

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009**

**SESSION LAW 2010-97
SENATE BILL 1242**

AN ACT TO MAKE VARIOUS CLARIFYING CHANGES TO THE GENERAL STATUTES
AND THE SESSION LAWS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 1-398 reads as rewritten:

"§ 1-398. Filing time enlarged.

The time for filing the complaint, petition, or any pleading may be enlarged by the court for good cause ~~shown by affidavit, shown,~~ but may not be enlarged by more than 10 additional ~~days, days~~ or 30 additional days for partitions, nor more than once, unless the default was occasioned by accident over which the party applying had no control, or by the fraud of the opposing party."

SECTION 2. G.S. 20-179(p) reads as rewritten:

"(p) Limit on Amelioration of Punishment. – For active terms of imprisonment imposed under this section:

- (1) The judge may not give credit to the defendant for the first 24 hours of time spent in incarceration pending trial.
- (2) The defendant shall serve the mandatory minimum period of imprisonment and good or gain time credit may not be used to reduce that mandatory minimum period.
- (3) The defendant may not be released on parole unless he is otherwise eligible, has served the mandatory minimum period of imprisonment, and has obtained a substance abuse assessment and completed any recommended treatment or training ~~program~~ program or is paroled into a residential treatment program.

With respect to the minimum or specific term of imprisonment imposed as a condition of special probation under this section, the judge may not give credit to the defendant for the first 24 hours of time spent in incarceration pending trial."

SECTION 3. G.S. 20-183.4C reads as rewritten:

"§ 20-183.4C. When a vehicle must be inspected; ~~three-day~~10-day trip permit.

(a) Inspection. – A vehicle that is subject to a safety inspection, an emissions inspection, or both must be inspected as follows:

- (1) A new vehicle must be inspected before it is sold at retail in this State. Upon purchase, a receipt approved by the Division must be provided to the new owner certifying compliance.
- (1a) A new motor vehicle dealer who is also licensed pursuant to this Article may, notwithstanding subdivision (1) of this section, examine the safety and emissions control devices on a new motor vehicle and perform such services necessary to ensure the motor vehicle conforms to the required specifications established by the manufacturer and contained in its predelivery check list. The completion of the predelivery inspection procedure required or recommended by the manufacturer on a new motor vehicle shall constitute



the inspection required by subdivision (1) of this section. For the purposes of this subdivision, the date of inspection shall be deemed to be the date of the sale of the motor vehicle to a purchaser.

- (2) A used vehicle must be inspected before it is offered for sale at retail in this State by a dealer. Upon purchase, a receipt approved by the Division must be provided to the new owner certifying compliance.
- (3) Repealed by Session Law 2007-503, s. 5, effective October 1, 2008.
- (4) Except as authorized by the Commissioner for a single period of time not to exceed 12 months from the initial date of registration, a new or used vehicle acquired by a resident of this State from outside the State must be inspected before the vehicle is registered with the Division.
- (5) Except as authorized by the Commissioner for a single period of time not to exceed 12 months from the initial date of registration, a vehicle owned by a new resident of this State who transfers the registration of the vehicle from the resident's former home state to this State must be inspected before the vehicle is registered with the Division.
- (5a) Repealed by Session Law 2007-503, s. 5, effective October 1, 2008.
- (6) A vehicle that has been inspected in accordance with this Part must be inspected by the last day of the month in which the registration on the vehicle expires.
- (7) A vehicle that is required to be inspected in accordance with this Part may be inspected 90 days prior to midnight of the last day of the month as designated by the vehicle registration sticker.
- (8) A new or used vehicle acquired from a retailer or a private sale in this State and registered with the Division with a new registration or a transferred registration must be inspected in accordance with this Part when the current registration ~~expires~~expires unless it has received a passing inspection within the previous 12 months.
- (9) ~~A used vehicle acquired from a private sale in this State must be inspected in accordance with this Part before the vehicle is registered with the Division unless it has received a passing inspection within the previous 12 months.~~
- (10) An unregistered vehicle ~~must be inspected before the vehicle is~~may be registered with the Division unless it has received a passing inspection within the previous 12 months in accordance with G.S. 20-50(b) for a period not to exceed 10 days prior to the vehicle receiving a passing inspection in accordance with this Part.
- (11) A person who owns a vehicle located outside of this State when its emissions inspection becomes due may obtain an emissions inspection in the jurisdiction where the vehicle is located, in lieu of a North Carolina emissions inspection, as long as the inspection meets the requirements of 40 C.F.R. § 51.

