

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005

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SENATE BILL 1479*
House Committee Substitute Favorable 7/11/06

Short Title: Uninc. Nonprofit Assoc. Act/GSC Tech. Corr.

(Public)

Sponsors:

Referred to:

May 18, 2006

A BILL TO BE ENTITLED

AN ACT TO ENACT THE UNIFORM UNINCORPORATED NONPROFIT
ASSOCIATION ACT AND TO MAKE TECHNICAL CORRECTIONS AND
CONFORMING CHANGES TO THE GENERAL STATUTES, AS
RECOMMENDED BY THE GENERAL STATUTES COMMISSION.

The General Assembly of North Carolina enacts:

PART I. UNIFORM UNINCORPORATED NONPROFIT ASSOCIATION ACT.

SECTION 1. The General Statutes are amended by adding a new Chapter to
read:

Chapter 59B.

"Uniform Unincorporated Nonprofit Association Act.

"§ 59B-1. Short title.

This Chapter may be cited as the Uniform Unincorporated Nonprofit Association
Act.

"§ 59B-2. Definitions.

In this Chapter:

- (1) "Member" means a person who, under the rules or practices of a nonprofit association, may participate in the selection of persons authorized to manage the affairs of the nonprofit association or in the development of policy of the nonprofit association.
- (2) "Nonprofit association" means an unincorporated organization, other than one created by a trust and other than a limited liability company, consisting of two or more members joined by mutual consent for a common, nonprofit purpose. However, joint tenancy, tenancy in common, or tenancy by the entireties does not by itself establish a nonprofit association, even if the co-owners share use of the property for a nonprofit purpose.
- (3) "Person" means an individual, corporation, limited liability company, business trust, estate, trust, partnership, association, joint venture,

1 government, governmental subdivision, agency, or instrumentality, or
2 any other legal or commercial entity.

3 (4) "State" means a state of the United States, the District of Columbia,
4 the Commonwealth of Puerto Rico, or any territory or insular
5 possession subject to the jurisdiction of the United States.

6 **"§ 59B-3. Supplementary general principles of law and equity.**

7 Principles of law and equity supplement this Chapter unless displaced by a particular
8 provision of it.

9 **"§ 59B-4. Title to property; choice of law.**

10 Real and personal property in this State may be acquired, held, encumbered, and
11 transferred by a nonprofit association, whether or not the nonprofit association or a
12 member has any other relationship to this State.

13 **"§ 59B-5. Real and personal property; nonprofit association as legatee, devisee, or**
14 **beneficiary.**

15 (a) A nonprofit association is a legal entity separate from its members for the
16 purposes of acquiring, holding, encumbering, and transferring real and personal
17 property.

18 (b) A nonprofit association, in its name, may acquire, hold, encumber, or transfer
19 an estate or interest in real or personal property.

20 (c) A nonprofit association may be a beneficiary of a trust or contract, a legatee,
21 or a devisee.

22 (d) Any judgments and executions against a nonprofit association bind its real
23 and personal property in like manner as if it were incorporated.

24 **"§ 59B-6. Statement of authority as to real property.**

25 (a) A nonprofit association may execute and record a statement of authority to
26 transfer an estate or interest in real property in the name of the nonprofit association.

27 (b) An estate or interest in real property in the name of a nonprofit association
28 may be transferred by a person so authorized in a statement of authority recorded in the
29 office of the register of deeds in the county in which a transfer of the property would be
30 recorded.

31 (c) A statement of authority must be set forth in a document styled "affidavit"
32 that contains all of the following:

33 (1) The name of the nonprofit association.

34 (2) Reserved for future codification purposes.

35 (3) The street address, and the mailing address if different from the street
36 address, of the nonprofit association, and the county in which it is
37 located, or, if the nonprofit association does not have an address in this
38 State, its address out-of-state.

39 (4) That the association is an unincorporated nonprofit association.

40 (5) The name or office of a person authorized to transfer an estate or
41 interest in real property held in the name of the nonprofit association.

42 (6) That the association has duly authorized the member or agent
43 executing the statement to do so.

1 (d) A statement of authority must be sworn to and subscribed in the same manner
2 as an affidavit by a member or agent who is not the person authorized to transfer the
3 estate or interest.

4 (e) The register of deeds shall collect a fee for recording a statement of authority
5 in the amount authorized by G.S. 161-10(a)(1). The register of deeds shall index the
6 name of the nonprofit association and the member or agent signing the statement of
7 authority or any subsequent document relating thereto as Grantor and the name of the
8 appointee as Grantee.

9 (f) An amendment, including a termination, of a statement of authority must
10 meet the requirements for execution and recording of an original statement. Unless
11 terminated earlier, a recorded statement of authority or its most recent amendment
12 expires by operation of law five years after the date of the most recent recording.

13 (g) If the record title to real property is in the name of a nonprofit association and
14 the statement of authority is recorded in the office of the register of deeds in the county
15 in which a transfer of real property would be recorded, the authority of the person or
16 officer named in a statement of authority is conclusive in favor of a person who gives
17 value without notice that the person or officer lacks authority.

18 **"§ 59B-7. Liability of members or other persons.**

19 (a) A nonprofit association is a legal entity separate from its members for the
20 purposes of determining and enforcing rights, duties, and liabilities.

21 (b) A person is not liable for the contract, tort, or other obligations of a nonprofit
22 association merely because the person is a member, is authorized to participate in the
23 management of the affairs of the nonprofit association, or is referred to as a "member"
24 by the nonprofit association.

25 (c) Reserved for future codification purposes.

26 (d) A tortious act or omission of a member or other person for which a nonprofit
27 association is liable is not imputed to a person merely because the person is a member
28 of the nonprofit association, is authorized to participate in the management of the affairs
29 of the nonprofit association, or is referred to as a "member" by the nonprofit association.

30 (e) A member of, or a person referred to as a "member" by, a nonprofit
31 association may assert a claim against or on behalf of the nonprofit association. A
32 nonprofit association may assert a claim against a member or a person referred to as a
33 "member" by the nonprofit association.

