

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2017

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SENATE BILL 16
Judiciary Committee Substitute Adopted 2/21/17
House Committee Substitute Favorable 6/14/17

Short Title: Business & Agency Reg. Reform Act of 2017.

(Public)

Sponsors:

Referred to:

January 30, 2017

A BILL TO BE ENTITLED

AN ACT TO PROVIDE FURTHER REGULATORY RELIEF TO THE CITIZENS OF
NORTH CAROLINA.

The General Assembly of North Carolina enacts:

AUTHORIZE RULE TECHNICAL CORRECTIONS

SECTION 1.(a) G.S. 150B-21.5 reads as rewritten:

"§ 150B-21.5. **Circumstances when notice and rule-making hearing not
~~required; required; circumstances when submission to the Commission not~~
required.**

(a) Amendment. – An agency is not required to publish a notice of text in the North
Carolina Register or Register, hold a public hearing hearing, or submit the amended rule to the
Commission for review when it proposes to amend a rule to do one of the following:

- (1) Reletter or renumber the rule or subparts of the rule.
- (2) Substitute one name for another when an organization or position is renamed.
- (3) Correct a citation in the rule to another rule or law when the citation has become inaccurate since the rule was adopted because of the repeal or renumbering of the cited rule or law.
- (4) Change information that is readily available to the public, such as an address or address, a telephone number-number, or a Web site.
- (5) Correct a typographical error in the North Carolina Administrative Code-typographical error.
- (6) ~~Change a rule in response to a request or an objection by the Commission, unless the Commission determines that the change is substantial.~~

(a1) Response to Commission. – An agency is not required to publish a notice of text in the North Carolina Register or hold a public hearing when it proposes to change the rule in response to a request or an objection by the Commission, unless the Commission determines that the change is substantial.

(b) Repeal. – An agency is not required to publish a notice of text in the North Carolina Register or hold a public hearing when it proposes to repeal a rule as a result of any of the following:

- (1) The law under which the rule was adopted is repealed.
- (2) The law under which the rule was adopted or the rule itself is declared unconstitutional.



1 (3) The rule is declared to be in excess of the agency's statutory authority.

2 (c) OSHA Standard. – The Occupational Safety and Health Division of the Department
3 of Labor is not required to publish a notice of text in the North Carolina Register or hold a
4 public hearing when it proposes to adopt a rule that concerns an occupational safety and health
5 standard and is identical to a federal regulation promulgated by the Secretary of the United
6 States Department of Labor. The Occupational Safety and Health Division is not required to
7 submit to the Commission for review a rule for which notice and hearing is not required under
8 this subsection.

9 (d) State Building Code. – The Building Code Council is not required to publish a
10 notice of text in the North Carolina Register when it proposes to adopt a rule that concerns the
11 North Carolina State Building Code. The Building Code Council is required to publish a notice
12 in the North Carolina Register when it proposes to adopt a rule that concerns the North
13 Carolina State Building Code. The notice must include all of the following:

14 (1) A statement of the subject matter of the proposed rule making.

15 (2) A short explanation of the reason for the proposed action.

16 (3) A citation to the law that gives the agency the authority to adopt a rule on the
17 subject matter of the proposed rule making.

18 (4) The person to whom questions or written comments may be submitted on the
19 subject matter of the proposed rule making.

20 The Building Code Council is required to submit to the Commission for review a rule for
21 which notice of text is not required under this subsection. In adopting a rule, the Council shall
22 comply with the procedural requirements of G.S. 150B-21.3.

23 (e) An agency that adopts or amends a rule pursuant to subsection (a) or (c) of this
24 section shall notify the Codifier of Rules of its actions. When notified of an agency action taken
25 pursuant to subsection (a) or (c) of this section, the Codifier of Rules shall make the appropriate
26 change to the North Carolina Administrative Code."