(b) Permit. – The Division may issue a ~~three-day~~10-day trip permit to a person that authorizes the person to drive a vehicle whose inspection authorization or registration has expired. The permit may only be issued when the person has furnished proof of financial responsibility. The permit must describe the vehicle whose inspection authorization or registration has expired. The permit authorizes the person to drive the described vehicle for a period not to exceed 10 days from the date of issuance. ~~only from the place the vehicle is parked to an inspection station, repair shop, or Division or contract agent registration office.~~

~~The Division may issue a 10-day temporary permit to a person that authorizes the person to drive a vehicle that failed to pass the emissions inspection. The permit must describe the vehicle that failed to pass inspection and the date that it failed to pass inspection.~~

(c) Exemption. – The Division may issue a temporary exemption from the inspection requirements of this Article for any vehicle that has been determined by the Division to be principally garaged, as defined under G.S. 58-37-1(11), in this State and is primarily operated outside a county subject to emissions inspection requirements or outside of this State."

SECTION 4. G.S. 20-382(c) reads as rewritten:

"(c) Trip Permit. – A motor carrier that is not registered as required by this section may obtain an emergency trip ~~permit by filing an application for it with the Division.~~permit. An emergency trip permit allows the motor carrier to operate a for-hire motor vehicle in this State for a period not to exceed 10 days."

SECTION 5.(a) G.S. 36C-4-401.2 reads as rewritten:

"§ 36C-4-401.2. Trust pursuant to 46 U.S.C § 1396p(d)(4).Creation of trust by a court.

~~Any interested party may petition the court, in accordance with the provisions of this Chapter, to establish a trust pursuant to section 1396p(d)(4) of Title 42 of the United States Code. This section is not the exclusive method of establishing a trust pursuant to section 1396p(d)(4) of Title 42 of the United States Code; and the court shall maintain its authority to create or establish any trust, including a trust pursuant to section 1396p(d)(4) of Title 42 of the United States Code, by means of judgment, order, or decree in any matter properly before the court.~~A court may create or establish a trust by judgment or decree, including a trust pursuant to section 1396p(d)(4) of Title 42 of the United States Code, upon petition of an interested party in accordance with the provisions of this Chapter or in any other matter properly before the court."

SECTION 5.(b) G.S. 36C-8-816.1(c)(7) reads as rewritten:

"(7) ~~If the power to distribute principal or income in the original trust is subject to an ascertainable standard,~~If a trustee of an original trust exercises a power to distribute principal or income that is subject to an ascertainable standard by appointing property to a second trust, then the power to distribute income or principal in the second trust must be subject to the same ascertainable standard as in the original trust and must be exercisable in favor of the same current beneficiaries ~~as to whom such distribution could be made in the original trust.~~"

SECTION 6.(a) G.S. 42-42(7) reads as rewritten:

"(7) Provide a minimum of one operable carbon monoxide detector per rental unit per level, either battery-operated or electrical, that is listed by a nationally recognized testing laboratory that is OSHA-approved to test and certify to American National Standards Institute/Underwriters Laboratories Standards ANSI/UL2034 or ANSI/UL2075, and install the carbon monoxide detectors in accordance with either the standards of the National Fire Protection Association or the minimum protection designated in the manufacturer's instructions, which the landlord shall retain or provide as proof of compliance. A landlord that installs one carbon monoxide detector per rental unit per level shall be deemed to be in compliance with standards under this subdivision covering the location and number of detectors. The landlord shall replace or repair the carbon monoxide detectors within 15 days of receipt of notification if the landlord is notified of needed replacement or repairs in writing by the tenant. The landlord shall ensure that a carbon monoxide detector is operable and in good repair at the beginning of each tenancy. Unless the landlord and the tenant have a written agreement to the contrary, the landlord shall place new batteries in a battery-operated carbon monoxide detector at the beginning of a tenancy, and the tenant shall replace the batteries as needed during the tenancy. Failure of the tenant to replace the batteries as needed shall not be

