

**GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2009**

**SESSION LAW 2009-445  
SENATE BILL 509**

AN ACT TO MAKE TECHNICAL, CLARIFYING, AND ADMINISTRATIVE CHANGES  
TO THE TAX AND RELATED LAWS.

The General Assembly of North Carolina enacts:

**PRIVILEGE LICENSE, INCOME, EXCISE, AND INSURANCE TAX CHANGES**

**SECTION 1.** G.S. 105-41(a) reads as rewritten:

"(a) Every individual in this State who practices a profession or engages in a business and is included in the list below must obtain from the Secretary a statewide license for the privilege of practicing the profession or engaging in the business. A license required by this section is not transferable to another person. The tax for each license is fifty dollars (\$50.00).

...

(12) ~~A home inspector~~ An individual licensed under Article 9F of Chapter 143 of the General Statutes. Statutes, the Home Inspector Licensure Act."

**SECTION 2.** G.S. 105-122(b) reads as rewritten:

"(b) Determination of Capital Base. – A corporation taxed under this section shall determine the total amount of its issued and outstanding capital stock, surplus, and undivided profits. No reservation or allocation from surplus or undivided profits is allowed except as provided below:

- (1) Definite and accrued legal liabilities.
- (2) Taxes accrued, dividends declared, and reserves for depreciation of tangible assets as permitted for income tax purposes.
- (3) When including deferred tax liabilities, a corporation may reduce the amount included in its base by netting against that amount deferred tax assets. The reduction may not decrease deferred tax liabilities below zero (0).
- (4) Reserves for the cost of any air-cleaning device or sewage or waste treatment plant, including waste lagoons, and pollution abatement equipment purchased or constructed and installed which reduces the amount of air or water pollution resulting from the emission of air contaminants or the discharge of sewage and industrial wastes or other polluting materials or substances into the outdoor atmosphere or streams, lakes, or rivers, upon condition that the corporation claiming such deductible liability shall furnish to the Secretary a certificate from the Department of Environment and Natural Resources or from a local air pollution control program for air-cleaning devices located in an area where the Environmental Management Commission has certified a local air pollution control program pursuant to G.S. 143-215.112 certifying that the Environmental Management Commission or local air pollution control program has found as a fact that the air-cleaning device, waste treatment plant or pollution abatement equipment purchased or constructed and installed as above described has actually been constructed and installed and that such plant or equipment



complies with the requirements of the Environmental Management Commission or local air pollution control program with respect to such devices, plants or equipment, that such device, plant or equipment is being effectively operated in accordance with the terms and conditions set forth in the permit, certificate of approval, or other document of approval issued by the Environmental Management Commission or local air pollution control program and that the primary purpose thereof is to reduce air or water pollution resulting from the emission of air contaminants or the discharge of sewage and waste and not merely incidental to other purposes and functions.

- (5) Reserves for the cost of purchasing and installing equipment or constructing facilities for the purpose of recycling or resource recovering of or from solid waste or for the purpose of reducing the volume of hazardous waste generated shall be treated as deductible for the purposes of this section upon condition that the corporation claiming such deductible liability shall furnish to the Secretary a certificate from the Department of Environment and Natural Resources certifying that the Department of Environment and Natural Resources has found as a fact that the equipment or facility has actually been purchased, installed or constructed, that it is in conformance with all rules and regulations of the Department of Environment and Natural Resources, and the recycling or resource recovering is the primary purpose of the facility or equipment.
- (6) Reserves for the cost of constructing facilities of any private or public utility built for the purpose of providing sewer service to residential and outlying areas shall be treated as deductible for the purposes of this section; the deductible liability allowed by this section shall apply only with respect to such pollution abatement plants or equipment constructed or installed on or after January 1, 1955.
- (7) The cost of treasury stock.
- (8) In the case of an international banking facility, the capital base shall be reduced by the excess of the amount as of the end of the taxable year of all assets of an international banking facility which are employed outside the United States over liabilities of the international banking facility owed to foreign persons. For purposes of such reduction, foreign persons shall have the same meaning as defined in G.S. 105-130.5(b)(13)d.

Every corporation doing business in this State which is a parent, subsidiary, or affiliate of another corporation shall add to its capital stock, surplus, and undivided profits all indebtedness owed to a parent, subsidiary, or affiliated corporation as a part of its capital used in its business and as a part of the base for franchise tax under this section. If any part of the capital of the creditor corporation is capital borrowed from a source other than a parent, subsidiary, or affiliate, the debtor corporation, which is required under this subsection to include in its tax base the amount of debt by reason of being a parent, subsidiary, or affiliate of the creditor corporation, may deduct from the debt included a proportionate part determined on the basis of the ratio of the borrowed capital of the creditor corporation to the total assets of the creditor corporation. If the creditor corporation is also taxable under the provisions of this section, the creditor corporation is allowed to deduct from the total of its capital, surplus, and undivided profits the amount of any debt owed to it by a parent, subsidiary or affiliated corporation to the extent that the debt has been included in the tax base of the parent, subsidiary, or affiliated debtor corporation reporting for taxation under the provisions of this section.

(b1) Definitions. – The following definitions apply in ~~this subsection~~: subsection (b) of this section:

- (1) Affiliate. – The same meaning as specified in G.S. 105-130.6.

(2) Indebtedness. – All loans, credits, goods, supplies, or other capital of whatsoever nature furnished by a parent, subsidiary, or affiliated corporation, other than indebtedness endorsed, guaranteed, or otherwise supported by one of these corporations.

(3) Parent. – The same meaning as specified in G.S. 105-130.6.

(4) Subsidiary. – The same meaning as specified in G.S. 105-130.6."

**SECTION 3.(a)** G.S. 105-129.27(f) reads as rewritten:

"(f) No Double Credit. – A recycling facility that is eligible for the credit allowed in this section is not allowed the credit for investing in machinery and equipment provided in ~~G.S. 105-129.9.~~G.S. 105-129.9 or G.S. 105-129.88."

**SECTION 3.(b)** This section is effective for taxable years beginning on or after January 1, 2007.

**SECTION 4.** G.S. 105-130.4(h) reads as rewritten:

"(h) The income less related expenses from any other ~~nonbusiness~~ activities producing nonapportionable income or investments not otherwise specified in this section is allocable to this State if the business situs of the activities or investments ~~are~~is located in this State."

**SECTION 5.** G.S. 105-130.4(t1) reads as rewritten:

"(t1) Alternative Apportionment Method. – A corporation that believes the statutory apportionment method that otherwise applies to it under this section subjects a greater portion of its income to tax than is attributable to its business in this State may make a written request to the Secretary for permission to use an alternative method. The request must set out the reasons for the corporation's belief and propose an alternative method.

The statutory apportionment method that otherwise applies to a corporation under this section is presumed to be the best method of determining the portion of the corporation's income that is attributable to its business in this State. A corporation has the burden of establishing by clear, cogent, and convincing proof that the proposed alternative method is a better method of determining the amount of the corporation's income attributable to the corporation's business in this State.

The Secretary must issue a written decision on a corporation's request for an alternative apportionment method. If the decision grants the request, it must describe the alternative method the corporation is authorized to use and state the tax years to which the alternative method applies. A decision may apply to no more than three tax years. A corporation may renew a request to use an alternative apportionment method by following the procedure in this subsection. A decision of the Secretary on a request for an alternative apportionment method is final and is not subject to administrative or judicial review. A corporation authorized to use an alternative method may apportion its income in accordance with the alternative method or the statutory method. A corporation may not use an alternative apportionment method except upon written order of the Secretary, and any return in which any alternative apportionment method, other than the method prescribed by statute, is used without permission of the Secretary is not a lawful return."

**SECTION 6.** Section 4(b) of S.L. 2008-134 reads as rewritten:

"**SECTION 4.(b)** This section is effective for taxable years beginning on or after January 1, ~~2009.~~2008."

**SECTION 7.** G.S. 105-130.18 and G.S. 105-156 are repealed.

**SECTION 8.(a)** G.S. 105-130.47(h) reads as rewritten:

"(h) Report. – The Department of Revenue must publish by May 1 of each year the following information, itemized by taxpayer for the 12-month period ending the preceding December 31:

(1) The location of sites used in a production for which a credit was ~~claimed.~~taken.

- (2) The qualifying expenses for which a credit was ~~claimed, taken,~~ classified by whether the expenses were for goods, services, or compensation paid by the production company.
- (3) The number of people employed in the State with respect to credits ~~claimed, taken.~~
- (4) The total cost to the General Fund of the credits ~~claimed, taken.~~"

**SECTION 8.(b)** G.S. 105-151.29(h) reads as rewritten:

"(h) Report. – The Department of Revenue must publish by May 1 of each year the following information, itemized by taxpayer for the 12-month period ending the preceding December 31:

- (1) The location of sites used in a production for which a credit was ~~claimed, taken.~~
- (2) The qualifying expenses for which a credit was ~~claimed, taken,~~ classified by whether the expenses were for goods, services, or compensation paid by the production company.
- (3) The number of people employed in the State with respect to credits ~~claimed, taken.~~
- (4) The total cost to the General Fund of the credits ~~claimed, taken.~~"

**SECTION 9.(a)** G.S. 105-163.011 reads as rewritten:

**"§ 105-163.011. Tax credits allowed.**

(a) No Credit for Brokered Investments. – No credit is allowed under this section for a purchase of equity securities or subordinated debt if a broker's fee or commission or other similar remuneration is paid or given directly or indirectly for soliciting the purchase.

(b) Individuals. – Subject to the limitations contained in G.S. 105-163.012, an individual who purchases the equity securities or subordinated debt of a qualified business directly from that business is allowed as a credit against the tax imposed by Part 2 of this Article for the taxable year an amount equal to twenty-five percent (25%) of the amount invested. The aggregate amount of credit allowed an individual for one or more investments made in a single taxable year under this Part, whether directly or indirectly as owner of a pass-through entity, may not exceed fifty thousand dollars (\$50,000). The credit may not be taken for the year in which the investment is made but ~~shall~~ may be taken for the taxable year beginning during the calendar year in which the application for the credit becomes effective as provided in subsection (c) of this section.

(b1) Pass-Through Entities. – This subsection does not apply to a pass-through entity that has committed capital under management in excess of five million dollars (\$5,000,000) or to a pass-through entity that is a qualified business or a North Carolina Enterprise Corporation. Subject to the limitations provided in G.S. 105-163.012, a pass-through entity that purchases the equity securities or subordinated debt of a qualified business directly from the business is eligible for a tax credit equal to twenty-five percent (25%) of the amount invested. The aggregate amount of credit allowed a pass-through entity for one or more investments made in a single taxable year under this Part, whether directly or indirectly as owner of another pass-through entity, may not exceed seven hundred fifty thousand dollars (\$750,000). The pass-through entity is not eligible for the credit for the year in which the investment by the pass-through entity is made but ~~shall be~~ is eligible for the credit for the taxable year beginning during the calendar year in which the application for the credit becomes effective as provided in subsection (c) of this section.

Each individual who is an owner of a pass-through entity is allowed as a credit against the tax imposed by Part 2 of this Article for the taxable year an amount equal to the owner's allocated share of the credits for which the pass-through entity is eligible under this subsection. The aggregate amount of credit allowed an individual for one or more investments made in a

single taxable year under this Part, whether directly or indirectly as owner of a pass-through entity, may not exceed fifty thousand dollars (\$50,000).

If an owner's share of the pass-through entity's credit is limited due to the maximum allowable credit under this section for a taxable year, the pass-through entity and its owners may not reallocate the unused credit among the other owners.

(c) Application. – To be eligible for the tax credit provided in this section, the taxpayer must file an application for the credit with the Secretary. The application should be filed on or before April 15 of the year following the calendar year in which the investment was made. The Secretary may not accept an application filed after October 15 of the year following the calendar year in which the investment was made. An application is effective for the year in which it is timely filed. The application ~~shall~~must be on a form prescribed by the Secretary and ~~shall~~must include any supporting documentation that the Secretary may require. If an investment for which a credit is applied for was paid for other than in money, the taxpayer ~~shall~~must include with the application a certified appraisal of the value of the property used to pay for the investment. The application for a credit for an investment made by a pass-through entity must be filed by the pass-through entity.

(d) Penalties. – The penalties provided in G.S. 105-236 apply in this Part."

**SECTION 9.(b)** G.S. 105-163.012(a) reads as rewritten:

"(a) The credit allowed a taxpayer under G.S. 105-163.011 may not exceed the amount of income tax imposed by Part 2 of this Article for the taxable year reduced by the sum of all other credits allowable except tax payments made by or on behalf of the taxpayer. The amount of unused credit allowed under G.S. 105-163.011 may be carried forward for the next five succeeding years. ~~The fifty thousand dollar (\$50,000) limitation on the amount of credit allowed a taxpayer under G.S. 105-163.011 does not apply to unused amounts carried forward under this subsection.~~"

**SECTION 9.(c)** G.S. 105-130.34(a) reads as rewritten:

"(a) Any C Corporation that makes a qualified donation of an interest in real property located in North Carolina during the taxable year that is useful for (i) public beach access or use, (ii) public access to public waters or trails, (iii) fish and wildlife conservation, (iv) forestland or farmland conservation, (v) watershed protection, (vi) conservation of natural areas as that term is defined in G.S. 113A-164.3(3), (vii) conservation of natural or scenic river areas as those terms are used in G.S. 113A-34, (viii) conservation of predominantly natural parkland, or (ix) historic landscape conservation is allowed a credit against the tax imposed by this Part equal to twenty-five percent (25%) of the fair market value of the donated property interest. To be eligible for this credit, the interest in real property must be donated in perpetuity to and accepted by the State, a local government, or a body that is both organized to receive and administer lands for conservation purposes and qualified to receive charitable contributions pursuant to G.S. 105-130.9. Lands required to be dedicated pursuant to local governmental regulation or ordinance and dedications made to increase building density levels permitted under a regulation or ordinance are not eligible for this credit. The credit allowed under this section for one or more qualified donations made in a taxable year may not exceed five hundred thousand dollars (\$500,000). To support the credit allowed by this section, the taxpayer must file with the income tax return for the taxable year in which the credit is claimed the following:

- (1) A certification by the Department of Environment and Natural Resources that the property donated is suitable for one or more of the valid public benefits set forth in this subsection.
- (2) A self-contained appraisal report or summary appraisal report as defined in Standards Rule 2-2 in the latest edition of the Uniform Standards of Professional Appraisal Practice as promulgated by the Appraisal Foundation for the property. For fee simple absolute donations of real property, a taxpayer may submit documentation of the county's appraised value of the

donated property, as adjusted by the sales assessment ratio, in lieu of an appraisal report."

