015, and shall
42 include (i) outcomes of the SEEK system pilot implementation that has been ongoing since
43 2011 and the current system pilot, (ii) barriers to full implementation, and (iii) plans to ensure
44 effective and efficient statewide implementation.
45

46 **REPORT ON MULTIPLICATIVE AUDITING AND MONITORING OF CERTAIN** 47 **SERVICE PROVIDERS**

48 **SECTION 4.4.** No later than December 1, 2014, the Deputy Secretary of
49 Behavioral Health and Developmental Disabilities Services of the Department of Health and
50 Human Services shall report to the Joint Legislative Oversight Committee on Health and
51 Human Services on the status of multiplicative auditing and monitoring of all provider agencies

1 under the Division of Mental Health, Developmental Disabilities, and Substance Abuse
2 Services who have been nationally accredited through a recognized national accrediting body.
3 The report shall include all group home facilities licensed under Chapter 122C of the General
4 Statutes. The report shall include a complete list of all auditing and monitoring and shall
5 provide recommendations to remove all unnecessary regulatory duplication and to enhance
6 efficiency.

7
8 **END SUNSET FOR FACILITIES THAT USE ALTERNATIVE ELECTRONIC**
9 **MONITORING SYSTEMS**

10 **SECTION 4.5.** Section 4 of S.L. 2009-490, as amended by S.L. 2012-15, reads as
11 rewritten:

12 "SECTION 4. The Department of Health and Human Services, Division of Health Service
13 Regulation shall establish a pilot program to study the use of electronic supervision devices as
14 an alternative means of supervision during sleep hours at facilities for children and adolescents
15 who have a primary diagnosis of mental illness and/or emotional disturbance. The pilot
16 program shall be implemented at a facility currently authorized to waive the requirement set
17 forth in 10A NCAC 27G .1704(c) or any related or subsequent rule or regulation by the
18 Commission for Mental Health, Developmental Disabilities, and Substance Abuse Services
19 setting minimum overnight staffing requirements. The waiver shall remain in effect ~~until~~
20 ~~December 31, 2015; effect;~~ however, the Division reserves the right to rescind the waiver if, at
21 the time of the facility's license renewal, there are outstanding deficiencies that have remained
22 uncorrected upon follow-up survey, that are related to electronic supervision."
23

24 **STATE MEDICAID RECREDENTIALING PERIOD**

25 **SECTION 4.6.(a)** Section 12H.7 of S.L. 2013-360 is codified as G.S. 108C-9(e).

26 **SECTION 4.6.(b)** Effective July 1, 2017, and applying to all recREDENTIALINGS due
27 on or after that date, G.S. 108C-9(e), as codified by subsection (a) of this section, reads as
28 rewritten:

29 "(e) The Department of Health and Human Services, Division of Medical Assistance,
30 shall charge an application fee of one hundred dollars (\$100.00), and the amount federally
31 required, to each provider enrolling in the Medicaid Program for the first time. The fee shall be
32 charged to all providers at recREDENTIALING every ~~three~~-five years."
33

34 **USE OF NATURAL SPRING WATER AT CO-LOCATED RESTAURANTS**

35 **SECTION 4.7.(a)** Until the effective date of the revised permanent rule that the
36 Commission for Public Health is required to adopt pursuant to Section 4.7(c) of this section, the
37 Commission and the Department of Health and Human Services shall implement 15A NCAC
38 18A .1723 (Springs), as provided in Section 4.7(b) of this section.

39 **SECTION 4.7.(b)** Notwithstanding the provisions of 15A NCAC 18A .1723
40 (Springs), or any other applicable rule, a spring which transverses a property on which a
41 restaurant is located may be used for the purpose of water service to restaurant patrons and for
42 employees of the restaurant, for consumption purposes without a requirement that it be
43 equipped with a continuous disinfection device, nor shall the owner of the restaurant be
44 required to submit a certification to the Department of Public Health concerning the spring, nor
45 be subject to any other requirements under law with respect to water service from the spring,
46 except as may be required by the federal Safe Drinking Water Act.

47 **SECTION 4.7.(c)** The Commission for Public Health shall adopt rules to amend
48 15A NCAC 18A .1723 consistent with Section 4.7(b) of this section. Notwithstanding
49 G.S. 150B-19(4), the rule adopted by the Commission pursuant to Section 4.7(c) of this section
50 shall be substantively identical to the provisions of Section 4.7(b) of this section. Rules adopted
51 pursuant to Section 4.7(c) of this section are not subject to Part 3 of Article 2A of Chapter

1 150B of the General Statutes. Rules adopted pursuant to Section 4.7(c) of this section shall
2 become effective as provided in G.S. 150B-21.3(b1) as though 10 or more written objections
3 had been received, as provided by G.S. 150B-21.3(b2).

4 **SECTION 4.7.(d)** Article 10 of Chapter 130A of the General Statutes is amended
5 by adding a new section to read:

6 "**§ 130A-330. Restaurants served by natural springs.**

7 Notwithstanding any requirement of this Article or any other provision of law, a spring that
8 transverses a property on which a restaurant is located may be used for the purpose of water
9 service to restaurant patrons and for employees of the restaurant and shall be exempt from any
10 requirements for disinfection of the spring water and other requirements that may be applicable
11 to a public water system. This provision shall only apply to the extent not preempted by
12 requirements of the federal Safe Drinking Water Act."

13 **SECTION 4.7.(e)** Section 4.7(b) of this section expires on the date that rules
14 adopted pursuant to Section 4.7(c) of this act become effective.

15
16 **INTERSTATE CONNECTIVITY OF THE CONTROLLED SUBSTANCES**
17 **REPORTING SYSTEM**

18 **SECTION 4.8.** The Department of Health and Human Services shall execute a
19 memorandum of understanding with the National Association of Boards of Pharmacy to
20 participate in PMP InterConnect.

21
22 **AMEND HOTEL CARBON MONOXIDE ALARM REQUIREMENT**

23 **SECTION 4.9.(a)** Section 19(c) of S.L. 2013-413 is repealed.

24 **SECTION 4.9.(b)** Section 19(e) of S.L. 2013-413 reads as rewritten:

25 "**SECTION 19.(e)** This section is effective when it becomes law, except that ~~(i)~~ subsection
26 (b) of this section becomes effective October 1, 2013, ~~and expires October 1, 2014; and (ii)~~
27 ~~subsection (c) of this section becomes effective October 1, 2014.~~ 2013."

28 **SECTION 4.9.(c)** G.S. 143-138(b2) reads as rewritten:

29 "(b2) Carbon Monoxide ~~Detectors.~~ Alarms. – The Code (i) may contain provisions
30 requiring the installation of either battery-operated or electrical carbon monoxide
31 ~~detectors~~ alarms in every dwelling unit having a ~~fossil fuel burning~~ combustion heater,
32 appliance, or fireplace, and in any dwelling unit having an attached garage and (ii) shall contain
33 provisions requiring the installation of electrical carbon monoxide ~~detectors~~ alarms at a lodging
34 establishment. Violations of this subsection and rules adopted pursuant to this subsection shall
35 be punishable in accordance with subsection (h) of this section and G.S. 143-139. In particular,
36 the rules shall provide:

37 (1) For dwelling units, carbon monoxide ~~detectors~~ alarms shall be those listed by
38 a nationally recognized testing laboratory that is ~~OSHA approved~~ approved
39 to test and certify to American National Standards Institute/Underwriters
40 Laboratories Standards ANSI/UL2034 or ANSI/UL2075 and shall be
41 installed in accordance with either the standard of the National Fire
42 Protection Association or the minimum protection designated in the
43 manufacturer's instructions, which the property owner shall retain or provide
44 as proof of compliance. A carbon monoxide ~~detector~~ alarm may be combined
45 with smoke detectors if the combined ~~detector~~ alarm does both of the
46 following: (i) complies with ANSI/UL2034 or ANSI/UL2075 for carbon
47 monoxide alarms and ANSI/UL217 for smoke detectors; and (ii) emits an
48 alarm in a manner that clearly differentiates between detecting the presence
49 of carbon monoxide and the presence of smoke.

50 (2) For lodging establishments, including tourist homes that provide
51 accommodations for seven or more continuous days (extended-stay

1 establishments), and bed and breakfast inns and bed and breakfast homes as
2 defined in G.S. 130A-247, carbon monoxide ~~detectors~~alarms shall be
3 installed in every ~~enclosed space~~dwelling unit or sleeping unit having a
4 fossil fuel ~~burning~~combustion heater, appliance, or fireplace and in any
5 enclosed space, including a sleeping room, every dwelling unit or sleeping
6 unit that shares a common wall, floor, or ceiling ~~with an enclosed space~~with
7 a room having a fossil fuel ~~burning~~combustion heater, appliance, or
8 fireplace. Carbon monoxide ~~detectors~~alarms shall be (i) listed by a nationally
9 recognized testing laboratory that is ~~OSHA approved~~approved to test and
10 certify to American National Standards Institute/Underwriters Laboratories
11 (ANSI/UL) Standards ANSI/UL2034 or ANSI/UL2075, (ii) installed in
12 accordance with either the standard of the National Fire Protection
13 Association (NFPA) or the minimum protection designated in the
14 manufacturer's instructions, which the lodging establishment shall retain or
15 provide as proof of compliance, (iii) receive primary power from the
16 building's wiring, where such wiring is served from a commercial source,
17 and (iv) receive power from a battery when primary power is interrupted. A
18 carbon monoxide ~~detector~~alarm may be combined with smoke detectors if
19 the combined ~~detector~~alarm complies with the requirements of this
20 subdivision for carbon monoxide alarms and ANSI/UL217 for smoke
21 ~~detectors~~alarms. In lieu of the carbon monoxide alarms required by this
22 subsection, a carbon monoxide detection system, which includes carbon
23 monoxide detectors and audible notification appliances installed and
24 maintained in accordance with NFPA 720, shall be permitted. The carbon
25 monoxide detectors shall be listed as complying with ANSI/UL2075. For
26 purposes of this subsection, "lodging establishment" means any hotel, motel,
27 tourist home, or other establishment permitted under authority of
28 G.S. 130A-248 to provide lodging accommodations for pay to the
29 ~~public~~public, and "combustion heater, appliance, or fireplace" means any
30 heater, appliance, or fireplace that burns combustion fuels, including, but not
31 limited to, natural or liquefied petroleum gas, fuel oil, kerosene, wood, or
32 coal for heating, cooking, drying, or decorative purposes, including, but not
33 limited to, space heaters, wall and ceiling heaters, ranges, ovens, stoves,
34 furnaces, fireplaces, water heaters, and clothes dryers. For purposes of this
35 subsection, candles and canned fuels are not considered to be combustion
36 appliances.

- 37 (3) The Building Code Council shall modify the NC State Building Code (Fire
38 Prevention) to regulate the provisions of this subsection in new and existing
39 lodging establishments, including hotels, motels, tourist homes that provide
40 accommodations for seven or more continuous days (extended-stay
41 establishments), and bed and breakfast inns and bed and breakfast homes as
42 defined in G.S. 130A-247; provided nothing in this subsection shall prevent
43 the Building Code Council from establishing more stringent rules regulating
44 carbon monoxide alarms or detectors for new lodging establishments,
45 including hotels, motels, tourist homes that provide accommodations for
46 seven or more continuous days (extended-stay establishments), and bed and
47 breakfast inns and bed and breakfast homes as defined in G.S. 130A-247.
48 The Building Code Council shall modify the NC State Building Code (Fire
49 Prevention) minimum inspection schedule to include annual inspections of
50 new and existing lodging establishments, including hotels, motels, and
51 tourist homes that provide accommodations for seven or more continuous

1 days (extended-stay establishments), and bed and breakfast inns and bed and
2 breakfast homes as defined in G.S. 130A-247 for the purpose of compliance
3 with this subsection.