34 **"§ 59B-8. Capacity to assert and defend; standing.**

35 (a) A nonprofit association, in its name, may institute, defend, intervene, or
36 participate in a judicial, administrative, or other governmental proceeding or in an
37 arbitration, mediation, or any other form of alternative dispute resolution.

38 (b) A nonprofit association may assert a claim in its name on behalf of its
39 members or persons referred to as "members" by the nonprofit association if one or
40 more of them have standing to assert a claim in their own right, the interests the
41 nonprofit association seeks to protect are germane to its purposes, and neither the claim
42 asserted nor the relief requested requires the participation of a member or a person
43 referred to as a "member" by the nonprofit association.

44 **"§ 59B-9. Effect of judgment or order.**

1 A judgment or order against a nonprofit association is not by itself a judgment or
 2 order against a member, a person referred to as a "member" by the nonprofit
 3 association, or a person authorized to participate in the management of the affairs of the
 4 nonprofit association.

5 **"§ 59B-10. Disposition of personal property of inactive nonprofit association.**

6 If a nonprofit association has been inactive for three years or longer, or a different
 7 period specified in a document of the nonprofit association, a person in possession or
 8 control of personal property of the nonprofit association may transfer custody of the
 9 property:

- 10 (1) If a document of the nonprofit association or document of gift specifies
 11 a person to whom transfer is to be made under these circumstances, to
 12 that person; or
 13 (2) If no person is so specified, to a nonprofit association, nonprofit
 14 corporation, or other nonprofit entity pursuing broadly similar
 15 purposes, or to a government or governmental subdivision, agency, or
 16 instrumentality.

17 **"§ 59B-11. Appointment of agent to receive service of process.**

18 (a) A nonprofit association may file in the office of the Secretary of State a
 19 statement appointing an agent authorized to receive service of process, notice, or
 20 demand required or permitted by law to be served on a nonprofit association.

21 (b) A statement appointing an agent must set forth all of the following:

- 22 (1) The name of the nonprofit association.
 23 (2) Reserved for future codification purposes.
 24 (3) The street address, and the mailing address if different from the street
 25 address, of the nonprofit association, and the county in which it is
 26 located, or, if the nonprofit association does not have an address in this
 27 State, its address out-of-state.
 28 (4) The name of the person in this State authorized to receive service of
 29 process and the person's address, including the street address, in this
 30 State.

31 (c) A statement appointing an agent must be signed and acknowledged by a
 32 person authorized to manage the affairs of a nonprofit association. The statement must
 33 also be signed and acknowledged by the person appointed agent, who thereby accepts
 34 the appointment. The appointed agent may resign by filing a resignation in the office of
 35 the Secretary of State and giving written notice to the nonprofit association at its last
 36 known address.

37 (d) The sole duty of the appointed agent to the nonprofit association is to forward
 38 to the nonprofit association at its last known address any notice, process, or demand that
 39 is served on the appointed agent.

40 (e) The Secretary of State is not an agent for service of any process, notice, or
 41 demand on any nonprofit association.

42 (f) The Secretary of State shall collect the following fees when the documents
 43 described in this subsection are delivered to the Secretary of State for filing:

<u>Document</u>	<u>Fee</u>
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- 1 (1) Statement appointing an agent to receive service of process \$5.00
- 2 (2) Amendment of statement appointing an agent 5.00
- 3 (3) Cancellation of statement appointing an agent 5.00
- 4 (4) Agent's statement of resignation No fee

5 (g) An amendment to or cancellation of a statement appointing an agent to
6 receive service of process must meet the requirements for execution of an original
7 statement.

8 **"§ 59B-12. Claim not abated by change.**

9 A claim for relief against a nonprofit association does not abate merely because of a
10 change in its members or persons authorized to manage the affairs of the nonprofit
11 association.

12 **"§ 59B-13. Venue.**

13 For purposes of venue, a nonprofit association is a resident of a county in which it
14 has an office or maintains a place of operation or, if on due inquiry no office or place of
15 operation can be found, in which any officer resides.

16 **"§ 59B-14. Uniformity of application and construction.**

17 This Chapter shall be applied and construed to effectuate its general purpose to make
18 uniform the law with respect to the subject of this Chapter among states enacting it."

19 **SECTION 2.(a)** G.S. 39-24 and G.S. 39-25 are repealed.

20 **SECTION 2.(b)** G.S. 39-26 and G.S. 39-27 are recodified as G.S. 59B-15(a)
21 and (b), respectively. As recodified by this act, G.S. 59B-15 reads as rewritten:

22 **"§ 59B-15. Effect as to conveyances by ~~trustees.~~ trustees; prior deeds validated.**

23 (a) Nothing in this Article shall be deemed in any manner to change Chapter
24 changes the law with reference to the holding and conveyance of land by the trustees of
25 churches or other voluntary organizations under Chapter 61 of the General Statutes
26 where ~~such~~ the land is conveyed to and held by ~~such~~ the trustees.

27 (b) All deeds heretofore executed in conformity with this Article before the
28 effective date of this Chapter in conformity with former G.S. 39-24 and former
29 G.S. 39-25 are declared to be sufficient to pass title to real estate held by such
30 organizations. estate."

31 **SECTION 3.** G.S. 1-69.1 reads as rewritten:

32 **"§ 1-69.1. Unincorporated associations and partnerships; suit by or against.**

33 (a) Except as provided in subsection (b) of this section:

- 34 (1) All unincorporated associations, organizations or societies, or general
35 or limited partnerships, foreign or domestic, whether organized for
36 profit or not, may hereafter sue or be sued under the name by which
37 they are commonly known and called, or under which they are doing
38 business, to the same extent as any other legal entity established by
39 law and without naming any of the individual members composing it.
- 40 (2) Any judgments and executions against any such association,
41 organization or society shall bind its real and personal property in like
42 manner as if it were incorporated.
- 43 (3) Any unincorporated association, organization, society, or general
44 partnership bringing a suit in the name by which it is commonly

1 known and called must allege the specific location of the recordation
2 required by G.S. 66-68.

