



1       The following definitions apply in this section:

- 2           (1) Commissioner. – The Commissioner of the North Carolina Department  
3           of Labor.
- 4           (2) Federal work authorization program. – Any of the electronic  
5           verification of work authorization programs operated by the United  
6           States Department of Homeland Security or any equivalent federal  
7           work authorization program operated by the United States Department  
8           of Homeland Security to verify information of newly hired employees,  
9           pursuant to the Immigration Reform and Control Act of 1986 (IRCA),  
10           D.L. 99-603.
- 11           (3) Public employer. – Every State agency, department, or institution of  
12           the State or any local political subdivision of the State.
- 13           (4) Subcontractor. – A subcontractor, contract employee, staffing agency,  
14           or any contractor.

15       **§ 95-281. Public employer verification of work authorization.**

16           (a) Every public employer shall register and participate in the federal work  
17           authorization program to verify information of all new employees.

18           (b1) No public employer shall enter into a contract for the physical performance of  
19           services within this State unless the contractor registers and participates in the federal  
20           work authorization program to verify information of all new employees.

21           (b2) No contractor or subcontractor who enters a contract with a public employer  
22           shall enter into such a contract or subcontract in connection with the physical  
23           performance of services within the State unless the contractor or subcontractor registers  
24           and participates in the federal work authorization program to verify information of all  
25           new employees.

26           (c) Subsections (b1) and (b2) of this section shall apply as follows:

- 27           (1) Beginning July 1, 2007, with respect to public employers, contractors,  
28           or subcontractors employing 500 or more employees.
- 29           (2) Beginning July 1, 2008, with respect to public employers, contractors,  
30           or subcontractors employing 100 or more employees.
- 31           (3) Beginning July 1, 2009, with respect to all public employers,  
32           contractors, or subcontractors.

33       **§ 95-282. Rulemaking authority of Departments of Labor and Transportation.**

34           (a) Except as provided in subsection (b) of this section, the Commissioner shall  
35           adopt all rules and prescribe all forms necessary to administer and to effectuate the  
36           provisions of this Article and shall post those forms and rules on the official Department  
37           of Labor Web site.

38           (b) The Department of Transportation shall adopt rules and prescribe forms  
39           deemed necessary for the application of this Article to any contract or agreement  
40           relating to public transportation and shall publish the rules and regulations on the  
41           official Web site of the North Carolina Department of Transportation.

42       **§ 95-283. Nondiscrimination in enforcement.**

43           This Article shall be enforced without regard to race, religion, gender, ethnicity, or  
44           national origin."

1  
2 **PART III. CREATE CRIMINAL OFFENSE OF TRAFFICKING A PERSON**  
3 **FOR SEXUAL SERVITUDE/AMEND OFFENSE OF INVOLUNTARY**  
4 **SERVITUDE**

5  
6 **SECTION 3.(a)** Article 10 of Chapter 14 of the General Statutes is amended  
7 by adding a new section to read:

8 **"§ 14-43.4. Trafficking a person for sexual servitude.**

9 (a) The following definitions apply in this section:

10 (1) Coercion. – The term includes all of the following:

- 11 a. Causing or threatening to cause bodily harm to any person,  
12 physically restraining or confining any person, or threatening to  
13 physically restrain or confine any person.  
14 b. Exposing or threatening to expose any fact or information that  
15 if revealed would tend to subject a person to criminal or  
16 immigration proceedings, hatred, contempt, or ridicule.  
17 c. Destroying, concealing, removing, confiscating, or possessing  
18 any actual or purported passport or other immigration  
19 document, or any other actual or purported government  
20 identification document, of any person.  
21 d. Providing a controlled substance, as defined by G.S. 90-87, to a  
22 person.

23 (2) Deception. – The term includes all of the following:

- 24 a. Creating or confirming another's impression of an existing fact  
25 or past event which is false and which the accused knows or  
26 believes to be false.  
27 b. Maintaining the status or condition of a person arising from a  
28 pledge by that person of his or her personal services as security  
29 for a debt, if the value of those services as reasonably assessed  
30 is not applied toward the liquidation of the debt or the length  
31 and nature of those services are not respectively limited and  
32 defined, or preventing a person from acquiring information  
33 pertinent to the disposition of the debt.  
34 c. Promising benefits or the performance of services that the  
35 accused does not intend to deliver or perform or knows will not  
36 be delivered or performed.