**SECTION 9.(d)** G.S. 105-151.12 reads as rewritten:

**"§ 105-151.12. Credit for certain real property donations.**

(a) An individual or pass-through entity that makes a qualified donation of an interest in real property located in North Carolina during the taxable year that is useful for (i) public beach access or use, (ii) public access to public waters or trails, (iii) fish and wildlife conservation, (iv) forestland or farmland conservation, (v) watershed protection, (vi) conservation of natural areas as that term is defined in G.S. 113A-164.3(3), (vii) conservation of natural or scenic river areas as those terms are used in G.S. 113A-34, (viii) conservation of predominantly natural parkland, or (ix) historic landscape conservation is allowed a credit against the tax imposed by this Part equal to twenty-five percent (25%) of the fair market value of the donated property interest. To be eligible for this credit, the interest in property must be donated in perpetuity to and accepted by the State, a local government, or a body that is both organized to receive and administer lands for conservation purposes and qualified to receive charitable contributions under the Code. Lands required to be dedicated pursuant to local governmental regulation or ordinance and dedications made to increase building density levels permitted under a regulation or ordinance are not eligible for this credit. To support the credit allowed by this section, the taxpayer must file with the income tax return for the taxable year in which the credit is claimed the following:

- (1) A certification by the Department of Environment and Natural Resources that the property donated is suitable for one or more of the valid public benefits set forth in this subsection. The certification for a qualified donation made by a pass-through entity must be filed by the pass-through entity.
- (2) A self-contained or summary appraisal report as defined in Standards Rule 2-2 in the latest edition of the Uniform Standards of Professional Appraisal Practice as promulgated by the Appraisal Foundation for the property. For fee simple absolute donations of real property, a taxpayer may submit documentation of the county's appraised value of the donated property, as adjusted by the sales assessment ratio, in lieu of an appraisal report.

(a1) **Individuals.** – The aggregate amount of credit allowed to an individual in a taxable year under this section for one or more qualified ~~donations,~~ donations made during the taxable year, whether made directly or indirectly as owner of a pass-through entity, may not exceed two hundred fifty thousand dollars (\$250,000). In the case of property owned by a married couple, if both spouses are required to file North Carolina income tax returns, the credit allowed by this section may be claimed only if the spouses file a joint return. The aggregate amount of credit allowed to a husband and wife filing a joint tax return may not exceed five hundred thousand dollars (\$500,000). If only one spouse is required to file a North Carolina income tax return, that spouse may claim the credit allowed by this section on a separate return.

(a2) **Pass-Through Entities.** – The aggregate amount of credit allowed to a pass-through entity in a taxable year under this section for one or more qualified ~~donations,~~ donations made during the taxable year, whether made directly or indirectly as owner of another pass-through entity, may not exceed five hundred thousand dollars (\$500,000). Each individual who is an owner of a pass-through entity is allowed as a credit an amount equal to the owner's allocated share of the credit to which the pass-through entity is eligible under this subsection, not to exceed two hundred fifty thousand dollars (\$250,000). Each corporation that is an owner of a pass-through entity is allowed as a credit an amount equal to the owner's allocated share of the credit to which the pass-through entity is eligible under this subsection, not to exceed five hundred thousand dollars (\$500,000). If an owner's share of the pass-through entity's credit is limited due to the maximum allowable credit under this section for a taxable year, the

pass-through entity and its owners may not reallocate the unused credit among the other owners.

(b) The credit allowed by this section may not exceed the amount of tax imposed by this Part for the taxable year reduced by the sum of all credits allowed, except payments of tax made by or on behalf of the taxpayer.

Any unused portion of this credit may be carried forward for the next succeeding five years.

(c) Repealed by Session Laws 1998-212, s. 29A.13(b).

(d) Repealed by Session Laws 2007-309, s. 2, effective for taxable years beginning on or after January 1, 2007.

(e) In the case of marshland for which a claim has been filed pursuant to G.S. 113-205, the offer of donation must be made before December 31, 2003 to qualify for the credit allowed by this section.

(f) Repealed by Session Laws 2007-309, s. 2, effective for taxable years beginning on or after January 1, 2007."

**SECTION 9.(e)** Subsections (a) and (b) of this section are effective for taxable years beginning on or after January 1, 2009. The remainder of this section is effective when it becomes law.

**SECTION 10.** G.S. 105-228.5B reads as rewritten:

**"§ 105-228.5B. Proceeds credited to High Risk Pool.**

~~Within 75 days after the end of each fiscal year, By November 1 of each year,~~ the State Treasurer must transfer from the General Fund to the North Carolina Health Insurance Risk Pool Fund established in G.S. 58-50-225 an amount equal to the growth in net revenue from the tax applied to gross premiums under G.S. 105-228.5(d)(2). The growth in revenue from this tax is the difference between the amount of revenue collected during the preceding fiscal year on premiums taxed under that subdivision less \$475,545,413, which is the amount of revenue collected during fiscal year 2006-2007 on premiums taxed under that subdivision. The Treasurer must draw the amount required under this section from revenue collected on premiums taxed under that subdivision."

## **SALES AND USE TAX AND HIGHWAY USE TAX CHANGES**

**SECTION 11.** G.S. 105-164.3(45a) reads as rewritten:

"(45a) Streamlined Agreement. – The Streamlined Sales and Use Tax Agreement as amended as of ~~June 23, 2007.~~May 12, 2009."

**SECTION 12.** G.S. 105-164.4B(d) reads as rewritten:

"(d) Exceptions. – This section does not apply to the following:

(1) Telecommunications services. – Telecommunications services are sourced in accordance with G.S. 105-164.4C.

(2) Direct mail. – Direct mail that meets one of the ~~conditions of this subdivision~~following descriptions is sourced to the location where the property is delivered. ~~In all other cases, direct mail is sourced in accordance with the principles principle set out in subdivision (a)(3) of this section.~~delivered, and direct mail that does not meet one of these descriptions is sourced to the location from which the direct mail was shipped:

a. Direct mail purchased pursuant to a direct pay permit.

b. When the purchaser provides the seller with information to show the jurisdictions to which the direct mail is to be delivered.

(3) Florist wire sale. – A florist wire sale is sourced to the business location of the florist that takes an order for the sale. A 'florist wire sale' is a sale in which a retail florist takes a customer's order and transmits the order to another retail florist to be filled and delivered."

**SECTION 13.** G.S. 105-164.14(b) reads as rewritten:

"(b) Nonprofit Entities and Hospital Drugs. – A nonprofit entity ~~included in the following list~~ is allowed a semiannual refund of sales and use taxes paid by it under this Article on direct purchases of tangible personal property and services, other than electricity, telecommunications service, and ancillary service, for use in carrying on the work of the nonprofit ~~entity~~. Sales and use tax liability indirectly incurred by a nonprofit entity on building materials, supplies, fixtures, and equipment that become a part of or annexed to any building or structure that is owned or leased by the nonprofit entity and is being erected, altered, or repaired for use by the nonprofit entity for carrying on its nonprofit activities is considered a sales or use tax liability incurred on direct purchases by the nonprofit entity. A request for a refund must be in writing and must include any information and documentation required by the Secretary. A request for a refund for the first six months of a calendar year is due the following October 15; a request for a refund for the second six months of a calendar year is due the following April 15.

The refunds allowed under this subsection do not apply to an entity that is owned and controlled by the United States or to an entity that is owned or controlled by the State and is not listed in this subsection. A hospital that is not listed in this subsection is allowed a semiannual refund of sales and use taxes paid by it on medicines and drugs purchased for use in carrying out its work. The following nonprofit entities are allowed a refund under this subsection:

- (1) Hospitals not operated for profit, including hospitals and medical accommodations operated by an authority created under the Hospital Authorities Law, Article 2 of Chapter 131E of the General Statutes.
- (2) An organization that is exempt from income tax under section 501(c)(3) of the Code, other than an organization that is properly classified in any of the following major group areas of the National Taxonomy of Exempt Entities:
  - a. Community Improvement and Capacity Building.
  - b. Public and Societal Benefit.
  - c. Mutual and Membership Benefit.
- (3) Repealed by Session Laws 2008-107, s. 28.22(a), effective July 1, 2008, and applicable to purchases made on or after that date.
- (4) Qualified retirement facilities whose property is excluded from property tax under G.S. 105-278.6A.
- (5) A university affiliated nonprofit organization that procures, designs, constructs, or provides facilities to, or for use by, a constituent institution of The University of North Carolina. For purposes of this subdivision, a nonprofit organization includes an entity exempt from taxation as a disregarded entity of the nonprofit organization.

~~Sales and use tax liability indirectly incurred by a nonprofit entity on building materials, supplies, fixtures, and equipment that become a part of or annexed to any building or structure that is owned or leased by the nonprofit entity and is being erected, altered, or repaired for use by the nonprofit entity for carrying on its nonprofit activities is considered a sales or use tax liability incurred on direct purchases by the nonprofit entity.~~

~~A hospital that is not allowed a refund under this subsection of sales and use taxes paid on its direct purchases of tangible personal property is allowed a semiannual refund of sales and use taxes paid by it on medicines and drugs purchased for use in carrying out its work.~~

~~The refunds allowed under this subsection for certain nonprofit entities and for medicines and drugs purchased by hospitals do not apply to organizations, corporations, and institutions that are owned and controlled by the United States, the State, or a unit of local government, except hospital facilities created under Article 2 of Chapter 131E of the General Statutes and nonprofit hospitals owned and controlled by a unit of local government that elect to receive semiannual refunds under this subsection instead of annual refunds under subsection (c).~~

~~A request for a refund must be in writing and must include any information and documentation required by the Secretary. A request for a refund for the first six months of a calendar year is due the following October 15; a request for a refund for the second six months of a calendar year is due the following April 15."~~

**SECTION 14.(a)** G.S. 105-164.14(j)(2)n. reads as rewritten:

- "n. Solar electricity generating materials manufacturing. Solar ~~energy~~ electricity generating materials manufacturing means the development and production of one or more of the following:
1. Photovoltaic materials or modules used in producing electricity.
  2. Polymers or polymer films primarily intended for incorporation into photovoltaic materials or modules used in producing electricity."

**SECTION 14.(b)** This section is effective July 1, 2008, and applies to purchases made on or after that date.

**SECTION 15.(a)** G.S. 105-164.44G reads as rewritten:

**"§ 105-164.44G. Distribution of part of tax on modular homes.**

The Secretary must distribute to counties twenty percent (20%) of the taxes collected under G.S. 105-164.4(a)(8) on modular homes. The Secretary must make the distribution on a monthly basis in accordance with the distribution formula in ~~G.S. 105-520 by including the taxes on modular homes with local tax revenue that is not attributable to a particular county.~~G.S. 105-486."

**SECTION 15.(b)** This section becomes effective October 1, 2009, and applies to distributions made on or after that date.

**SECTION 16.** G.S. 105-187.6(a)(7) is repealed.

**SECTION 17.** G.S. 105-187.51C(c) reads as rewritten:

"(c) Forfeiture. – If the required level of investment to qualify as an eligible datacenter is not timely made, then the rate provided under this section is forfeited. If the required level of investment is timely made but any eligible machinery and equipment is not located and used at an eligible datacenter, then the rate provided for that machinery and equipment under this ~~subdivision~~ section is forfeited. A taxpayer that forfeits a rate under this ~~subdivision~~ section is liable for all past sales and use taxes avoided as a result of the forfeiture, computed at the combined general rate from the date the taxes would otherwise have been due, plus interest at the rate established under ~~G.S. 105-241.1(i).~~ G.S. 105-241.21. If the forfeiture is triggered due to the lack of a timely investment required by this section, then interest is computed from the date the sales or use tax would otherwise have been due. For all other forfeitures, interest is computed at the combined general rate from the time as of which the machinery or equipment was put to a disqualifying use. A credit is allowed against the sales or use tax owed as a result of the forfeiture provisions of this subsection for privilege taxes paid pursuant to this section. For purposes of applying this credit, the fact that payment of the privilege tax occurred in a period outside the statute of limitations provided under ~~G.S. 105-266 shall not be~~ G.S. 105-241.6 is not considered. ~~Interest shall not be computed against the amount of taxes offset by this credit. The credit reduces the amount forfeited, and interest applies only to the reduced amount.~~ The past taxes and interest are due 30 days after the date of forfeiture. A taxpayer that fails to pay the past taxes and interest by the due date is subject to the provisions of G.S. 105-236."

**SECTION 18.** G.S. 105-538 reads as rewritten:

**"§ 105-538. Administration of taxes.**

Except as provided in this Article, the adoption, levy, collection, administration, and repeal of these additional taxes must be in accordance with Article 39 of this Chapter. G.S. 105-468.1 is an administrative provision that applies to this Article. A tax levied under this Article does

not apply to the sales price of food that is exempt from tax pursuant to ~~G.S. 105-164.13B~~. G.S. 105-164.13B or to the sales price of a bundled transaction taxable pursuant to G.S. 105-467(a)(5a). The Secretary shall not divide the amount allocated to a county between the county and the municipalities within the county. ~~Notwithstanding the provisions of G.S. 105-466(e), during the 2008 calendar year a tax levied under this Article may become effective on the first day of any calendar quarter so long as the county gives the Secretary at least 60 days' advance notice of the new tax levy."~~

**SECTION 19.** Chapter 1096 of the 1967 Session Laws, as amended, reads as rewritten:

"Section 1. Purpose and Intent. It is the purpose of this Act to provide Mecklenburg County and its municipalities with an added source of revenue and to assist them in meeting their growing financial needs by providing that said county may by special election adopt and levy a one per cent (1%) sales and use tax as hereinafter provided.

Sec. 2. County Election as to Adoption of Local Sales and Use Tax. The Board of Elections of Mecklenburg County, upon the written request of the Mecklenburg Board of County Commissioners, or upon receipt of a petition signed by qualified voters of the county equal in number to at least fifteen per cent (15%) of the total number of votes cast in the county, at the last preceding election for the office of Governor, shall call a special election for the purpose of submitting to the voters of the county the question of whether a one per cent (1%) sales and use tax as hereinafter provided will be levied:

"The special election shall be held under the same rules and regulations applicable to the election of members of the General Assembly. A new registration of voters is not required and all qualified voters who are properly registered prior to the registration for the special election, as well as those voters who register for the special election, shall be entitled to vote at said election. The Mecklenburg County Board of Elections shall give at least 20 days' public notice prior to the opening of the registration books for the special election, and the registration books shall remain open for the same period of time before the special election as is required by law for a regular election.

"The Mecklenburg County Board of Elections shall prepare ballots for the special election which shall contain the words, 'FOR the one per cent (1%) local sales and use tax', and the words, 'AGAINST the one per cent (1%) local sales and use tax', with appropriate squares so that each voter may designate by his cross (X) mark his preference.

"The Mecklenburg County Board of Elections shall fix the date of the special election; provided, however, that the special election shall not be held on the day of any biennial election for county officers, nor within 60 days thereof, nor within three years from the date of the last preceding special election under this division, at which the local sales and use tax was approved."

Sec. 3. Effective Date of Tax after Special Election Authorizing Levy. In the event a majority of those voting in a special election held under this division shall approve the levy of the local sales and use tax, the tax shall be imposed on the first day of the month following the expiration of 90 days from the date of the election. Upon receipt of a certified statement from the Mecklenburg County Board of Elections of the results of a special election approving the tax in Mecklenburg County, the ~~Commissioner~~ Secretary of Revenue shall proceed as authorized in this division to administer the tax in said county.

~~Sec. 4. Scope of Sales Tax Administration. The sales tax which may be imposed under this division after the holding of a special election is limited to a tax at the rate of one per cent (1%) of the transactions listed in this section. The taxes authorized by this division do not apply to sales that are taxable by the State under G.S. 105-164.4 but are not specifically listed in this section. The Secretary of Revenue must administer a sales and use tax imposed under this division. Except as provided in this division, the levy, collection, administration, and repeal of this tax must be in accordance with Article 39 of Chapter 105 of the General Statutes. In~~

applying the provisions of Article 39 to this division, references to "this Article" mean this division.