3 (b) Unincorporated nonprofit associations are subject to Chapter 59B of the
4 General Statutes and not this section."

5 **SECTION 4.** G.S. 47C-3-101 reads as rewritten:

6 "**§ 47C-3-101. Organization of unit owners' association.**

7 A unit owners' association shall be organized no later than the date the first unit in
8 the condominium is conveyed. The membership of the association at all times shall
9 consist exclusively of all the unit owners, or following termination of the condominium,
10 of all persons entitled to distributions of proceeds under G.S. 47C-2-118. The
11 association shall be organized as a profit or nonprofit corporation or as an
12 unincorporated nonprofit association."

13 **SECTION 5.** If any provision of this act or its application to any person or
14 circumstance is held invalid, the invalidity does not affect any other provisions or
15 applications of this act which can be given effect without the invalid provision or
16 application, and to this end the provisions of this act are severable.

17 **SECTION 6.** This act does not affect an action or proceeding commenced or
18 right accrued before this act takes effect.

19 **SECTION 7.** The Revisor of Statutes shall cause to be printed along with
20 this act all relevant portions of the official comments to the Uniform Unincorporated
21 Nonprofit Association Act and all explanatory comments of the drafters of this act as
22 the Revisor deems appropriate.

23 **PART II. TECHNICAL CORRECTIONS.**

24 **SECTION 8.** G.S. 9-10(b) reads as rewritten:

25 "(b) All summons served personally or by mail under this section or under G.S. 9-
26 11 shall inform the prospective juror that persons ~~65~~72 years of age or older are entitled
27 to establish in writing exemption from jury service for good cause, shall contain a
28 statement for claiming such exemption and stating the cause and a place for the
29 prospective juror's signature, and shall state the mailing address of the clerk of superior
30 court and the date by which such request for exemption must be received."

31 **SECTION 10.** G.S. 15A-615(a) reads as rewritten:

32 "(a) After a finding of probable cause pursuant to the provisions of Article 30 of
33 Chapter 15A of the General Statutes or indictment for an offense that involves
34 nonconsensual vaginal, anal, or oral ~~intercourse~~, intercourse; an offense that involves
35 vaginal, anal, or oral intercourse with a child 12 years old or ~~less~~, less; or an offense
36 under G.S. 14-202.1 that involves vaginal, anal, or oral intercourse with a child less than
37 16 years ~~old~~, old; the victim or the parent, guardian, or guardian ad litem of a minor
38 victim may request that a defendant be tested for the following sexually transmitted
39 infections:
40

- 41 (1) Chlamydia;
- 42 (2) Gonorrhea;
- 43 (3) Hepatitis B;
- 44 (3a) Herpes;

- 1 (4) HIV; and
2 (5) Syphilis.

3 In the case of herpes, the defendant, pursuant to the provisions of this section, shall be
4 examined for oral and genital herpetic lesions and, if a suggestive but nondiagnostic
5 lesion is present, a culture for herpes shall be performed."

6 **SECTION 11.** G.S. 41-47(c) reads as rewritten:

7 "(c) A registering entity is discharged from all claims to a security by the estate,
8 creditors, heirs, or devisees of a deceased owner if it registers a transfer of a security in
9 accordance with G.S. 41-46 and does so in good faith reliance (i) on the registration, (ii)
10 on this Article, and (iii) on information provided to it by affidavit of the personal
11 representative of the deceased owner, or by the surviving beneficiary or by the surviving
12 beneficiary's representatives, or other information available to the registering entity. The
13 protections of this Article do not extend to a reregistration or payment made after a
14 registering entity has received written ~~notice~~notice, addressed to the registering entity,
15 from any claimant to any interest in the security objecting to implementation of a
16 registration in beneficiary form. No other notice or other information available to the
17 registering entity affects its right to protection under this Article."

18 **SECTION 12.** G.S. 45-37(a) reads as rewritten:

19 "(a) Subject to the provisions of G.S. 45-36.9(a) and G.S. 45-73 relating to
20 security instruments which secure future advances, any security instrument intended to
21 secure the payment of money or the performance of any other obligation registered as
22 required by law may be satisfied of record and thereby discharged and released of
23 record in the following manner:

24 (1) Security instruments satisfied of record prior to October 1, 2005,
25 pursuant to this subdivision as it was in effect prior to October 1, 2005,
26 shall be deemed satisfied of record, discharged, and released.

27 ...

28 (5) Security instruments satisfied of record prior to October 1, 2005,
29 pursuant to this subdivision as it was in effect prior to October 1, 2005,
30 shall be deemed satisfied of record, discharged, and released.

31 (6) Security instruments satisfied of record prior to October 1, 2005,
32 pursuant to this subdivision as it was in effect prior to October 1, 2005,
33 shall be deemed satisfied of record, discharged, and released.

34"

35 **SECTION 13.** G.S. 45-38 reads as rewritten:

36 "**§ 45-38. Recording of foreclosure.**

37 In case of foreclosure of any deed of trust, or mortgage, the trustee, mortgagee, or
38 the trustee's or mortgagee's attorney shall record a notice of foreclosure that includes the
39 date when, and the person to whom, a conveyance was made by reason of the
40 foreclosure. In the event the entire obligation secured by a mortgage or deed of trust is
41 satisfied by a sale of only a part of the property embraced within the terms of the
42 mortgage or deed of trust, the trustee, mortgagee, or the trustee's or mortgagee's attorney
43 shall indicate in the notice of foreclosure which property was sold.

1 A notice of foreclosure shall consist of a separate instrument, or that part of the
2 original deed of trust or mortgage rerecorded, reciting the information required
3 hereinabove, the names of the original parties to the original instrument foreclosed, and
4 the recording data for the instrument foreclosed. A notice of ~~forfeiture~~ foreclosure shall
5 be indexed by the register of deeds in accordance with ~~G.S. 161-14.1~~ G.S. 161-14.1."