4 (4) Upon discovery of a violation of this subsection that poses an imminent
5 hazard and that is not corrected during an inspection of a lodging
6 establishment subject to the provisions of G.S. 130A-248, the code official
7 responsible for enforcing the NC State Building Code (Fire Prevention) shall
8 immediately notify the local health director for the county in which the
9 violation was discovered, or the local health director's designee, by verbal
10 contact and shall also submit a written report documenting the violation of
11 this subsection to the local health director for the county in which the
12 violation was discovered, or the local health director's designee, on the next
13 working day following the discovery of the violation. Within one working
14 day of receipt of the written report documenting a violation of this
15 subsection, the local health director for the county in which the violation was
16 discovered, or the local health director's designee, shall investigate and take
17 appropriate action regarding the permit for the lodging establishment, as
18 provided in G.S. 130A-248. Lodging establishments having five or more
19 rooms that are exempted from the requirements of G.S. 130A-248 by
20 G.S. 130A-250 shall be subject to the penalties set forth in the NC State
21 Building Code (Fire Prevention).

22 (5) Upon discovery of a violation of this subsection that does not pose an
23 imminent hazard and that is not corrected during an inspection of a lodging
24 establishment subject to the provisions of G.S. 130A-248, the owner or
25 operator of the lodging establishment shall have a correction period of three
26 working days following the discovery of the violation to notify the code
27 official responsible for enforcing the NC State Building Code (Fire
28 Prevention) verbally or in writing that the violation has been corrected. If the
29 code official receives such notification, the code official may reinspect the
30 portions of the lodging establishment that contained violations, but any fees
31 for reinspection shall not exceed the fee charged for the initial inspection. If
32 the code official receives no such notification, or if a reinspection discovers
33 that previous violations were not corrected, the code official shall submit a
34 written report documenting the violation of this subsection to the local health
35 director for the county in which the violation was discovered , or the local
36 health director's designee, within three working days following the
37 termination of the correction period or the reinspection, whichever is later.
38 The local health director shall investigate and may take appropriate action
39 regarding the permit for the lodging establishment, as provided in
40 G.S. 130A-248. Lodging establishments having five or more rooms that are
41 exempted from the requirements of G.S. 130A-248 by G.S. 130A-250 shall
42 be subject to the penalties set forth in the NC State Building Code (Fire
43 Prevention).

44 (6) The requirements of subdivisions (2) through (5) of this subsection shall not
45 apply to properties subject to the provisions of either G.S. 42-42 or
46 G.S. 42A-31."

47 **SECTION 4.9.(d)** G.S. 130A-248 reads as rewritten:

48 **"§ 130A-248. Regulation of food and lodging establishments.**

49 ...
50 (b) No establishment shall commence or continue operation without a permit or
51 transitional permit issued by the Department. The permit or transitional permit shall be issued

1 to the owner or operator of the establishment and shall not be transferable. If the establishment
2 is leased, the permit or transitional permit shall be issued to the lessee and shall not be
3 transferable. If the location of an establishment changes, a new permit shall be obtained for the
4 establishment. A permit shall be issued only when the establishment satisfies all of the
5 requirements of the ~~rules and the requirements of subsection (g) of this section.~~rules. The
6 Commission shall adopt rules establishing the requirements that must be met before a
7 transitional permit may be issued, and the period for which a transitional permit may be issued.
8 The Department may also impose conditions on the issuance of a permit or transitional permit
9 in accordance with rules adopted by the Commission. A permit or transitional permit shall be
10 immediately revoked in accordance with G.S. 130A-23(d) for failure of the establishment to
11 maintain a minimum grade of C. A permit or transitional permit may otherwise be suspended or
12 revoked in accordance with G.S. 130A-23.

13 ...
14 (g) All hotels, motels, tourist homes, and other establishments that provide lodging for
15 pay shall ~~install either a battery operated or electrical carbon monoxide detector in every~~
16 ~~enclosed space having a fossil fuel burning heater, appliance, or fireplace and in any enclosed~~
17 ~~space, including a sleeping room, that shares a common wall, floor, or ceiling with an enclosed~~
18 ~~space having a fossil fuel burning heater, appliance, or fireplace. Carbon monoxide detectors~~
19 ~~shall be listed by a nationally recognized testing laboratory that is OSHA approved to test and~~
20 ~~certify to American National Standards Institute/Underwriters Laboratories Standards~~
21 ~~ANSI/UL2034 or ANSI/UL2075, and installed in accordance with either the standard of the~~
22 ~~National Fire Protection Association or the minimum protection designated in the~~
23 ~~manufacturer's instructions, which the establishment shall retain or provide as proof of~~
24 ~~compliance. A carbon monoxide detector may be combined with smoke detectors if the~~
25 ~~combined detector complies with the requirements of this subdivision for carbon monoxide~~
26 ~~alarms and ANSI/UL217 for smoke detectors.~~comply with the requirements of
27 G.S. 143-138(b2)(2). Upon notification of a violation of G.S. 143-138(b2)(2) by the code
28 official responsible for enforcing the NC State Building Code (Fire Prevention) in accordance
29 with G.S. 143-138(b2)(4), the local health department is authorized to suspend a permit issued
30 pursuant to this section in accordance with G.S. 130A-23."

31 **SECTION 4.9.(e)** No later than March 31, 2015, the Building Code Council shall
32 adopt a rule to amend the NC State Building Code (Fire Prevention) as it applies to structures
33 required to comply with the provisions of G.S. 143-138(b2)(2), as enacted by this section, to
34 adopt the standards for carbon monoxide alarms contained in the 2015 International Fire Code
35 promulgated by the International Code Council. The effective date of the rule required by this
36 section shall be no later than June 1, 2015.

37 38 **PHARMACY BENEFITS MANAGEMENT REGULATION**

39 **SECTION 4.10.(a)** Chapter 58 of the General Statutes is amended by adding a new
40 Article to read:

41 "Article 56A.

42 "Pharmacy Benefits Management.

43 **"§ 58-56A-1. Definitions.**

44 The following definitions apply in this Article:

- 45 (1) Health benefit plan. – As defined in G.S. 58-50-110(11). This definition
46 specifically excludes the State Health Plan for Teachers and State
47 Employees.
48 (2) Insurer. – Any entity that provides or offers a health benefit plan.
49 (3) Maximum allowable cost price. – The maximum per-unit reimbursement for
50 multiple source prescription drugs, medical products, or devices.

- 1 (4) Pharmacy. – A pharmacy registered with the North Carolina Board of
2 Pharmacy.
3 (5) Pharmacy benefits manager. – An entity who contracts with a pharmacy on
4 behalf of an insurer or third-party administrator to administer or manage
5 prescription drug benefits.
6 (6) Third-party administrator. – As defined in G.S. 58-56-2.

7 **"§ 58-56A-3. Maximum allowable cost price.**

8 (a) In order to place a prescription drug on the maximum allowable cost price list, the
9 drug must be available for purchase by pharmacies in North Carolina from national or regional
10 wholesalers, must not be obsolete, and must meet one of the following conditions:

- 11 (1) The drug is listed as "A" or "B" rated in the most recent version of the
12 United States Food and Drug Administration's Approved Drug Products with
13 Therapeutic Equivalence Evaluations, also known as the Orange Book.
14 (2) The drug has a "NR" or "NA" rating, or a similar rating, by a nationally
15 recognized reference.

16 (b) A pharmacy benefits manager shall adjust or remove the maximum allowable cost
17 price for a prescription drug to remain consistent with changes in the national marketplace for
18 prescription drugs. A review of the maximum allowable cost prices for removal or modification
19 shall be completed by the pharmacy benefits manager at least once every seven business days,
20 and any removal or modification shall occur within seven business days of the review. A
21 pharmacy benefits manager shall provide a means by which the contracted pharmacies may
22 promptly review current prices in an electronic, print, or telephonic format within one business
23 day of the removal or modification."

24 **SECTION 4.10.(b)** The Department of Insurance, in collaboration with the
25 Department of Commerce and the North Carolina Board of Pharmacy, shall study the issue of
26 pharmacy benefits management company regulation. Specifically, the study shall include (i)
27 frequency of disclosure of and methodology for calculating maximum allowable cost prices by
28 the pharmacy benefits management companies; (ii) appeals procedures for pharmacies relating
29 to maximum allowable cost pricing; (iii) consumer protections and the disclosure of consumer
30 health information by pharmacy benefits managers; (iv) regulation of the various forms of
31 incentives offered to a consumer by pharmacy benefits managers and its effects on choice of
32 pharmacy; and (v) any further industry regulation deemed necessary to study. The Department
33 of Insurance shall report the collective findings and recommendations, including any proposed
34 legislation, to the 2015 General Assembly on or before January 20, 2015.

35 **SECTION 4.10.(c)** Subsection (a) of this section becomes effective January 1,
36 2015, and applies to contracts entered into, renewed, or amended on or after that date.

37
38 **CBD OIL AMENDMENT**

39 **SECTION 4.11.(a)** G.S. 30-113.101, as enacted by Section 2 of S.L. 2014-53,
40 reads as rewritten:

41 **"§ 90-113.101. Definitions.**

42 ...
43 (c) Database. – The Intractable Epilepsy Alternative Treatment ~~Pilot Study~~ database,
44 established by the Department of Health and Human Services pursuant to this Article, to
45 register caregivers, patients, and recommending neurologists.

46 ...
47 (i) ~~Pilot Study.~~ Research Study. – An evidence based investigation of the safety and
48 efficacy of treating intractable epilepsy using hemp extract conducted by one or more
49 neurologists registered pursuant to this Article."

50 **SECTION 4.11.(b)** G.S. 90-113.102, as enacted by Section 2 of S.L. 2014-53,
51 reads as rewritten:

1 "§ 90-113.102. Intractable Epilepsy Alternative Treatment ~~Pilot Study~~ database;
2 departmental duties.

3 (a) The Department shall create a secure, electronic, and online Intractable Epilepsy
4 Alternative Treatment ~~Pilot Study~~ database registry for the registration of ~~pilot studies,~~ research
5 studies, neurologists, caregivers, and patients as provided by this Article. The registry must be
6 accessible to law enforcement agencies ~~in order to verify registration of caregivers for the~~
7 limited purpose of verifying the names of registered caregivers, provided that no patient
8 identifying information or patient information protected under the federal Health Insurance
9 Portability and Accountability Act (HIPAA) shall be disclosed. The registry must prevent an
10 active registration of a patient by multiple neurologists. At a minimum, the database shall
11 consist of the following:

- 12 (1) The name and address of each registered caregiver and the name of the ~~pilot~~
13 research study the caregiver is associated with.
- 14 (2) The name and address of each registered patient and the name of the ~~pilot~~
15 research study the patient is associated with.
- 16 (3) The name, address, and qualifying institutional affiliation of neurologists
17 conducting ~~pilot research~~ studies pursuant to this Article.
- 18 (4) The name, institutional affiliation, affiliated registered neurologists, and
19 parameters of ~~pilot research~~ studies.

20 (b) ~~The Department shall contact the county department of health where the patient~~
21 ~~resides and provide the following information:~~

- 22 (1) ~~The name and address of the registered caregiver.~~
- 23 (2) ~~Identifying information contained on the caregiver registration card."~~

24 **SECTION 4.11.(c)** G.S. 90-113.103, as enacted by Section 2 of S.L. 2014-53,
25 reads as rewritten:

26 "**§ 90-113.103. Registration of ~~pilot studies~~ research studies and neurologists.**

27 (a) A neurologist seeking to conduct a ~~pilot research~~ study pursuant to this Article shall
28 submit an application to the Department providing all of the following information:

- 29 (1) The name of the ~~pilot research~~ study.
- 30 (2) The affiliated research institution.
- 31 (3) The scientific and clinical parameters of the research study.
- 32 (4) The treatment protocols established to ensure patient safety.
- 33 (5) The name and address of the one or more neurologists associated with the
34 ~~pilot research~~ study.
- 35 (6) Any other information deemed necessary by the Department to determine
36 the safety and evidence based nature of the ~~pilot research~~ study.