27 **SECTION 1.(b)** G.S. 150B-21.20 reads as rewritten:

28 "**§ 150B-21.20. Codifier's authority to revise ~~form of~~ rules.**

29 (a) Authority. – After consulting with the agency that adopted the rule, the Codifier of
30 Rules may revise ~~the form of a rule submitted for inclusion in the North Carolina~~
31 ~~Administrative Code~~ a rule to do one or more of the following:

32 (1) Rearrange the order of the rule in the Code or the order of the subsections,
33 subdivisions, or other subparts of the rule.

34 (2) Provide a catch line or heading for the rule or revise the catch line or
35 heading of the rule.

36 (3) Reletter or renumber the rule or the subparts of the rule in accordance with a
37 uniform system.

38 (4) Rearrange definitions and lists.

39 (5) Make other changes in arrangement or in form that do not change the
40 substance of the rule and are necessary or desirable for a clear and orderly
41 arrangement of the rule.

42 (6) Omit from the published rule a map, a diagram, an illustration, a chart, or
43 other graphic material, if the Codifier of Rules determines that the Office of
44 Administrative Hearings does not have the capability to publish the material
45 or that publication of the material is not practicable. When the Codifier of
46 Rules omits graphic material from the published rule, the Codifier must
47 insert a reference to the omitted material and information on how to obtain a
48 copy of the omitted material.

49 (7) Substitute one name for another when an organization or position is
50 renamed.

1 (8) Correct a citation in the rule to another rule or law when the citation has
2 become inaccurate since the rule was adopted because of the repeal or
3 renumbering of the cited rule or law.

4 (9) Change information that is readily available to the public, such as an
5 address, a telephone number, or a Web site.

6 (10) Correct a typographical error.

7 (b) Effect. – Revision of a rule by the Codifier of Rules under this section does not
8 affect the effective date of the rule or require the agency to readopt or resubmit the rule. When
9 the Codifier of Rules revises the form of a rule, the Codifier of Rules must send the agency that
10 adopted the rule a copy of the revised rule. The revised rule is the official rule, unless the rule
11 was revised under subdivision (a)(6) of this section to omit graphic material. When a rule is
12 revised under that subdivision, the official rule is the published text of the rule plus the graphic
13 material that was not published."
14

15 CLARIFY CONTESTED CASE POLICY

16 **SECTION 2.(a)** G.S. 150B-22 reads as rewritten:

17 **"§ 150B-22. Settlement; contested case.**

18 (a) It is the policy of this State that any dispute between an agency and another person
19 that involves the person's rights, duties, or privileges, including licensing or the levy of a
20 monetary penalty, should be settled through informal procedures. In trying to reach a settlement
21 through informal procedures, the agency may not conduct a proceeding at which sworn
22 testimony is taken and witnesses may be cross-examined.

23 (b) If the agency and the other person do not agree to a resolution of the dispute through
24 informal procedures, either the agency or the person may commence an administrative
25 proceeding to determine the person's rights, duties, or privileges, at which time the dispute
26 becomes a "contested case." A party or person aggrieved shall not be required to petition an
27 agency for rule making or to seek or obtain a declaratory ruling before commencing a contested
28 case pursuant to G.S. 150B-23."

29 **SECTION 2.(b)** G.S. 150B-43 reads as rewritten:

30 **"§ 150B-43. Right to judicial review.**

31 Any party or person aggrieved by the final decision in a contested case, and who has
32 exhausted all administrative remedies made available to the party or person aggrieved by
33 statute or agency rule, is entitled to judicial review of the decision under this Article, unless
34 adequate procedure for judicial review is provided by another statute, in which case the review
35 shall be under such other statute. Nothing in this Chapter shall prevent any party or person
36 aggrieved from invoking any judicial remedy available to the party or person aggrieved under
37 the law to test the validity of any administrative action not made reviewable under this Article.
38 ~~Absent a specific statutory requirement, nothing in this Chapter shall require a~~ A party or person
39 aggrieved shall not be required to petition an agency for rule making or to seek or obtain a
40 declaratory ruling before obtaining judicial review of a final decision or order made pursuant to
41 G.S. 150B-34."
42

43 AMEND PERIODIC REVIEW OF RULES PROCESS

44 **SECTION 3.(a)** G.S. 150B-21.3A reads as rewritten:

45 **"§ 150B-21.3A. Periodic review and expiration of existing rules.**

46 (a) Definitions. – For purposes of this section, the following definitions apply:

47 (1) Commission. – Means the Rules Review Commission.