6 **SECTION 14.(a)** G.S. 47C-3-116(e) reads as rewritten:

7 "(e) A judgment, decree, or order in any action brought under this section shall
8 include costs and reasonable attorneys' fees for the prevailing party. If the unit owner
9 does not contest the collection of debt and enforcement of a lien after the expiration of
10 the 15-day period following notice as required in subsection (e1) of this section, then
11 reasonable attorneys' fees shall not exceed one thousand two hundred dollars (\$1,200),
12 not including costs or expenses incurred. The collection of debt and enforcement of a
13 lien remain uncontested as long as the unit owner does not dispute, contest, or raise any
14 objection, defense, offset, or counterclaim as to the amount or validity of the debt and
15 lien asserted or the association's right to collect the debt and enforce the lien as provided
16 in this section. The attorneys' fee limitation in this subsection shall not apply to judicial
17 foreclosures or proceedings authorized under subsection (d) of this section or
18 ~~G.S. 47F-4-117~~ G.S. 47C-4-117."

19 **SECTION 14.(b)** G.S. 47C-3-121(2)b. reads as rewritten:

20 "b. For restrictions registered on or after October 1, 2005, the
21 restriction shall be written on the first page of the instrument or
22 conveyance in print that is in boldface type, capital letters, and
23 no smaller than the largest print used elsewhere in the
24 instrument or conveyance. The restriction shall be construed to
25 regulate or prohibit the display of political signs only if the
26 restriction specifically states: **"THIS DOCUMENT
27 REGULATES OR PROHIBITS THE DISPLAY OF THE
28 POLITICAL SIGNS"**."

29 **SECTION 15.(a)** G.S. 47F-1-102(c) reads as rewritten:

30 "(c) Notwithstanding the provisions of subsection (a) of this section,
31 G.S. 47F-3-102(1) through (6) and (11) through (17) (Powers of owners' association),
32 G.S. 47F-3-103(f) (Executive board members and officers), G.S. 47F-3-107(a), (b), and
33 (c) (Upkeep of planned community; responsibility and assessments for damages),
34 G.S. 47F-3-107.1 (Procedures for fines and suspension of planned community
35 privileges or services), G.S. 47F-3-108 (Meetings), G.S. 47F-3-115 (Assessments for
36 common expenses), G.S. 47F-3-116 (Lien for assessments), G.S. 47F-3-118
37 (Association records), and ~~G.S. 47C-3-121~~ G.S. 47F-3-121 (American and State flags
38 and political sign displays) apply to all planned communities created in this State before
39 January 1, 1999, unless the articles of incorporation or the declaration expressly
40 provides to the contrary, and G.S. 47F-3-120 (Declaration limits on attorneys' fees)
41 applies to all planned communities created in this State before January 1, 1999. These
42 sections apply only with respect to events and circumstances occurring on or after
43 January 1, 1999, and do not invalidate existing provisions of the declaration, bylaws, or
44 plats and plans of those planned communities. G.S. 47F-1-103 (Definitions) also applies

1 to all planned communities created in this State before January 1, 1999, to the extent
2 necessary in construing any of the preceding sections."

3 **SECTION 15.(b)** G.S. 47F-3-121(2)b. reads as rewritten:

4 "b. For restrictions registered on or after October 1, 2005, the
5 restriction shall be written on the first page of the instrument or
6 conveyance in print that is in boldface type, capital letters, and
7 no smaller than the largest print used elsewhere in the
8 instrument or conveyance. The restriction shall be construed to
9 regulate or prohibit the display of political signs only if the
10 restriction specifically states: **"THIS DOCUMENT
11 REGULATES OR PROHIBITS THE DISPLAY OF THE
12 POLITICAL SIGNS"**."

13 **SECTION 16.(a)** G.S. 55-11-04(b) reads as rewritten:

14 "(b) If a merger is consummated without approval of the subsidiary corporation's
15 shareholders, the ~~parent~~ surviving corporation shall, within 10 days after the effective
16 date of the merger, notify each shareholder of the subsidiary corporation as of the
17 effective date of the merger, that the merger has become effective."

18 **SECTION 16.(b)** G.S. 55-11-05(d) reads as rewritten:

19 "(d) In the case of a merger ~~or share exchange~~ pursuant to G.S. 55-11-07 or
20 ~~G.S. 55-11-09~~, a share exchange pursuant to G.S. 55-11-07, references in subsections (a)
21 and ~~(b)~~(a1) of this section to "corporation" shall include a domestic corporation, a
22 domestic nonprofit corporation, a foreign corporation, and a foreign nonprofit
23 corporation as applicable.

24 **SECTION 16.(c)** G.S. 55A-11-06(c) reads as rewritten:

25 "(c) This section does not limit the power of a foreign corporation to acquire all or
26 part of the ~~shares~~ memberships of one or more classes ~~or series~~ of a domestic nonprofit
27 corporation through a voluntary exchange or otherwise."

28 **SECTION 16.(d)** G.S. 57C-9A-02(a2) reads as rewritten:

29 "(a2) The provisions of the plan of conversion, other than the provisions required
30 by subdivisions (1) and ~~(2)~~(1a) of subsection (a) of this section, may be made dependent
31 on facts objectively ascertainable outside the plan of conversion if the plan of
32 conversion sets forth the manner in which the facts will operate upon the affected
33 provisions. The facts may include any of the following:

- 34 (1) Statistical or market indices, market prices of any security or group of
35 securities, interest rates, currency exchange rates, or similar economic
36 or financial data.
- 37 (2) A determination or action by the converting business entity or by any
38 other person, group, or body.
- 39 (3) The terms of, or actions taken under, an agreement to which the
40 converting business entity is a party, or any other agreement or
41 document."