- ~~(1) The sale price of those articles of tangible personal property now subject to the general rate of sales tax imposed by the State under G.S. 105-164.4(a)(1) and~~
- ~~(2) The gross receipts derived from the lease or rental of tangible personal property when the lease or rental of the property is subject to the general rate of sales tax imposed by the State under G.S. 105-164.4(a)(2).~~
- ~~(3) The gross receipts derived from the rental of any room or lodging furnished by any hotel, motel, inn, tourist camp or other similar public accommodations now subject to the general rate of sales tax imposed by the State under G.S. 105-164.4(a)(3).~~
- ~~(4) The gross receipts derived from services rendered by laundries, dry cleaners, cleaning plants and similar type businesses now subject to the general rate of sales tax imposed by the State under G.S. 106-164.4(a)(4).~~
- ~~(5) The sales price of food and other items that are not otherwise exempt from tax pursuant to G.S. 105-164.13 but are exempt from the State sales and use tax pursuant to G.S. 105-164.13B.~~
- ~~(5a) The sales price of a bundled transaction that includes food subject to tax under subdivision (5) of this section, if the price of the food exceeds ten percent (10%) of the price of the bundle. A retailer must determine the price of food in a bundled transaction in accordance with G.S. 105-164.4D.~~
- ~~(5b) The sales price of bread, rolls, and buns that are sold at a bakery thrift store and are exempt from State tax under G.S. 105-164.13(27a).~~
- ~~(6) The sales price of prepaid telephone calling service taxed as tangible personal property under G.S. 105-164.4(a)(4d).~~

~~The exemptions and exclusions contained in G.S. 105-164.13 and the sales and use tax holidays contained in G.S. 105-164.13C and G.S. 105-164.13D apply with equal force and like manner to the local sales tax authorized to be imposed and levied under this division. The county shall have no authority, with respect to the local sales and use tax imposed under this division, to change, alter, add, or delete any exemptions or exclusions contained under G.S. 105-164.13.~~

~~The local sales tax authorized to be imposed and levied under the provisions of this division shall be applicable to such retail sales, leases, rentals, rendering of services, furnishing of lodging or accommodations and other taxable transactions which are made, furnished or rendered by retailers whose place of business is located within the taxing county. The tax imposed shall apply to the furnishing of rooms, lodging or other accommodations within the county which are rented to transients. The sourcing principles in G.S. 105-164.4B apply in determining whether the local sales tax applies to a transaction. Provided, however, no tax shall be imposed where the tangible personal property sold is delivered by the retailer or his agent to the purchaser at a point outside this State.~~

~~Sec. 5. The use tax that Mecklenburg County may impose under this division is a tax at the rate of one percent (1%) of the cost price of each item or article of tangible personal property that is not sold but is used, consumed, or stored for use or consumption in Mecklenburg County. The tax applies to the same items that are subject to tax under Section 4 of this act.~~

~~Every retailer engaged in business in this State and in Mecklenburg County and required to collect the use tax levied by G.S. 105-164.6 shall also collect the one percent (1%) use tax when such property is to be used, consumed or stored in said county, said one percent (1%) use tax to be collected concurrently with the State's use tax; but no retailer not required to collect the use tax levied by G.S. 105-164.6 shall be required to collect the one percent (1%) use tax. The use tax contemplated by this section shall be levied against the purchaser, and his liability~~

~~for such use tax shall be extinguished only upon his payment of the use tax to the retailer, where the retailer is required to collect the tax, or to the Secretary of Revenue, where the retailer is not required to collect the tax.~~

~~Where a local sales or use tax has been paid with respect to said tangible personal property by the purchaser thereof, either in another taxing county within the State, or in a taxing jurisdiction outside the State where the purpose of the tax is similar in purpose and intent to the tax which may be imposed pursuant to this section, said tax may be credited against the tax imposed by this section by Mecklenburg County upon the same property. If the amount of sales or use tax so paid is less than the amount of the use tax due Mecklenburg County under this section, the purchaser shall pay to the Secretary of Revenue an amount equal to the difference between the amount so paid in the other taxing county or jurisdiction and the amount due in Mecklenburg County hereunder. The Secretary of Revenue may require such proof of payment in another taxing county or jurisdiction as is deemed to be necessary and proper. The use tax levied hereunder shall not be subject to credit for payment of any State sales or use tax not imposed for the benefit and use of counties and municipalities. No credit shall be given under this section for sales or use taxes paid in a taxing jurisdiction outside this State if that taxing jurisdiction does not grant similar credit for sales taxes paid under this act.~~

~~Sec. 6. Collection and Administration of Local Sales and Use Tax; Authorization to Promulgate Rules and Regulations. The North Carolina Commission of Revenue shall collect the local sales and use tax imposed by Mecklenburg County pursuant to the provisions of this division and shall be charged with the duty of administering the local sales and use tax authorized to be imposed by this division. As directed by G.S. 105-164.13B, taxes levied by Mecklenburg County on food are administered as if they were levied by the State under Article 5 of Chapter 105 of the North Carolina General Statutes. In addition to the present statutory provisions authorizing the Commissioner of Revenue to adopt and promulgate rules and regulations pertaining to the administration and collection of taxes under this Article, the Commissioner of Revenue is empowered to promulgate such additional rules and regulations as are necessary and proper for the implementation of this division.~~

~~Sec. 7. [Repealed.]~~

~~Sec. 8. Retailer to Collect Sales Tax. Every retailer whose place of business is in Mecklenburg County shall on and after the levy of the tax herein authorized collect the one per cent (1%) local sales tax provided by this Act.~~

~~The tax to be collected under this division shall be collected as a part of the sales price of the item of tangible personal property sold, the cost price of the item of tangible personal property used, or as a part of the charge for the rendering of any services, renting or leasing of tangible personal property, or the furnishing of any accommodation taxable hereunder. The tax shall be stated and charged separately from the sales price or cost price and shall be shown separately on the retailer's sales record and shall be paid by the purchaser to the retailer as trustee for and on account of the State or county wherein the tax is imposed. It is the intent and purpose of this Article that the local sales and use tax herein authorized to be imposed and levied by Mecklenburg County shall be added to the sales price and that the tax shall be passed on to the purchaser instead of being borne by the retailer. The Commissioner of Revenue shall design, print and furnish to all retailers the necessary forms for filing returns and instructions to insure the full collection from retailers, and the Commissioner may adapt the present form used for the reporting and collecting of the State sales and use tax to this purpose.~~

~~Sec. 9. Distribution. Disposition and Distribution of Taxes Collected; County and Municipalities to Share with Tax Districts. The Commissioner of Revenue shall, on a monthly basis distribute to Mecklenburg County and municipalities within Mecklenburg County the net proceeds of the tax collected under this division. The Secretary of Revenue must divide the net proceeds of the tax collected under this division on items other than food to Mecklenburg County and its municipalities in accordance with the ad valorem distribution method described~~

~~in G.S. 105-472(b)(2). The Secretary of Revenue shall must distribute the taxes levied by Mecklenburg County on food to Mecklenburg County and the municipalities within Mecklenburg County in accordance with G.S. 105-469(a). This amount shall be divided between the county and all its municipalities therein in proportion to the total amount of ad valorem taxes levied by each during the fiscal year preceding such distribution. in accordance with the ad valorem distribution method described in G.S. 105-472(b)(2). In computing the amount of tax proceeds to be distributed to Mecklenburg County and its municipalities, the amount of any ad valorem taxes levied but not substantially collected shall be ignored. In computing "net proceeds", the Commissioner of Revenue shall determine the cost of collection of said tax and cost of collection of said tax shall be retained by the State before distribution of net proceeds. Should Mecklenburg County or any municipality within Mecklenburg County fail to provide the Department of Revenue with information concerning ad valorem taxes levied adequate to permit a timely determination of that governmental unit's appropriate share of the tax proceeds collected under this Chapter, then that governmental unit may be excluded by the secretary from each monthly distribution with respect to which such information was not provided in a timely manner, and such tax proceeds shall then be distributed only to the governmental unit or units whose information was provided in a timely manner.~~

~~For the purpose of computing the distribution of the tax under this section to Mecklenburg County and the municipalities located therein for any month with respect to which the property valuation of a public service company is the subject of an appeal pursuant to the provisions of the Machinery Act, or to applicable provisions of federal law, and the Department of Revenue is restrained by operation of law or by a court of competent jurisdiction from certifying such valuation to the county and the municipalities therein, the Department shall use the last property valuation of such public service company which has been so certified in order to determine the ad valorem tax levies applicable to such public service company in the county and the municipalities therein.~~

The Secretary of Revenue must reduce the amount distributable to Mecklenburg County under this section by the amount set in G.S. 105-522. This reduction does not affect the amount allocated to municipalities under this section.

~~Sec. 10. Definitions; Application of Other Provisions of Article 5 of Chapter 105 of the General Statutes of North Carolina; Construction of this Division; Penalties. The definitions set forth in G.S. 105-164.3 shall apply to this division insofar as such definitions are not inconsistent with the provisions of this division, and all other present provisions of Article 5 as the same relate to the State Sales and Use Tax Act shall be applicable to this division unless such provisions are inconsistent with the provisions of this division. In construing and interpreting the provisions of this division, the Commissioner of Revenue may uniformly apply the administrative interpretations which have heretofore been made by the Department of Revenue as to the State Sales and Use Tax Act. It is the intention of this division that the provisions of this division and the provisions of the State Sales and Use Tax Act, insofar as it is practicable, shall be harmonized.~~

~~The penalty provisions now applicable to the enforcement of the State Sales and Use Tax Act shall be applicable in like manner to the tax authorized to be levied and collected under this division."~~

If any provision of this Act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are declared to be severable.

~~Sec. 10.1. Amendment of levy. (a) Purpose and Intent. It is the purpose of this section to provide a way for the qualified voters of Mecklenburg County to determine by special election whether to delete from Chapter 1096 of the 1967 Session Laws the provision that 'the maximum amount of additional tax imposed by this act on one sale shall be ten dollars~~

~~(\$10.00)', and to make the use tax provisions of the Mecklenburg County Sales and Use Tax Act consistent with the use tax provisions of the Local Government Sales and Use Tax Act.~~

~~(b) County Election as to Amendment of Mecklenburg County Sales and Use Tax Act. The Board of Elections of Mecklenburg County, upon the written request of the Mecklenburg County Board of Commissioners, or upon receipt of a petition signed by qualified voters of Mecklenburg County equal in number to at least fifteen percent (15%) of the total number of votes cast in the county at the last preceding election for the office of Governor, shall call a special election for the purpose of submitting to the voters of the county the question of whether the one percent (1%) sales and use tax authorized by Chapter 1096 of the 1967 Session Laws, adopted by election held on November 13, 1967, and levied effective March 1, 1968, will be amended as hereinafter provided and, as amended, levied.~~

~~The special election shall be held under the same rules and regulations applicable to the election of members of the General Assembly. A new registration of voters is not required and all qualified voters who are properly registered prior to the special election shall be entitled to vote at said election. The Mecklenburg County Board of Elections shall give public notice prior to the closing of the registration books for the special election, as required by G.S. 163-33(8).~~

~~The Mecklenburg County Board of Elections shall prepare ballots for the special election which shall contain the words, 'FOR amending the one percent (1%) Mecklenburg County Sales and Use Tax Act to delete the ten dollar (\$10.00) maximum sales and use tax per sale and to make the use tax provisions of the Mecklenburg County Sales and Use Tax Act consistent with the use tax provisions of the Local Government Sales and Use Tax Act', and the words, 'AGAINST amending the one percent (1%) Mecklenburg County Sales and Use Tax Act to delete the ten dollar (\$10.00) maximum sales and use tax per sale and to make the use tax provisions of the Mecklenburg County Sales and Use Tax Act consistent with the use tax provisions of the Local Government Sales and Use Tax Act', with appropriate squares so that each voter may designate by his cross (X) mark his preference.~~

~~The Mecklenburg County Board of Elections shall fix the date of the special election; provided, however, that the special election shall not be held on the day of any biennial election for county officers, nor within 60 days thereof.~~

~~(c) Effective Date of Amended Tax After Special Election Authorizing Levy. In the event a majority of those voting in a special election held under this section shall approve the amendment of the Mecklenburg County Sales and Use Tax Act, and the levy of the sales and use tax pursuant to the act, as amended, the Mecklenburg County Board of Elections shall immediately send a certified statement of the results of the special election to the Secretary of Revenue.~~

~~The Mecklenburg County sales and use tax being levied on the date of the special election shall continue to be levied, administered and collected until the last day of the next succeeding calendar month after the date the Secretary of Revenue receives the certified statement from the Mecklenburg County Board of Elections of the results of the special election, after which date it shall no longer be levied.~~

~~The Mecklenburg County sales and use tax authorized to be levied pursuant to the Mecklenburg County Sales and Use Tax Act as amended by subsections (d) through (g) of this section shall be imposed on the first day of the second succeeding calendar month after the Secretary of Revenue receives the certified statement of the results of the special election (this day being also described as being the day next following the day the Mecklenburg County sales and use tax being levied on the date of the special election shall cease to be levied).~~

~~No liability for the Mecklenburg County sales and use tax being levied on the date of the special election which shall have attached prior to the effective date on which the levy is terminated shall be discharged as a result of such termination, and no right to a refund of tax or otherwise, which shall have accrued prior to the effective date on which the levy is terminated, shall be denied.~~

In the event a majority of those voting in the special election held under this section do not vote for the amendment, the Mecklenburg County sales and use tax being levied on the date of the special election shall continue to be levied, administered and collected as authorized by Chapter 1096 of the 1967 Session Laws.