48 (2) Committee. – Means the Joint Legislative Administrative Procedure
49 Oversight Committee.

50 (2a) Necessary rule. – Means any rule other than an unnecessary rule.

- 1 (3) ~~Necessary with substantive public interest. — Means any rule for which the~~
2 ~~agency has received public comments within the past two years. A rule is~~
3 ~~also "necessary with substantive public interest" if the rule affects the~~
4 ~~property interest of the regulated public and the agency knows or suspects~~
5 ~~that any person may object to the rule.~~
- 6 (4) ~~Necessary without substantive public interest. — Means a rule for which the~~
7 ~~agency has not received a public comment concerning the rule within the~~
8 ~~past two years. A "necessary without substantive public interest" rule~~
9 ~~includes a rule that merely identifies information that is readily available to~~
10 ~~the public, such as an address or a telephone number.~~
- 11 (5) Public comment. – Means written comments objecting to the rule, in whole
12 or in part, or objecting to an agency's determination of the rule as necessary
13 or unnecessary, received by an agency from any member of the public,
14 including an association or other organization representing the regulated
15 community or other members of the public.
- 16 (6) Unnecessary rule. – Means a rule that the agency determines to be obsolete,
17 redundant, or otherwise not needed.
- 18 (b) Automatic Expiration. – Except as provided in subsection (e) of this section, any
19 rule for which the agency that adopted the rule has not conducted a review in accordance with
20 this section shall expire on the date set in the schedule established by the Commission pursuant
21 to subsection (d) of this section.
- 22 (c) Review Process. – Each agency subject to this Article shall conduct a review of the
23 agency's existing rules at least once every 10 years in accordance with the following process:
- 24 (1) Step 1: The agency shall conduct an analysis of each existing rule and make
25 an initial determination as to whether the rule is ~~(i) necessary with~~
26 ~~substantive public interest, (ii) necessary without substantive public interest,~~
27 ~~or (iii) necessary or unnecessary.~~ The agency shall then post the results of the
28 initial determination on its Web site and invite the public to comment on the
29 rules and the agency's initial determination. The agency shall also submit the
30 results of the initial determination to the Office of Administrative Hearings
31 for posting on its Web site. The agency shall accept public comment for no
32 less than 60 days following the posting. The agency shall review the public
33 comments and prepare a brief response addressing the merits of each
34 comment. After completing this process, the agency shall submit a report to
35 the Commission. The report shall include the following items:
- 36 a. The agency's initial determination.
37 b. All public comments received in response to the agency's initial
38 determination.
39 c. The agency's response to the public comments.
- 40 (2) Step 2: The Commission shall review the reports received from the agencies
41 pursuant to subdivision (1) of this subsection. If a public comment relates to
42 a rule that the agency determined to be ~~necessary and without substantive~~
43 ~~public interest or unnecessary~~, the Commission shall determine whether the
44 public comment has merit and, if so, designate the rule as ~~necessary with~~
45 ~~substantive public interest.~~necessary. For purposes of this subsection, a
46 public comment has merit if it addresses the specific substance of the ~~rule~~
47 ~~and relates to any of the standards for review by the Commission set forth in~~
48 ~~G.S. 150B-21.9(a).rule.~~ The Commission shall prepare a final determination
49 report and submit the report to the Committee for consultation in accordance
50 with subdivision (3) of this subsection. The report shall include the
51 following items:

- 1 a. The agency's initial determination.
2 b. All public comments received in response to the agency's initial
3 determination.
4 c. The agency's response to the public comments.
5 d. A summary of the Commission's determinations regarding public
6 comments.
7 ~~e. A determination that all rules that the agency determined to be
8 necessary and without substantive public interest and for which no
9 public comment was received or for which the Commission
10 determined that the public comment was without merit be allowed to
11 remain in effect without further action.~~
12 f. A determination that all rules that the agency determined to be
13 unnecessary and for which no public comment was received or for
14 which the Commission determined that the public comment was
15 without merit shall expire on the first day of the month following the
16 date the report becomes effective in accordance with this section.
17 g. A determination that all rules that the agency determined to be
18 necessary ~~with substantive public interest~~ or that the Commission
19 designated as necessary ~~with public interest as provided in this~~
20 ~~subdivision~~ shall be readopted as though the rules were new rules in
21 accordance with this Article.
- 22 (3) Step 3: The final determination report shall not become effective until the
23 agency has consulted with the Committee. The determinations contained in
24 the report pursuant to sub-subdivisions ~~e., f., f.~~ and g. of subdivision (2) of
25 this subsection shall become effective on the date the report is reviewed by
26 the Committee. If the Committee does not hold a meeting to hear the
27 consultation required by this subdivision within 60 days of receipt of the
28 final determination report, the consultation requirement is deemed satisfied,
29 and the determinations contained in the report become effective on the 61st
30 day following the date the Committee received the report. If the Committee
31 disagrees with a determination regarding a specific rule contained in the
32 report, the Committee may recommend that the General Assembly direct the
33 agency to conduct a review of the specific rule in accordance with this
34 section in the next year following the consultation.
- 35 (d) Timetable. – The Commission shall establish a schedule for the review and
36 readoption of existing rules in accordance with this section on a decennial basis as follows:
- 37 (1) With regard to the review process, the Commission shall assign each Title of
38 the Administrative Code a date by which the review required by this section
39 must be completed. In establishing the schedule, the Commission shall
40 consider the scope and complexity of rules subject to this section and the
41 resources required to conduct the review required by this section. The
42 Commission shall have broad authority to modify the schedule and extend
43 the time for review in appropriate circumstances. Except as provided in
44 subsections (e) and (f) of this section, if the agency fails to conduct the
45 review by the date set by the Commission, the rules contained in that Title
46 which have not been reviewed will expire. The Commission shall report to
47 the Committee any agency that fails to conduct the review. The Commission
48 may exempt rules that have been adopted or amended within the previous 10
49 years from the review required by this section. However, any rule exempted
50 on this basis must be reviewed in accordance with this section no more than
51 10 years following the last time the rule was amended.

(2) With regard to the readoption of rules as required by sub-subdivision (c)(2)g. of this section, once the final determination report becomes effective, the Commission shall establish a date by which the agency must readopt the rules. The Commission shall consult with the agency and shall consider the agency's rule-making priorities in establishing the readoption date. The agency may amend a rule as part of the readoption process. If a rule is readopted without substantive change or if the rule is amended to impose a less stringent burden on regulated persons, the agency is not required to prepare a fiscal note as provided by G.S. 150B-21.4.

(e) ~~Rules to Conform to or Implement Federal Law. — Rules adopted to conform to or implement federal law shall not expire as provided by this section. The Commission shall report annually to the Committee on any rules that do not expire pursuant to this subsection.~~ Exclusions. — The Commission shall report annually to the Committee on any rules that do not expire pursuant to this subsection. The following rules shall not expire as provided in this section:

(1) Rules adopted to conform to or implement federal law.

(2) Rules deemed by the Boards of Trustees established under G.S. 128-28 and G.S. 135-6 to protect inchoate or accrued rights of members of the Retirement Systems administered by the State Treasurer.

~~(e1) Rules to Protect Inchoate or Accrued Rights of Retirement Systems Members. — Rules deemed by the Boards of Trustees established under G.S. 128-28 and G.S. 135-6 to protect inchoate or accrued rights of members of the Retirement Systems administered by the State Treasurer shall not expire as provided by this section. The Commission shall report annually to the Committee on any rules that do not expire pursuant to this subsection.~~

(f) Other Reviews. — Notwithstanding any provision of this section, an agency may subject a rule that it determines to be unnecessary to review under this section at any time by notifying the Commission that it wishes to be placed on the schedule for the current year. The Commission may also subject a rule to review under this section at any time by notifying the agency that the rule has been placed on the schedule for the current year."