37 (b) The Department shall examine applications received pursuant to subsection (a) of
38 this section and register in the database the proposed ~~pilot research~~ studies that the Department
39 certifies follow minimal scientific methods and protect patient safety.

40 (c) The Department may monitor registered ~~pilot research~~ studies to ensure continued
41 adherence to patient safety protocols and the scientific parameters of the study."

42 **SECTION 4.11.(d)** G.S. 90-113.104, as enacted by Section 2 of S.L. 2014-53,
43 reads as rewritten:

44 "**§ 90-113.104. Caregiver registration card; application; fees.**

45 (a) The Department shall, in coordination with recommendations from the Department
46 of Public Safety, establish the form and content of caregiver registration cards to be issued to
47 individuals who satisfy the requirements set forth in this section.

48 (b) The Department shall issue a caregiver registration card, valid for a period of one
49 year from issuance, to an individual who satisfies all of the following criteria:

- 50 (1) Is at least 18 years of age.
- 51 (2) Is a resident of North Carolina.

- 1 (3) Provides the Department with a statement signed by a neurologist
 2 conducting a ~~pilot~~research study that satisfies all of the following:
 3 a. Demonstrates that a patient in the caregiver's care satisfies all of the
 4 following criteria:
 5 1. Has been examined and is under the care of the neurologist.
 6 2. Suffers from intractable epilepsy.
 7 3. May benefit from treatment with hemp extract.
 8 4. Is eligible for inclusion in the registered ~~pilot~~research study.
 9 5. Is a resident of North Carolina.
 10 b. Contains a recommendation for the use of hemp extract for treatment
 11 of intractable epilepsy as part of a registered ~~pilot~~research study.
 12 c. Is consistent with records received from the neurologist, concerning
 13 the patient, contained in the database described in G.S. 90-113.102.
 14 (4) Pays the Department a fee, not to exceed fifty dollars (\$50.00), established
 15 by the Department under G.S. 90-113.106.
 16 (5) Submits an application to the Department that contains all of the following:
 17 a. The caregiver's name and address.
 18 b. The patient's name and address.
 19 c. A copy of the caregiver's valid government issued photo
 20 identification.
 21 d. Any additional information the Department finds necessary to
 22 implement this Article.

23 (c) The Department shall renew a caregiver registration card upon certification from the
 24 caregiver and the neurologist that all information initially provided to the Department under
 25 subsection (b) of this section is current or has been updated to reflect any changes. The
 26 Department shall charge a fee for renewal of a caregiver registration card, not to exceed twenty
 27 five dollars (\$25.00), established under G.S. 90-113.106."

28 **SECTION 4.11.(e)** G.S. 90-113.105, as enacted by Section 2 of S.L. 2014-53,
 29 reads as rewritten:

30 "**§ 90-113.105. Immunity for neurologists; medical records.**

31 (a) On a case by case basis, neurologists conducting a registered ~~pilot~~research study
 32 may approve of dispensation to a registered caregiver, as approved by this Article, hemp extract
 33 acquired from another jurisdiction.

34 (b) ~~A neurologist~~ Neither a neurologist conducting a registered research study nor their
 35 associated institution shall not be subject to arrest or prosecution, penalized or disciplined in
 36 any manner, or denied any right or privilege for possessing, approving~~approving,~~
 37 recommending the use of hemp extract or providing a written statement or health records to the
 38 Department for the use of hemp extract pursuant to this Article.

39 (c) A neurologist conducting a registered ~~pilot~~research study who signs a statement as
 40 described in G.S. 90-113.104(b)(3) shall do the following:

- 41 (1) Keep a record of the evaluation and observation of a patient under the
 42 neurologist's care, including the patient's response to hemp extract treatment.
 43 (2) Transmit the record described in subdivision (1) of this subsection to the
 44 Department upon request.

45 (d) All medical records received or maintained by the Department pursuant to this
 46 Article are confidential and may not be ~~disclosed to the public~~disclosed to a third party without
 47 the consent of the patient or, if the patient is a minor or otherwise incompetent, the patient's
 48 parent or guardian. Nothing in this Article is intended to alter the provisions of G.S. 8-53 or
 49 G.S. 8-53.1."

50 **SECTION 4.11.(f)** G.S. 90-94.1, as enacted by Section 3 of S.L. 2014-53, reads as
 51 rewritten:

"§ 90-94.1. Exemption for use or possession of hemp extract.

(a) As used in this section, "hemp extract" means an extract from a cannabis plant, or a mixture or preparation containing cannabis plant material, that has all of the following characteristics:

- (1) Is composed of less than three-tenths of one percent (0.3%) tetrahydrocannabinol by weight.
- (2) Is composed of at least ten percent (10%) cannabidiol by weight.
- (3) Contains no other psychoactive substance.

(b) Notwithstanding any other provision of this Chapter, an individual may possess or use hemp extract, and is not subject to the penalties described in this Chapter, if the individual satisfies all of the following criteria:

- (1) Possesses or uses the hemp extract only to treat intractable epilepsy, as defined in G.S. 90-113.101.
- (2) Possesses, in close proximity to the hemp extract, a certificate of analysis that indicates the hemp extract's ingredients, including its percentages of tetrahydrocannabinol and cannabidiol by weight.
- (3) Has a current hemp extract registration card issued by the Department of Health and Human ~~Services~~Services, or is a neurologist conducting a registered research study, under Article 5G of Chapter 90 of the General Statutes.

(c) Notwithstanding any other provision of this Chapter, an individual who possesses hemp extract lawfully under this section may administer hemp extract to another person under the individual's care and is not subject to the penalties described in this Chapter for administering the hemp extract to the person if both of the following conditions are satisfied:

- (1) The individual is the person's caregiver, as defined in G.S. 90-113.101.
- (2) The individual is registered with the Department of Health and Human Services to administer hemp extract under G.S. 90-113.103."

SECTION 4.11.(g) Section 4.11(f) of this section becomes effective upon adoption of rules pursuant to Section 4 of S.L. 2014-53. The remainder of this section is effective when it becomes law.

ANIMAL EUTHANASIA REQUIREMENTS

SECTION 4.12.(a) G.S. 19A-24(a) reads as rewritten:

"(a) The Board of Agriculture shall:

- (1) Establish standards for the care of animals at animal shelters, boarding kennels, pet shops, and public auctions. A boarding kennel that offers dog day care services and has a ratio of dogs to employees or supervisors, or both employees and supervisors, of not more than 10 to one, shall not as to such services be subject to any regulations that restrict the number of dogs that are permitted within any primary enclosure.
- (2) Prescribe the manner in which animals may be transported to and from registered or licensed premises.
- (3) Require licensees and holders of certificates to keep records of the purchase and sale of animals and to identify animals at their establishments.
- (4) Adopt rules to implement this Article, including federal regulations promulgated under Title 7, Chapter 54, of the United States Code.
- (5) Adopt rules on the euthanasia of animals in the possession or custody of any person required to obtain a certificate of registration under this Article. An animal shall only be put to death by a method and delivery of method approved by the American Veterinary Medical Association, the Humane Society of the United States, or the American Humane Association. The

1 Department shall establish rules for the euthanasia process using any one or
2 combination of methods and standards prescribed by the three
3 aforementioned organizations. The rules shall address the equipment, the
4 process, and the separation of animals, in addition to the animals' age and
5 condition. If the gas method of euthanasia is approved, rules shall require (i)
6 that only commercially compressed carbon monoxide gas is approved for
7 use, and (ii) that the gas must be delivered in a commercially manufactured
8 chamber that allows for the individual separation of animals. Rules shall also
9 mandate training for any person who participates in the euthanasia process.

10 (6) Adopt rules to ensure that the correct calculations of chemical agents used in
11 the euthanasia of animals subject to this subsection include chemical agent
12 dosage based upon the species age, weight, and condition of the animal and
13 that the recordation of information during this process includes the
14 identification number of the animal, species, sex, weight, breed description,
15 date, dosages for drugs that are administered, and amounts for drugs wasted.
16 When any chemical agent has instructions that direct the amount of the
17 dosage to be determined, in whole or in part, upon the animal's weight, the
18 animal to be euthanized shall be weighed using a mechanical or digital scale
19 accurate to plus or minus one pound or plus or minus one-half kilogram and
20 that if the dose of the chemical agent is increased or decreased from the
21 amount recommended for an animal of a given weight, the amount of
22 chemical agent administered and the reason for administering an amount
23 different from that recommended for an animal of that weight shall be
24 recorded."

25 SECTION 4.12.(b) This section becomes effective September 1, 2014.

26 PART V. ENVIRONMENTAL REGULATION

27 CONTESTED CASES FOR AIR QUALITY PERMITS

28 SECTION 5.1. G.S. 143-215.108 reads as rewritten:

29 "§ 143-215.108. Control of sources of air pollution; permits required.

30 ...
31 (e) A permit ~~applicant, permittee, or third party~~applicant or permittee who is
32 dissatisfied with a decision of the Commission on a permit application may commence a
33 contested case by filing a petition under G.S. 150B-23 within 30 days after the Commission
34 notifies the applicant or permittee of its decision. If the permit ~~applicant, permittee, or third~~
35 ~~party~~applicant or permittee does not file a petition within the required time, the Commission's
36 decision on the application is final and is not subject to review. The filing of a petition under
37 this subsection will stay the Commission's decision until resolution of the contested case.

38 (e1) A person other than a permit applicant or permittee who is a person aggrieved by
39 the Commission's decision on a permit application may commence a contested case by filing a
40 petition under G.S. 150B-23 within 30 days after the Commission provides notice of its
41 decision on a permit application, as provided in G.S. 150B-23(f), or by posting the decision on
42 a publically available Web site. "Substantial prejudice" to the petitioner in a contested case
43 filed under this subsection means the exceedance of a national ambient air quality standard.
44 The filing of a petition under this subsection does not stay the Commission's decision except as
45 ordered by the administrative law judge under G.S. 150B-33(b).

46"

47 CLOSURE OF CERTAIN ANIMAL WASTE CONTAINMENT BASINS

1 **SECTION 5.2.** Part 1A of Article 21 of Chapter 143 of the General Statutes is
2 amended by adding a new section to read:

3 **"§ 143-215.10J. Closure of certain animal waste containment basins.**

4 (a) The Department shall consider any waste containment basin to be a fresh water
5 storage facility meeting all requirements for closure under 15A NCAC 02T .1306 if the owner
6 of the basin demonstrates to the satisfaction of the Department that the basin meets all of the
7 following requirements:

8 (1) The basin has been used only for the containment of dairy cattle waste.

9 (2) The basin was constructed prior to 2006.

10 (3) The basin has not been used for the containment of dairy cattle waste after
11 September 1, 2006.

12 (4) The only liquid currently entering the basin is from rainwater or rainwater
13 runoff.

14 (5) Nitrogen levels in the basin water do not exceed 40 parts per million.

15 (b) The Department shall provide written notification to the owner of a basin meeting
16 the requirements of subsection (a) of this section that the basin is no longer considered an
17 animal waste management system."

18
19 **CONTESTED CASES FOR CAMA PERMITS**

20 **SECTION 5.3.** G.S. 113A-121.1 reads as rewritten:

21 **"§ 113A-121.1. Administrative review of permit decisions.**

22 (a) An applicant for a minor or major development permit who is dissatisfied with the
23 decision on his application may file a petition for a contested case hearing under G.S. 150B-23
24 within 20 days after the decision is made. When a local official makes a decision to grant or
25 deny a minor development permit and the Secretary is dissatisfied with the decision, the
26 Secretary may file a petition for a contested case within 20 days after the decision is made.