42 **SECTION 17.** G.S. 58-47-140 reads as rewritten:

43 **"§ 58-47-140. Other provisions of this Chapter.**

1 The following provisions of this Chapter apply to workers' compensation
2 self-insurance groups that are subject to this Article:

3 G.S. 58-1-10, 58-2-45, 58-2-50, 58-2-70, 58-2-100, 58-2-105, 58-2-155, 58-2-161,
4 58-2-180, 58-2-185, 58-2-190, 58-2-200, 58-3-71, 58-3-81, 58-3-100, 58-3-120,
5 58-6-25, 58-7-21, 58-7-26, 58-7-30, 58-7-33, 58-7-73, and Articles 13, 19, 30, 33, 34,
6 and 63 of this Chapter apply to groups. Chapter."

7 **SECTION 18.** G.S. 90-270.67 reads as rewritten:

8 **"§ 90-270.67. Definitions.**

9 As used in this Article, unless the context clearly requires a different meaning:

- 10 (1) Accrediting body. – The Accrediting Council for Occupational
11 Therapy Education.
- 12 (1a) Board. – The North Carolina Board of Occupational Therapy.
- 13 (1b) Examining body. – The National Board for Certification in
14 Occupational Therapy.
- 15 (2) Occupational therapist. – An individual licensed in good standing to
16 practice occupational therapy as defined in this Article.
- 17 (3) Occupational therapy assistant. – An individual licensed in good
18 standing to assist in the practice of occupational therapy under this
19 Article, who performs activities commensurate with his or her
20 education and training under the supervision of a licensed occupational
21 therapist.
- 22 (4) ~~"Occupational therapy"~~ means a Occupational therapy. – A health care
23 profession providing evaluation, treatment and consultation to help
24 individuals achieve a maximum level of independence by developing
25 skills and abilities interfered with by disease, emotional disorder,
26 physical injury, the aging process, or impaired development.
27 Occupational therapists use purposeful activities and specially
28 designed orthotic and prosthetic devices to reduce specific
29 impairments and to help individuals achieve independence at home
30 and in the work place.
- 31 (5) Person. – Any individual, partnership, unincorporated organization, or
32 corporate body, except that only an individual may be licensed under
33 this Article."

34 **SECTION 19.** G.S. 90B-9 reads as rewritten:

35 **"§ 90B-9. Renewal of certificates and licenses.**

36 (a) All certificates and licenses shall be effective upon date of issuance by the
37 Board, and shall be renewed on or before the second June 30 thereafter.

38 (b) All certificates and licenses issued hereunder shall be renewed at the times
39 and in the manner provided by this section. At least 45 days prior to expiration of each
40 certificate or license, the Board shall mail a notice and application for renewal to the
41 certificate holder or licensee. Prior to the expiration date, the application shall be
42 returned properly completed, together with a renewal fee established by the Board
43 pursuant to ~~G.S. 90B-6.2(a)(5)~~ G.S. 90B-6.2(a)(4) and evidence of completion of the
44 continuing education requirements established by the Board pursuant to G.S. 90B-6(g),

1 upon receipt of which the Board shall renew the certificate or license. If a certificate or
2 license is not renewed on or before the expiration date, an additional fee shall be
3 charged for late renewal as provided in ~~G.S. 90B-6.2(a)(6)~~. G.S. 90B-6.2(a)(5).

4 (c) A certificate or license issued under this Chapter shall be automatically
5 suspended for failure to renew for a period of more than 60 days after the renewal date.
6 The Board may reinstate a certificate or license suspended under this subsection upon
7 payment of a reinstatement fee as provided in ~~G.S. 90B-6.2(a)(7)~~ G.S. 90B-6.2(a)(6)
8 and may require that the applicant file a new application, furnish new supervisory
9 reports or references or otherwise update his or her credentials, or submit to
10 examination for reinstatement. The Board shall have exclusive jurisdiction to
11 investigate alleged violations of this Chapter by any person whose certificate or license
12 has been suspended under this subsection and, upon proof of any violation of this
13 Chapter, the Board may take disciplinary action as provided in G.S. 90B-11.

14 (d) Any person certified or licensed and desiring to retire temporarily from the
15 practice of social work shall send written notice thereof to the Board. Upon receipt of
16 such notice, his or her name shall be placed upon the nonpracticing list and he or she
17 shall not be subject to payment of renewal fees while temporarily retired. In order to
18 reinstate certification or licensure, the person shall apply to the Board by making a
19 request for reinstatement and paying the appropriate fee as provided in G.S. 90B-6.2."

20 **SECTION 20.** G.S. 113-133.1(e) reads as rewritten:

21 "(e) Because of strong community interest expressed in their retention, the local
22 acts or portions of local acts listed in this section are not repealed. The following local
23 acts are retained to the extent they apply to the county for which listed:

24 Alleghany: Session Laws 1951, Chapter 665; Session Laws 1977, Chapter 526;
25 Session Laws 1979, Chapter 556.

26 Anson: Former G.S. 113-111, as amended by Session Laws 1955, Chapter 286.

27 Ashe: Former G.S. 113-111; Session Laws 1951, Chapter 665.

28 Avery: Former G.S. 113-122.

29 Beaufort: Session Laws 1947, Chapter 466, as amended by Session Laws 1979,
30 Chapter 219; Session Laws 1957, Chapter 1364; Session Laws 1971, Chapter 173.

31 Bertie: Session Laws 1955, Chapter 1376; Session Laws 1975, Chapter 287.

32 Bladen: Public-Local Laws 1933, Chapter 550, Section 2 (as it pertains to fox
33 season); Session Laws 1961, Chapter 348 (as it applies to Bladen residents fishing in
34 Robeson County); Session Laws 1961, Chapter 1023; Session Laws 1971, Chapter 384.