SECTION 3.(b) This section applies to agency rule reports submitted to the Office of Administrative Hearings pursuant to G.S. 150B-21.3A(c)(1) on or after October 1, 2017.

REQUIRE AGENCIES AND THE OFFICE OF ADMINISTRATIVE HEARINGS TO PROVIDE ADDITIONAL NOTICE OF PETITIONS FOR RULE MAKING

SECTION 4.(a) G.S. 150B-20(a) reads as rewritten:

"(a) Petition. — A person may petition an agency to adopt a rule by submitting to the agency a written rule-making petition requesting the adoption. A person may submit written comments with a rule-making petition. If a rule-making petition requests the agency to create or amend a rule, the person must submit the proposed text of the requested rule change and a statement of the effect of the requested rule change. Each agency must establish by rule the procedure for submitting a rule-making petition to it and the procedure the agency follows in considering a rule-making petition. An agency receiving a rule-making petition shall, within three business days of receipt of the petition, send the proposed text of the requested rule change and the statement of the effect of the requested rule change to the Office of Administrative Hearings. The Office of Administrative Hearings shall, within three business days of receipt of the proposed text of the requested rule change and the statement of the effect of the requested rule change, distribute the information via its mailing list and publish the information on its Web site."

SECTION 4.(b) This section becomes effective October 1, 2017.

WILDLIFE RESOURCES COMMISSION PRIVATE IDENTIFYING INFORMATION

1 **SECTION 5.** G.S. 143-254.5 reads as rewritten:

2 "**§ 143-254.5. Disclosure of personal identifying information.**

3 Social security numbers and identifying information obtained by the Commission shall be
4 treated as provided in G.S. 132-1.10. For purposes of this section, "identifying information"
5 also includes a person's mailing address, residence address, e-mail address, Commission-issued
6 customer identification number, date of birth, information subject to G.S. 106-24.1 transferred
7 to the Commission from the Department of Agriculture and Consumer Services, and telephone
8 number."
9

10 **PROVIDE FOR HEIGHTENED ENVIRONMENTAL MANAGEMENT COMMISSION**
11 **OVERSIGHT OF CERTAIN REPORTS**

12 **SECTION 6.** G.S. 143B-282(a)(1) is amended by adding a new sub-subdivision to
13 read:

14 "w. To identify, review, and assess reports prepared by the Department of
15 Environmental Quality that are required by an act of the General
16 Assembly and that the Commission finds would have a significant
17 public interest and to include that assessment in its report to the
18 Environmental Review Commission under subsection (b) of this
19 section."
20

21 **ALLOW OPTIONAL MEALS FOR BED AND BREAKFAST GUESTS**

22 **SECTION 7.(a)** G.S. 130A-247(5a) reads as rewritten:

23 "(5a) "Bed and breakfast home" means a business in a private home of not more
24 than eight guest rooms that offers bed and breakfast accommodations for a
25 period of less than one week and that meets all of the following criteria:
26 a. Does not serve food or drink to the general public for pay.
27 b. Serves the breakfast meal, the lunch meal, the dinner meal, or a
28 combination of all or some of these three meals, only to overnight
29 guests of the home.
30 c. Includes the price of ~~any meals served~~ breakfast in the room rate. The
31 price of additional meals served may be added to the room rate at the
32 conclusion of the overnight guest's stay.
33 d. Is the permanent residence of the owner or the manager of the
34 business."

35 **SECTION 7.(b)** G.S. 130A-247(6) reads as rewritten:

36 "(6) "Bed and breakfast inn" means a business of at least nine but not more than
37 12 guest rooms that offers bed and breakfast accommodations to at least nine
38 but not more than 23 persons per night for a period of less than one week,
39 and that that meets all of the following requirements:
40 a. Does not serve food or drink to the general public for ~~pay;~~ pay.
41 b. Serves ~~only the breakfast meal, and that meal is served~~ the lunch
42 meal, the dinner meal, or a combination of all or some of these three
43 meals only to overnight guests of the business; ~~business.~~
44 c. Includes the price of breakfast in the room ~~rate;~~ and rate. The price of
45 additional meals served may be added to the room rate at the
46 conclusion of the overnight guest's stay.
47 d. Is the permanent residence of the owner or the manager of the
48 business."