27 (b) A person other than a permit applicant or the Secretary who is dissatisfied with a
28 decision to deny or grant a minor or major development permit may file a petition for a
29 contested case hearing only if the Commission determines that a hearing is appropriate. A
30 request for a determination of the appropriateness of a contested case hearing shall be made in
31 writing and received by the Commission within 20 days after the disputed permit decision is
32 made. A determination of the appropriateness of a contested case shall be made within 15 days
33 after a request for a determination is received and shall be based on whether the person seeking
34 to commence a contested case:

35 (1) Has alleged that the decision is contrary to a statute or rule;

36 (2) Is directly affected by the decision; and

37 (3) Has alleged facts or made legal arguments that demonstrate that the request
38 for the hearing is not frivolous.

39 If the Commission determines a contested case is appropriate, the petition for a contested
40 case shall be filed within 20 days after the Commission makes its determination. A
41 determination that a person may not commence a contested case is a final agency decision and
42 is subject to judicial review under Article 4 of Chapter 150B of the General Statutes. If, on
43 judicial review, the court determines that the Commission erred in determining that a contested
44 case would not be appropriate, the court shall remand the matter for a contested case hearing
45 under G.S. 150B-23 and final decision on the permit pursuant to G.S. 113A-122. Decisions in
46 such cases shall be rendered pursuant to those rules, regulations, and other applicable laws in
47 effect at the time of the commencement of the contested case.

48 (c) ~~A-When the applicant seeks administrative review of a decision concerning a permit~~
49 ~~under subsection (a) of this section, the permit is suspended from the time a person seeks~~
50 ~~administrative review of the decision concerning the permit until the Commission determines~~
51 ~~that the person seeking the review cannot commence a contested case or the Commission~~

1 makes a final decision in a the contested case, as appropriate, case, and no action may be taken
2 during that time that would be unlawful in the absence of a permit.

3 (d) A permit challenged under subsection (b) of this section remains in effect unless a
4 stay is issued by the administrative law judge as set forth in G.S. 150B-33 or by a reviewing
5 court as set forth in G.S. 150B-48."

6 7 **PERMIT CHOICE**

8 **SECTION 5.5.(a)** Chapter 143 of the General Statutes is amended by adding a new
9 Article to read:

10 "Article 80.

11 "Permit Choice.

12 **"§ 143-750. Permit choice.**

13 (a) If a permit applicant submits a permit for any type of development and a rule or
14 ordinance changes between the time the permit application was submitted and a permit decision
15 is made, the permit applicant may choose which version of the rule or ordinance will apply to
16 the permit.

17 (b) This section applies to all development permits issued by the State and by local
18 governments.

19 (c) This section shall not apply to any zoning permit."

20 **SECTION 5.5.(b)** This section is effective when it becomes law and applies to
21 permits for which a permit decision has not been made by that date.

22 23 **ENVIRONMENTAL SELF-AUDIT PRIVILEGE AND LIMITED IMMUNITY**

24 **SECTION 5.6.(a)** Chapter 8 of the General Statutes is amended by adding a new
25 Article to read:

26 "Article 7D.

27 "Environmental Audit Privilege and Limited Immunity.

28 **"§ 8-58.50. Purpose.**

29 (a) In order to encourage owners and operators of facilities and persons conducting
30 activities regulated under those portions of the General Statutes set forth in G.S. 8-58.52, or
31 conducting activities regulated under other environmental laws, to conduct voluntary internal
32 environmental audits of their compliance programs and management systems and to assess and
33 improve compliance with statutes, an environmental audit privilege is recognized to protect the
34 confidentiality of communications relating to voluntary internal environmental audits.

35 (b) Notwithstanding any other provisions of law, nothing in this Article shall be
36 construed to protect owners and operators of facilities and regulated persons from a criminal
37 investigation or prosecution carried out by any appropriate governmental entity.

38 (c) Notwithstanding any other provision of law, any privilege granted by this Article
39 shall apply only to those communications, oral or written, pertaining to and made in connection
40 with the environmental audit and shall not apply to the facts relating to the violation itself.

41 **"§ 8-58.51. Definitions.**

42 The following definitions apply in this Article:

43 (1) "Department" means the Department of Environment and Natural Resources.

44 (2) "Environmental audit" means a voluntary, internal evaluation or review of
45 one or more facilities or an activity at one or more facilities regulated under
46 federal, State, regional, or local environmental law, or of compliance
47 programs, or management systems related to the facility or activity if
48 designed to identify and prevent noncompliance and to improve compliance
49 with these laws. For the purposes of this Article, an environmental audit
50 does not include an environmental site assessment of a facility conducted
51 solely in anticipation of the purchase, sale, or transfer of the business or

1 facility. An environmental audit may be conducted by the owner or operator,
2 the parent corporation of the owner or operator or by their officers or
3 employees, or by independent contractors. An environmental audit must be a
4 discrete activity with a specified beginning date and scheduled ending date
5 reflecting the auditor's bona fide intended completion schedule.

6 (3) "Environmental audit report" means a document marked or identified as
7 such with a completion date existing either individually or as a compilation
8 prepared in connection with an environmental audit. An environmental audit
9 report may include field notes and records of observations, findings,
10 opinions, suggestions, recommendations, conclusions, drafts, memoranda,
11 drawings, photographs, computer-generated or electronically recorded
12 information, maps, charts, graphs, and surveys, provided the supporting
13 information is collected or developed for the primary purpose and in the
14 course of an environmental audit. An environmental audit report, when
15 completed, may include all of the following components:

16 a. An audit report prepared by an auditor, which may include the scope
17 and date of the audit and the information gained in the audit, together
18 with exhibits and appendices, and may include conclusions,
19 recommendations, exhibits, and appendices.

20 b. Memoranda and documents analyzing any portion of the audit report
21 or issues relating to the implementation of an audit report.

22 c. An implementation plan that addresses correcting past
23 noncompliance, improving current compliance, or preventing future
24 noncompliance.

25 (4) "Enforcement agencies" means the Department, any other agency of the
26 State, and units of local government responsible for enforcement of
27 environmental laws.

28 (5) "Environmental laws" means all provisions of federal, State, and local laws,
29 rules, and ordinances pertaining to environmental matters.

30 **"§ 8-58.52. Applicability.**

31 This Article applies to activities regulated under environmental laws, including all of the
32 following provisions of the General Statutes and rules adopted thereunder:

33 (1) Article 7 of Chapter 74.

34 (2) Chapter 104E.

35 (3) Article 25 of Chapter 113.

36 (4) Articles 1,4, and 7 of Chapter 113A.

37 (5) Article 9 of Chapter 130A.

38 (6) Articles 21, 21A, and 21B of Chapter 143.

39 (7) Part 1 of Article 7 of Chapter 143B.

40 **"§ 8-58.53. Environmental audit report; privilege.**

41 (a) An environmental audit report or any part of an environmental audit report is
42 privileged and, therefore, immune from discovery and is not admissible as evidence in civil or
43 administrative proceedings, except as provided in G.S. 8-58.54 and G.S. 8-58.56. Provided,
44 however, all of the following documents are exempt from the privilege established by this
45 Article:

46 (1) Information obtained by observation of an enforcement agency.

47 (2) Information obtained from a source independent of the environmental audit.

48 (3) Documents, communication, data, reports, or other information required to
49 be collected, maintained, otherwise made available, or reported to an
50 enforcement agency or any other entity by environmental laws, permit,
51 order, consent agreement, or as otherwise provided by law.

1 (4) Documents prepared either prior to the beginning of the environmental audit
2 or subsequent to the completion date of the audit report and, in all cases, any
3 documents prepared independent of the audit or audit report.

4 (5) Documents prepared as a result of multiple or continuous self-auditing
5 conducted in an effort to intentionally avoid liability for violations.

6 (6) Information that is knowingly misrepresented or misstated or that is
7 knowingly deleted or withheld from an environmental audit report, whether
8 or not included in a subsequent environmental audit report.

9 (7) Information in instances where the material shows evidence of
10 noncompliance with environmental laws, permits, orders, consent
11 agreements, and the owner or operator failed to either promptly take
12 corrective action or eliminate any violation of law identified during the
13 environmental audit within a reasonable period of time.

14 (b) If an environmental audit report or any part of an environmental audit report is
15 subject to the privilege provided for in subsection (a) of this section, no person who conducted
16 or participated in the audit or who significantly reviewed the audit report may be compelled to
17 testify regarding the audit report or a privileged part of the audit report except as provided for
18 in G.S. 8-58.53(d), 8-58.54, or 8-58.56.

19 (c) Nothing in this Article shall be construed to restrict a party in a proceeding before
20 the Industrial Commission from obtaining or discovering any evidence necessary or appropriate
21 for the proof of any issue pending in an action before the Commission, regardless of whether
22 evidence is privileged pursuant to this Article. Further, nothing in this Article shall be
23 construed to prevent the admissibility of evidence that is otherwise relevant and admissible in a
24 proceeding before the Industrial Commission, regardless of whether the evidence is privileged
25 pursuant to this Article. Provided, however, the Commission, upon motion made by a party to
26 the proceeding, may issue appropriate protective orders preventing disclosure of information
27 outside of the Commission's proceeding.

28 (d) Nothing in this Article shall be construed to circumvent the employee protection
29 provisions provided by federal or State law.

30 (e) The privilege created by this Article does not apply to criminal investigations or
31 proceedings. Where an audit report is obtained, reviewed, or used in a criminal proceeding, the
32 privilege created by this Article shall continue to apply and is not waived in civil and
33 administrative proceedings and is not discoverable or admissible in civil or administrative
34 proceedings even if disclosed during a criminal proceeding.

35 **"§ 8-58.54. Waiver of privilege.**

36 (a) The privilege established under G.S. 8-58.53 does not apply to the extent that it is
37 expressly waived in writing by the owner or operator of a facility at which an environmental
38 audit was conducted and who prepared or caused to be prepared the audit report as a result of
39 the audit.

40 (b) The audit report and information generated by the audit may be disclosed without
41 waiving the privilege established under G.S. 8-58.53 to all of the following persons:

42 (1) A person employed by the owner or operator or the parent corporation of the
43 audited facility.

44 (2) A legal representative of the owner or operator or parent corporation.

45 (3) An independent contractor retained by the owner or operator or parent
46 corporation to conduct an audit on or to address an issue or issues raised by
47 the audit.

48 (c) Disclosure of an audit report or information generated by the audit under all of the
49 following circumstances shall not constitute a waiver of the privilege established under
50 G.S. 8-58.53:

- 1 (1) Disclosure made under the terms of a confidentiality agreement between the
2 owner or operator of the facility audited and a potential purchaser of the
3 business or facility audited.
- 4 (2) Disclosure made under the terms of a confidentiality agreement between
5 governmental officials and the owner or operator of the facility audited.
- 6 (3) Disclosure made under the terms of a confidentiality agreement between a
7 customer, lending institution, or insurance company with an existing or
8 proposed relationship with the facility.

9 **"§ 8-58.55. Notification of audit.**

10 In order to assert the privilege established under G.S. 8-58.53, the owner or operator of the
11 facility conducting the environmental audit shall, upon inspection of the facility by an
12 enforcement agency, or no later than 10 working days after completion of an agency's
13 inspection, notify the enforcement agency of the existence of any audit relevant to the subject
14 of the agency's inspection, as well as the beginning date and completion date of that audit. Any
15 environmental audit report shall include a signed certification from the owner or operator of the
16 facility that documents the date the audit began and the completion date of the audit.