35 Brunswick: Session Laws 1975, Chapter 218.

36 Buncombe: Public-Local Laws 1933, Chapter 308.

37 Burke: Public-Local Laws 1921, Chapter 454; Public-Local Laws 1921 (Extra
38 Session), Chapter 213, Section 3 (with respect to fox seasons); Public-Local Laws 1933,
39 Chapter 422, Section 3; Session Laws 1965, Chapter 608, as amended by Session Laws
40 1977, Chapter 68; Session Laws 1977, Chapter 636.

41 Caldwell: Former G.S. 113-122; Session Laws 1965, Chapter 608, as amended by
42 Session Laws 1977, Chapter 68; Session Laws 1977, Chapter 636; Session Laws 1979,
43 Chapter 507.

- 1 Camden: Session Laws 1955, Chapter 362 (to the extent it applies to inland fishing
2 waters); Session Laws 1967, Chapter 441.
- 3 Carteret: Session Laws 1955, Chapter 1036; Session Laws 1977, Chapter 695.
- 4 Caswell: Public-Local Laws 1933, Chapter 311; Public-Local Laws 1937, Chapter
5 411.
- 6 Catawba: Former G.S. 113-111, as amended by Session Laws 1955, Chapter 1037.
- 7 Chatham: Public-Local Laws 1937 Chapter 236; Session Laws 1963, Chapter 271.
- 8 Chowan: Session Laws 1979, Chapter 184; Session Laws 1979, Chapter 582.
- 9 Cleveland: Public Laws 1907, Chapter 388; Session Laws 1951, Chapter 1101;
10 Session Laws 1979, Chapter 587.
- 11 Columbus: Session Laws 1951, Chapter 492, as amended by Session Laws 1955,
12 Chapter 506.
- 13 Craven: Session Laws 1971, Chapter 273, as amended by Session Laws 1971,
14 Chapter 629.
- 15 Cumberland: Session Laws 1975, Chapter 748; Session Laws 1977, Chapter 471.
- 16 Dare: Session Laws 1973, Chapter 259.
- 17 Davie: Former G.S. 113-111, as amended by Session Laws 1947, Chapter 333.
- 18 Duplin: Session Laws 1965, Chapter 774; Session Laws 1973 (Second Session
19 1974), Chapter 1266; Session Laws 1979, Chapter 466.
- 20 Edgecombe: Session Laws 1961, Chapter 408.
- 21 Gates: Session Laws 1959, Chapter 298; Session Laws 1975, Chapter 269; Session
22 Laws 1975, Chapter 748.
- 23 Granville: Session Laws 1963, Chapter 670.
- 24 Greene: Session Laws 1975, Chapter 219; Session Laws 1979, Chapter 360.
- 25 Halifax: Public-Local Laws 1925, Chapter 571, Section 3 (with respect to
26 fox-hunting seasons); Session Laws 1947, Chapter 954; Session Laws 1955, Chapter
27 1376.
- 28 ~~Harnett: Former G.S. 113-111, as modified by Session Laws 1977, Chapter 636.~~
- 29 Haywood: Former G.S. 113-111, as modified by Session Laws 1963, Chapter 322.
- 30 Henderson: Former G.S. 113-111.
- 31 Hertford: Session Laws 1959, Chapter 298; Session Laws 1975, Chapter 269;
32 Session Laws 1975, Chapter 748; Session Laws 1977, Chapter 67.
- 33 Hoke: Session Laws 1963, Chapter 267.
- 34 Hyde: Public-Local Laws 1929, Chapter 354, Section 1 (as it relates to foxes);
35 Session Laws 1951, Chapter 932.
- 36 Iredell: Session Laws 1979, Chapter 577.
- 37 Jackson: Session Laws 1965, Chapter 765; Session Laws 1971, Chapter 424.
- 38 Johnston: Session Laws 1975, Chapter 342.
- 39 Jones: Session Laws 1979, Chapter 441.
- 40 Lee: Session Laws 1963, Chapter 271; Session Laws 1977, Chapter 636.
- 41 Lenoir: Session Laws 1979, Chapter 441.
- 42 Lincoln: Public-Local Laws 1925, Chapter 449, Sections 1 and 2; Session Laws
43 1955, Chapter 878.

- 1 Madison: Public-Local Laws 1925, Chapter 418, Section 4; Session Laws 1951,
2 Chapter 1040.
- 3 Martin: Session Laws 1955, Chapter 1376; Session Laws 1977, Chapter 636.
- 4 Mitchell: Session Laws 1965, Chapter 608, as amended by Session Laws 1977,
5 Chapter 68.
- 6 Montgomery: Session Laws 1977 (Second Session 1978), Chapter 1142.
- 7 Nash: Session Laws 1961, Chapter 408.
- 8 New Hanover: Session Laws 1971, Chapter 559; Session Laws 1975, Chapter 95.
- 9 Northampton: Session Laws 1955, Chapter 1376; Session Laws 1975, Chapter 269;
10 Session Laws 1975, Chapter 748; Session Laws 1977, Chapter 67; Session Laws 1979,
11 Chapter 548.
- 12 Orange: Public-Local Laws 1913, Chapter 547.
- 13 Pamlico: Session Laws 1977, Chapter 636.
- 14 Pender: Session Laws 1961, Chapter 333; Session Laws 1967, Chapter 229; Session
15 Laws 1969, Chapter 258, as amended by Session Laws 1973, Chapter 420; Session
16 Laws 1977, Chapter 585, as amended by Session Laws 1985, Chapter 421; Session
17 Laws 1977, Chapter 805; Session Laws 1979, Chapter 546.
- 18 Perquimans: Former G.S. 113-111; Session Laws 1973, Chapter 160; Session Laws
19 1973, Chapter 264; Session Laws 1979, Chapter 582.
- 20 Polk: Session Laws 1975, Chapter 397; Session Laws 1975, Chapter 269, as
21 amended by Session Laws 1977, Chapter 167.
- 22 Randolph: Public-Local Laws 1941, Chapter 246; Session Laws 1947, Chapter 920.
- 23 Robeson: Public-Local Laws 1924 (Extra Session), Chapter 92; Session Laws 1961,
24 Chapter 348.
- 25 Rockingham: Former G.S. 113-111; Public-Local Laws 1933, Chapter 310.
- 26 Rowan: Session Laws 1975, Chapter 269, as amended by Session Laws 1977,
27 Chapter 106, and Session Laws 1977, Chapter 500; Session Laws 1979, Chapter 556.
- 28 Rutherford: Session Laws 1973, Chapter 114; Session Laws 1975, Chapter 397.
- 29 Sampson: Session Laws 1979, Chapter 373.
- 30 Scotland: Session Laws 1959, Chapter 1143; Session Laws 1977, Chapter 436.
- 31 Stokes: Former G.S. 113-111; Public-Local Laws 1933, Chapter 310; Session Laws
32 1979, Chapter 556.
- 33 Surry: Public-Local Laws 1925, Chapter 474, Section 6 (as it pertains to fox
34 seasons); Session Laws 1975, Chapter 269, as amended by Session Laws 1977, Chapter
35 167.
- 36 Swain: Public-Local Laws 1935, Chapter 52; Session Laws 1953, Chapter 270;
37 Session Laws 1965, Chapter 765.
- 38 Transylvania: Public Laws 1935, Chapter 107, Section 2, as amended by Public
39 Laws 1935, Chapter 238.
- 40 Tyrrell: Former G.S. 113-111; Session Laws 1953, Chapter 685.
- 41 Wake: Session Laws 1973 (Second Session 1974), Chapter 1382.
- 42 Washington: Session Laws 1947, Chapter 620.