considered as negligence on the part of the tenant or the landlord. A carbon monoxide detector may be combined with smoke detectors if the combined detector does both of the following: (i) complies with ANSI/UL2034 or ANSI/UL2075 for carbon monoxide alarms and ANSI/UL217 for smoke detectors; and (ii) emits an alarm in a manner that clearly differentiates between detecting the presence of carbon monoxide and the presence of smoke. This subdivision applies only to dwelling units having a fossil-fuel burning ~~heater or heater, appliance, or fireplace, or~~ and in any dwelling unit having an attached garage. Any operable carbon monoxide detector installed before January 1, 2010, shall be deemed to be in compliance with this subdivision."

SECTION 6.(b) G.S. 143-138(b2) reads as rewritten:

"(b2) The Code may contain provisions requiring the installation of either battery-operated or electrical carbon monoxide detectors in every dwelling unit having a fossil-fuel burning ~~heater or heater, appliance, or fireplace, or~~ and in any dwelling unit having an attached garage. Carbon monoxide detectors shall be those listed by a nationally recognized testing laboratory that is OSHA-approved to test and certify to American National Standards Institute/Underwriters Laboratories Standards ANSI/UL2034 or ANSI/UL2075 and shall be installed in accordance with either the standard of the National Fire Protection Association or the minimum protection designated in the manufacturer's instructions, which the property owner shall retain or provide as proof of compliance. A carbon monoxide detector may be combined with smoke detectors if the combined detector does both of the following: (i) complies with ANSI/UL2034 or ANSI/UL2075 for carbon monoxide alarms and ANSI/UL217 for smoke detectors; and (ii) emits an alarm in a manner that clearly differentiates between detecting the presence of carbon monoxide and the presence of smoke."

SECTION 7. G.S. 58-3-285(a) reads as rewritten:

"(a) Every health benefit plan, including the State Health Plan for Teachers and State Employees, shall provide coverage for one hearing aid per hearing-impaired ear up to two thousand five hundred dollars (\$2,500) per hearing aid every 36 months for covered individuals under the age of 22 years subject to subsection (b) of this section. The coverage shall include all medically necessary hearing aids and services that are ordered by a physician or an audiologist licensed in this State. Only those persons authorized by law to fit hearing aids, including individuals licensed under Chapter 93D of the General Statutes, are eligible to fit a hearing aid under this section. Coverage shall be as follows:

- (1) Initial hearing aids and replacement hearing aids not more frequently than every 36 months.
- (2) A new hearing aid when alterations to the existing hearing aid cannot adequately meet the needs of the covered individual.
- (3) Services, including the initial hearing aid evaluation, fitting, and adjustments, and supplies, including ear molds."

SECTION 8. G.S. 93B-9 reads as rewritten:

"§ 93B-9. Age requirements.

~~Any other provision notwithstanding, no~~ No occupational licensing board may require that an individual be more than 18 years of age as a requirement for receiving a license. license with the following exceptions: the North Carolina Criminal Justice Education and Training Standards Commission and the North Carolina Sheriffs' Education and Training Standards Commission may establish a higher age as a requirement for holding certification through either Commission."

SECTION 9. G.S. 95-25.5(n) reads as rewritten:

"(n) Nothing in this section prohibits qualified youths under 18 years of age from participating in training through their fire department, the Office of State Fire Marshal, or the

North Carolina Community College System. As used in this subsection, the term "qualified youth under 18 years of age" means an uncompensated fire department or rescue squad member who is ~~over~~ at least the age of 15 and under the age of 18 and who is a member of a bona fide fire department, as that term is defined in G.S. 58-86-25, or of a rescue squad described in G.S. 58-86-30."