~~(d) Amended Sales Tax Imposed; Scope. In the event a majority of those voting in the special election shall approve the amendment of the Mecklenburg County Sales and Use Tax Act, Section 4 of Chapter 1096 of the 1967 Session Laws shall remain in effect and shall govern the levy of the Mecklenburg County sales and use tax, as amended, except that the last sentence of Section 4 thereof, which reads as follows, is repealed and shall have no effect on the levy of the amended Mecklenburg County sales and use tax, from and after its effective date: 'The maximum amount of additional tax imposed by this act on one sale shall be ten dollars (\$10.00)'.~~

~~(e) Amended Use Tax Imposed; Limited to Items Upon Which the State Now Imposes a Use Tax Under G.S. 105-164.6. In the event a majority of those voting in the special election shall approve the amendment of the Mecklenburg County Sales and Use Tax Act, Section 5 of Chapter 1096, Session Laws of 1967, as amended by Section 3 of Chapter 1100, Session Laws of 1979 is rewritten in its entirety, to read as follows:~~

~~'Sec. 5. The use tax which Mecklenburg County may impose under this division shall be at the rate of one percent (1%) of the cost price of each item or article of tangible personal property when the same is not sold but used, consumed or stored for use or consumption in Mecklenburg County, except that no tax shall be imposed upon such tangible personal property when, if the property were subject to the use tax imposed by G.S. 105-164.6, such property would be taxed by the State of North Carolina at a rate less than three percent (3%).~~

~~Every retailer engaged in business in this State and in Mecklenburg County and required to collect the use tax levied by G.S. 105-164.6 shall also collect the one percent (1%) use tax when such property is to be used, consumed or stored in said county, said one percent (1%) use tax to be collected concurrently with the State's use tax; but no retailer not required to collect the use tax levied by G.S. 105-164.6 shall be required to collect the one percent (1%) use tax. The use tax contemplated by this section shall be levied against the purchaser, and his liability for such use tax shall be extinguished only upon his payment of the use tax to the retailer, where the retailer is required to collect the tax, or to the Secretary of Revenue, where the retailer is not required to collect the tax.~~

~~Where a local sales or use tax has been paid with respect to said tangible personal property by the purchaser thereof, either in another taxing county within the State, or in a taxing jurisdiction outside the State where the purpose of the tax is similar in purpose and intent to the tax which may be imposed pursuant to this section, said tax may be credited against the tax imposed by this section by Mecklenburg County upon the same property. If the amount of sales or use tax so paid is less than the amount of the use tax due Mecklenburg County under this section, the purchaser shall pay to the Secretary of Revenue an amount equal to the difference between the amount so paid in the other taxing county or jurisdiction and the amount due in Mecklenburg County hereunder. The Secretary of Revenue may require such proof of payment in another taxing county or jurisdiction as is deemed to be necessary and proper. The use tax levied hereunder shall not be subject to credit for payment of any State sales or use tax not imposed for the benefit and use of counties and municipalities. No credit shall be given under this section for sales or use taxes paid in a taxing jurisdiction outside this State if that taxing jurisdiction does not grant similar credit for sales taxes paid under this act.'~~

~~The purpose of this amendment to Section 5 of Chapter 1096 of the 1967 Session Laws is to make the imposition of the one percent (1%) use tax in Mecklenburg County the same as in all counties in the State which have imposed a sales and use tax pursuant to Article 39, Subchapter VIII of Chapter 105 of the General Statutes.~~

~~(f) Retail Bracket System; Application to Mecklenburg County Sales and Use Tax. In the event a majority of those voting in the special election shall approve the amendment of the Mecklenburg County Sales and Use Tax Act, Section 7 of said act shall remain in effect and shall govern the levy of the Mecklenburg County sales and use tax, as amended, except that the last sentence of Section 7, which reads as follows, is repealed and shall have no effect on the levy of the amended Mecklenburg County sales and use tax: "The maximum amount of additional tax imposed by the act on one sale shall be ten dollars (\$10.00)."~~

~~(g) Remaining Portions of Chapter 1096 of the 1967 Session Laws to Remain in Effect. In the event a majority of those voting in the special election shall approve the amendment of the Mecklenburg County Sales and Use Tax Act, the Mecklenburg County sales and use tax, as amended, shall be levied, administered and collected as set forth in Chapter 1096 of the 1967 Session Laws, except as hereinabove provided.~~

~~Sec. 10.2. No municipality may receive any funds under this act if it was incorporated with an effective date of on or after January 1, 2000, and is disqualified from receiving funds under G.S. 136-41.2. No municipality may receive any funds under this act, incorporated with an effective date on or after January 1, 2000, unless a majority of the mileage of its streets are open to the public. The previous sentence becomes effective with respect to distribution of funds on or after July 1, 1999.~~

~~Section 10.3. Mecklenburg County must give the Secretary of Revenue at least 90 days advance notice of any tax rate change under this act. Any tax rate change under this act must become effective on the first day of the month of either January or July, as set by the board of county commissioners in the resolution levying the tax.~~

~~Sec. 11. All laws and clauses of laws in conflict with this Act are hereby repealed.~~

~~Sec. 12. This Act shall be in full force and effect upon its ratification."~~

## **PROPERTY TAX CHANGES**

**SECTION 20.** G.S. 105-273(6) reads as rewritten:

"(6) Corporation. – An organization having capital stock represented by shares or an incorporated, nonprofit organization."

**SECTION 21.** G.S. 105-275 reads as rewritten:

### **"§ 105-275. Property classified and excluded from the tax base.**

The following classes of property are ~~hereby~~ designated special classes under ~~authority of~~ Article V, Sec. 2(2), of the North Carolina Constitution and ~~shall not be listed, appraised, assessed, or taxed~~ are excluded from tax:".

**SECTION 22.(a)** G.S. 105-277.1(d) reads as rewritten:

"(d) Ownership by Spouses. – A permanent residence owned and occupied by husband and wife ~~as tenants by the entirety~~ is entitled to the full benefit of this exclusion notwithstanding that only one of them meets the age or disability requirements of this section."

**SECTION 22.(b)** G.S. 105-277.1B reads as rewritten:

### **"§ 105-277.1B. Property tax homestead circuit breaker.**

(a) Classification. – A permanent residence owned and occupied by a qualifying owner is designated a special class of property under Article V, Section 2(2) of the North Carolina Constitution and is taxable in accordance with this section.

(b) Definitions. – The definitions provided in G.S. 105-277.1 apply to this section.

(c) Income Eligibility Limit. – The income eligibility limit provided in G.S. 105-277.1(a2) applies to this section.

(d) Qualifying Owner. – For the purpose of qualifying for the property tax homestead circuit breaker under this section, a qualifying owner is an owner who meets all of the following requirements as of January 1 preceding the taxable year for which the benefit is claimed:

- (1) The owner has an income for the preceding calendar year of not more than one hundred fifty percent (150%) of the income eligibility limit specified in subsection (c) of this section.
- (2) The owner has owned ~~and occupied~~ the property as a permanent residence for at least five ~~years consecutive years~~ and has occupied the property as a permanent residence for at least five years.
- (3) The owner is at least 65 years of age or totally and permanently disabled.
- (4) The owner is a North Carolina resident.

(e) Multiple Owners. – A permanent residence owned and occupied by husband and wife ~~as tenants by the entirety~~ is entitled to the full benefit of the property tax homestead circuit breaker notwithstanding that only one of them meets the ~~occupation requirement~~ length of occupancy and ownership requirements and the age or disability requirement of this section. When a permanent residence is owned and occupied by two or more persons other than husband and wife, no property tax homestead circuit breaker is allowed unless all of the owners qualify and elect to defer taxes under this section.

(f) Tax Limitation. – A qualifying owner may defer the portion of the principal amount of tax that is imposed for the current tax year on his or her permanent residence ~~if it and~~ exceeds the percentage of the qualifying owner's income set out in the table in this subsection. If a permanent residence is subject to tax by more than one taxing unit and the total tax liability exceeds the tax limit imposed by this section, then both the taxes due under this section and the taxes deferred under this section must be apportioned among the taxing units based upon the ratio each taxing unit's tax rate bears to the total tax rate of all units.

<b>Income Over</b>	<b>Income Up To</b>	<b>Percentage</b>
-0-	Income Eligibility Limit	4.0%
Income Eligibility Limit	150% of Income Eligibility Limit	5.0%

(g) Temporary Absence. – An otherwise qualifying owner does not lose the benefit of this circuit breaker because of a temporary absence from his or her permanent residence for reasons of health, or because of an extended absence while confined to a rest home or nursing home, so long as the residence is unoccupied or occupied by the owner's spouse or other dependent.

(h) Deferred Taxes. – The difference between the taxes due under this section and the taxes that would have been payable in the absence of this section are a lien on the real property of the taxpayer as provided in G.S. 105-355(a). The difference in taxes ~~for the three fiscal years preceding the current tax year shall~~ must be carried forward in the records of ~~the each~~ taxing unit ~~or units~~ as deferred taxes. The deferred taxes for the preceding three fiscal years are due and payable in accordance with G.S. 105-277.1F when the property loses its eligibility for deferral ~~because of the occurrence as a result of a disqualifying event as provided described in~~ subsection (i) of this section. On or before September 1 of each year, the collector ~~shall notify each residence owner to whom a tax deferral has previously been granted of the accumulated sum of deferred taxes and interest must send to the mailing address of a residence on which taxes have been deferred a notice stating the amount of deferred taxes and interest that would be due and payable upon the occurrence of a disqualifying event.~~

- (i) Disqualifying Events. – Each of the following constitutes a disqualifying event:
- (1) The owner transfers the residence. Transfer of the residence is not a disqualifying event if (i) the owner transfers the residence to a co-owner of the residence or, as part of a divorce proceeding, to his or her spouse and (ii) that individual occupies or continues to occupy the property as his or her permanent residence.
  - (2) The owner dies. Death of the owner is not a disqualifying event if (i) the owner's share passes to a co-owner of the residence or to his or her spouse

~~residence~~ and (ii) that individual occupies or continues to occupy the property as his or her permanent residence.

(3) The owner ceases to use the property as a permanent residence.

(j) Gap in Deferral. – If an owner of a residence on which taxes have been deferred under this section is not eligible for continued deferral for a tax year, the deferred taxes ~~deferred from the prior tax years~~ are carried forward and are not due and payable ~~but are carried forward~~ until a disqualifying event occurs. If the owner of the residence qualifies for deferral after one or more years in which he or she did not qualify for ~~deferral~~, deferral and a disqualifying event occurs, the years in which the owner did not qualify are disregarded in determining the preceding three years for which the deferred taxes are ~~carried forward~~ due and payable.

(k) Repealed by Session Laws 2008-35, s. 1.2, effective July 1, 2008.

(l) Creditor Limitations. – A mortgagee or trustee that elects to pay any tax deferred by the owner of a residence subject to a mortgage or deed of trust does not acquire a right to foreclose as a result of the election. Except for requirements dictated by federal law or regulation, any provision in a mortgage, deed of trust, or other agreement that prohibits the owner from deferring taxes on property under this section is void.

(m) Construction. – This section does not affect the attachment of a lien for personal property taxes against a tax-deferred residence.

(n) Application. – An application for property tax relief provided by this section should be filed during the regular listing period, but may be filed and must be accepted at any time up to and through June 1 preceding the tax year for which the relief is claimed. Persons may apply for this property tax relief by entering the appropriate information on a form made available by the assessor under G.S. 105-282.1."

**SECTION 22.**(c) G.S. 105-277.1C reads as rewritten:

**"§ 105-277.1C. Disabled veteran property tax homestead exclusion.**

(a) ~~Exclusion Classification.~~ – A permanent residence owned and occupied by ~~an a~~ qualifying owner who is a North Carolina resident and who is an honorably discharged disabled veteran or the unmarried surviving spouse of an honorably discharged disabled veteran is designated a special class of property under Article V, Section 2(2) of the North Carolina Constitution and is taxable in accordance with this section. The first forty-five thousand dollars (\$45,000) of appraised value of the residence is excluded from taxation. ~~An A~~ qualifying owner who receives an exclusion under this section may not receive other property tax relief.

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

(1) Disabled veteran. – A veteran ~~who, as of January 1 preceding the taxable year for which the exclusion allowed by this section is claimed, receives benefits under 38 U.S.C. § 2101 or has a veteran's disability certification of any branch of the Armed Forces of the United States whose character of service at separation was honorable or under honorable conditions and who satisfies one of the following requirements:~~

a. As of January 1 preceding the taxable year for which the exclusion allowed by this section is claimed, the veteran had received benefits under 38 U.S.C. § 2101.

b. The veteran has received a certification by the United States Department of Veterans Affairs or another federal agency indicating that, as of January 1 preceding the taxable year for which the exclusion allowed by this section is claimed, he or she has a service-connected, permanent, and total disability. If the veteran is deceased, the certificate must indicate that he or she had the disability prior to the date of death or that the death was the result of a service-connected condition.

- (2) ~~Owner. — Defined in G.S. 105-277.1.~~
- (3) ~~Permanent residence. — Defined in G.S. 105-277.1.~~
- (4) ~~Property tax relief. — Defined in G.S. 105-277.1.~~
- (4a) Qualifying owner. — An owner, as defined in G.S. 105-277.1, who is a North Carolina resident and one of the following:
  - a. A disabled veteran.
  - b. The surviving spouse of a disabled veteran who has not remarried.
- (5) ~~Veteran. — A veteran of any branch of the Armed Forces of the United States.~~
- (6) ~~Veteran's disability certification. — A certification by the United States Department of Veterans Affairs or another federal agency that a veteran has a permanent total disability that is service connected.~~

(c) ~~Temporary Absence. — An owner does not lose the benefit of this exclusion because of a temporary absence from his or her permanent residence for reasons of health or because of an extended absence while confined to a rest home or nursing home, so long as the residence is unoccupied or occupied by the owner's spouse or other dependent.~~

(d) ~~Ownership by Spouses — A permanent residence owned and occupied by husband and wife as tenants by the entirety is entitled to the full benefit of this exclusion notwithstanding that only one of them meets the requirements of this section.~~

(e) ~~Other Multiple Owners. — This subsection applies to co-owners who are not husband and wife. Each co-owner of a permanent residence must apply separately for the exclusion allowed under this section.~~

When one or more co-owners of a permanent residence qualify for the exclusion allowed under this section and none of the co-owners qualifies for the exclusion allowed under G.S. 105-277.1, each co-owner is entitled to the full amount of the exclusion allowed under this section. The exclusion allowed to one co-owner may not exceed the co-owner's proportionate share of the valuation of the property, and the amount of the exclusion allowed to all the co-owners may not exceed the exclusion allowed under this section.

When one or more co-owners of a permanent residence qualify for the exclusion allowed under this section and one or more of the co-owners qualify for the exclusion allowed under G.S. 105-277.1, each co-owner who qualifies for the exclusion allowed under this section is entitled to the full amount of the exclusion. The exclusion allowed to one co-owner may not exceed the co-owner's proportionate share of the valuation of the property, and the amount of the exclusion allowed to all the co-owners may not exceed the greater of the exclusion allowed under this section and the exclusion allowed under G.S. 105-277.1.

(f) ~~Application. — An application for the exclusion allowed under this section should be filed during the regular listing period, but may be filed and must be accepted at any time up to and through June 1 preceding the tax year for which the exclusion is claimed. An applicant for an exclusion under this section must establish eligibility for the exclusion by providing a copy of the veteran's disability certification or evidence of benefits received under 38 U.S.C. § 2101.~~

**SECTION 22.(d)** This section is effective for taxes imposed for taxable years beginning on or after July 1, 2009.

**SECTION 23.(a)** Section 3 of S.L. 2008-171 is repealed.

**SECTION 23.(b)** G.S. 105-277.14(d) is repealed.

**SECTION 23.(c)** G.S. 105-282.1(a) reads as rewritten:

"(a) ~~Application. — Every owner of property claiming exemption or exclusion from property taxes under the provisions of this Subchapter has the burden of establishing that the property is entitled to it. If the property for which the exemption or exclusion is claimed is appraised by the Department of Revenue, the application shall be filed with the Department. Otherwise, the application shall be filed with the assessor of the county in which the property is~~

situated. An application must contain a complete and accurate statement of the facts that entitle the property to the exemption or exclusion and must indicate the municipality, if any, in which the property is located. Each application filed with the Department of Revenue or an assessor shall be submitted on a form approved by the Department. Application forms shall be made available by the assessor and the Department, as appropriate.

Except as provided below, an owner claiming an exemption or exclusion from property taxes must file an application for the exemption or exclusion annually during the listing period.

- (1) No application required. – Owners of the following exempt or excluded property do not need to file an application for the exemption or exclusion to be entitled to receive it:
  - a. Property exempt from taxation under G.S. 105-278.1 or G.S. 105-278.2.
  - b. Special classes of property excluded from taxation under G.S. 105-275(15), (16), (26), (31), (32a), (33), (34), (37), (40), ~~or (42)-(42), or (44).~~
  - c. Property classified for taxation at a reduced valuation under G.S. 105-277(g) or G.S. 105-277.9.
- (2) Single application required. – An owner of one or more of the following properties eligible to be exempted or excluded from taxation must file an application for exemption or exclusion to receive it. Once the application has been approved, the owner does not need to file an application in subsequent years unless new or additional property is acquired or improvements are added or removed, necessitating a change in the valuation of the property, or there is a change in the use of the property or the qualifications or eligibility of the taxpayer necessitating a review of the exemption or exclusion:
  - a. Property exempted from taxation under G.S. 105-278.3, 105-278.4, 105-278.5, 105-278.6, 105-278.7, or 105-278.8.
  - b. Special classes of property excluded from taxation under G.S. 105-275(3), (7), (8), (12), (17), (18), (19), (20), (21), (31e), (35), (36), (38), (39), ~~or (41)(41), or (45)~~ or under G.S. 131A-21.
  - c. Special classes of property classified for taxation at a reduced valuation under G.S. 105-277(h), 105-277.1, 105-277.10, 105-277.13, or 105-278.
  - d. Property owned by a nonprofit homeowners' association but where the value of the property is included in the appraisals of property owned by members of the association under G.S. 105-277.8."