1 Wayne: Session Laws 1975, Chapter 269; Session Laws 1975, Chapter 342, as
2 amended by Session Laws 1977, Chapter 43; Session Laws 1975, Chapter 343, as
3 amended by Session Laws 1977, Chapter 45; Session Laws 1977, Chapter 695.

4 Wilkes: Former G.S. 113-111, as amended by Session Laws 1971, Chapter 385;
5 Session Laws 1951, Chapter 665; Session Laws 1973, Chapter 106; Session Laws 1979,
6 Chapter 507.

7 Yadkin: Former G.S. 113-111, as amended by Session Laws 1953, Chapter 199;
8 Session Laws 1979, Chapter 507.

9 Yancey: Session Laws 1965, Chapter 522."

10 **SECTION 21.** G.S. 113-270.3(d) reads as rewritten:

11 "(d) Any individual who possesses any of the lifetime sportsman licenses
12 established by G.S. 113-270.1D(b) may engage in specially regulated activities without
13 the licenses required by subdivisions (1), (2), (3), and (5) of subsection (b) of this
14 section. Any individual possessing an annual sportsman license established by
15 G.S. 113-270.1D(a) or a lifetime or annual comprehensive hunting license established
16 by G.S.113-270.2(c)(2) or (5) may engage in specially regulated activities without the
17 licenses required by subdivisions ~~(1) and (3)~~(1), (3), and (5) of subsection (b) of this
18 section."

19 **SECTION 22.** G.S. 115C-499.3(a) reads as rewritten:

20 "(a) Subject to the amount of net income available under G.S. 18C-164(b)(2), a
21 scholarship awarded under this Article to a student at an eligible postsecondary
22 institution shall be based upon the enrollment status and expected family contribution of
23 the student and shall not exceed four thousand dollars (\$4,000) per academic year,
24 including any federal Pell Grant, to be used for the costs of attendance as defined for
25 federal Title IV programs."

26 **SECTION 23.(a)** G.S. 120-4.21(c), as it applies to members retiring before
27 September 1, 2005, reads as rewritten:

28 "(c) ~~Limitations.~~Limitations Applicable to Members Retiring Before September
29 1, 2005. – In no event shall any member receive a service retirement allowance greater
30 than seventy-five percent (75%) of his "highest annual salary"."

31 **SECTION 23.(b)** G.S. 120-4.21(c), as it applies to members retiring on or
32 after September 1, 2005, is recodified as G.S. 120-4.21(d) and reads as rewritten:

33 "(d) ~~Limitations.~~Limitations Applicable to Members Retiring on or After
34 September 1, 2005. – In no event shall any member receive a service retirement
35 allowance greater than seventy-five percent (75%) of the member's "highest annual
36 salary" nor shall a member receive any service retirement allowance whatsoever while
37 employed in a position that makes the member a contributing member of either the
38 Teachers' and State Employees' Retirement System or the Consolidated Judicial
39 Retirement System. If the member should become a member of either of these systems,
40 payment of the member's service retirement allowance shall be suspended until the
41 member withdraws from membership in that system."

42 **SECTION 24.(a)** G.S. 130A-309.10(f)(7) reads as rewritten:

43 "(7) Whole scrap tires, as provided in G.S. 130A-309.58(b). The
44 prohibition of ~~the disposal of~~ on disposal of whole scrap tires in

1 landfills applies to all whole pneumatic rubber coverings, but does not
2 apply to whole solid rubber coverings."

3 **SECTION 24.(b)** This section becomes effective October 1, 2009.

4 **SECTION 25.(a)** G.S. 135-3(8)c. reads as rewritten:

5 "c. Should a beneficiary who retired on an early or service
6 retirement allowance under this Chapter be reemployed, or
7 otherwise engaged to perform services, by an employer
8 participating in the Retirement System on a part time,
9 temporary, interim, or on a fee for service basis, whether
10 contractual or otherwise, and if such beneficiary earns an
11 amount during the 12-month period immediately following the
12 effective date of retirement or in any calendar year which
13 exceeds fifty percent (50%) of the reported compensation,
14 excluding terminal payments, during the 12 months of service
15 preceding the effective date of retirement, or twenty thousand
16 dollars (\$20,000), whichever is greater, as hereinafter indexed,
17 then the retirement allowance shall be suspended as of the first
18 day of the month following the month in which the
19 reemployment earnings exceed the amount above, for the
20 balance of the calendar year. The retirement allowance of the
21 beneficiary shall be reinstated as of January 1 of each year
22 following suspension. The amount that may be earned before
23 suspension shall be increased on January 1 of each year by the
24 ratio of the Consumer Price Index to the Index one year earlier,
25 calculated to the nearest tenth of a percent (1/10 of 1%).