SECTION 10. G.S. 116B-62(f) reads as rewritten:

"(f) Notwithstanding the provisions of Chapter 132 of the General Statutes, ~~the~~ any supporting ~~data and~~ data, including aging reports, or lists of apparent owners of unclaimed property held by a clerk of superior court or any other office of State or local government may be confidential but shall be disclosed to the Treasurer in accordance with the reporting of escheated and abandoned property. The supporting data and lists of apparent owners of escheated and abandoned property held by the Treasurer may be confidential until ~~six~~ 12 months after the list to the clerks of superior court required by subsection (b) of this section has been distributed. This subsection shall not apply to owners of reported property making inquiries about their property to the Escheat Fund."

SECTION 11. Article 36A of Chapter 143 of the General Statutes reads as rewritten:

"Article 36A.

"State Employee ~~Incentive Bonus~~ Suggestion Program (NC-Thinks).

"§ 143-345.20. Definitions.

The following definitions apply in this Article:

- (1) Baseline reversion. – The two-year historical average of reversions by a State department, agency, or institution.
- (2) Repealed by Session Laws 2001-424, s. 7.2(b).
- (2a) Participating agency. – Any State department, agency, or institution, or any local school administrative unit that employs State employees eligible to participate in ~~the State Employee Incentive Bonus Program~~ NC-Thinks. The term includes the North Carolina Community Colleges System, The University of North Carolina and its constituent institutions, and charter schools. The term does not include federal or local government agencies.
- (2b) ~~SEIBP~~ NC-Thinks. – ~~Aeronym for the~~ The State Employee ~~Incentive Bonus~~ Suggestion Program.
- (3) State employee. – Any of the following:
 - a. A person who is a contributing member of the Teachers' and State Employees' Retirement System of North Carolina, the Consolidated Judicial Retirement System of North Carolina, or the Optional Program.
 - b. A person who receives wages from the State as a part-time or temporary worker, but is not otherwise a contributing member of one of the retirement programs listed in sub-subdivision a. of this subdivision.

"§ 143-345.21. State employee ~~incentive bonus~~ suggestion program.

(a) A State employee or team of State employees may receive an incentive bonus or bonuses in reward for suggestions or innovations resulting in monetary savings to the State, increased revenues to the State, or improved quality of services delivered to the public.

(b) Repealed by Session Laws 2001-424, s. 7.2(c).

(b1) The amount of savings generated by suggestions and innovations shall be determined after a 12-month period of implementation. No incentive bonus shall be paid prior to the expiration of 12 months, and payment may be delayed further as reasonably required to ensure that a complete cost implementation cycle is evaluated fully.

(c) Any savings are to be calculated using the actual expenditures for a program, activity, or service compared to the budgeted amount for the same, if an amount has been budgeted for the program, activity, or service. The savings calculation shall include the amount of any reversions in excess of the baseline reversion. Any savings realized through ~~the State Employee Incentive Bonus Program~~NC-Thinks shall be weighed against continued service to the public and the assurance that there is not a negative impact on State programs.

(d) If a suggestion or innovation affects a program, activity, or service for which no separate budgeted amount has been made, the State Coordinator, in conjunction with the agency evaluator or agency fiscal officer, or both for that suggestion or innovation, shall determine the budgetary impact of the suggestion or innovation.

(e) Federal and local government funds and corporate and foundation grant funds are excluded from ~~the SEIBP~~NC-Thinks.

(f) The Department of Administration shall establish the ~~SEIBP~~NC-Thinks reserve fund in which all savings for all suggestions shall be deposited as earned. Each participating agency shall be responsible for transferring savings to the ~~SEIBP~~NC-Thinks reserve fund. The funds may be encumbered as needed to ensure payment to the General Fund, to the suggester, and for distribution as required by G.S. 143-345.22. The Department of Administration shall provide the ~~SEIBP~~NC-Thinks reserve fund summary at the close of each fiscal year to the Office of State Budget and Management and to the participating agencies. The Office of State Budget and Management shall have oversight responsibility for ensuring that the required reversions and transfers are made to the General Fund, and that all encumbered funds are accounted for and paid as required by law.