**SECTION 23.(d)** G.S. 105-282.1(a)(2), as amended by subsection (c) of this section, reads as rewritten:

- "(2) Single application required. – An owner of one or more of the following properties eligible for a property tax benefit must file an application for the benefit to receive it. Once the application has been approved, the owner does not need to file an application in subsequent years unless new or additional property is acquired or improvements are added or removed, necessitating a change in the valuation of the property, or there is a change in the use of the property or the qualifications or eligibility of the taxpayer necessitating a review of the benefit.
  - a. Property exempted from taxation under G.S. 105-278.3, 105-278.4, 105-278.5, 105-278.6, 105-278.7, or 105-278.8.
  - b. Special classes of property excluded from taxation under G.S. 105-275(3), (7), (8), (12), (17), (18), (19), (20), (21), (31e), (35), (36), (38), (39), (41), or (45) or under G.S. 131A-21.

- c. Special classes of property classified for taxation at a reduced valuation under G.S. 105-277(h), 105-277.1, 105-277.1C, 105-277.10, 105-277.13, 105-277.14, or 105-278.
- d. Property owned by a nonprofit homeowners' association but where the value of the property is included in the appraisals of property owned by members of the association under G.S. 105-277.8.
- e. Repealed by Session Laws 2008-35, s. 1.2, effective for taxes imposed for taxable years beginning on or after July 1, 2008."

**SECTION 23.(e)** G.S. 105-282.1(a)(2), as amended by subsections (c) and (d) of this section, reads as rewritten:

"(2) Single application required. – An owner of one or more of the following properties eligible for a property tax benefit must file an application for the benefit to receive it. Once the application has been approved, the owner does not need to file an application in subsequent years unless new or additional property is acquired or improvements are added or removed, necessitating a change in the valuation of the property, or there is a change in the use of the property or the qualifications or eligibility of the taxpayer necessitating a review of the benefit.

- a. Property exempted from taxation under G.S. 105-278.3, 105-278.4, 105-278.5, 105-278.6, 105-278.7, or 105-278.8.
- b. Special classes of property excluded from taxation under G.S. 105-275(3), (7), (8), (12), (17), (18), (19), (20), (21), (31e), (35), (36), (38), (39), (41), or (45) or under G.S. 131A-21.
- c. Special classes of property classified for taxation at a reduced valuation under G.S. 105-277(h), 105-277.1, 105-277.1C, 105-277.10, 105-277.13, 105-277.14, 105-277.15, or 105-278.
- d. Property owned by a nonprofit homeowners' association but where the value of the property is included in the appraisals of property owned by members of the association under G.S. 105-277.8.
- e. Repealed by Session Laws 2008-35, s. 1.2, effective for taxes imposed for taxable years beginning on or after July 1, 2008."

**SECTION 23.(f)** Subsection (c) of this section is effective for taxes imposed for taxable years beginning on or after July 1, 2008. Subsection (d) of this section is effective for taxes imposed for taxable years beginning on or after July 1, 2009. Subsection (e) of this section is effective for taxes imposed for taxable years beginning on or after July 1, 2010. The remainder of this section is effective when it becomes law.

**SECTION 24.(a)** Article 22A of Chapter 105 of the General Statutes, as rewritten by S.L. 2005-294, S.L. 2006-30, S.L. 2007-471, Section 22 of S.L. 2007-527, and Sections 61 through 66 of S.L. 2008-134, reads as rewritten:

"Article 22A.

"Motor Vehicles.

**"§ 105-330. Definitions.**

The following definitions apply in this Article:

- (1) Classified motor vehicle. – A motor vehicle classified under this Article.
- (1a) Collecting authority. – The Division of Motor Vehicles or an agent contracting with the Division of Motor Vehicles.
- (2) Motor vehicle. – Defined in G.S. 20-4.01(23).
- (2a) Municipal corporation. – Defined in G.S. 105-273(11).
- (3) Public service company. – Defined in G.S. 105-333(14).
- (4) Registered classified motor vehicle. – Any of the following:

- a. A classified motor vehicle that has a registration plate issued under Article 3 of Chapter 20 of the General Statutes and whose registration is current.
- b. A classified motor vehicle transferred to an owner who has applied for a registration plate for the motor vehicle.
- (5) Registration fees. – Fees set out in G.S. 20-87 and G.S. 20-88.
- (6) Unregistered classified motor vehicle. – A classified motor vehicle that is not a registered classified motor vehicle.

**"§ 105-330.1. Classification of motor vehicles.**

(a) Classification. – All motor vehicles other than the motor vehicles listed in subsection (b) of this section are designated a special class of property under ~~authority of Article V, Sec. 2(2) of the North Carolina Constitution.~~ Constitution and are considered classified motor vehicles. Classified motor vehicles ~~shall~~ must be listed and assessed as provided in this Article and taxes on classified motor vehicles ~~shall~~ must be collected as provided in this Article.

(b) Exceptions. – The following motor vehicles are not classified under subsection (a) of this section:

- (1) Motor vehicles exempt from registration pursuant to G.S. 20-51.
- (2) Manufactured homes, mobile classrooms, and mobile offices.
- (3) Semitrailers or trailers registered on a multiyear basis.
- (4) Motor vehicles owned or leased by a public service company and appraised under G.S. 105-335.
- (5) Repealed by Session Laws 2000, c. 140, s. 75(a), effective July 1, 2000.
- (6) Motor vehicles registered under the International Registration Plan.
- (7) Motor vehicles issued permanent registration plates under G.S. 20-84.
- (8) Self-propelled property-carrying vehicles issued three-month registration plates at the farmer rate under G.S. 20-88.

**"§ 105-330.2. Appraisal, ownership, and situs.**

(a) ~~Date Determined.~~ Determination Date for Registered Vehicle. – The ownership, situs, and taxability of a registered classified motor vehicle is determined annually as of the date on which the vehicle's current registration is renewed, regardless of whether the registration is renewed after it has expired, or on the date an application for a new registration is submitted. The situs of a registered classified motor vehicle may not be changed until the next registration date. The value of a registered classified motor vehicle listed pursuant to G.S. 105-330.3(a)(1) (registered vehicles) shall be is determined as of January 1 of the year the taxes are due. follows:

- (1) For a registration expiring or an application for a new registration during the period January 1 through August 31, the value is determined as of January 1 of the current year.
- (2) For a registration expiring or an application for a new registration during the period September 1 through December 31, the value is determined as of January 1 of the following year.
- (3) For a new motor vehicle whose value cannot be determined as of January 1 of the year specified in subdivision (1) or (2) of this subsection, the value is determined as of the date that model of motor vehicle cannot be determined as of that date, the value of that vehicle shall be determined for that year as of the date that model vehicle is first offered for sale at retail in this State.
- (4) For a motor vehicle whose value cannot be determined as of the date set under any other subdivision in this subsection, the value is determined using the most currently available January 1 retail value of the vehicle.

~~The ownership, situs, and taxability of a classified motor vehicle listed pursuant to G.S. 105-330.3(a)(1) (registered vehicles) shall be determined annually as of the day on which a new registration is applied for or the day on which the current vehicle registration is renewed, regardless of whether the registration is renewed after it has expired.~~

~~(a1) Determination Date for Unregistered Vehicle. – The value of a classified motor vehicle listed pursuant to G.S. 105-330.3(a)(2) (unregistered vehicles) shall be determined as of January 1 of the year in which the motor vehicle is required to be listed pursuant to G.S. 105-330.3(a)(2). The ownership, situs, and taxability of a an unregistered classified motor vehicle listed or discovered pursuant to G.S. 105-330.3(a)(2) (unregistered vehicles) shall be is determined as of January 1 of the year in which the registration of the motor vehicle is required to be listed, expires and is not renewed or the motor vehicle is acquired and the owner does not submit an application for registration. The value of an unregistered classified motor vehicle is determined as of January 1 of the year the vehicle is required to be listed.~~

~~(b) Value; Appeal Value. – A An assessor must appraise a classified motor vehicle shall be appraised by the assessor at its true value in money as prescribed by G.S. 105-283. The sales price of a classified motor vehicle purchased from a dealer, including all accessories attached to the vehicle when it is delivered to the purchaser, is considered the true value of the vehicle, and the assessor must appraise the vehicle at this value. The sales price excludes the tax imposed under Article 5A of this Chapter. If the assessor considers the sales price of the motor vehicle in determining the true value of the motor vehicle, the assessor must not include any amount for which the taxpayer is liable under Article 5A of this Chapter. The Property Tax Division of the Department of Revenue shall must annually adopt a schedule of values, standards, and rules to be used in the valuation of all other classified motor vehicles to ensure equitable statewide valuations, taking into account local market conditions and allowing adjustments for mileage and the condition of the vehicles.~~

~~(b1) Appeal. – The owner of a classified motor vehicle may appeal the appraised value or taxability of the vehicle in the manner provided by G.S. 105-312(d) for appeals in the case of discovered property and may appeal the situs or taxability of the vehicle in the manner provided by G.S. 105-381. The owner of a classified motor vehicle must file an appeal of appraised value by filing a request for appeal with the assessor before the taxes become delinquent pursuant to G.S. 105-330.4, within 30 days of the date taxes are due on the vehicle under G.S. 105-330.4. Notwithstanding G.S. 105-312(d), anAn owner who appeals the appraised value or taxability of a classified motor vehicle shall must pay the tax on the vehicle when due, subject to a full or partial refund if the appeal is decided in the owner's favor.~~

~~The combined tax and registration notice or tax receipt for a classified motor vehicle must explain the right to appeal the appraised value and taxability of the vehicle. A lessee of a vehicle that is required by the terms of the lease to pay the tax on the vehicle is considered the owner of the vehicle for purposes of filing an appeal under this subsection.~~

~~(c) Repealed by Session Laws 2008-134, s. 61, effective July 28, 2008.~~

**~~§ 105-330.3. Assessor's duty to list~~ Listing requirements for classified motor vehicles; application for exempt status.**

~~(a)(1) Registered Vehicles. – The assessor shall list, appraise, and assess all taxable classified motor vehicles for county, municipal, and special district taxes must list a registered classified motor vehicle each year for each taxing unit in the name of the record owner as of the day on which the current vehicle registration is renewed or the day on which an owner to whom the vehicle is transferred applies for a new registration is applied for, registration. The owner of a classified motor vehicle listed pursuant to this subdivision-subsection need not list the vehicle as provided in G.S. ~~105-306; 105-306.~~ G.S. 105-312 does not apply to a classified motor vehicles-vehicle listed pursuant to this subdivision-subsection.~~

~~(a1)(2) Unregistered Vehicles. – The owner of a-an unregistered classified motor vehicle who does not register the vehicle or does not renew the registration of the vehicle on or before~~

~~the expiration date of the current registration shall~~ must list the vehicle for taxes by filing an abstract with the assessor of the county in which the vehicle is located on or before January 31 following the date the owner acquired the unregistered vehicle ~~is acquired~~ or, in the case of a registration that is not renewed, January 31 following the date the registration expires, and on or before January 31 of each succeeding year that the vehicle is unregistered. If a classified motor vehicle listed pursuant to this ~~section~~ subsection is registered during the calendar year in which it was listed, ~~it shall be the vehicle is~~ is taxed for the fiscal year that opens in the calendar year of listing as an unregistered vehicle. A vehicle required to be listed pursuant to this ~~subdivision~~ subsection that is not listed by January 31 ~~shall be~~ is subject to discovery pursuant to G.S. 105-312, unless the vehicle has been taxed as a registered vehicle for the current year.

(b) Exemption or Exclusion. – The owner of a classified motor vehicle who claims an exemption or exclusion from tax under this Subchapter has the burden of establishing that the vehicle is entitled to the exemption or exclusion. The owner may establish prima facie entitlement to exemption or exclusion of the classified motor vehicle by filing an application for exempt status with the assessor. When an approved application is on file, the assessor ~~shall~~ must omit from the tax records the classified motor vehicles described in the application. An application is not required for vehicles qualifying for the exemptions or exclusions listed in G.S. 105-282.1(a)(1). The remaining provisions of G.S. 105-282.1 do not apply to classified motor vehicles.

(c) Duty to Report Changes. – The owner of a classified motor vehicle that has been omitted from the tax records as provided in subsection (b) ~~shall of this section~~ must report to the assessor any classified motor vehicle registered in the owner's name or owned by ~~him~~ that person but not registered in the person's name that does not qualify for exemption or exclusion for the current year. This report ~~shall~~ must be made within 30 days after the renewal of registration or initial registration of the vehicle or, for an unregistered vehicle, on or before January 31 of the year in which the vehicle is required to be listed by ~~subdivision (a)(2)~~ subsection (a1) of this section. A classified motor vehicle that does not qualify for exemption or exclusion but has been omitted from the tax records as provided in subsection (b) is subject to discovery under the provisions of G.S. 105-312, except that in lieu of the penalties prescribed by G.S. 105-312(h) ~~there shall be assessed a penalty of one hundred dollars (\$100.00)~~ is assessed for each registration period that elapsed before the disqualification was discovered.

(d) ~~The provisions of G.S. 105-282.1 do not apply to classified motor vehicles.~~ Criminal Sanction. – A person who willfully attempts, or who willfully aids or abets another person to attempt, in any manner to evade or defeat the taxes subject to this Article, whether by removal or concealment of property or otherwise, is guilty of a Class 2 misdemeanor.

**"§ 105-330.4. Due date, interest, and enforcement remedies.**

(a) Due Date. – The registration of a classified motor vehicle may not be renewed unless the taxes that are due have been paid. Taxes on a classified motor vehicle are due as follows:

- (1) For an unregistered classified motor vehicle listed pursuant to G.S. 105-330.3(a)(2) vehicle, the taxes are due on September 1 following the date by which the vehicle was required to be listed. Taxes on a
- (2) For a registered classified motor vehicle listed pursuant to G.S. 105-330.3(a)(1) that is registered under the staggered system, the taxes are due each year on the date the owner applies for a new registration is applied for or the fifteenth day of the month following the month in which the registration renewal sticker expired expires pursuant to G.S. 20-66(g).
- (3) For a registered classified motor vehicle that is registered under the annual system, taxes are due on the date the owner applies for a new registration or 45 days after the registration expires.

(4) For a registered classified motor vehicle that has a temporary registration plate issued under G.S. 20-79.1 or a limited registration plate issued under G.S. 20-79.1A, the taxes are due on the last day of the second month following the date the owner applied for the plate.