26 ~~in full time capacity that exceeds fifty percent (50%) of the~~
27 ~~applicable workweek."~~

28 **SECTION 25.(b)** This section becomes effective June 30, 2007.

29 **SECTION 26.** The catch line of G.S. 158-33 reads as rewritten:

30 "**§ 158-33. Creation of ~~Global TransPark Development Zone.~~North Carolina's**
31 **Eastern Region.**"

32 **SECTION 27.(a)** The introductory language of Section 5 of S.L. 2005-123
33 reads as rewritten:

34 "**SECTION 5.** G.S. 47-46.1 and G.S. 47-46.2 read reads as rewritten:"

35 **SECTION 27.(b)** This section becomes effective October 1, 2005.

36 **SECTION 28.** S.L. 2005-123 is amended by adding a new section to read:

37 "**SECTION 9.1.** The Revisor of Statutes shall cause to be printed at the appropriate
38 locations in the General Statutes all relevant portions of the official comments to the
39 Uniform Residential Mortgage Satisfaction Act and all explanatory comments of the
40 drafters of this act as the Revisor deems appropriate."

41 **SECTION 29.** Section 3 of S.L. 2005-127 reads as rewritten:

42 "**SECTION 3.** This act is effective when it becomes law. For each water and sewer
43 authority organized under Article 1 of Chapter ~~162~~ 162A of the General Statutes,

1 Section 2 of this act applies on the first day of the fiscal year of the authority that begins
2 on or after the date this act becomes effective."

3 **SECTION 30.** Section 1 of S.L. 2005-133 reads as rewritten:

4 **"SECTION 1.** Under the Occupational Safety and Health Act of North Carolina, the
5 name of the Safety and Health Review Board is changed to the North Carolina
6 Occupational Safety and Health Review Commission. The Revisor of Statutes is
7 authorized to substitute the term "Commission" for the term "Board" wherever that term
8 appears in the General Statutes in relation to the Act. The Revisor of Statutes is also
9 authorized to insert the words "North Carolina Occupational" in front of the phrase
10 "Safety and Health Review Commission" wherever that phrase appears in the General
11 Statutes in relation to the Act."

12 **SECTION 31.(a)** Section 7(a) of S.L. 2005-192 is codified as
13 G.S. 36C-11-1106, and reads as rewritten:

14 **"§ 36C-11-1106. Application to existing relationships.**

15 (a) ~~Section 2 of this act becomes effective January 1, 2006, and except~~Except as
16 otherwise provided in ~~Chapter 36C of the General Statutes, as enacted by Section 2 of~~
17 ~~this act,~~this Chapter, this Chapter applies to (i) all trusts created before, on, or after ~~that~~
18 ~~date;~~January 1, 2006; (ii) all judicial proceedings concerning trusts commenced on or
19 after ~~that date;~~January 1, 2006; and (iii) judicial proceedings concerning trusts
20 commenced before ~~that date~~January 1, 2006, unless the court finds that application of a
21 particular provision of ~~Chapter 36C of the General Statutes~~this Chapter would
22 substantially interfere with the effective conduct of the judicial proceedings or prejudice
23 the rights of the parties, in which case the particular provision of ~~Chapter 36C of the~~
24 ~~General Statutes~~this Chapter does not apply and the superseded law applies.

25 (b) Except as otherwise provided in ~~Chapter 36C of the General Statutes, as~~
26 ~~enacted by Section 2 of this act,~~this Chapter, any rule of construction or presumption
27 provided in ~~Chapter 36C of the General Statutes~~this Chapter applies to trust
28 instruments executed before ~~the effective date of Section 2 of this act~~January 1, 2006,
29 unless there is a clear indication of a contrary intent in the terms of the trust or unless
30 application of that rule of construction or presumption would impair substantial rights of
31 a beneficiary. Except as otherwise provided in ~~Chapter 36C of the General Statutes, as~~
32 ~~enacted by Section 2 of this act,~~this Chapter, an act done before ~~the effective date of~~
33 ~~Section 2 of this act~~January 1, 2006, is not affected by ~~Chapter 36C of the General~~
34 ~~Statutes~~this Chapter. If a right is acquired, extinguished, or barred upon the expiration
35 of a prescribed period that has commenced to run under any other statute before ~~the~~
36 ~~effective date of Section 2 of this act,~~January 1, 2006, that statute continues to apply to
37 the right even if it has been repealed or superseded."

38 **SECTION 31.(b)** Section 7(b) of S.L. 2005-192 reads as rewritten:

39 **"SECTION 7.(b)** ~~Section 1 and Sections 3 through 5~~Sections 1 through 5 of this act
40 become effective January 1, 2006. The remainder of this act is effective when it
41 becomes law."

42 **SECTION 31.(c)** The Revisor of Statutes is authorized to cause to be printed
43 along with G.S. 36C-11-1106, as enacted by this section, all relevant portions of the

1 Official Commentary to this section of the Uniform Trust Code and all explanatory
2 comments of the drafters as the Revisor deems appropriate.

3 **SECTION 32.** Section 7 of S.L. 2005-351 reads as rewritten:

4 "SECTION 7. This act becomes effective October 1, 2005, and applies to powers
5 of attorney created ~~before and~~ on, before, or after that date."

6 **SECTION 33.** S.L. 2006-11 is amended by adding a new section to read:

7 "SECTION 2.1. The Revisor of Statutes shall cause to be printed along with
8 G.S. 25-9-705, as amended by this act, all explanatory comments of the drafters of this
9 act as the Revisor deems appropriate."

10 **SECTION 34.** Sections 1, 2, 3, 4, 5, 6, and 7 of this act become effective
11 January 1, 2007. The remainder of this act is effective when it becomes law.