(g) No distribution of suggester awards shall occur until reversion requirements to the General Fund are met and distributions as required by G.S. 143-345.22 are satisfied and verified by the Office of State Budget and Management. When all of the requirements of G.S. 143-345.22 are fulfilled, the Department of Administration shall transfer to the suggester's agency funds required to award the suggester. The suggester's agency shall make the suggestion award and ensure that all taxes and withholding requirements are met.

(h) Implementation costs may be prorated over a maximum of three years for suggestions or innovations that are capital intensive, involve leading-edge technology, or involve unconventional processes that require longer than 12 months for implementation. The amount of the average annual savings minus the average annual implementation cost shall be used as the basis for the agency to recommend a suggester award. The State Suggestion Review Committee shall consult the Office of State Budget and Management to make the final award determination in these cases.

(i) There is established in the Department of Administration a nonreverting fund to be administered by the Office of State Personnel for the training and education of permanent State employees to address specific mission critical needs and objectives. Funds shall be credited from ~~the SEIBP~~NC-Thinks to the fund as provided by this Article.

"§ 143-345.22. Allocation of incentive bonus funds; nonmonetary recognition.

(a) If a State employee's suggestion or innovation results in a monetary savings or increased revenue to the State, the funds saved or increased shall be distributed according to the following scale or subject to guidelines as set forth by the funding source:

- (1) Twenty percent (20%) of the annualized savings or increased revenues, up to a maximum of twenty thousand dollars (\$20,000) for any one State employee, to constitute gainsharing. If a team of State employees is the suggester, the bonus provided in this subdivision shall be divided equally among the team members, except that no team member shall receive in excess of twenty thousand dollars (\$20,000), nor shall the team receive an aggregate amount in excess of one hundred thousand dollars (\$100,000). These funds shall not revert.

- (2) Thirty percent (30%) allocated as follows:
 - a. Ten percent (10%) to the implementing agency for nonrecurring budget items to be used (i) by the implementing agency to provide equipment, supplies, training, and limited but appropriate recognition for the division, section, or group responsible for the implementation of the cost-saving measure and (ii) to meet other similar needs within the agency.
 - b. Ten percent (10%) to the Department of Administration for augmenting funding for the management and administration of ~~the SEIBP-NC-Thinks~~. These funds shall not revert.
 - c. Ten percent (10%) to the State employee education and training fund administered by the Office of State Personnel under G.S. 143-342.21(i). These funds shall not revert.

(3) The remainder to the General Fund for nonrecurring budget items.

(a1) Of the pool of funds identified in subsection (a) of this section, only the General Fund appropriations shall be subject to reversion, except during declared budget emergencies. Under nonemergency budget conditions, ~~SEIBP-NC-Thinks~~ funds arising from savings at The University of North Carolina, the North Carolina Community Colleges System, the Highway Trust Fund, enterprise funds, and receipt-supported organizations shall be exempt from the General Fund reversion requirements.

(b) The budget of a State agency shall not be reduced in the following fiscal year by an amount similar to the monetary savings or increased revenues realized by ~~the State Employee Incentive Bonus Program-NC-Thinks~~. The agency budget shall be reduced in subsequent years only if structural or organizational changes are made that warrant the reductions, including the transfer of responsibility for an activity or service to another agency or the elimination of some function of State government.

(c) If a suggestion or innovation results in improved quality of services to the public or to other State agencies, departments, and institutions, but not in monetary savings to the State, the suggester shall receive a nonmonetary award in the form of a certificate, leave with pay, or other similar recognition.

"§ 143-345.23. Suggestion and review process; role of agency coordinator and agency evaluator.

(a) The process for a State employee or team of State employees to submit a cost-saving or revenue-increasing proposal shall begin with the employee or team of employees submitting the suggestion or innovation to an agency coordinator. The agency coordinator, in conjunction with an agency evaluator, shall review the suggestion or innovation for submission to the State Review Committee established in G.S. 143-345.24.