~~(a1) Notwithstanding subsection (a) of this section, taxes on a classified motor vehicle for which the registration fees have been paid pursuant to G.S. 20-79.1 or subsection (a) of G.S. 20-79.1A, are due on the last day of the second month following the date on which the limited registration is applied for.~~

~~(b) Interest. – Subject to the provisions of G.S. 105-395.1, interest~~Interest accrues on unpaid taxes and unpaid registration fees on for registered classified motor vehicles listed pursuant to G.S. 105-330.3(a)(1) accrues at the rate of five percent (5%) for the remainder of the month following the month in which the registration renewal sticker expired pursuant to G.S. 20-66(g). month the taxes are due under subsection (a) of this section. ~~Interest accrues at the rate of three-fourths percent (¾ %) for each following month thereafter until the taxes and fees are paid, unless the notice required by G.S. 105-330.5 is prepared after the date the taxes and fees are due. In that circumstance, the interest accrues beginning the second month following the date of the notice until the taxes and fees are paid. Subject to the provisions of G.S. 105-395.1, interest accrues on delinquent taxes on unregistered classified motor vehicles listed pursuant to G.S. 105-330.3(a)(2) accrues as provided in G.S. 105-360(a) and the discounts shall be allowed as provided in G.S. 105-360(c).~~ allowed in G.S. 105-360(a) apply to the payment of the taxes.

~~(c) Remedies. – Unpaid taxes on classified motor vehicles may be collected by levying on the motor vehicle taxed or on any other personal property of the taxpayer pursuant to G.S. 105-366 and G.S. 105-367, or by garnishment of the taxpayer's property pursuant to G.S. 105-368. Notwithstanding the provisions of G.S. 105-366(b), the enforcement measures of levy, attachment, and garnishment may be used to collect unpaid taxes on classified motor vehicles listed pursuant to G.S. 105-330.3(a)(1) at any time after interest accrues. Notwithstanding the provisions of G.S. 105-355, taxes on classified motor vehicles listed pursuant to G.S. 105-330.3(a)(1) do not become a lien on real property owned by the taxpayer. The enforcement remedies in this Subchapter apply to unpaid taxes on an unregistered classified motor vehicle. The enforcement remedies in this Subchapter do not apply to unpaid taxes on a registered classified motor vehicle.~~

**"§ 105-330.5. Listing and collecting procedures. Notice required; distribution and collection fees.**

~~(a) Notice for Registered Vehicle. – For classified motor vehicles listed pursuant to G.S. 105-330.3(a)(1), upon receiving the registration lists from the Division of Motor Vehicles each month, the~~The Property Tax Division of the Department of Revenue or a third-party contractor selected by the Property Tax Division shall must prepare a combined tax and registration notice for each registered classified motor vehicle. The combined tax and registration notice shall must contain all county and municipal corporation taxes and fees due on the motor vehicle as computed by the assessor in the county of registration. If the motor vehicle has a temporary or limited registration plate issued under G.S. 20-79.1 or G.S. 20-79.1A, the combined tax and registration notice must state that the vehicle registration fees for the plate have been paid and that the vehicle's registration becomes valid for the remainder of the year upon payment of the county and municipal corporation taxes and fees that are due. A combined tax and registration notice that sets out the required information on a vehicle issued a limited registration plate constitutes the registration certificate for that vehicle.

~~In~~

~~In~~In computing the taxes, the assessor shall must appraise the motor vehicle in accordance with G.S. 105-330.2 and shall must use the tax rates and any additional motor vehicle taxes of the various taxing units in effect on the first day of the month in which the current vehicle

~~registration expires or the new registration is applied for on the date the taxes are computed.~~ The tax on the motor vehicle is the product of a fraction and the number of months in the motor vehicle tax year. The numerator of the fraction is the product of the appraised value of the motor vehicle and the tax rate of the various taxing units. The denominator of the fraction is 12. This procedure ~~shall constitute~~ constitutes the listing and assessment of each classified motor vehicle for taxation. ~~The~~

The combined tax and registration notice shall contain ~~must contain~~ the following:

- ~~(1)~~ (1) ~~The date of the combined tax and registration notice.~~
- ~~(2)~~ (2) The appraised value of the motor vehicle.
- ~~(3)~~ (2) ~~The tax rate of the taxing units.~~ each taxing unit.
- ~~(4)~~ (3) A statement that the appraised value and the taxability of the motor vehicle may be appealed to the assessor ~~before the taxes and fees become delinquent~~ in writing within 30 days of the due date.
- ~~(5)~~ (4) The registration fee imposed by the Division of Motor Vehicles and any other information required by the Division of Motor Vehicles to comply with the provisions of Chapter 20 of the General Statutes.
- (5) Instructions for payment.

(a1) Proration. – When a new registration is obtained for a registered classified motor vehicle that is registered under the annual system in a month other than December, system, the taxes ~~shall be~~ are prorated for the remainder of the calendar year. The amount of prorated taxes due is the product of the proration fraction and the taxes computed according to subsection ~~(a)~~ (a) of this section. The numerator of the proration fraction is the number of full months remaining in the calendar year following the registration application date ~~the registration is applied for~~ and the denominator of the fraction is 12.

~~(a2) For classified motor vehicles where the registration fees have been paid pursuant to G.S. 20-79.1 or subsection (a) of G.S. 20-79.1A, the Property Tax notice shall contain a statement that registration fees have been paid pursuant to G.S. 20-79.1 or G.S. 20-79.1A and that the registration becomes valid for the remainder of the year upon payment of county and municipal taxes and fees due in the current year.~~

(b) Distribution and Collection Fees. – ~~When the combined tax and registration notice required by subsection (a) or (a2) of this section is prepared, the~~ The Property Tax Division of the Department of Revenue or a third-party contractor selected by the Property Tax Division shall mail ~~must send~~ a copy of the notice, ~~with appropriate instructions for payment, combined tax and registration notice for a registered classified motor vehicle to the motor vehicle owner.~~ owner, as defined in G.S. 20-4.01. The Department shall ~~must~~ establish a fee equal to the actual cost of ~~printing~~ preparing, printing, and sending the notice. The Department may receive a fee for each notice generated for a vehicle registered in a county or municipal corporation from the taxes and fees remitted to the county or municipal corporation in which the vehicle is registered. The collecting authority is responsible for collecting county and municipal taxes and fees assessed under this Article and may ~~retain~~ receive a fee for collecting these taxes and fees. The amount of this fee retained by the collecting authority shall be an amount ~~must~~ equal ~~to~~ at least one-third of the compensation paid for registration renewals conducted by contract agents under G.S. 20-63(h). The Property Tax Division shall ~~must~~ establish procedures to ensure that tax payments and fees received pursuant to this Article and Chapter 20 of the General Statutes are properly accounted for and taxes and fees due other taxing units and the Division of Motor Vehicles are remitted at least once each month. ~~Each collecting authority shall provide a weekly financial report containing information required by the Property Tax Division to the taxing units and Division of Motor Vehicles to enable them to account for payments received.~~

(b1) Repealed by Session Laws 1995, c. 329, s. 2.

(c) Notice for Unregistered Vehicle. – ~~For classified motor vehicles listed pursuant to G.S. 105-330.3(a)(2), the assessor shall appraise each vehicle in accordance with G.S. 105-330.2.~~ The assessor ~~shall~~ must prepare and send a tax notice for each unregistered classified motor vehicle before September 1 following the January 31 listing date; ~~the tax notice shall date.~~ The notice must include all county and special district taxes due on the motor vehicle. In computing the taxes, the assessor ~~shall~~ must use the tax rates of the taxing units in effect for the fiscal year that begins on July 1 following the January 31 listing date. Municipalities ~~shall~~ must list, assess, and tax unregistered classified motor vehicles ~~listed pursuant to G.S. 105-330.3(a)(2)~~ as provided in G.S. 105-326, 105-327, and ~~105-328~~ and ~~shall send tax notices as provided in this section.~~ 105-328.

(d) Scope of Levy. – ~~The A county shall~~ must include taxes on registered classified motor vehicles ~~listed pursuant to G.S. 105-330.3(a)(1)~~ in the tax levy for the fiscal year in which the taxes ~~become due and shall charge the taxes to the tax collector for that year, unless the tax notice required by subsection (a) is prepared after the date the taxes are due.~~ If that occurs, the county ~~shall include the taxes from that notice in the tax levy for the current fiscal year and shall charge the taxes to the tax collector for that year.~~ are collected.

(e) Small Underpayment or Overpayment. – Notwithstanding G.S. 105-357(c), the collecting authority must treat a small underpayment of taxes and fees as fully paid and not refund a small overpayment of taxes and fees unless the vehicle owner requests a refund before the end of the fiscal year in which the small overpayment is made. A "small underpayment" is a payment made, other than in person, that is no more than one dollar (\$1.00) less than the taxes and fees due on the vehicle. A "small overpayment" is a payment made, other than in person, that is no more than four dollars and ninety-nine cents (\$4.99) greater than the taxes and fees due on the vehicle.

....

**"§ 105-330.8. Deadlines not extended.**

Except as otherwise provided in this Article, the following provisionssections of G.S. 105-395.1 and G.S. 103-5 ~~do not apply to deadlines established in this Article.~~ the General Statutes do not apply:

- (1) G.S. 105-395.1 and G.S. 103-5.
- (2) G.S. 105-321(f).
- (3) G.S. 105-360.

**"§ 105-330.9. Antique automobiles.**

(a) Definition. – For the purpose of this section, the term "antique automobile" means a motor vehicle that meets all of the following conditions:

- (1) It is registered with the Division of Motor Vehicles and has an historic vehicle special license plate under G.S. 20-79.4.
- (2) It is maintained primarily for use in exhibitions, club activities, parades, and other public interest functions.
- (3) It is used only occasionally for other purposes.
- (4) It is owned by an individual.
- (5) It is used by the owner for a purpose other than the production of income and is not used in connection with a business.

(b) Classification. – Antique automobiles are designated a special class of property under Article V, Sec. 2(2) of the North Carolina Constitution and ~~shall~~ must be assessed for taxation in accordance with this section. An antique automobile ~~shall~~ must be assessed at the lower of its true value or five hundred dollars (\$500.00).

....

**"§ 105-330.11. Memorandum of understanding.**

The Department of Revenue, acting through the Property Tax Division, and the Department of Transportation, acting through the Division of Motor Vehicles are directed to enter into a

memorandum of understanding concerning the administration of this Article. The memorandum of understanding must include the following:

- (1) A procedure for the administration of the listing, appraisal, and assessment of classified motor vehicles.
- (2) Information concerning vehicle identification, ~~identification of a vehicle owner by the~~ name and address of a vehicle's owner, and other information that will be required on a motor vehicle registration form to implement the tax listing and collection provisions of this Article.
- (3) A procedure for the business practices, accounting, and costs of carrying out the integrated computer system for registration renewal and property tax collection for motor vehicles once the system has been certified to be in operation by the Department of Revenue and the Department of Transportation. The Departments must consult with the North Carolina Association of County Commissioners, acting on behalf of the counties, and the North Carolina League of Municipalities, acting on behalf of the municipalities, in developing the procedures under this subdivision and obtain their signed endorsements before any part of this procedure is implemented."

**SECTION 24.(b)** G.S. 20-79.1A reads as rewritten:

**"§ 20-79.1A. Use of limited Limited registration plates on motor vehicles plates.**

(a) ~~The Division or its authorized agent shall must limited registration plate upon receipt of an application for title and registration fees from a dealer, who is authorized to issue temporary registration plates or markers to owners of vehicles pursuant to G.S. 20-79.1, or from any other person.~~ A limited registration plate is issuable to a person who applies, either directly or through a dealer licensed under Article 12 of this Chapter, for a title to a motor vehicle and a registration plate for the vehicle and who submits payment for the applicable title and registration fees but does not submit payment for any municipal corporation property taxes on the vehicle. A person who submits payment for municipal corporation property taxes receives an annual registration plate. The

A limited registration plate must be clearly and visibly designated as "temporary" and shall expire "temporary." The plate expires on the last day of the second month following the date of application of the limited registration plate. The plate may be used only on the vehicle for which it is issued and may not be transferred, loaned, or assigned to another. If the plate is lost or stolen, the vehicle for which the plate was issued may not be operated on a highway until a replacement limited registration plate or a regular license plate is received and attached to the vehicle.

The Division is not required to issue a registration certificate for a limited registration plate. A combined tax and registration notice issued under G.S. 105-330.5 serves as the registration certificate for the plate.

~~(b) Notwithstanding subsection (a) of this section, the Division or its authorized agent shall issue an annual registration plate upon receipt of an application for title, registration fees, and property taxes from the dealer or any other person."~~

**SECTION 24.(b1)** G.S. 20-63(h) reads as rewritten:

**"§ 20-63. Registration plates furnished by Division; requirements; replacement of regular plates with First in Flight plates; surrender and reissuance; displaying; preservation and cleaning; alteration or concealment of numbers; commission contracts for issuance.**

...

(h) Commission Contracts for Issuance of Plates and Certificates. – All registration plates, registration certificates, and certificates of title issued by the Division, outside of those issued from the Charlotte and Raleigh offices of the Division and those issued and handled

through the United States mail, shall be issued insofar as practicable and possible through commission contracts entered into by the Division for the issuance of the plates and certificates in localities throughout North Carolina with persons, firms, corporations or governmental subdivisions of the State of North Carolina. The Division shall make a reasonable effort in every locality, except as noted above, to enter into a commission contract for the issuance of the plates and certificates and a record of these efforts shall be maintained in the Division. In the event the Division is unsuccessful in making commission contracts, it shall issue the plates and certificates through the regular employees of the Division. Whenever registration plates, registration certificates, and certificates of title are issued by the Division through commission contract arrangements, the Division shall provide proper supervision of the distribution. Nothing contained in this subsection will allow or permit the operation of fewer outlets in any county in this State than are now being operated.

Commission contracts entered into by the Division under this subsection shall provide for the payment of compensation on a per transaction basis. The collection of the highway use tax shall be considered a separate transaction for which one dollar and twenty-seven cents (\$1.27) compensation shall be paid. The performance at the same time of one or more of the remaining transactions listed in this subsection shall be considered a single transaction for which one dollar and forty-three cents (\$1.43) compensation shall be paid.

A transaction is any of the following activities:

- (1) Issuance of a registration plate, a registration ~~card~~ card issued without collection of property taxes or fees under G.S. 105-330.5, a registration renewal sticker, or a certificate of title.
- (2) Issuance of a handicapped placard or handicapped identification card.
- (3) Acceptance of an application for a personalized registration plate.
- (4) Acceptance of a surrendered registration plate, registration card, or registration renewal sticker, or acceptance of an affidavit stating why a person cannot surrender a registration plate, registration card, or registration renewal sticker.
- (5) Cancellation of a title because the vehicle has been junked.
- (6) Acceptance of an application for, or issuance of, a refund for a fee or a tax, other than the highway use tax.
- (7) Receipt of the civil penalty imposed by G.S. 20-311 for a lapse in financial responsibility or receipt of the restoration fee imposed by that statute.
- (8) Acceptance of a notice of failure to maintain financial responsibility for a motor vehicle.
- (8a) Collection of civil penalties imposed for violations of G.S. 20-183.8A.
- (8b) Sale of one or more inspection stickers in a single transaction to a licensed inspection station.
- (9) Collection of the highway use tax.
- (10) Acceptance of a temporary lien filing."

**SECTION 24.(c)** G.S. 105-330.9 and G.S. 105-330.11, as amended in subsection (a) of this section, are effective when this act becomes law. Subsection (b) of this section and the remainder of subsection (a) of this section become effective July 1, 2011, and apply to combined tax and registration notices issued on or after that date, or when the Division of Motor Vehicles and the Department of Revenue certify that the integrated computer system or registration renewal and property tax collection for motor vehicles is in operation, whichever occurs first. The remainder of this section is effective when it becomes law.