37 (3) Minor. – A person who is less than 18 years of age.

38 (4) Sexual servitude. – The term includes the following:

- 39 a. Any sexual activity as defined in G.S. 14-190.13 for which  
40 anything of value is directly or indirectly given, promised to, or  
41 received by any person, which conduct is induced or obtained  
42 by coercion or deception or which conduct is induced or  
43 obtained from a person under the age of 18 years; or

1           b. Any sexual activity as defined in G.S. 14-190.13 which is  
2           performed or provided by any person, which conduct is induced  
3           or obtained by coercion or deception or which conduct is  
4           induced or obtained from a person under the age of 18 years.

5           (b) A person commits the offense of trafficking a person for sexual servitude  
6           when that person knowingly subjects or maintains another in sexual servitude or  
7           knowingly recruits, entices, harbors, transports, provides, or obtains by any means  
8           another person for the purpose of sexual servitude.

9           (c) A person who violates this section is guilty of a Class F felony if the victim of  
10           the offense is an adult. A person who violates this section is guilty of a Class E felony if  
11           the victim of the offense is a minor.

12           (d) Each violation of this section constitutes a separate offense and shall not  
13           merge with any other offense. Evidence of failure to deliver benefits or perform services  
14           standing alone shall not be sufficient to authorize a conviction under this section."

15           **SECTION 3.(b)** G.S. 14-43.2 reads as rewritten:

16           **"§ 14-43.2. Involuntary servitude.**

17           ~~(a) As used in this section, "involuntary servitude" means the unlawful holding~~  
18           ~~of a person against his will:~~

19           ~~(1) For the performance of labor, whether or not for compensation, or~~  
20           ~~whether or not for the satisfaction of a debt, and~~

21           ~~(2) By coercion or intimidation using violence or the threat of violence, or~~  
22           ~~by any other means of coercion or intimidation~~

23           (a) The following definitions apply in this section:

24           (1) Deception. – The term includes all of the following:

25           a. Creating or confirming another's impression of an existing fact  
26           or past event which is false and which the accused knows or  
27           believes to be false.

28           b. Maintaining the status or condition of a person arising from a  
29           pledge by that person of his or her personal services as security  
30           for a debt, if the value of those services as reasonably assessed  
31           is not applied toward the liquidation of the debt or the length  
32           and nature of those services are not respectively limited and  
33           defined, or preventing a person from acquiring information  
34           pertinent to the disposition of such debt.

35           c. Promising benefits or the performance of services which the  
36           accused does not intend to deliver or perform or knows will not  
37           be delivered or performed.

38           (2) Involuntary servitude. – The unlawful holding of a person against the  
39           person's will:

40           a. For the performance of labor, whether or not for compensation,  
41           or whether or not for the satisfaction of a debt; and

42           b. By deception, coercion, or intimidation using violence or the  
43           threat of violence or by any other means of coercion or

1 intimidation. Other means of coercion or intimidation include  
2 all of the following:

- 3 1. Exposing or threatening to expose any fact or  
4 information that if revealed would tend to subject a  
5 person to criminal or immigration proceedings, hatred,  
6 contempt, or ridicule.
- 7 2. Destroying, concealing, removing, confiscating, or  
8 possessing any actual or purported passport or other  
9 immigration document, or any other actual or purported  
10 government identification document, of any person; or  
11 3. Providing a controlled substance, defined by G.S. 90-87,  
12 to the person.

13 (3) Minor. – A person who is less than 18 years of age.

14 (b) It is unlawful to knowingly and willfully:

- 15 (1) Hold another in involuntary servitude, or
- 16 (2) Entice, persuade or induce another to go to another place with the  
17 intent that the other be held in involuntary servitude.

18 A person violating this subsection shall be guilty of a Class F ~~felony~~. felony if the  
19 victim of the offense is an adult. A person violating this subsection shall be guilty of a  
20 Class E felony if the victim of the offense is a minor.

21 (b1) Each violation of this section constitutes a separate offense and shall not  
22 merge with any other offense. Evidence of failure to deliver benefits or perform services  
23 standing alone shall not be sufficient to authorize a conviction under this section.

24 (c) Nothing in this section shall be construed to affect the laws governing the  
25 relationship between an unemancipated minor and his parents or legal guardian.