(b) An agency coordinator shall be appointed by the head of each participating agency to serve as liaison between the agency, the suggester, the agency evaluator, and the ~~SEIBP NC-Thinks~~ office. The duties of the agency coordinator shall include:

- (1) Serving as an information source and maintaining sufficient forms necessary to submit suggestions.
- (2) Presenting, in conjunction with the agency evaluator, the recommendation for an award to the State Suggestion Review Committee.
- (3) Working in conjunction with the agency evaluator to process a particular suggestion or innovation within 180 days, except when there are extenuating circumstances.

An agency may have more than one coordinator if required to provide sufficient services to State employees.

(c) An agency evaluator shall be designated by the management of the implementing agency to evaluate one or more suggestions. The duties of an agency evaluator shall include:

- (1) Receiving from the agency coordinator and reviewing within 90 days, when possible, the feasibility and effectiveness of cost-saving or revenue-increasing measures suggested by State employees.
- (2) Being knowledgeable of the subject program, activity, or service.
- (3) Determining, in conjunction with the agency fiscal officer, the budgetary impact of a suggestion or innovation.
- (4) Judging impartially both the positive and negative effects of a suggestion or innovation on the current functions of the subject program, activity, or service.

(d) The executive secretary shall be responsible for general oversight and coordination of ~~the State Employee Incentive Bonus Program-NC-Thinks~~. The State coordinator shall be an employee of the Department of Administration. The State coordinator shall be responsible for day-to-day ~~SEIBP-NC-Thinks~~ program management and administration of the technical aspects of the program. The State coordinator shall be an ex officio voting member of the State Suggestion Review Committee.

"§ 143-345.24. ~~Incentive Bonus~~State Suggestion Review Committee.

(a) The ~~Incentive Bonus~~State Suggestion Review Committee, hereinafter "State Review Committee", shall consist of nine members, as follows:

- (1) The State Coordinator.
- (2) A representative of the Office of State Budget and Management.
- (3) A representative of the Office of State Personnel.
- (4) A representative of The University of North Carolina.
- (5) A representative of the Department of Justice.
- (6) A representative of the Department of Labor.
- (7) One State employee appointed by the Speaker of the House of Representatives.
- (8) One State employee appointed by the President Pro Tempore of the Senate.
- (9) One State employee appointed by the Governor upon the recommendation of the State Employees Association of North Carolina, Inc.

(b) The duties of the State Suggestion Review Committee shall include:

- (1) Receiving from the various agency coordinators recommendations on suggestions and innovations.
- (2) Determining the impact of a suggestion or innovation on State government services by judging the monetary savings, increased revenues, or improved quality of services generated by a suggestion or innovation.
- (3) Ensuring that the State employee incentive bonus process does not result in a negative impact on services provided to taxpayers by State government.

(c) All administrative, management, clerical, and other functions and services required by the State Review Committee shall be supplied by the Department of Administration. The Department of Administration and the State Review Committee shall report annually to the Joint Legislative Commission on Governmental Operations on the administration of ~~the State Employee Incentive Bonus Program-NC-Thinks~~.

"§ 143-345.25. Innovations deemed property of the State; effect of decisions regarding bonuses.

(a) All suggestions or innovations submitted by State employees pursuant to this Article are the property of the State, and all related intellectual property rights shall be assigned to the State. By January 1, 2002, the Office of State Personnel shall establish a policy regarding intellectual property rights that arise from ~~the SEIBP-NC-Thinks~~.

(b) Decisions regarding the award of bonuses by the agency coordinator and the State Suggestion Review Committee are final and are not subject to review under the contested case procedures of Chapter 150B of the General Statutes."

SECTION 12. G.S. 162-62 reads as rewritten:

"§ 162-62. Legal status of prisoners.

(a) When any person charged with a felony or an impaired driving offense is confined for any period in a county jail, local confinement facility, district confinement facility, or satellite jail/work release unit, the administrator or other person in charge of the facility shall attempt to determine if the prisoner is a legal resident of the United States by an inquiry of the prisoner, or by examination of any relevant documents, or both.