17 **"§ 8-58.56. Revocation of privilege in civil and administrative proceedings.**

18 In a civil or administrative proceeding, an enforcement agency may seek by motion a
19 declaratory ruling on the issue of whether an environmental audit report is privileged. The court
20 shall revoke the privilege established under G.S. 8-58.53 for an audit report if the factors set
21 forth in this section apply. In a civil proceeding, the court, after an in camera review, shall
22 revoke the privilege established under G.S. 8-58.53 if the court determines that disclosure of
23 the environmental audit report was sought after the effective date of this Article and either of
24 the following apply:

- 25 (1) The privilege is asserted for purposes of deception or evasion.
- 26 (2) The material shows evidence of significant noncompliance with applicable
27 environmental laws; the owner or operator of the facility has not promptly
28 initiated and pursued with diligence appropriate action to achieve
29 compliance with these environmental laws or has not made reasonable
30 efforts to complete any necessary permit application; and, as a result, the
31 owner or operator of the facility did not or will not achieve compliance with
32 applicable environmental laws or did not or will not complete the necessary
33 permit application within a reasonable period of time.

34 **"§ 8-58.57. Privilege in criminal proceedings.**

35 The privilege established under G.S. 8-58.53 is not applicable in any criminal proceeding.

36 **"§ 8-58.58. Burden of proof.**

37 A party asserting the privilege established under G.S. 8-58.53 has the burden of proving
38 that (i) the materials claimed as privileged constitute an environmental audit report as defined
39 by this Article and (ii) compliance has been achieved or will be achieved within a reasonable
40 period of time. A party seeking disclosure under G.S. 8-58.56 has the burden of proving the
41 condition for disclosure set forth in that section.

42 **"§ 8-58.59. Stipulations; declaratory rulings.**

43 The parties to a proceeding may at any time stipulate to entry of an order directing that
44 specific information contained in an environmental audit report is or is not subject to the
45 privilege. In the absence of an ongoing proceeding, where the parties are not in agreement, an
46 enforcement agency may seek a declaratory ruling from a court on the issue of whether the
47 materials are privileged under G.S. 8-58.53 and whether the privilege, if existing, should be
48 revoked pursuant to G.S. 8-58.56.

49 **"§ 8-58.60. Construction of Article.**

50 Nothing in this Article limits, waives, or abrogates any of the following:

- 1 (1) The scope or nature of any statutory or common law privilege, including the
2 work-product privilege or the attorney-client privilege.
- 3 (2) Any existing ability or authority under State law to challenge privilege.
- 4 (3) An enforcement agency's ability to obtain or use documents or information
5 that the agency otherwise has the authority to obtain under State law adopted
6 pursuant to federally delegated programs.

7 "**§ 8-58.61. Voluntary disclosure; limited immunity from civil and administrative**
8 **penalties and fines.**

9 (a) An owner or operator of a facility is immune from imposition of civil and
10 administrative penalties and fines for a violation of environmental laws voluntarily disclosed
11 subject to the requirements and criteria set forth in this section. Provided, however, that waiver
12 of penalties and fines shall not be granted until the applicable enforcement agency has certified
13 that the violation was corrected within a reasonable period of time. If compliance is not
14 certified by the enforcement agency, the enforcement agency shall retain discretion to assess
15 penalties and fines for the violation.

16 (b) If a person or entity makes a voluntary disclosure of a violation of environmental
17 laws discovered through performance of an environmental audit, that person has the burden of
18 proving (i) that the disclosure is voluntary by establishing the elements set forth in subsection
19 (c) of this section and (ii) that the person is therefore entitled to immunity from any
20 administrative or civil penalties associated with the issues disclosed. Nothing in this section
21 may be construed to provide immunity from criminal penalties.

22 (c) For purposes of this section, disclosure is voluntary if all of the following criteria
23 are met:

- 24 (1) The disclosure is made within 14 days following a reasonable investigation
25 of the violation's discovery through the environmental audit.
- 26 (2) The disclosure is made to an enforcement agency having regulatory
27 authority over the violation disclosed.
- 28 (3) The person or entity making the disclosure initiates an action to resolve the
29 violation identified in the disclosure in a diligent manner.
- 30 (4) The person or entity making the disclosure cooperates with the applicable
31 enforcement agency in connection with investigation of the issues identified
32 in the disclosure.
- 33 (5) The person or entity making the disclosure diligently pursues compliance
34 and promptly corrects the noncompliance within a reasonable period of time.

35 (d) A disclosure is not voluntary for purposes of this section if any of the following
36 factors apply:

- 37 (1) Specific permit conditions require monitoring or sampling records and
38 reports or assessment plans and management plans to be maintained or
39 submitted to the enforcement agency pursuant to an established schedule.
- 40 (2) Environmental laws or specific permit conditions require notification of
41 releases to the environment.
- 42 (3) The violation was committed intentionally, willfully, or through criminal
43 negligence by the person or entity making the disclosure.
- 44 (4) The violation was not corrected in a diligent manner.
- 45 (5) The violation posed or poses a significant threat to public health, safety, and
46 welfare; the environment; and natural resources.
- 47 (6) The violation occurred within one year of a similar prior violation at the
48 same facility and immunity from civil and administrative penalties was
49 granted by the applicable enforcement agency for the prior violation.
- 50 (7) The violation has resulted in a substantial economic benefit to the owner or
51 operator of the facility.

1 (8) The violation is a violation of the specific terms of a judicial or
2 administrative order.

3 (e) If a person meets the burden of proving that the disclosure is voluntary, the burden
4 shifts to the enforcement agency to prove that the disclosure was not voluntary, based upon the
5 factors set forth in this section. The person claiming immunity from civil or administrative
6 penalties or fines under this section retains the ultimate burden of proving the violations were
7 voluntarily disclosed.

8 (f) A voluntary disclosure made pursuant to this section is subject to disclosure
9 pursuant to the Public Records Act in accordance with the provisions of Chapter 132 of the
10 General Statutes.

11 **"§ 8-58.62. Preemption of local laws.**

12 No local law, rule, ordinance, or permit condition may circumvent or limit the privilege
13 established by this Article or the exercise of the privileges or the presumption and immunity
14 established by this Article.

15 **"§ 8-58.63. Additional limitations on exercise of privilege or immunity.**

16 An owner or operator of a facility who makes a voluntary disclosure of a violation of
17 environmental laws discovered through performance of an environmental audit shall only be
18 entitled to exercise of the privilege or immunity established by this Part once in a two-year
19 period, not more than twice in a five-year period, and not more than three times in a 10-year
20 period."

21 **SECTION 5.6.(b)** This section becomes effective October 1, 2014, and applies to
22 environmental audits, as defined in G.S. 8-58.51, as enacted by subsection (a) of this section,
23 that are conducted on or after that date.

24
25 **AMBIENT AIR MONITORING**

26 **SECTION 5.7.(a)** The Department of Environment and Natural Resources shall
27 review its ambient air monitoring network and, in the next annual monitoring network plan
28 submitted to the United States Environmental Protection Agency, shall request the removal of
29 any ambient air monitors not required by applicable federal laws and regulations.

30 **SECTION 5.7.(b)** No later than October 1, 2014, the Department of Environment
31 and Natural Resources shall discontinue all ambient air monitors not required by applicable
32 federal laws and regulations if approval from the United States Environmental Protection
33 Agency is not required for the discontinuance.

34 **SECTION 5.7.(c)** Nothing in this section is intended to prevent the Department
35 from installing temporary ambient air monitors as part of an investigation of a suspected
36 violation of air quality rules, standards, or limitations or in response to an emergency situation
37 causing an imminent danger to human health and safety.

38 **SECTION 5.7.(d)** The Department of Environment and Natural Resources,
39 Division of Air Quality, shall report to the Environmental Review Commission no later than
40 November 1, 2014, on the status of the ambient air monitoring network and the Division's
41 implementation of the requirements of this section.

42
43 **COASTAL STORMWATER GRANDFATHER**

44 **SECTION 5.8.(a)** The definitions set out in G.S. 143-212, G.S. 143-213, and 15A
45 NCAC 2H .1002 apply to this section.

46 **SECTION 5.8.(b)** 15A NCAC 02H .1005 (Stormwater Requirements: Coastal
47 Counties). – Until the effective date of the revised permanent rule that the Commission is
48 required to adopt pursuant to Section 5.8(d) of this section, the Commission and the
49 Department shall implement 15A NCAC 02H .1005 (Stormwater Requirements: Coastal
50 Counties) as provided in Section 5.8(c) of this section.

1 **SECTION 5.8.(c)** Implementation. – Notwithstanding Paragraph (h) of 15A
2 NCAC 02H .1005 (Stormwater Requirements: Coastal Counties), the provisions and
3 requirements applicable to any grandfathered development activity subject to Subparagraph
4 (a)(2) of 15A NCAC 02H .1005 shall also be applicable to an expansion of the development
5 activity. For purposes of this subsection, "grandfathered development activity" means
6 development activity that is regulated by provisions and requirements of 15A NCAC 02H
7 .1005 (Stormwater Requirements: Coastal Counties) that was effective at the time of the
8 original issuance of any of the authorizations listed in Subparagraph (h)(2) of 15A NCAC 02H
9 .1005, because the authorization meets the criteria set forth in that Subparagraph; and
10 "expansion of the development activity" means development activity conducted on a
11 contiguous property or properties under a subdivision plat approved by the local government
12 prior to July 3, 2012.

13 **SECTION 5.8.(d)** Additional Rule-Making Authority. – The Commission shall
14 adopt a rule to amend 15A NCAC 02H .1005 (Stormwater Requirements: Coastal Counties)
15 consistent with Section 5.8(c) of this section. Notwithstanding G.S. 150B-19(4), the rule
16 adopted by the Commission pursuant to this section shall be substantively identical to the
17 provisions of Section 5.8(c) of this act. Rules adopted pursuant to this section are not subject to
18 Part 3 of Article 2A of Chapter 150B of the General Statutes. Rules adopted pursuant to this
19 section shall become effective as provided in G.S. 150B-21.3(b1) as though 10 or more written
20 objections had been received as provided by G.S. 150B-21.3(b2).

21 **SECTION 5.8.(e)** Sunset. – Section 5.8(c) of this section expires on the date that
22 rules adopted pursuant to Section 5.8(d) of this section become effective.
23

24 **AMEND ISOLATED WETLANDS REGULATION**

25 **SECTION 5.9.(a)** Until the effective date of the revised permanent rule that the
26 Environmental Management Commission is required to adopt pursuant to Section 5.9(c) of this
27 act, the Commission and the Department of Environment and Natural Resources shall
28 implement 15A NCAC 02H .1305 (Review of Applications) as provided in Section 5.9(b) of
29 this act.

30 **SECTION 5.9.(b)** Notwithstanding 15A NCAC 02H .1305 (Review of
31 Applications), all of the following shall apply to the implementation of 15A NCAC 02H .1305:

- 32 (1) The amount of impacts of isolated wetlands under 15A NCAC 02H
33 .1305(d)(2) shall be less than or equal to one acre of isolated wetlands for
34 the entire project.
- 35 (2) The mitigation ratio for impacts of greater than one acre for the entire
36 project under 15A NCAC 02H .1305(g)(6) shall be 1:1 and may be located
37 on the same parcel.
- 38 (3) Impacts to isolated wetlands shall not be combined with the project impacts
39 to jurisdictional wetlands or streams for the purpose of determining when
40 impact thresholds that trigger a mitigation requirement are met.
- 41 (4) For purposes of Section 5.9(b) of this act, "isolated wetlands" means a Basin
42 Wetland or Bog as described in the North Carolina Wetland Assessment
43 User Manual prepared by the North Carolina Wetland Functional
44 Assessment Team, version 4.1 October, 2010, that is greater than one acre in
45 size. An "isolated wetland" does not include an isolated man-made ditch or
46 pond constructed for either compensatory mitigation or stormwater
47 management purposes or any other man-made isolated pond.