26 (d) If any person reports a violation of subsection (b) of this section, which  
27 violation arises out of any contract for labor, to any party to the contract, the party shall  
28 immediately report the violation to the sheriff of the county in which the violation is  
29 alleged to have occurred, for appropriate action. A person violating this subsection shall  
30 be guilty of a Class 1 misdemeanor."

31 **SECTION 3.(c)** G.S. 14-39(a) is amended by adding a new subdivision to  
32 read:

33 "(a) Any person who shall unlawfully confine, restrain, or remove from one place  
34 to another, any other person 16 years of age or over without the consent of such person,  
35 or any other person under the age of 16 years without the consent of a parent or legal  
36 custodian of such person, shall be guilty of kidnapping if such confinement, restraint or  
37 removal is for the purpose of:

- 38 (1) Holding such other person for a ransom or as a hostage or using such  
39 other person as a shield; or
- 40 (2) Facilitating the commission of any felony or facilitating flight of any  
41 person following the commission of a felony; or
- 42 (3) Doing serious bodily harm to or terrorizing the person so confined,  
43 restrained or removed or any other person; or

1 (4) Holding such other person in involuntary servitude in violation of  
2 G.S. 14-43.2.

3 (5) Trafficking the person for sexual servitude in violation of  
4 G.S. 14-43.4."

5 **SECTION 3.(d)** G.S. 15A-830(a)(7) reads as rewritten:

6 "(a) The following definitions apply in this Article:

7 ...

8 (7) Victim. – A person against whom there is probable cause to believe  
9 one of the following crimes was committed:

10 a. A Class A, B1, B2, C, D, or E felony.

11 b. A Class F felony if it is a violation of one of the following:  
12 G.S. 14-16.6(b); 14-16.6(c); 14-18; 14-32.1(e); 14-32.2(b)(3);  
13 14-32.3(a); 14-32.4; 14-34.2; 14-34.6(c); 14-41; 14-43.2;  
14 14-43.3; 14-43.4; 14-190.17; 14-190.19; 14-202.1; 14-277.3;  
15 14-288.9; or 20-138.5.

16 c. A Class G felony if it is a violation of one of the following:  
17 G.S. 14-32.3(b); 14-51; 14-58; 14-87.1; or 20-141.4.

18 d. A Class H felony if it is a violation of one of the following:  
19 G.S. 14-32.3(a); 14-32.3(c); 14-33.2, or 14-277.3.

20 e. A Class I felony if it is a violation of one of the following:  
21 G.S. 14-32.3(b); 14-34.6(b); or 14-190.17A.

22 f. An attempt of any of the felonies listed in this subdivision if the  
23 attempted felony is punishable as a felony.

24 g. Any of the following misdemeanor offenses when the offense is  
25 committed between persons who have a personal relationship as  
26 defined in G.S. 50B-1(b): G.S. 14-33(c)(1); 14-33(c)(2);  
27 14-33(a); 14-34; 14-134.3; or 14-277.3."

28 **SECTION 3.(e)** This section becomes effective December 1, 2006, and  
29 applies to offenses committed on or after that date.

#### 30 31 **PART IV. FACILITATE ENFORCEMENT OF FEDERAL IMMIGRATION** 32 **LAWS**

33  
34 **SECTION 4.** Article 20 of Chapter 15A of the General Statutes is amended  
35 by adding a new section to read:

36 "**§ 15A-407. Enforcement of federal immigrations laws.**

37 (a) The Secretary of Crime Control and Public Safety shall negotiate the terms of  
38 a memorandum of understanding between the State of North Carolina and the United  
39 States Department of Justice or Department of Homeland Security concerning the  
40 enforcement of federal immigration and customs laws, detention and removals, and  
41 investigations in the State of North Carolina.

42 (b) The memorandum of understanding negotiated pursuant to subsection (a) of  
43 this section shall be signed on behalf of the State by the Secretary of Crime Control and

1 Public Safety and the Governor or as otherwise required by the appropriate federal  
2 agency.

3 (c) The Secretary of Crime Control and Public Safety shall designate appropriate  
4 law enforcement officers to be trained pursuant to the memorandum of understanding  
5 provided for in this section. The training shall be funded pursuant to the federal  
6 Homeland Security Appropriation Act of 2006, Public Law 109-90, or any subsequent  
7 source of federal funding.

8 (d) A law enforcement officer certified as trained in accordance with the  
9 memorandum of understanding provided for in this section may enforce federal  
10 immigration and customs laws while performing duties within the scope of the officer's  
11 authorized duties."

