

Commercial Law and Consumer Protection

See full summary documents for additional detail

H110 - Landlord Submission of HOPE Application. (SL 2021-190)

S.L. 2021-190 does the following:

- Adds a new subsection to Session Law 2021-25 permitting a landlord to submit an application on behalf of a tenant under the Housing Opportunities and Prevention of Evictions Program (HOPE), provided that the application meets all the federal program requirements.
- Modifies Session Law 2021-25, Section 3.4(j) to clarify the specific uses of funds by the North Carolina Office of Recovery and Resiliency (NCORR).
- Modifies Session Law 2021-25, Section 3.4(g) to clarify that reasonable fees and actual utility costs are included in the amount awarded to recipients renting housing.

This act became effective December 9, 2021.

H238 - Prohibit Possession of Skimming Device. (SL 2021-68)

S.L. 2021-68 defines "skimming device" within the Financial Transaction Card Crime Act and makes the possession, sale, or delivery of a skimming device a Class I felony.

This act became effective December 1, 2021, and applies to offenses committed on or after that date.

H320 - Modernize Remote Business Access. (SL 2021-162)

S.L. 2021-162 does the following:

- Authorizes remote meetings of corporation shareholders, nonprofit corporation members, and mutual insurance company policy holders.
- Authorizes nonprofit corporations to conduct all business electronically.
- Makes technical and conforming changes to related statutory provisions.
- Exempts certain corporations not for profit formed prior to July 1, 1989, from being required to have at least one class of shares with unlimited voting rights.

This act became effective September 20, 2021, and the act's changes relating to meetings of members and shareholders apply to meetings held on or after that date.

Remote meetings noticed before that date as a result of the State of Emergency declared by Executive Order No. 116 and complying with any subsequent executive orders authorizing such meetings, are deemed to be in compliance with this act.

The act's exemption from the requirement of having at least one class of shares with unlimited voting rights applies to corporations not for profit formed for religious, charitable, nonprofit, social or literary purposes prior to July 1, 1989, and existing as of September 20, 2021.

H352 - Hotel Safety Issues. (Ratified)

House Bill 352 would have provided that the rental of an accommodation in an inn, hotel, motel, recreational vehicle park, campground, or similar lodging to the same person for fewer than 90 consecutive days does not create a tenancy or a residential tenancy subject to Chapter 42 of the General Statutes. The bill was ratified by the General Assembly on August 19, 2021, and vetoed by the Governor on August 30, 2021.

H403 - Clarify Motor Vehicle Franchise Laws. (SL 2021-147)

S.L. 2021-147 makes the following changes to North Carolina's Motor Vehicle Dealers and Manufacturers Licensing Law:

- Prohibits conditioning approval of dealership transfers on dealer's willingness to renovate, relocate, or enter into a right of first refusal.
- Clarifies provisions regulating franchise agreements and changes to established plans and to facilitate dealers' ability to sell electric vehicles.
- Prohibits manufacturers from requiring dealers to purchase pre-owned vehicles.
- Requires manufacturer to buy a dealer's existing facility if it does not sell if the manufacturer or distributor required the dealer to relocate.
- Extends existing grandfather provisions allowing certain manufacturer incentive programs.
- Requires information be provided to dealers regarding how vehicle allocations are made by manufacturers.
- Clarifies provisions regarding reimbursement to dealers who provide loaner vehicles to customers having vehicles serviced when required by the manufacturer.
- Provides that certain dealer facility improvements required by a manufacturer in the 10 years preceding an incentive program comply with program requirements; addresses programs that are discontinued or revised.
- Makes clarifying changes to existing law regarding warranty obligations.
- Clarifies the definition of motor vehicle dealer includes one who leases vehicles or offers new vehicles as part of a subscription program.
- Prohibits manufacturers from requiring dealers to provide financial statements specific to a franchise or line-make if the dealer operates more than one franchise or sells more than one line-make.
- Creates a framework for online vehicle reservations or requests to purchase or lease.
- Allows electronic signatures on various documents for manufacturer vehicle loaner programs.
- Clarifies vehicle inspection requirements for transfer of vehicles between affiliated dealerships.
- Clarifies delivery and execution of prepared documents at a customer's home or place of business do not violate the requirement conducting motor vehicle sales at an established salesroom.