48 **SECTION 5.9.(c)** The Environmental Management Commission shall adopt rules
49 to amend 15A NCAC 02H .1300 through 15A NCAC 02H .1305 consistent with Section 5.9(b)
50 of this act. Notwithstanding G.S. 150B-19(4), the rule adopted by the Commission pursuant to
51 Section 5.9(c) of this act shall be substantively identical to the provisions of Section XX(b) of

1 this act. Rules adopted pursuant to Section 5.9(c) of this act are not subject to Part 3 of Article
2 2A of Chapter 150B of the General Statutes. Rules adopted pursuant to Section 5.9(c) of this
3 act shall become effective as provided in G.S. 150B-21.3(b1) as though 10 or more written
4 objections had been received as provided by G.S. 150B-21.3(b2).

5 **SECTION 5.9.(d)** The Department of Environment and Natural Resources shall
6 study the surface area thresholds for the regulation of mountain bog isolated wetlands,
7 including whether mountain bog isolated wetlands should have surface area regulatory
8 thresholds different from other types of isolated wetlands. The Department shall report its
9 findings and recommendations to the Environmental Review Commission on or before
10 November 1, 2014.

11 **SECTION 5.9.(e)** Section 5.9(b) of this act expires on the date that rules adopted
12 pursuant to Section 5.9(c) of this act become effective.

13 14 **CLARIFY ISOLATED WETLANDS REGULATION**

15 **SECTION 5.10.** If Senate Bill 38, 2013 Regular Session, becomes law, Section 8
16 of that act is repealed.

17 18 **INTERSTATE MINING COMPACT CLARIFICATION**

19 **SECTION 5.11.** Article V of the Interstate Mining Compact, as codified at
20 G.S. 74-37, reads as rewritten:

21 **"§ 74-37. Compact enacted into law.**

22 The Interstate Mining Compact is hereby enacted into law and entered into by this State
23 with all other jurisdictions legally joining therein in the form substantially as follows:

24 25 **INTERSTATE MINING COMPACT**

26 ...

27 Article V. The Commission

28 (a) There is hereby created an agency of the party states to be known as the "Interstate
29 Mining Commission," hereinafter called "the Commission." The Commission shall be
30 composed of one commissioner from each party state who shall be Governor thereof. Pursuant
31 to the laws of his party state, each Governor shall have the assistance of an advisory body
32 (including membership from mining industries, conservation interests, and such other public
33 and private interests as may be appropriate) in considering problems relating to mining and in
34 discharging his responsibilities as the commissioner of his state on the Commission. In any
35 instance where a Governor is unable to attend a meeting of the Commission or perform any
36 other function in connection with the business of the Commission, he shall designate an
37 alternate, from among the members of the advisory body required by this ~~paragraph,~~
38 or the Division Director in the State environmental protection agency with responsibility for
39 protecting and restoring lands affected by mining, who shall represent him and act in his place
40 and stead. The designation of an alternate shall be communicated by the Governor to the
41 Commission in such manner as its bylaws may provide.

42 (b) The commissioners shall be entitled to one vote each on the Commission. No action
43 of the Commission making a recommendation pursuant to Article IV-3, IV-7, and IV-8 or
44 requesting, accepting or disposing of funds, services, or other property pursuant to this
45 paragraph, Articles V (g), V (h), or VII shall be valid unless taken at a meeting at which a
46 majority of the total number of votes on the Commission is cast in favor thereof. All other
47 action shall be by a majority of those present and voting: Provided that action of the
48 Commission shall be only at a meeting at which a majority of the commissioners, or their
49 alternates, is present. The Commission may establish and maintain such facilities as may be
50 necessary for the transacting of its business. The Commission may acquire, hold, and convey
51 real and personal property and any interest therein.

1 (c) The Commission shall have a seal.

2 (d) The Commission shall elect annually, from among its members, a chairman, a
3 vice-chairman, and a treasurer. The Commission shall appoint an executive director and fix his
4 duties and compensation. Such executive director shall serve at the pleasure of the
5 Commission. The executive director, the treasurer, and such other personnel as the Commission
6 shall designate shall be bonded. The amount or amounts of such bond or bonds shall be
7 determined by the Commission.

8 (e) Irrespective of the civil service, personnel or other merit system laws of any of the
9 party states, the executive director with the approval of the Commission, shall appoint, remove
10 or discharge such personnel as may be necessary for the performance of the Commission's
11 functions, and shall fix the duties and compensation of such personnel.

12 (f) The Commission may establish and maintain independently or in conjunction with a
13 party state, a suitable retirement system for its employees. Employees of the Commission shall
14 be eligible for social security coverage in respect of old age and survivor's insurance provided
15 that the Commission takes such steps as may be necessary pursuant to the laws of the United
16 States, to participate in such program of insurance as a governmental agency or unit. The
17 Commission may establish and maintain or participate in such additional programs of employee
18 benefits as it may deem appropriate.

19 (g) The Commission may borrow, accept or contract for the services of personnel from
20 any state, the United States, or any other governmental agency, or from any person, firm,
21 association or corporation.

22 (h) The Commission may accept for any of its purposes and functions under this
23 Compact any and all donations, and grants of money, equipment, supplies, materials and
24 services, conditional or otherwise, from any state, the United States, or any other governmental
25 agency, or from any person, firm, association or corporation, and may receive, utilize and
26 dispose of the same. Any donation or grant accepted by the Commission pursuant to this
27 paragraph or services borrowed pursuant to paragraph (g) of this Article shall be reported in the
28 annual report of the Commission. Such report shall include the nature, amount and conditions,
29 if any, of the donation, grant or services borrowed and the identity of the donor or lender.

30 (i) The Commission shall adopt bylaws for the conduct of its business and shall have
31 the power to amend and rescind these bylaws. The Commission shall publish its bylaws in
32 convenient form and shall file a copy thereof and a copy of any amendment thereto, with the
33 appropriate agency or officer in each of the party states.

34 (j) The Commission annually shall make to the Governor, legislature and advisory
35 body required by Article V (a) of each party state a report covering the activities of the
36 Commission for the preceding year, and embodying such recommendations as may have been
37 made by the Commission. The Commission may make such additional reports as it may deem
38 desirable.

39"
40

41 CHANGE NAME OF ECOSYSTEM ENHANCEMENT PROGRAM TO DIVISION OF 42 MITIGATION SERVICES

43 SECTION 5.12.(a) G.S. 143-214.8 reads as rewritten:

44 "§ 143-214.8. ~~Ecosystem Enhancement Program~~Division of Mitigation Services:
45 established.

46 The ~~Ecosystem Enhancement Program~~Division of Mitigation Services is established within
47 the Department of Environment and Natural Resources. The ~~Ecosystem Enhancement~~
48 ~~Program~~Division of Mitigation Services shall be developed by the Department as a
49 nonregulatory statewide ~~ecosystem enhancement~~mitigation services program for the
50 acquisition, maintenance, restoration, enhancement, and creation of wetland and riparian
51 resources that contribute to the protection and improvement of water quality, flood prevention,

1 fisheries, wildlife habitat, and recreational opportunities. The ~~Ecosystem Enhancement~~
2 ~~Program~~Division of Mitigation Services shall consist of the following components:

- 3 (1) Restoration and perpetual maintenance of wetlands.
- 4 (2) Development of restoration plans.
- 5 (3) Landowner contact and land acquisition.
- 6 (4) Evaluation of site plans and engineering studies.
- 7 (5) Oversight of construction and monitoring of restoration sites.
- 8 (6) Land ownership and management.
- 9 (7) Mapping, site identification, and assessment of wetlands functions.
- 10 (8) Oversight of private wetland mitigation banks to facilitate the components of
11 the ~~Ecosystem Enhancement Program~~Division of Mitigation Services."

12 **SECTION 5.12.(b)** G.S. 143-214.9 reads as rewritten:

13 "**§ 143-214.9. ~~Ecosystem Enhancement Program~~Division of Mitigation Services:**
14 **purposes.**

15 The purposes of the program are as follows:

- 16 (1) To restore wetlands functions and values across the State to replace critical
17 functions lost through historic wetlands conversion and through current and
18 future permitted impacts. It is not the policy of the State to destroy upland
19 habitats unless it would further the purposes of the ~~Wetlands Restoration~~
20 ~~Program~~Division of Mitigation Services.
- 21 (2) To provide a consistent and simplified approach to address mitigation
22 requirements associated with permits or authorizations issued by the United
23 States Army Corps of Engineers under 33 U.S.C. § 1344.
- 24 (3) To streamline the wetlands permitting process, minimize delays in permit
25 decisions, and decrease the burden of permit applicants of planning and
26 performing compensatory mitigation for wetlands losses.
- 27 (4) To increase the ecological effectiveness of compensatory mitigation.
- 28 (5) To achieve a net increase in wetland acres, functions, and values in each
29 major river basin.
- 30 (6) To foster a comprehensive approach to environmental protection."

31 **SECTION 5.12.(c)** G.S. 143-214.10 reads as rewritten:

32 "**§ 143-214.10. ~~Ecosystem Enhancement Program~~Division of Mitigation Services:**
33 **development and implementation of basinwide restoration plans.**

34 Develop Basinwide Restoration Plans. – The Department shall develop basinwide plans for
35 wetlands and riparian area restoration with the goal of protecting and enhancing water quality,
36 flood prevention, fisheries, wildlife habitat, and recreational opportunities within each of the 17
37 major river basins in the State. The Department shall develop and implement a basinwide
38 restoration plan for each of the 17 river basins in the State in accordance with the basinwide
39 schedule currently established by the Division of Water Resources."

40 **SECTION 5.12.(d)** G.S. 143-214.11 reads as rewritten:

41 "**§ 143-214.11. ~~Ecosystem Enhancement Program~~Division of Mitigation Services:**
42 **compensatory mitigation.**

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

- 44 (1) Compensatory mitigation. – The restoration, creation, enhancement, or
45 preservation of jurisdictional waters required as a condition of a permit
46 issued by the Department or by the United States Army Corps of Engineers.
- 47 (1a) Compensatory mitigation bank. – A private compensatory mitigation bank or
48 an existing local compensatory mitigation bank.
- 49 (1b) Existing local compensatory mitigation bank. – A mitigation bank operated
50 by a unit of local government that is a party to a mitigation banking

1 instrument executed on or before July 1, 2011, notwithstanding subsequent
2 amendments to such instrument executed after July 1, 2011.

3 (2) Government entity. – The State and its agencies and subdivisions, or the
4 federal government. "Government entity" does not include a unit of local
5 government unless the unit of local government was a party to a mitigation
6 banking instrument executed on or before July 1, 2011, notwithstanding
7 subsequent amendments to such instrument executed after July 1, 2011.

8 (3) Hydrologic area. – An eight-digit Cataloging Unit designated by the United
9 States Geological Survey.

10 (4) Jurisdictional waters. – Wetlands, streams, or other waters of the State or of
11 the United States.

12 (4a) Mitigation banking instrument. – The legal document for the establishment,
13 operation, and use of a mitigation bank.

14 (4b) Private compensatory mitigation bank. – A site created by a private
15 compensatory mitigation provider and approved for mitigation credit by
16 State and federal regulatory authorities through execution of a mitigation
17 banking instrument. No site owned by a government entity or unit of local
18 government shall be considered a "private compensatory mitigation bank."

19 (5) Unit of local government. – A "local government," "public authority," or
20 "special district" as defined in G.S. 159-7.

21 (b) Department to Coordinate Compensatory Mitigation. – All compensatory mitigation
22 required by permits or authorizations issued by the Department or by the United States Army
23 Corps of Engineers shall be coordinated by the Department consistent with the basinwide
24 restoration plans and rules developed by the Environmental Management Commission. All
25 compensatory mitigation, whether performed by the Department or by permit applicants, shall
26 be consistent with the basinwide restoration plans. All compensatory mitigation shall be
27 consistent with rules adopted by the Commission for wetland and stream mitigation and for
28 protection and maintenance of riparian buffers.

29 (c) Compensatory Mitigation Emphasis on Replacing Ecological Function Within Same
30 River Basin. – The emphasis of compensatory mitigation is on replacing functions within the
31 same river basin unless it is demonstrated that restoration of other areas would be more
32 beneficial to the overall purposes of the ~~Ecosystem Enhancement Program~~ Division of
33 Mitigation Services.