**SECTION 25.(a)** Section 8 of S.L. 2007-471 reads as rewritten:

**"SECTION 8.** Unless otherwise stated, this act becomes effective ~~July 1, 2010, July 1, 2011, and applies to combined tax and registration notices issued on or after that date,~~ or when the Division of Motor Vehicles and the Department of Revenue certify that the integrated

computer system for registration renewal and property tax collection for motor vehicles is in operation, whichever occurs first."

**SECTION 25.(b)** Section 79 of S.L. 2008-134 reads as rewritten:

**"SECTION 79.** Sections 16 through 60 of this act become effective January 1, 2009. Except as otherwise provided, the remainder of this act is effective when it becomes law. Section 63 of this act is repealed July 1, 2011."

**SECTION 26.** G.S. 105-361(a) reads as rewritten:

"(a) Duty to Furnish a Certificate. – On the request of ~~any of the persons prescribed a person who is listed in subdivision (a)(1), below, (1) of this subsection and upon the condition prescribed by subdivision (a)(2), below, who complies with subdivision (2) of this subsection,~~ the tax collector ~~shall furnish~~ must give the person a written certificate stating the amount of any taxes and special assessments owed for the current year and for any prior years in his hands for collection (together with any penalties, interest, and costs accrued thereon) including the amount due under G.S. 105-277.4(e) if the property should lose its eligibility for the benefit of classification under G.S. 105-277.2 et seq. that are a lien on a parcel of real property in the taxing unit year and the amount of any deferred taxes and interest that would become due if a disqualifying event occurred.

(1) ~~Who May Make Request.~~ may make request. – Any of the following persons ~~shall be entitled to~~ may request the certificate:

- a. An owner of the real ~~property;~~ property.
- b. An occupant of the real ~~property;~~ property.
- c. A person having a lien on the real ~~property;~~ property.
- d. A person having a legal interest or estate in the real ~~property;~~ property.
- e. A person or firm having a contract to purchase or lease the property or a person or firm having contracted to make a loan secured by the ~~property;~~ real property.
- f. The authorized agent or attorney of any person described in subdivisions (a)(1)a through e ~~above.~~ this subdivision.

(2) ~~Duty of Person Making Request.~~ Identification of property. – A person requesting a certificate ~~With~~ with respect to taxes, ~~the tax collector shall not be required to furnish a certificate unless the person making the request specifies in whose taxes~~ must specify the name of the person who listed the real property was listed for taxation for each year for which the information is sought. A person requesting a certificate ~~With~~ with respect to assessments, ~~the tax collector shall not be required to furnish a certificate unless the person making the request furnishes such identification of~~ assessments must identify the real estate as may be reasonably in the manner required by the tax collector."

**SECTION 27.(a)** G.S. 160A-215.2 reads as rewritten:

**"§ 160A-215.2. Heavy equipment gross receipts tax in lieu of property tax.**

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

- (1) Heavy equipment. – Defined in G.S. 153A-156.1.
- (2) Short-term lease or rental. – Defined in G.S. 105-187.1.

(b) Tax Authorized. – A city may, by ~~resolution,~~ ordinance, impose a tax at the rate of eight tenths percent (0.8%) on the gross receipts from the short-term lease or rental of heavy equipment by a person whose principal business is the short-term lease or rental of heavy equipment at retail. The heavy equipment subject to this tax is exempt from property tax under G.S. 105-275, and this tax provides an alternative to a property tax on the equipment. A person is not considered to be in the short-term lease or rental business if the majority of the person's

lease and rental gross receipts are derived from leases and rentals to a person who is a related person under G.S. 105-163.010.

The tax authorized by this section applies to gross receipts that are subject to tax under G.S. 105-164.4(a)(2). Gross receipts from the short-term lease or rental of heavy equipment are subject to a tax imposed by a city under this section if the place of business from which the heavy equipment is delivered is located in the city.

(c) Payment. – A person whose principal business is the short-term lease or rental of heavy equipment is required to remit a tax imposed by this section to the ~~city finance officer.~~ city. The tax is payable quarterly and is due by the last day of the month following the end of the quarter. The tax is intended to be added to the amount charged for the short-term lease or rental of heavy equipment and paid to the heavy equipment business by the person to whom the heavy equipment is leased or rented.

(d) Enforcement. – The penalties and collection remedies that apply to the payment of sales and use taxes under Article 5 of Chapter 105 of the General Statutes apply to a tax imposed under this section. The city finance officer has the same authority as the Secretary of Revenue in imposing these penalties and remedies.

(e) Effective Date. – A tax imposed under this section becomes effective on the date set in the ~~resolution-ordinance~~ imposing the tax. The date must be the first day of a calendar quarter and may not be sooner than the first day of the calendar quarter that begins at least two months after the date the ~~resolution-ordinance~~ is adopted.

(f) Repeal. – A city may, by ~~resolution, ordinance,~~ repeal a tax imposed under this section. The repeal is effective on the date set in the ~~resolution-ordinance.~~ The date must be the first day of a calendar quarter and may not be sooner than the first day of the calendar quarter that begins at least two months after the date the ~~resolution-ordinance~~ is adopted."

**SECTION 27.(b)** A heavy equipment gross receipts tax levied by a city ordinance or a city resolution on or before the effective date of this act is valid and remains in effect until amended or repealed.

## OCCUPANCY TAX CHANGES

**SECTION 28.** Section 1 of S.L. 2008-33 reads as rewritten:

**"SECTION 1.** Chapter 1055 of the 1983 Session ~~Laws~~ Laws, as amended by Section 21(e) of S.L. 2007-527, reads as rewritten:

~~'Section 1. Levy of Tax. Occupancy Tax. –~~

(a) Authorization and Scope. – The Cherokee County Board of Commissioners may ~~by resolution, after not less than 10 days' public notice and after a public hearing held pursuant thereto,~~ levy a room occupancy and tourism development tax.

(b) ~~Collection of the tax, and liability therefor, shall begin and continue only on and after the first day of a calendar month set by the Cherokee County Board of Commissioners in the resolution levying the tax, which in no case may be earlier than the first day of the second succeeding calendar month after the date of adoption of the resolution.~~

~~'Sec. 2. Occupancy Tax.~~

(a) ~~The county room occupancy and tourism development tax that may be levied under this act shall be a percentage tax of three percent (3%) of the gross receipts derived from the rental of any room, lodging, or similar accommodation furnished by any hotel, motel, inn, tourist camp, or other similar place within the county now that is subject to the three percent (3%) sales tax imposed by the State under G.S. 105-164.4(3).-105-164.4(a)(3). During the first year in which a tax levied under this act is in effect, the tax shall be three percent (3%) of the gross receipts derived from the rental of taxable accommodations in the county. Thereafter, the rate of tax shall continue to be three percent (3%) unless the Cherokee County Board of Commissioners, by resolution, adopts a rate of less than three percent (3%). A change in the occupancy tax rate adopted by the board of commissioners becomes effective the first day of~~

~~the second succeeding calendar month following the date of adoption of the resolution. The Cherokee County Board of Commissioners may not change the occupancy tax rate more than once a year.~~

~~(b) The occupancy tax is in addition to any State or local sales tax. This tax does not apply to accommodations furnished by nonprofit charitable, educational, benevolent, or religious organizations.~~

~~(b) Authorization of Additional Tax. – In addition to the tax authorized by subsection (a) of this section, the Cherokee County Board of Commissioners may levy an additional room occupancy tax of up to three percent (3%) of the gross receipts derived from the rental of accommodations taxable under subsection (a) of this section. The levy, collection, administration, and repeal of the tax authorized by this subsection shall be in accordance with the provisions of this act. Cherokee County may not levy a tax under this subsection unless it also levies the tax authorized under subsection (a) of this section.~~

~~'Sec. 3. Administration of Tax. – A tax levied under this act shall be levied, collected, administered, and repealed as provided in G.S. 153A-155. The penalties provided in G.S. 153A-155 apply to a tax levied under this act.~~

~~(a) Any tax levied under this act is due and payable to the county in monthly installments on or before the 20th day of the month following the month in which the tax accrues. Every person, firm, corporation, or association liable for the tax shall, on or before the 20th day of each month, prepare and render a return on a form prescribed by the county. The return shall state the total gross receipts derived in the preceding month from rentals upon which the tax is levied.~~

~~(b) Any person, firm, corporation, or association who fails or refuses to file the return required by this act shall pay a penalty of ten dollars (\$10.00) for each day's omission.~~

~~(c) In case of failure or refusal to file the return or pay the tax for a period of 30 days after the time required for filing the return or for paying the tax, there shall be an additional tax, as a penalty, of five percent (5%) of the tax due in addition to the penalty prescribed in subsection (b), with an additional tax of five percent (5%) for each additional month or fraction thereof until the occupancy tax is paid.~~

~~(d) Any person who willfully attempts in any manner to evade the occupancy tax imposed by this act or to make a return and who willfully fails to pay the tax or make and file a return shall, in addition to all other penalties provided by law, be guilty of a misdemeanor and shall be punishable by a fine not to exceed one thousand dollars (\$1,000), imprisonment not to exceed six months, or both.~~

~~'Sec. 4. Collection of Tax. Every operator of a business subject to the tax levied pursuant to this act shall collect the tax on and after the effective date of the levy of the tax.~~

~~This tax shall be collected as part of the charge for the furnishing of any taxable accommodations. The tax shall be stated and charged separately from the sales records, and shall be paid by the purchaser to the operator of the business as trustee for and on account of Cherokee County. The room occupancy tax levied under this act shall be added to the sales price and shall be passed on to the purchaser instead of being borne by the operator of the business. The county shall design, print, and furnish to all appropriate businesses in the county the necessary forms for filing returns and instructions to ensure the full collection of the tax.~~

~~'Sec. 5. Disposition of Taxes Collected; Distribution and Use of Tax Revenue. – Cherokee County shall shall, on a quarterly basis, remit the net proceeds of all revenues received from the room occupancy tax to the Cherokee County Tourism Development Authority. Authority appointed pursuant to this act. The Authority shall use at least two-thirds of the funds remitted to it under this act to promote travel and tourism in Cherokee County and shall use the remainder for tourism-related expenditures."Net proceeds" means gross proceeds less the cost to the county of administering and collecting the tax. The Authority may expend these funds~~

only to further the development of travel, tourism, and conventions in the county through advertising and promotion.

The following definitions apply in this section:

- (1) Net proceeds. – Gross proceeds less the cost to the county of administering and collecting the tax, as determined by the finance officer, not to exceed three percent (3%) of the first five hundred thousand dollars (\$500,000) of gross proceeds collected each year and one percent (1%) of the remaining gross receipts collected each year.
- (2) Promote travel and tourism. – To advertise or market an area or activity, publish and distribute pamphlets and other materials, conduct market research, or engage in similar promotional activities that attract tourists or business travelers to the area. The term includes administrative expenses incurred in engaging in the listed activities.
- (3) Tourism-related expenditures. – Expenditures that, in the judgment of the Tourism Development Authority, are designed to increase the use of lodging facilities, meeting facilities, or convention facilities in a county or to attract tourists or business travelers to the county. The term includes tourism-related capital expenditures.

~~'Sec. 6. Appointment, Duties of Cherokee County Tourism Development Authority. –~~

~~(a) Appointment and Membership. – When the Cherokee County Board of Commissioners adopts a resolution levying a room occupancy tax, tax under this act, it shall also adopt a resolution creating a County Tourism Development Authority composed of the director of the Cherokee County Chamber of Commerce and the following four members appointed by the Cherokee County Board of Commissioners:~~

- ~~(1) an owner of a hotel, motel, or other accommodations subject to the tax levied by this act;~~
- ~~(2) a member of the board of county commissioners;~~
- ~~(3) a town commissioner or the mayor of the Town of Murphy; and~~
- ~~(4) a town alderman or the mayor of the Town of Andrews.~~

~~The director of the Cherokee County Chamber of Commerce shall serve as an ex officio member of the Authority. The members appointed by the board of county commissioners shall serve three year terms, except the initial appointees. Of the initial appointees, the board of commissioners shall designate one to serve a one year term, two a two year term, and one a three year term. Vacancies created by an appointed member shall be filled by the board of commissioners. Members appointed to fill vacancies shall serve the remainder of the unexpired term for which they are appointed to fill. Authority, which shall be a public authority under the Local Government Budget and Fiscal Control Act. The resolution shall provide for the membership of the Authority, including the members' terms of office, and for the filling of vacancies on the Authority. At least one-third of the members must be individuals who are affiliated with businesses that collect the tax in the county, and at least one-half of the members must be individuals who are currently active in the promotion of travel and tourism in the county. The board of commissioners shall designate one member of the Authority as chair and shall determine the compensation, if any, to be paid to members of the Authority.~~

~~The Authority shall meet at the call of the chair and shall adopt rules of procedure to govern its meetings. The Finance Officer for Cherokee County shall be the ex officio finance officer of the Authority.~~

~~(b) Duties. – The Authority shall expend the net proceeds of the tax levied under this act for the purposes provided in this act. The Authority shall promote travel, tourism, and conventions in the county, sponsor tourist-related events and activities in the county, and finance tourist-related capital projects in the county. The members of the Tourism Development Authority shall elect from its membership a chairman. The Authority shall meet at the call of~~

~~the chairman and shall adopt rules of procedure to govern its meetings. The finance officer of Cherokee County shall serve ex officio as accountant for the Authority.~~

(c) Reports. – ~~The Tourism Development Authority shall report quarterly and at the close of the fiscal year to the board of county commissioners on its receipts and disbursements for the preceding quarter and for the year in such detail as the board may require.~~

~~'Sec. 7. Repeal of Levy.~~

(a) ~~The board of county commissioners may by resolution repeal the levy of the room occupancy tax in Cherokee County, but no repeal of taxes levied under this act is effective until the end of the fiscal year in which the repeal resolution was adopted.~~

(b) ~~No liability for any tax levied under this act that attached prior to the date on which a levy is repealed is discharged as a result of the repeal, and no right to a refund of a tax that accrued prior to the effective date on which a levy is repealed may be denied as a result of the repeal.~~

~~'Sec. 8. This act is effective upon ratification.'~~

**SECTION 29.** The catch line for Section 21(j) of S.L. 2007-527 reads as rewritten:

**"SECTION 21.(j)** Subsection (a) of Section 4 of Chapter 929 of the 1985 Session Laws as amended by S.L. 1985-929 Laws, as amended by Chapter 319 of the 1987 Session Laws, reads as rewritten:"

**SECTION 30.** Section 1(b) of S.L. 2005-68 reads as rewritten:

**"SECTION 1.(b)** Administration. – Except as otherwise provided in this act, a tax levied under this section shall be levied, administered, and collected as provided in Part IV of Chapter 908 of the 1983 Session Laws, as amended by Chapters 821 and 922 of the 1989 Session Laws and S.L. 2001-402. Laws, S.L. 2001-402, and Section 21(cc) of S.L. 2007-527. The penalties provided in Part IV of Chapter 908 of the 1983 Session Laws, as amended by Chapters 821 and 922 of the 1989 Session Laws and S.L. 2001-402, apply to a tax levied under this section."

## **MOTOR FUEL TAX CHANGES**

**SECTION 31.(a)** G.S. 105-449.45(a) reads as rewritten:

"(a) Report. – A motor carrier must report its operations to the Secretary on a quarterly basis unless subsection (b) of this section exempts the motor carrier from this requirement. A quarterly report covers a calendar quarter and is due by the last day in April, July, October, and January. A report must be filed in the form required by the Secretary."