12  
13 **PART V. DETERMINATION OF NATIONALITY AND IMMIGRATION**  
14 **STATUS OF PERSONS JAILED UPON FELONY OR IMPAIRED DRIVING**  
15 **CHARGES**

16  
17 **SECTION 5.** Chapter 162 of the General Statutes is amended by adding a  
18 new section to read:

19 **"§ 162-62. Legal status of prisoners.**

20 (a) When any person charged with a felony or an impaired driving offense is  
21 confined for any period in a county jail, local confinement facility, district confinement  
22 facility, or satellite jail/work release unit, the administrator or other person in charge of  
23 the facility shall make a reasonable effort to determine the nationality of the person so  
24 confined.

25 (b) If the prisoner is a foreign national, the administrator or other person in  
26 charge of the facility holding the prisoner shall make a reasonable effort to verify that  
27 the prisoner has been lawfully admitted to the United States and if lawfully admitted,  
28 that the prisoner's lawful status has not expired. If verification of lawful status cannot be  
29 made from documents in the possession of the prisoner, verification shall be made  
30 within 48 hours through a query to the Law Enforcement Support Center (LESC) of the  
31 United States Department of Homeland Security or other office or agency designated  
32 for that purpose by the United States Department of Homeland Security. If the LESG or  
33 other office or agency determines that the prisoner has not been lawfully admitted to the  
34 United States, the administrator or other person in charge of the facility holding the  
35 prisoner shall notify the United States Department of Homeland Security.

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

39 (d) The Department of Crime Control and Public Safety, after consultation with  
40 the North Carolina Sheriffs' Association, shall prepare and issue guidelines and  
41 procedures to be used to comply with the provisions of this section."

42  
43 **PART VI. ESTABLISH IMMIGRATION ASSISTANCE REGISTRATION ACT**  
44





1       (c) Nothing in this Chapter shall regulate any business to the extent that the  
2 regulation is prohibited or preempted by federal law.

3       (d) Nothing in this Chapter shall prohibit a local city or county from requiring  
4 that a person offering immigration assistance services obtain a business license pursuant  
5 to a local ordinance.

6       (e) The Secretary of State may adopt rules to implement, administer, and enforce  
7 this Chapter.

8 **"§ 84B-5. Exemptions.**

9 The following persons are exempt from this Chapter:

10       (1) An attorney licensed to practice law in this State or an attorney  
11 licensed to practice law in any other state or territory of the United  
12 States or in any foreign country when acting with the approval of a  
13 judge having lawful jurisdiction over an immigration matter.

14       (2) A legal intern, clerk, paralegal, or person in a similar position  
15 employed by and under the direct supervision of a licensed attorney  
16 meeting the requirements in subdivision (1) of this section and  
17 providing immigration assistance services.

18       (3) A nonprofit organization recognized by the Board of Immigration  
19 Appeals under 8 C.F.R. § 292.2(a) and employees of those  
20 organizations accredited under 8 C.F.R. § 292.2(d).

21       (4) Any organization employing or desiring to employ an alien or  
22 nonimmigrant alien, where the organization, its employees, or its  
23 agents provide advice or assistance in immigration matters to alien or  
24 nonimmigrant alien employees or potential employees without  
25 compensation from the individuals to whom the advice or assistance is  
26 provided.

27 **"§ 84B-6. Immigration assistance services permitted.**

28 A person providing or offering to provide immigration assistance services may  
29 perform the following services only:

30       (1) Complete a government agency form requested by the customer if the  
31 completion of that form does not involve the use of legal judgment.

32       (2) Transcribe responses on a government agency form related to an  
33 immigration matter without advising a customer as to his or her  
34 answers on the form.

35       (3) Translate information on forms for a customer and translate the  
36 customer's answers to questions posed on the forms.

37       (4) Secure for a customer supporting documents currently in existence,  
38 such as a birth certificate or marriage certificate, when needed to  
39 submit with government agency forms.

40       (5) Translate documents from a foreign language into English.

41       (6) Notarize signatures on government agency forms if the person  
42 performing the service is a notary public commissioned in this State  
43 and is lawfully present in the United States.