34 (d) Compensatory Mitigation Options Available to Government Entities. – A
35 government entity may satisfy compensatory mitigation requirements by the following actions,
36 if those actions are consistent with the basinwide restoration plans and also meet or exceed the
37 requirements of the Department or of the United States Army Corps of Engineers, as
38 applicable:

39 (1) Payment of a fee established by the Commission into the Ecosystem
40 Restoration Fund established in G.S. 143-214.12.

41 (2) Donation of land to the ~~Ecosystem Enhancement Program~~ Division of
42 Mitigation Services or to other public or private nonprofit conservation
43 organizations as approved by the Department.

44 (3) Participation in a compensatory mitigation bank that has been approved by
45 the United States Army Corps of Engineers, provided that the Department or
46 the United States Army Corps of Engineers, as applicable, approves the use
47 of such bank for the required compensatory mitigation.

48 (4) Preparing and implementing a compensatory mitigation plan.

49 (d1) Compensatory Mitigation Options Available to Applicants Other than Government
50 Entities. – An applicant other than a government entity may satisfy compensatory mitigation

1 requirements by the following actions, if those actions meet or exceed the requirements of the
2 United States Army Corps of Engineers:

3 (1) Participation in a compensatory mitigation bank that has been approved by
4 the United States Army Corps of Engineers, provided that the Department or
5 the United States Army Corps of Engineers, as applicable, approves the use
6 of such bank for the required compensatory mitigation. This option is only
7 available in a hydrologic area where there is at least one compensatory
8 mitigation bank that has been approved by the United States Army Corps of
9 Engineers.

10 (2) Payment of a fee established by the Commission into the Ecosystem
11 Restoration Fund established in G.S. 143-214.12. – This option is only
12 available to an applicant who demonstrates that the option under subdivision
13 (1) of this subsection is not available.

14 (3) Donation of land to the ~~Ecosystem Enhancement Program~~Division of
15 Mitigation Services or to other public or private nonprofit conservation
16 organizations as approved by the Department.

17 (4) Preparing and implementing a compensatory mitigation plan.

18 (e) Payment Schedule. – A standardized schedule of compensatory mitigation payment
19 amounts shall be established by the Commission. Compensatory mitigation payments shall be
20 made by applicants to the Ecosystem Restoration Fund established in G.S. 143-214.12. The
21 monetary payment shall be based on the ecological functions and values of wetlands and
22 streams permitted to be lost and on the cost of restoring or creating wetlands and streams
23 capable of performing the same or similar functions, including directly related costs of wetland
24 and stream restoration planning, long-term monitoring, and maintenance of restored areas.
25 Compensatory mitigation payments for wetlands shall be calculated on a per acre basis.
26 Compensatory mitigation payments for streams shall be calculated on a per linear foot basis.

27 (f) Mitigation Banks. – State agencies and mitigation banks shall demonstrate that
28 adequate, dedicated financial surety exists to provide for the perpetual land management and
29 hydrological maintenance of lands acquired by the State as mitigation banks, or proposed to the
30 State as privately operated and permitted mitigation banks.

31 (g) Payment for Taxes. – A State agency acquiring land to restore, enhance, preserve, or
32 create wetlands must also pay a sum in lieu of ad valorem taxes lost by the county in
33 accordance with G.S. 146-22.3.

34 (h) Sale of Mitigation Credits by Existing Local Compensatory Mitigation Bank. – An
35 existing local compensatory mitigation bank shall comply with the requirements of Article 12
36 of Chapter 160A of the General Statutes applicable to the disposal of property whenever it
37 transfers any mitigation credits to another person.

38 (i) The ~~Ecosystem Enhancement Program~~Division of Mitigation Services shall exercise
39 its authority to provide for compensatory mitigation under the authority granted by this section
40 to use mitigation procurement programs in the following order of preference:

41 (1) Full delivery/bank credit purchase program. – The ~~Ecosystem Enhancement~~
42 ~~Program~~Division of Mitigation Services shall first seek to meet
43 compensatory mitigation procurement requirements through the Program's
44 full delivery program or by the purchase of credits from a private
45 compensatory mitigation bank.

46 (2) Existing local compensatory mitigation bank credit purchase program. – Any
47 compensatory mitigation procurement requirements that are not fulfillable
48 under subdivision (1) of this subsection shall be procured from an existing
49 local compensatory mitigation bank, provided that the credit purchase is
50 made to mitigate the impacts of a project located within the mitigation bank

1 service area and hydrologic area of the existing local compensatory
2 mitigation bank.

3 (3) Design/build program. – Any compensatory mitigation procurement
4 requirements that are not fulfillable under subdivision (1) or (2) of this
5 subsection shall be procured under a program in which ~~Ecosystem~~
6 ~~Enhancement Program~~Division of Mitigation Services contracts with one
7 private entity to lead or implement the design, construction, and
8 postconstruction monitoring of compensatory mitigation at sites obtained by
9 the ~~Ecosystem Enhancement Program~~Division of Mitigation Services. Such
10 a program shall be considered the procurement of compensatory mitigation
11 credits.

12 (4) Design-bid-build program. – Any compensatory mitigation procurement
13 requirements that are not fulfillable under either subdivision (1) or (2) of this
14 subsection may be procured under the ~~Ecosystem Enhancement~~
15 ~~Program's~~Division of Mitigation Services' design-bid-build program. The
16 ~~Ecosystem Enhancement Program~~Division of Mitigation Services may
17 utilize this program only when procurement under subdivision (1) or (2) of
18 this subsection is not feasible. Any mitigation site design work currently
19 being performed through contracts awarded under the design-bid-build
20 program shall be allowed to continue as scheduled. Contracts for
21 construction of projects with a design already approved by the ~~Ecosystem~~
22 ~~Enhancement Program~~Division of Mitigation Services shall be awarded by
23 the ~~Ecosystem Enhancement Program~~Division of Mitigation Services by
24 issuing a Request for Proposal (RFP). Only contractors who have
25 prequalified under procedures established by the ~~Ecosystem Enhancement~~
26 ~~Program~~Division of Mitigation Services shall be eligible to bid on
27 ~~Ecosystem Enhancement Program~~Division of Mitigation Services
28 construction projects. Construction contracts issued under this subdivision
29 shall be exempt from the requirements of Article 8B of Chapter 143 of the
30 General Statutes.

31 (j) The regulatory requirements for the establishment, operation, and monitoring of a
32 compensatory mitigation bank or full delivery project shall vest at the time of the execution of
33 the mitigation banking instrument or the award of a full delivery contract."

34 **SECTION 5.12.(e)** G.S. 143-214.12 reads as rewritten:

35 "**§ 143-214.12. ~~Ecosystem Enhancement Program~~Division of Mitigation Services:**
36 **Ecosystem Restoration Fund.**

37 (a) Ecosystem Restoration Fund. – The Ecosystem Restoration Fund is established as a
38 nonreverting fund within the Department. The Fund shall be treated as a special trust fund and
39 shall be credited with interest by the State Treasurer pursuant to G.S. 147-69.2 and
40 G.S. 147-69.3. The Ecosystem Restoration Fund shall provide a repository for monetary
41 contributions and donations or dedications of interests in real property to promote projects for
42 the restoration, enhancement, preservation, or creation of wetlands and riparian areas and for
43 payments made in lieu of compensatory mitigation as described in subsection (b) of this
44 section. No funds shall be expended from this Fund for any purpose other than those directly
45 contributing to the acquisition, perpetual maintenance, enhancement, restoration, or creation of
46 wetlands streams, and riparian areas in accordance with the basinwide plan as described in
47 G.S. 143-214.10. The cost of acquisition includes a payment in lieu of ad valorem taxes
48 required under G.S. 146-22.3 when the Department is the State agency making the acquisition.

49 (a1) The Department may distribute funds from the Ecosystem Restoration Fund directly
50 to a federal or State agency, a local government, or a private, nonprofit conservation
51 organization to acquire, manage, and maintain real property or an interest in real property for

1 the purposes set out in subsection (a) of this section. ~~A recipient of funds under this subsection~~
2 ~~shall grant a conservation easement in the real property or interest in real property acquired~~
3 ~~with the funds to the Department in a form that is acceptable to the Department. When the~~
4 ~~recipient of funds under this subsection acquires a conservation interest or interest in real~~
5 ~~property appurtenant to a restoration project delivered to the Division of Mitigation Services,~~
6 ~~the recipient, upon approval from the Department, may directly transfer the conservation~~
7 ~~easement or real property interest to a third-party nonprofit conservation organization or other~~
8 ~~governmental agency. The Department may convey real property or an interest in real property~~
9 ~~that has been acquired under the Ecosystem Enhancement Program Division of Mitigation~~
10 ~~Services to a federal or State agency, a local government, or a private, nonprofit conservation~~
11 ~~organization to acquire, manage, and maintain real property or an interest in real property for~~
12 ~~the purposes set out in subsection (a) of this section. A grantee of real property or an interest in~~
13 ~~real property under this subsection shall grant a conservation easement in the real property or~~
14 ~~interest in real property to the Department in a form that is acceptable to the Department.~~

15 (b) Authorized Methods of Payment. – A person subject to a permit or authorization
16 issued by the United States Army Corps of Engineers under 33 U.S.C. § 1344 may contribute
17 to the ~~Ecosystem Enhancement Program~~Division of Mitigation Services in order to comply
18 with conditions to, or terms of, the permit or authorization if participation in the ~~Ecosystem~~
19 ~~Enhancement Program~~Division of Mitigation Services will meet the mitigation requirements of
20 the United States Army Corps of Engineers. The Department shall, at the discretion of the
21 applicant, accept payment into the Ecosystem Restoration Fund in lieu of other compensatory
22 mitigation requirements of any authorizations issued by the United States Army Corps of
23 Engineers under 33 U.S.C. § 1344 if the contributions will meet the mitigation requirements of
24 the United States Army Corps of Engineers. Payment may be made in the form of monetary
25 contributions according to a fee schedule established by the Environmental Management
26 Commission or in the form of donations of real property provided that the property is approved
27 by the Department as a suitable site consistent with the basinwide wetlands restoration plan.

28 (c) Accounting of Payments. – The Department shall provide an itemized statement that
29 accounts for each payment into the Fund. The statement shall include the expenses and
30 activities financed by the payment. "

31 **SECTION 5.12.(f)** G.S. 143-214.13 reads as rewritten:

32 "**§ 143-214.13. ~~Ecosystem Enhancement Program~~Division of Mitigation Services:**
33 **reporting requirement.**

34 (a) The Department of Environment and Natural Resources shall report each year by
35 November 1 to the Environmental Review Commission and to the Joint Legislative
36 Commission on Governmental Operations regarding its progress in implementing the
37 ~~Ecosystem Enhancement Program~~Division of Mitigation Services and its use of the funds in the
38 Ecosystem Restoration Fund. The report shall document statewide wetlands losses and gains
39 and compensatory mitigation performed under G.S. 143-214.8 through G.S. 143-214.12. The
40 report shall also provide an accounting of receipts and disbursements of the Ecosystem
41 Restoration Fund, an analysis of the per-acre cost of wetlands restoration, and a cost
42 comparison on a per-acre basis between the State's ~~Ecosystem Enhancement Program~~Division
43 of Mitigation Services and private mitigation banks. The Department shall also send a copy of
44 its report to the Fiscal Research Division of the General Assembly.

45 (b) The Department shall maintain an inventory of all property that is held, managed,
46 maintained, enhanced, restored, or used to create wetlands under the ~~Ecosystem Enhancement~~
47 ~~Program~~Division of Mitigation Services. The inventory shall also list all conservation
48 easements held by the Department. The inventory shall be included in the annual report
49 required under subsection (a) of this section."