Provisions related to dealer and manufacturer partnerships for online sales became effective January 1, 2022. The remainder of the act became effective September 10, 2021.

H624 - North Carolina Regulatory Sandbox Act. (SL 2021-166)

S.L. 2021-166 will help facilitate the development of innovative financial and insurance products or services that utilize new or emerging technology. It does so by creating a "regulatory sandbox program" whereby an overseeing agency may waive, with limited exceptions and for a limited time, statutory or regulatory requirements that otherwise would not permit a participant to offer the product or service to consumers. The overseeing agency would be either the Office of the Commissioner of Banks or the Department of Insurance. The product or service offered must include disclosures to the consumers that it is authorized to be offered for a temporary testing period and is not endorsed or recommended by the State or the supervising agency.

The act became effective October 15, 2021.

H685 - Electronic Transaction Fees/Official Fees. (SL 2021-159)

S.L. 2021-159 does the following:

- Allows a consumer finance lender to recover from a borrower the actual cost of a fee imposed on the lender from an unaffiliated third-party for processing electronic payments and disbursing loan proceeds. Many consumer finance lenders will accept a debit card payment on a loan amount, and many will load loan proceeds onto a borrower's debit card. In these instances, the card company charges a fee for this service. Section 1 of the act allows the lender to recover the actual transaction charge imposed by the card company. The third-party fees must also be publicly disclosed.

This disclosure requirement becomes effective January 1, 2022. The remainder of this section becomes effective October 1, 2021, and is applicable to transactions occurring on or after that date.

- Provides that fees or charges paid by the seller for determining the existence of or to record a security interest in a consumer credit sale may be included in the amount financed but must be excluded from the finance charge.

This section becomes effective October 1, 2021, and applies to contracts entered into, or renewed or modified, on or after that date.

H812 - Clarify Remote Meetings During Emergencies. (SL 2021-35)

S.L. 2021-35 clarifies the authority of public bodies to hold remote open meetings during declarations of emergencies, including:

- Allowing a public body to update a meeting notice to provide for a remote meeting.
- Specifying compliance with the procedure for remote meetings establishes a presumption the meeting is open to the public.
- Requiring a public body to allow written comments on the subject of a remotely held public hearing to be submitted between publication of any required notice and 24 hours prior to the scheduled beginning of the hearing.

The act became effective July 1, 2021, and applies to remote meetings held on or after that date.

S198 - GSC Good Funds Settlement/Comm. Receivership. (SL 2021-93)

S.L. 2021-93 provides that a settlement agent may disburse settlement proceeds in reliance on a check drawn on the account of or issued by a licensed mortgage lender, makes amendments relating to the North Carolina Commercial Receivership Act, and makes technical changes to various laws regulating financial practices, as recommended by the General Statutes Commission.

This act became effective July 22, 2021.

S425 - Guaranteed Asset Protection and Vehicle Value Protection Agreement Changes. (SL 2021-172)

S.L. 2021-172 modifies the law governing the regulation of guaranteed asset protection waivers and regulates vehicle value protection agreements. This act became effective January 1, 2022, and applies to agreements entered into on or after that date.

S507 - Modify Business Corporation Act. (SL 2021-106)

S.L. 2021-106 makes various clarifying and updating changes to the Business Corporation Act, including:

- Provisions governing superior court proceedings brought by a shareholder seeking an appraisal
- Provisions relating to voting of shares held by a subsidiary
- Quorum requirements applicable to the board of directors
- Authority of board of directors to change corporate name without shareholder approval
- Provisions governing corporate records and shareholder inspection rights

The changes to provisions governing shareholder appraisal proceedings became effective August 16, 2021, and apply to proceedings commenced on or after that date. The other changes to the Business Corporation Act became effective October 1, 2021, and the changes relating to shareholder rights to inspect records and to obtain financial statements apply to demands to inspect and requests for financial statements received by a corporation on or after that date.