- 1           (7) Make referrals, without a fee, to attorneys who represent clients in  
2           immigration matters.
- 3           (8) Prepare or arrange for the preparation of photographs and fingerprints.
- 4           (9) Arrange for the performance of medical testing, including X-rays and  
5           AIDS tests, and arrange for the test results to be obtained.
- 6           (10) Conduct English language and civics courses.
- 7           (11) Perform any other services the Secretary of State, by rule, deems  
8           appropriate pursuant to this Chapter.

9 **"§ 84B-7. Posting signs; advertisements.**

10       (a) Any person providing or offering to provide immigration assistance services  
11 who is not exempt under this Chapter shall post signs prominently at his or her place of  
12 business which set forth information in English and in every other language in which  
13 the person provides or offers to provide immigration assistance services. The signs shall  
14 contain the following statement in boldface type and capital letters: 'I AM NOT AN  
15 ATTORNEY LICENSED TO PRACTICE LAW AND MAY NOT GIVE LEGAL  
16 ADVICE OR ACCEPT FEES FOR LEGAL ADVICE.' Each language in which the  
17 person provides or offers to provide immigration assistance services shall be on a  
18 separate sign, and each sign shall be at least 12 inches by 17 inches.

19       (b) Every person providing immigration assistance service who is not an attorney  
20 and advertises immigration assistance services in a language other than English,  
21 whether by radio, television, signs, pamphlets, newspapers, or other written  
22 communication, with the exception of a single desk plaque, shall include in the  
23 document, advertisement, stationery, letterhead, business card, or other comparable  
24 written material the following notice in English and the language in which the written  
25 communication appears: 'I AM NOT AN ATTORNEY LICENSED TO PRACTICE  
26 LAW AND MAY NOT GIVE LEGAL ADVICE OR ACCEPT FEES FOR LEGAL  
27 ADVICE.' If the notice is in writing, the notice must appear in a conspicuous manner  
28 and if the advertisement is by radio or television, the statement may be modified but  
29 must include substantially the same message.

30 **"§ 84B-8. Prohibited conduct.**

31 A person providing immigration assistance services who is not exempt under this  
32 Chapter shall not:

- 33       (1) Accept payment in exchange for providing legal advice or any other  
34 assistance that requires legal analysis, legal judgment, or interpretation  
35 of the law.
- 36       (2) Refuse to return documents supplied by, prepared on behalf of, or paid  
37 for by the customer upon the request of the customer. These  
38 documents must be returned upon request even if there is a fee dispute  
39 between the immigration assistant and the customer.
- 40       (3) Represent, advertise, or use any titles or credentials, including 'notary  
41 public' or 'immigration consultant', while providing assistance in  
42 immigration matters that creates the belief that the person possesses  
43 special professional skills or is authorized to provide advice on an  
44 immigration matter. However, a certified notary public may use the

1 term 'notary public' if the use is accompanied by the statement that the  
 2 person is not an attorney. The term 'notary public' shall not be  
 3 translated to another language.

4 (4) In any document, advertisement, stationery, letterhead, business card,  
 5 or other comparable written material, literally translate from English  
 6 into another language terms or titles, including 'notary public', 'notary',  
 7 'licensed', 'attorney', 'lawyer', or any other term that implies the person  
 8 is an attorney.

9 (5) Provide legal advice, recommend a specific course of legal action, or  
 10 provide any other assistance that requires legal analysis, legal  
 11 judgment, or interpretation of the law.

12 (6) Make any misrepresentation or false statement, directly or indirectly,  
 13 to influence, persuade, or induce patronage.

14 (7) Violate any provision of this Chapter.

15 **"§ 84B-9. Violations; penalties.**

16 (a) Any person who violates any provision of this Chapter shall be guilty of a  
 17 Class 2 misdemeanor for a first offense and a Class 1 misdemeanor for any subsequent  
 18 offenses committed within five years of a previous conviction for the same offense.

19 (b) Violations of this Chapter may result in a fine of up to one thousand dollars  
 20 (\$1,000) for each violation. A fine charged pursuant to this Chapter shall not preempt or  
 21 preclude additional appropriate civil or criminal penalties."

22  
 23 **PART VII. NO INCOME TAX DEDUCTION FOR COMPENSATION PAID TO**  
 24 **ILLEGAL IMMIGRANTS**

25  
 26 **SECTION 7.(a)** G.S. 105-130.2 is amended by adding a new subdivision to

27 read:

28 **"§ 105-130.2. Definitions.**

29 The following definitions apply in this Part:

30 ...

31 (7) Unauthorized alien. – Defined in 8 U.S.C. § 1324a(h)(3)."