50 **SECTION 5.12.(g)** G.S. 143-214.14 reads as rewritten:

51 "**§ 143-214.14. Cooperative State-local coalition water quality protection plans.**

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

- 2 (1) "Basin" means a river basin as defined in G.S. 143-215.22G or any subbasin
3 or segment thereof.
4 (2) "Coalition plan" means a water quality protection plan developed by a
5 coalition of local governments for water quality protection of a basin.
6 (3) "Local government" means a city, county, special district, authority, or other
7 political subdivision of the State.
8 (4) "Water quality protection" means management of water use, quantity, and
9 quality.

10 (b) Legislative Findings. – This section establishes a framework to encourage
11 State-local pollutant reduction strategies for basins under the supervision and coordination of
12 the Commission. The General Assembly finds that:

- 13 (1) Water quality conditions and sources of water contamination may vary from
14 one basin to another.
15 (2) Water quality conditions and sources of water contamination may vary
16 within a basin.
17 (3) Some local governments have demonstrated greater capacity than others to
18 protect and improve water quality conditions.
19 (4) In some areas of the State artificial alteration of watercourses by surface
20 water impoundments or other means may have a significant effect on water
21 quality.
22 (5) Imposition of standard basinwide water quality protection requirements and
23 strategies may not equitably address the varying conditions and needs of all
24 areas.
25 (6) There is a need to develop distinct approaches to address water quality
26 protection in basins in the State, drawing upon the resources of local
27 governments and the State, under the supervision and coordination of the
28 Commission.

29 (c) Legislative Goals and Policies. – It is the goal of the General Assembly that, to the
30 extent practicable, the State shall adopt water quality protection plans that are developed and
31 implemented in cooperation and coordination with local governments and that the State shall
32 adopt water quality protection requirements that are proportional to the relative contributions of
33 pollution from all sources in terms of both the loading and proximity of those sources.
34 Furthermore, it is the goal of the General Assembly to encourage and support State-local
35 partnerships for improved water quality protection through the provision of technical and
36 financial assistance available through the Clean Water Management Trust Fund, the ~~Ecosystem~~
37 ~~Enhancement Program, Division of Mitigation Services,~~ the Ecosystem Restoration Fund, water
38 quality planning and project grant programs, the State's revolving loan and grant programs for
39 water and wastewater facilities, other funding sources, and future appropriations. The
40 Commission shall implement these goals in accordance with the standards, procedures, and
41 requirements set out in this section.

42 (d) The Commission may, as an alternative method of attaining water quality standards
43 in a basin, approve a coalition plan proposed by a coalition of local governments whose
44 territorial area collectively includes the affected basin in the manner provided by this section.
45 The Commission may approve a coalition plan proposed by a coalition of local governments
46 whose territorial area or water quality protection plan does not include all of an affected basin if
47 the Commission determines that the omission will not adversely affect water quality.

48 (e) A coalition of local governments choosing to propose a coalition plan to the
49 Commission shall do so through a nonprofit corporation the coalition of local governments
50 incorporates with the Secretary of State.

- 1 (f) The Commission may approve a coalition plan only if the Commission first
2 determines that:
- 3 (1) The basin under consideration is an appropriate unit for water quality
4 planning.
 - 5 (2) The coalition plan meets the requirements of subsection (g) of this section.
 - 6 (3) The coalition of local governments has formed a nonprofit corporation
7 pursuant to subsection (e) of this section.
 - 8 (4) The coalition plan has been approved by the governing board of each local
9 government that is a member of the coalition of local governments
10 proposing the coalition plan.
 - 11 (5) The coalition plan will provide a viable alternative method of attaining
12 equivalent compliance with federal and State water quality standards,
13 classifications, and management practices in the affected basin.
- 14 (g) A coalition plan shall include all of the following:
- 15 (1) An assessment of water quality and related water quantity management in
16 the affected basin.
 - 17 (2) A description of the goals and objectives for protection and improvement of
18 water quality and related water quantity management in the affected basin.
 - 19 (3) A workplan that describes proposed water quality protection strategies,
20 including point and nonpoint source programs, for achieving the specified
21 goals and objectives; an implementation strategy including specified tasks,
22 timetables for action, implementation responsibilities of State and local
23 agencies; and sources of funding, where applicable.
 - 24 (4) A description of the performance indicators and benchmarks that will be
25 used to measure progress in achieving the specified goals and objectives, and
26 an associated monitoring framework.
 - 27 (5) A timetable for reporting to the Commission on progress in implementing
28 the coalition plan.
- 29 (h) A coalition plan shall cover a specified period. The coalition plan may provide for
30 the phasing in of specific strategies, tasks, or mechanisms by specified dates within the period
31 covered by the plan. The Commission may approve one or more successive coalition plan
32 periods. The coalition plan may include strategies that vary among the subareas or jurisdictions
33 of the geographic area covered by the coalition plan.
- 34 (i) If a local government chooses to withdraw from a coalition of local governments or
35 fails to implement a coalition plan, the remaining members of a coalition of local governments
36 may prepare and submit a revised coalition plan for approval by the Commission. If the
37 Commission determines that an approved coalition plan no longer provides a viable alternative
38 method of attaining equivalent compliance with federal and State water quality standards,
39 classifications, and management practices, the Commission may suspend or revoke its approval
40 of the coalition plan.
- 41 (j) The Commission may approve one or more amendments to a coalition plan
42 proposed by a coalition of local governments through its nonprofit corporation with the
43 approval of the governing board of each local government that is a member of the coalition of
44 local governments that proposed the coalition plan.
- 45 (k) With the approval of the Commission, any coalition of local governments with an
46 approved coalition plan may establish and implement a pollutant trading program for specific
47 pollutants between and among point source dischargers and nonpoint pollution sources.
- 48 (l) The Commission shall submit an annual progress report on the implementation of
49 this section to the Environmental Review Commission on or before 1 October of each year."
50

51 AMEND PRE-DRILLING TESTING OF WATER SUPPLIES

1 **SECTION 5.13.** G.S. 113-423(f), as amended by Section 13(b) of S.L. 2014-4,
2 reads as rewritten:

3 "(f) Pre-Drilling Testing of Water Supplies. – Any lease of oil or gas rights or any other
4 conveyance of any kind separating rights to oil or gas from the freehold estate of surface
5 property shall include a clause that requires the oil or gas developer or operator to pay for the
6 reasonable costs involved in testing all water supplies within a one-half mile radius from the
7 center of a proposed wellhead-drilling site that is part of the oil or gas developer's or operator's
8 activities at least 30 days prior to initial drilling activities and at least five follow-up tests at six
9 months, 12 months, 18 months, and 24 months after production has commenced and a test
10 within 30 days after completion of production activities at the site. The Department shall
11 identify the location of all water supplies, including wells, on a property on which drilling
12 operations are proposed to occur. A surface owner shall use an independent third party selected
13 from a laboratory certified by the Department's Wastewater/Groundwater Laboratory
14 Certification program to sample wells located on their property, and the developer or operator
15 shall pay for the reasonable costs involved in testing of the wells in question. Developers and
16 operators may share analytical results obtained with other developers and operators as
17 necessary or advisable. All analytical results from testing conducted pursuant to this section (i)
18 shall be provided to the Department within 30 days of testing and (ii) shall constitute a public
19 record under Chapter 132 of the General Statutes, and the Department shall post any results to
20 the Department's Web site within 30 days of receipt of the ~~results~~-results, unless the surface
21 owner specifies otherwise in writing at the time the results are provided to the Department.
22 Nothing in this subsection shall be construed to preclude or impair the right of any surface
23 owner to refuse pre-drilling testing of wells located on their property."
24

25 **LOCAL AIR POLLUTION CONTROL PROGRAMS**

26 **SECTION 5.14.(a)** G.S. 143-215.112(c) is amended by adding a new subdivision
27 to read:

28 **"§ 143-215.112. Local air pollution control programs.**

29 ...

- 30 (c) (1) The governing body of any county, municipality, or group of counties and
31 municipalities within a designated area of the State, as defined in this Article
32 and Article 21, subject to the approval of the Commission, is hereby
33 authorized to establish, administer, and enforce a local air pollution control
34 program for the county, municipality, or designated area of the State which
35 includes but is not limited to:
- 36 a. Development of a comprehensive plan for the control and abatement
37 of new and existing sources of air pollution;
 - 38 b. Air quality monitoring to determine existing air quality and to define
39 problem areas, as well as to provide background data to show the
40 effectiveness of a pollution abatement program;
 - 41 c. An emissions inventory to identify specific sources of air
42 contamination and the contaminants emitted, together with the
43 quantity of material discharged into the outdoor atmosphere;
 - 44 d. Adoption, after notice and public hearing, of air quality and emission
45 control standards, or adoption by reference, without public hearing,
46 of any applicable rules and standards duly adopted by the
47 Commission; and administration of such rules and standards in
48 accordance with provisions of this section.
 - 49 e. Provisions for the establishment or approval of time schedules for the
50 control or abatement of existing sources of air pollution and for the
51 review of plans and specifications and issuance of approval

1 documents covering the construction and operation of pollution
2 abatement facilities at existing or new sources;

- 3 f. Provision for adequate administrative staff, including an air pollution
4 control officer and technical personnel, and provision for laboratory
5 and other necessary facilities.

6 ...
7 (6) No local air pollution control program may limit or otherwise regulate any
8 combustion heater, appliance, or fireplace in private dwellings. For purposes
9 of this subdivision, "combustion heater, appliance, or fireplace" means any
10 heater, appliance, or fireplace that burns combustion fuels, including, but not
11 limited to, natural or liquefied petroleum gas, fuel oil, kerosene, wood, or
12 coal for heating, cooking, drying, or decorative purposes."

13 **SECTION 5.14.(b)** G.S. 143-215.108 is amended by adding a new subsection to
14 read:

15 **"§ 143-215.108. Control of sources of air pollution; permits required.**

16 ...
17 (j) No Power to Regulate Residential Combustion. – Nothing in this section shall be
18 interpreted to give the Commission or the Department the power to regulate the emissions from
19 any combustion heater, appliance, or fireplace in private dwellings, except to the extent
20 required by federal law. For purposes of this subsection, "combustion heater, appliance, or
21 fireplace" means any heater, appliance, or fireplace that burns combustion fuels, including, but
22 not limited to, natural or liquefied petroleum gas, fuel oil, kerosene, wood, or coal for heating,
23 cooking, drying, or decorative purposes."

24 **SECTION 5.14.(c)** G.S. 160A-193 is amended by adding a new subsection to read:

25 **"§ 160A-193. Abatement of public health nuisances.**

26 (a) A city shall have authority to summarily remove, abate, or remedy everything in the
27 city limits, or within one mile thereof, that is dangerous or prejudicial to the public health or
28 public safety. Pursuant to this section, the governing board of a city may order the removal of a
29 swimming pool and its appurtenances upon a finding that the swimming pool or its
30 appurtenances is dangerous or prejudicial to public health or safety. The expense of the action
31 shall be paid by the person in default. If the expense is not paid, it is a lien on the land or
32 premises where the nuisance occurred. A lien established pursuant to this subsection shall have
33 the same priority and be collected as unpaid ad valorem taxes.

34 ...
35 (c) The authority granted by this section does not authorize the application of a city
36 ordinance banning or otherwise limiting outdoor burning to persons living within one mile of
37 the city, unless the city provides those persons with either (i) trash and yard waste collection
38 services or (ii) access to solid waste drop-off sites on the same basis as city residents."

40 PART VI. SEVERABILITY CLAUSE AND EFFECTIVE DATE

41 **SECTION 6.1.** If any section or provision of this act is declared unconstitutional or
42 invalid by the courts, it does not affect the validity of this act as a whole or any part other than
43 the part declared to be unconstitutional or invalid.

44 **SECTION 6.2.** Except as otherwise provided, this act is effective when it becomes
45 law.