**SECTION 31.(b)** This section becomes effective January 1, 2010.

**SECTION 32.** G.S. 105-449.47A reads as rewritten:

**"§ 105-449.47A. Reasons why the Secretary can deny an application for a registration and decals.**

The Secretary may refuse to register and issue a decal to an applicant that has done any of the following:

- (1) Had a registration issued under Chapter 105 or Chapter 119 of the General Statutes cancelled by the Secretary for cause.
- (2) Had a registration issued by another jurisdiction, pursuant to the International Fuel Tax Agreement, cancelled for cause.
- (3) Been convicted of fraud or misrepresentation.
- (4) Been convicted of any other offense that indicates that the applicant may not comply with this Article if registered and issued a decal.
- (5) Failed to remit payment for a tax debt under Chapter 105 or Chapter 119 of the General Statutes. The term "tax debt" has the same meaning as defined in G.S. 105-243.1.
- (6) Failed to file a return due under Chapter 105 or Chapter 119 of the General Statutes."

**SECTION 33.** G.S. 105-449.72 is amended by adding a new subsection to read:

"(f) Exemption. – The requirement to obtain a bond or an irrevocable letter of credit does not apply to a distributor, an importer, or a motor fuel transporter who supplies motor fuel when the market for motor fuel is disrupted and emergency supplies are needed, as identified by an executive order of the Governor."

**SECTION 34.(a)** G.S. 105-449.81 reads as rewritten:

**"§ 105-449.81. Excise tax on motor fuel.**

An excise tax at the motor fuel rate is imposed on motor fuel that is:

- (1) Removed from a refinery or a terminal and, upon removal, is subject to the federal excise tax imposed by § 4081 of the Code.
- (2) Imported by a system transfer to a refinery or a terminal and, upon importation, is subject to the federal excise tax imposed by § 4081 of the Code.
- (3) Imported by a means of transfer outside the terminal transfer system for sale, use, or storage in this State and would have been subject to the federal excise tax imposed by § 4081 of the Code if it had been removed at a terminal or bulk plant rack in this State instead of imported.
- (3a) Repealed by Session Laws 2007-527, s. 38(a), effective January 1, 2008.
- (3b) Fuel grade ethanol that meets any of the following descriptions:
  - a. ~~Is produced in this State, State and is removed from the storage facility at the production location, and is not delivered to a terminal in this State.~~location.
  - b. ~~Is imported to this State outside the terminal transfer system and is not delivered to a terminal.~~system.
  - c. ~~Is removed from a terminal.~~
- (4) Blended fuel made in this State or imported to this State.
- (5) Transferred within the terminal transfer system and is subject, upon transfer, to the federal excise tax imposed by section 4081 of the Code or is transferred to a person who is not licensed under this Article as a supplier."

**SECTION 34.(b)** G.S. 105-449.83A reads as rewritten:

**"§ 105-449.83A. Liability for tax on fuel grade ethanol.**

The excise tax imposed by G.S. 105-449.81(3b) on fuel grade ethanol is payable by the refiner or fuel alcohol provider."

**SECTION 34.(c)** Subsection (a) of this section becomes effective January 1, 2010. The remainder of this section is effective when it becomes law.

**SECTION 35.(a)** G.S. 105-449.95 is recodified as G.S. 105-449.105B. G.S. 105-449.105B, as recodified by this section, reads as rewritten:

**"§ 105-449.105B. ~~Quarterly~~ Monthly hold harmless refunds for licensed distributors and some licensed importers.**

(a) ~~Calculation. — At the end of each calendar quarter, the Secretary must review the amount of discounts each licensed distributor or licensed importer received under G.S. 105-449.93(b). The Secretary must determine if the amount of discounts the distributor or importer received under that subsection in each month of the is less than~~ If a licensed distributor or licensed importer purchases motor fuel from a licensed supplier during a month and the discount the distributor or importer receives under G.S. 105-449.93(b) on the motor fuel is less than the amount the distributor or importer would have received during that month if the distributor or importer had been allowed a discount on taxable gasoline purchased by the distributor or importer from a supplier during each month of the quarter under the following schedule: under the following schedule, the distributor or importer is allowed a monthly refund of the difference:

<u>Amount of Gasoline Purchased</u>	<u>Percentage</u>
<u>Each Month</u>	<u>Discount</u>

First 150,000 gallons	2%
Next 100,000 gallons	1 1/2%
Amount over 250,000 gallons	1%.

(b) ~~Refund. — If the amount the licensed distributor or licensed importer received under G.S. 105-449.93(b) for a month in the quarter is less than the amount the distributor or importer would have received on the distributor's or importer's taxable gasoline purchases under the monthly schedule in subsection (a) of this section, the Secretary must send the distributor or importer a refund check for the difference. In determining the amount of discounts a distributor or importer received under G.S. 105-449.93(b) for gasoline motor fuel purchased in a month, a distributor or importer is considered to have received the amount of any discounts the distributor or importer could have received under that subsection but did not receive because the distributor or importer failed to pay the tax due to the supplier by the date the supplier had to pay the tax to the State.~~"

**SECTION 35.(b)** This section becomes effective January 1, 2010, and applies to motor fuel purchased on or after that date.

**SECTION 36.(a)** G.S. 105-449.115 reads as rewritten:

"(a) Issuance. — A person may not transport motor fuel by railroad tank car or transport truck unless the person has a shipping document for its transportation that complies with this section. A refiner, a terminal operator and operator, a fuel alcohol provider, and the operator of a bulk plant must give a shipping document to the person who operates a railroad tank car or a transport truck into which motor fuel is loaded at the terminal rack or bulk plant rack.

(b) Content. — A shipping document ~~a terminal operator or the operator of a bulk plant~~ must contain the following information and any other information required by the Secretary:

- (1) Identification, including address, of the terminal or bulk plant from which the motor fuel was received.
  - (1a) The type of motor fuel loaded.
  - (2) The date the motor fuel was loaded.
  - (3) The gross gallons ~~loaded~~ loaded if the motor fuel is loaded onto a transport truck, and the gross pounds loaded if the motor fuel is loaded onto a railroad tank car.
  - (3a) The motor fuel transporter for the motor fuel.
  - (4) The destination state of the motor fuel, as represented by the purchaser of the motor fuel or the purchaser's agent.
  - (5) If the document is issued by a refiner or a terminal operator, the document must be machine ~~printed and it printed~~. If the motor fuel is loaded onto a transport truck, the document must contain the following information:
    - a. The net gallons loaded.
    - b. A tax responsibility statement indicating the name of the supplier that is responsible for the tax due on the motor fuel.

(c) Reliance. — A ~~terminal operator or bulk plant operator~~ person who issues a shipping document may rely on the representation made by the purchaser of motor fuel or the purchaser's agent concerning the destination state of the motor fuel. A purchaser is liable for any tax due as a result of the purchaser's diversion of fuel from the represented destination state.

(d) Duties of Transporter. — A person to whom a shipping document was issued must do all of the following:

- (1) Carry the shipping document in the conveyance for which it was issued when transporting the motor fuel described in it.
- (2) Show the shipping document to a law enforcement officer upon request when transporting the motor fuel described in it.

- (3) Deliver motor fuel described in the shipping document to the destination state printed on it unless the person does all of the following:
  - a. Notifies the Secretary before transporting the motor fuel into a state other than the printed destination state that the person has received instructions since the shipping document was issued to deliver the motor fuel to a different destination state.
  - b. Receives from the Secretary a confirmation number authorizing the diversion.
  - c. Writes on the shipping document the change in destination state and the confirmation number for the diversion.
- (4) Give a copy of the shipping document to the distributor or other person to whom the motor fuel is delivered.

(e) Duties of Person Receiving Shipment. – A person to whom motor fuel is delivered by railroad tank car or transport truck may not accept delivery of the motor fuel if the destination state shown on the shipping document for the motor fuel is a state other than North Carolina. To determine if the shipping document shows North Carolina as the destination state, the person to whom the fuel is delivered must examine the shipping document and must keep a copy of the shipping document. The person must keep a copy at the place of business where the motor fuel was delivered for 90 days from the date of delivery and must keep it at that place or another place for at least three years from the date of delivery. A person who accepts delivery of motor fuel in violation of this subsection is jointly and severally liable for any tax due on the fuel.

(f) Sanctions Against Transporter. – ~~The following acts listed in this subsection are grounds for a civil penalty: penalty. The penalty is payable to the agency that assessed the penalty and is payable by the person in whose name the conveyance is registered, if the conveyance is a transport truck, and is payable by the person responsible for the movement of motor fuel in the conveyance, if the conveyance is a railroad tank car. The amount of the penalty is five thousand dollars (\$5,000). A penalty imposed under this subsection is in addition to any motor fuel tax assessed. The grounds for a civil penalty are:~~

- (1) Transporting motor fuel in a railroad tank car or transport truck without a shipping document or with a false or an incomplete shipping document.
- (2) Delivering motor fuel to a destination state other than that shown on the shipping document.

~~The penalty is payable to the agency that assessed the penalty and is payable by the person in whose name the conveyance is registered, if the conveyance is a transport truck, and is payable by the person responsible for the movement of motor fuel in the conveyance, if the conveyance is a railroad tank car. The amount of the penalty is five thousand dollars (\$5,000). A penalty imposed under this subsection is in addition to any motor fuel tax assessed.~~

(g) Penalty Defense. – Compliance with the conditions set out in this subsection is a defense to a civil penalty imposed under subsection (f) of this section as a result of the delivery of fuel to a state other than the destination state printed on the shipping document for the fuel. The Secretary must waive a penalty imposed against a person under that subsection if the person establishes a defense under this subsection. The conditions for the defense are:

- (1) The person notified the Secretary of the diversion and received a confirmation number for the diversion before the imposition of the penalty.
- (2) Tax was timely paid on the diverted fuel, unless the person is a motor fuel transporter.

(h) ~~Sanctions Against Terminal Operator. Sanctions.~~ – The Secretary may assess a civil penalty of five thousand dollars (\$5,000) against a ~~terminal operator person~~ who intentionally issues a shipping document that does not satisfy the requirements of subsection (b) of this section."

**SECTION 36.(b)** This section becomes effective January 1, 2010.

**SECTION 37.** G.S. 105-449.121(b)(2) reads as rewritten:

"(2) Audit a distributor, a retailer, a ~~bulk end user~~, bulk end-user, or a motor fuel user that is not licensed under this Article."

**SECTION 38.** G.S. 105-449.136 reads as rewritten:

**"§ 105-449.136. Tax on alternative fuel.**

A tax at the motor fuel rate is imposed on liquid alternative fuel used to operate a highway vehicle by means of a vehicle supply tank that stores fuel only for the purpose of supplying fuel to operate the vehicle. A tax at the equivalent of the motor fuel rate is imposed on all other alternative fuel used to operate a highway vehicle. The Secretary must determine the equivalent rate. The exemptions from the tax on motor fuel in ~~G.S. 105-449.88(2), (3), and (4)~~ G.S. 105-449.88 apply to the tax imposed by this section. The refunds for motor fuel tax allowed by Part 5 of Article 36C of this Chapter apply to the tax imposed by this section, except that the refund allowed by G.S. 105-449.107(b) for certain vehicles that use power takeoffs does not apply to a vehicle whose use of alternative fuel is taxed on the basis of miles driven. The proceeds of the tax imposed by this section must be allocated in accordance with G.S. 105-449.125."

**OTHER CHANGES**

**SECTION 39.** G.S. 105-259(b) reads as rewritten:

"(b) Disclosure Prohibited. – An officer, an employee, or an agent of the State who has access to tax information in the course of service to or employment by the State may not disclose the information to any other person ~~unless~~ except as provided in this subsection. Standards used or to be used for the selection of returns for examination and data used or to be used for determining the standards may not be disclosed for any purpose. All other tax information may be disclosed only if the disclosure is made for one of the following purposes:

...."

**SECTION 40.** G.S. 143B-437.63 reads as rewritten:

**"§ 143B-437.63. JDIG Program cash flow requirements.**

Notwithstanding any other provision of law, grants made through the Job Development Investment Grant Program, including amounts transferred pursuant to G.S. 143B-437.61, shall be budgeted and funded on a cash flow basis. The Office of State Budget and Management shall periodically transfer funds from the JDIG Reserve ~~Fund~~ established pursuant to ~~G.S. 143-15.3E~~ G.S. 143C-9-6 to the Department of Commerce in an amount sufficient to satisfy grant obligations and amounts to be transferred pursuant to G.S. 143B-437.61 to be paid during the fiscal year."

**SECTION 41.(a)** Section 12.8 of S.L. 2006-66 is repealed.

**SECTION 41.(b)** G.S. 150B-1(d)(15) is repealed.

**SECTION 42.** The prefatory language of Section 28.19(a) of S.L. 2008-107 reads as rewritten:

"**SECTION 28.19.(a)** G.S. 105-164.13B(a) is ~~amended by adding a new subdivision to read:~~ reads as rewritten:"

**SECTION 43.** The prefatory language of Section 28.25(c) of S.L. 2008-107 reads as rewritten:

"**SECTION 28.25.(c)** ~~G.S. 105-134(e)(5b)~~ G.S. 105-134.6(c)(5b) reads as rewritten:"

**SECTION 44.** The prefatory language of Section 67(a) of S.L. 2008-134 reads as rewritten:

"**SECTION 67.(a)** ~~G.S. 58-5-25(a)(2)~~ G.S. 58-6-25(a)(2) is repealed."

**SECTION 45.(a)** Section 1.4 of S.L. 2008-146 reads as rewritten:

"SECTION 1.4. This ~~section~~Part becomes effective July 1, 2009, and mandatory advancements in G.S. 105-286(a)(2), as amended by ~~this section~~ Section 1.1 of this Part, apply to notices sent under G.S. 105-284(c) on or after that date."

**SECTION 45.(b)** Section 2.3 of S.L. 2008-146 reads as rewritten:

"SECTION 2.3. This ~~section~~Part is effective for taxes imposed for taxable years beginning on or after July 1, 2008."

**SECTION 45.(c)** Section 3.2 of S.L. 2008-146 reads as rewritten:

"SECTION 3.2. This ~~section~~Part is effective for taxes imposed for taxable years beginning on or after July 1, 2009."

**SECTION 45.(d)** Section 4.2 of S.L. 2008-146 reads as rewritten:

"SECTION 4.2. This ~~section~~Part is effective for taxable years beginning on or after July 1, 2008."

**SECTION 45.(e)** Section 5.2 of S.L. 2008-146 reads as rewritten:

"SECTION 5.2. This ~~section~~Part is effective for taxable years beginning on or after July 1, 2008."

**SECTION 46.** Section 5.4 of S.L. 2008-204 reads as rewritten:

"SECTION 5.4. This ~~section~~Part becomes effective January 1, 2009, and applies to all scholarship loans issued on ~~and~~or after July 1, 2009."

#### **EFFECTIVE DATE**

**SECTION 47.** Except as otherwise provided, this act is effective when it becomes law.

In the General Assembly read three times and ratified this the 4<sup>th</sup> day of August, 2009.

s/ Walter H. Dalton  
President of the Senate

s/ Joe Hackney  
Speaker of the House of Representatives

s/ Beverly E. Perdue  
Governor

Approved 11:26 a.m. this 7<sup>th</sup> day of August, 2009