(b) If the administrator or other person in charge of the facility is unable to determine if that prisoner is a legal resident or citizen of the United States or its territories, the administrator or other person in charge of the facility holding the prisoner, where possible, shall make a query ~~through the Division of Criminal Information (DCI) system to the Law Enforcement Support Center (LESC)~~ of Immigration and Customs Enforcement of the United States Department of Homeland Security. ~~If the LESL determines that~~ the prisoner has not been lawfully admitted to the United States, the United States Department of Homeland Security will have been notified of the prisoner's status and confinement at the facility by its receipt of the ~~DCI~~-query from the facility.

(c) Nothing in this section shall be construed to deny bond to a prisoner or to prevent a prisoner from being released from confinement when that prisoner is otherwise eligible for release.

~~(d) The administrator or other person in charge of the facility shall annually report the number of queries performed under subsection (b) of this section and the results of those queries to the Governor's Crime Commission of the Department of Crime Control and Public Safety. The Governor's Crime Commission shall make the reports available to the public."~~

SECTION 13. Section 12 of S.L. 2009-516 reads as rewritten:

"SECTION 12. Sections 7(a), 8(a), 9, and 10(a) of this act become effective December 1, 2009, and apply to probation judgments entered or modified or deferred prosecution agreements executed on or after that date. The remainder of this act is effective when it becomes law."

SECTION 14. If House Bill 1734, 2009 Regular Session, becomes law, G.S. 136-18(2) reads as rewritten:

"(2) To take over and assume exclusive control for the benefit of the State of any existing county or township roads, and to locate and acquire rights-of-way for any new roads that may be necessary for a State highway system, and subject to the provisions of G.S. 136-19.5(a) and (b) also locate and acquire such additional rights-of-way as may be necessary for the present or future relocation or initial location, above or below ground, of telephone, telegraph, distributed antenna systems (DAS), ~~(DAS)~~ ~~as permitted by local zoning~~, broadband communications, electric and other lines, as well as gas, water, sewerage, oil and other pipelines, to be operated by public utilities as defined in G.S. 62-3(23) and which are regulated under Chapter 62 of the General Statutes, or by municipalities, counties, any entity created by one or more political subdivisions for the purpose of supplying any such utility services, electric membership corporations, telephone membership corporations, or any combination thereof, with full power to widen, relocate, change or alter the grade or location thereof, or alter the location or configuration of such lines or systems above or below ground, and to change or relocate any existing roads that the Department of Transportation may now own or may acquire; to acquire by gift, purchase, or otherwise, any road or highway, or tract of land or other property whatsoever that may be necessary for a State transportation system and adjacent utility rights-of-way: Provided, all changes or alterations authorized by this subdivision shall be subject to the

provisions of G.S. 136-54 to 136-63, to the extent that said sections are applicable: Provided, that nothing in this Chapter shall be construed to authorize or permit the Department of Transportation to allow or pay anything to any county, township, city or town, or to any board of commissioners or governing body thereof, for any existing road or part of any road heretofore constructed by any such county, township, city or town, unless a contract has already been entered into with the Department of Transportation."

SECTION 15.(a) If Senate Bill 1015, 2009 Regular Session, becomes law, then G.S. 75-122, as enacted by Section 2 of Senate Bill 1015, reads as rewritten:

"§ 75-122. Remedies.

A violation of G.S. 75-121 is an unfair trade practice under G.S. 75-1.1. A homeowner may bring an action for the recovery of damages, to void a prohibited foreclosure rescue transaction, as well as for declaratory or equitable relief for a violation of this Article. The provisions of this section shall not be enforceable against a bona fide purchaser for value. The rights and remedies provided herein are cumulative to, and not a limitation of, any other rights and remedies provided by law or equity. Nothing in this Chapter shall be construed to subject an individual homeowner selling his or her primary residence to liability under G.S. 75-1.1."

SECTION 15.(b) This section becomes effective October 1, 2010, and applies to transactions entered on or after that date.

SECTION 16. Except as otherwise provided, this act is effective when it becomes law.

In the General Assembly read three times and ratified this the 10th day of July, 2010.

s/ Walter H. Dalton
President of the Senate

s/ Joe Hackney
Speaker of the House of Representatives

s/ Beverly E. Perdue
Governor

Approved 3:08 p.m. this 20th day of July, 2010