32 **SECTION 7.(b)** G.S. 105-130.5(a) is amended by adding a new subdivision

33 to read:

34 "(a) The following additions to federal taxable income shall be made in  
 35 determining State net income:

36 ...

37 (19) To the extent not included in federal taxable income, any amount in  
 38 excess of six hundred dollars (\$600.00) that is paid to an unauthorized  
 39 alien as wages or compensation unless the unauthorized alien is not  
 40 directly compensated or employed by the taxpayer."

41 **SECTION 7.(c)** G.S. 105-134.1 is amended by adding a new subdivision to

42 read:

43 **"§ 105-134.1. Definitions.**

44 The following definitions apply in this Part:

1           ...  
 2           (20) Unauthorized alien. – Defined in G.S. 105-130.2.  
 3           **SECTION 7.(d)** G.S. 105-134.6(c) is amended by adding a new subdivision

4 to read:

5           "(c) Additions. – The following additions to taxable income shall be made in  
 6 calculating North Carolina taxable income, to the extent each item is not included in  
 7 taxable income:

8           ...  
 9           (11) Any amount in excess of six hundred dollars (\$600.00) that is paid to  
 10 an unauthorized alien as wages or compensation unless the  
 11 unauthorized alien is not directly compensated or employed by the  
 12 taxpayer."

13           **SECTION 7.(e)** This section is effective for taxable years beginning on or  
 14 after January 1, 2007.

15  
 16 **PART VIII. WITHHOLDING ON COMPENSATION PAID TO ILLEGAL**  
 17 **IMMIGRANTS**

18  
 19           **SECTION 8.(a)** G.S. 105-163.1 reads as rewritten:

20 **"§ 105-163.1. Definitions.**

21 The following definitions apply in this Article:

- 22           (1) Compensation. – Consideration a payer pays a nonresident ~~individual~~  
 23 ~~or individual,~~ a nonresident ~~entity~~ entity, or an unauthorized alien for  
 24 personal services performed in this State.  
 25           (2) Contractor. – ~~Either~~ Any of the following:  
 26           a. A nonresident individual who performs in this State for  
 27 compensation other than wages any personal services in  
 28 connection with a performance, an entertainment, an athletic  
 29 event, a speech, or the creation of a film, radio, or television  
 30 program.  
 31           b. A nonresident entity that provides for the performance in this  
 32 State for compensation of any personal services in connection  
 33 with a performance, an entertainment, an athletic event, a  
 34 speech, or the creation of a film, radio, or television program.  
 35           c. An unauthorized alien who performs in this State for  
 36 compensation other than wages any personal services.

37           ...  
 38           (12a) Unauthorized alien. – Defined in G.S. 105-130.2.  
 39           ..."

40           **SECTION 8.(b)** This section becomes effective January 1, 2007, and applies  
 41 to payment made on or after that date.

42  
 43 **PART IX. VERIFICATION OF LAWFUL PRESENCE TO RECEIVE PUBLIC**  
 44 **BENEFITS**

1  
2           **SECTION 9.(a)** The General Statutes are amended to add a new Chapter to  
3 read:

4                                   **"Chapter 135A.**

5                                   **"Public Benefits.**

6       **"§ 135A-1. Verification of lawful presence required to receive public benefits;**  
7       **definitions; exceptions.**

8       (a) As used in this section,

9           (1) 'Emergency medical condition.' – As defined in 42 U.S.C.A. §  
10           1396b(v)(3).

11           (2) 'Federal public benefit'. – As defined in 8 U.S.C.A. § 1611.

12           (3) 'SAVE'. – Systematic Alien Verification of Entitlement program of the  
13           United States Department of Homeland Security.

14           (4) 'State or local public benefit.' – As defined in 8 U.S.C.A. § 1621.

15       (b) Except as otherwise provided in subsection (d) of this section or where  
16 exempted by federal law, every agency or political subdivision of this State shall verify  
17 the lawful presence in the United States of any natural person 18 years of age or older  
18 who has applied for State or local public benefits or for federal public benefits that are  
19 administered by an agency or a political subdivision of this State.

20       (c) This section shall be enforced without regard to race, religion, gender,  
21 ethnicity, or national origin.

22       (d) Verification of lawful presence under this section shall not be required for:

23           (1) Any purposes for which lawful presence in the United States is not  
24           required by law, ordinance, or regulation;

25           (2) Assistance for health care items and services that are necessary for the  
26           treatment of an emergency medical condition of the alien involved and  
27           are not related to an organ transplant procedure;

28           (3) Short-term, noncash, in-kind emergency disaster relief;

29           (4) Public health assistance for immunizations with respect to  
30           immunizable diseases and for testing and treatment of symptoms of  
31           communicable diseases whether or not the symptoms are caused by a  
32           communicable disease; or

33           (5) Programs, services, or assistance such as soup kitchens, crisis  
34           counseling and intervention, and short-term shelter specified by the  
35           United States Attorney General, in the United States Attorney  
36           General's sole and unreviewable discretion after consultation with  
37           appropriate federal agencies and departments, which:

38           a. Deliver in-kind services at the community level, including  
39           through public or private nonprofit agencies;

40           b. Do not condition the provision of assistance, the amount of  
41           assistance provided, or the cost of assistance provided on the  
42           individual recipient's income or resources; and

43           c. Are necessary for the protection of life or safety.

44           (6) Prenatal care; or

1           (7) Postsecondary education, whereby the Board of Governors of The  
2           University of North Carolina, or the State Board of Community  
3           Colleges shall set forth, or cause to be set forth, policies regarding  
4           postsecondary benefits that comply with all federal law including  
5           federal public benefits and State and local public benefits.

6           (e) Verification of lawful presence in the United States by a State agency or  
7           political subdivision required to make verification shall be as follows:

8           (1) The applicant for public benefit must execute an affidavit that the  
9           applicant is a United States citizen or legal permanent resident of the  
10           United States and is 18 years of age or older; or

11           (2) The applicant must execute an affidavit that the applicant is a qualified  
12           alien or nonimmigrant under the federal Immigration and Nationality  
13           Act and is 18 years of age or older and lawfully present in the United  
14           States.

15           (f) For any applicant who has executed an affidavit that the applicant is an alien  
16           lawfully present in the United States, the state agency or political subdivision shall  
17           verify eligibility for benefits through the SAVE program operated by the United States  
18           Department of Homeland Security or a successor program designated by the United  
19           States Department of Homeland Security. Until eligibility verification is made, the  
20           affidavit may be presumed to be proof of lawful presence for the purposes of this  
21           section.

22           (g) Any person who knowingly and willfully makes a false, fictitious, or  
23           fraudulent statement of representation in an affidavit executed under subsection (e) of  
24           this section shall, upon conviction thereof, be punished by a fine of not more than one  
25           thousand dollars (\$1,000) or by imprisonment for one to five years, or both.

26           (h) Agencies or political subdivisions of this State may adopt rules providing for  
27           waiver from this section to improve efficiency or reduce delay in the verification  
28           process or to provide for adjudication of unique individual circumstances where the  
29           verification procedures under this section would impose unusual hardship on a legal  
30           resident of this State.

31           (i) It shall be unlawful for any agency or political subdivision of this State to  
32           provide any state, local or federal benefit in violation of this section. Each state or local  
33           agency or political subdivision that administers any program of state or local public  
34           benefits shall provide an annual report to the General Assembly and the Governor with  
35           respect to the agency's or political subdivision's compliance with this section. The report  
36           shall be submitted not later than March 1 of each year.

37           (j) All errors and significant delays by SAVE shall be reported by the affected  
38           State agency or political subdivision to the United States Department of Homeland  
39           Security and to the Secretary of State to ensure that the application of SAVE is not  
40           wrongfully denying benefits to legal residents of this State.

41           (k) Notwithstanding subsection (g) of this section, an applicant for federal  
42           benefits or for state or local benefits shall not be guilty of any crime for executing an  
43           affidavit attesting to lawful presence in the United States that contains a false statement  
44           if the affidavit is not required by this section."

1           **SECTION 9.(b)** This section becomes effective January 1, 2007, and applies  
2 to applications made and acts committed on and after that date.

3  
4 **PART X. SEVERABILITY CLAUSE**

5  
6           **SECTION 10.** If any provision of this act or its application is held invalid,  
7 the invalidity does not affect other provisions or applications of this act that can be  
8 given effect without the invalid provisions or application, and to this end the provisions  
9 of this act are severable.

10  
11 **PART XI. EFFECTIVE DATE**

12  
13           **SECTION 11.** Except as otherwise provided in this section, this act becomes  
14 effective January 1, 2007.