49 **SECTION 7.(c)** This section becomes effective October 1, 2017.

50
51 **AMEND ALARM SYSTEM BUSINESS LICENSING STATUTES**

SECTION 8.(a) G.S. 74D-2(c) reads as rewritten

"(c) Qualifying Agent. – A business entity that engages in the alarm systems business is subject to all of the requirements listed in this subsection with respect to a qualifying agent. For purposes of this Chapter, a "qualifying agent" is an individual in a management position who is licensed under this Chapter and whose name and address have been registered with the Board. The requirements are:

- (1) The business entity shall employ a designated ~~resident~~ qualifying agent who meets the requirements for a license issued under and who is, in fact, licensed under the provisions of this Chapter, unless otherwise approved by the Board. ~~Provided, however, that this approval shall not be given unless the business entity has and continuously maintains in this State a registered agent who shall be an individual resident in this State. Service upon the registered qualifying agent appointed by the business entity of any process, notice or demand required by or permitted by law to be served upon the business entity by the Alarm Systems Licensing Board shall be binding upon the licensed business entity and the licensee entity. Nothing herein contained shall limit or affect the right to serve any process, notice or demand required or permitted by law to be served upon a business entity in any other manner or hereafter permitted by law.~~
- (2) Repealed by Session Laws 2009-328, s. 15, effective October 1, 2009.
- (3) In the event that the qualifying agent upon whom the business entity relies in order to do business ceases to perform his duties as qualifying agent, the business entity shall notify the board in writing within 10 working days. The business entity must obtain a substitute qualifying agent within 90 days after the original qualifying agent ceases to serve as qualifying agent.
- (4) The license certificate shall list the name of the qualifying agent. No licensee shall serve as the qualifying agent for more than one business entity without the prior approval of the Board.
- (5) Repealed by Session Laws 2009-328, s. 15, effective October 1, 2009."

SECTION 8.(b) G.S. 74D-8 reads as rewritten:**"§ 74D-8. Registration of persons employed.**

- (a) (1) ~~All licensees~~A licensee of an alarm systems business shall register with the Board within 30 days after the employment begins, all of the ~~licensee's~~following employees that are within the State, unless in the discretion of the Director, the time period is extended for good ~~cause~~cause:
 - a. Any employee that has access to confidential information detailing the design, installation, or application of any location specific electronic security system or that has access to any code, number, or program that would allow the system to be modified, altered, or circumvented.
 - b. Any employee who installs or services an electronic security system in a personal residence.Employees engaged only in sales or marketing that does not involve any of the above are not required to be registered.
- (2) To register an employee, a licensee shall submit to the Board as to the employee: set(s) of classifiable fingerprints on standard F.B.I. applicant cards; recent color photograph(s) of acceptable quality for identification; and statements of any criminal records as deemed appropriate by the Board.
- ~~(2)~~(3) Except during the period allowed for registration in subdivision (a)(1) of this section, no alarm systems business may employ any employee unless the

1 employee's registration has been approved by the Board as set forth in this
2 section.

3 (b) The Director shall be notified in writing of the termination of any employee
4 registered under this Chapter within 20 days after the termination.

5 (c) The Board shall issue a registration card to each employee of a licensee who is
6 registered under this Chapter. The registration card shall expire two years after its date of
7 issuance and shall be renewed before the expiration of the term of the registration. If a
8 registered person changes employment to another licensee, the registration card may remain
9 valid; however, persons changing employment must pay the fee authorized by
10 G.S. 74D-7(e)(5).

11 (d) If all required documents, properly completed, have been submitted to the Board no
12 later than 20 days after an employee begins employment, the employer of each applicant for
13 registration shall give the applicant a copy of the complete application which the employee can
14 use until a registration card issued by the Board is received."
15

16 **AMEND THE INSPECTION REQUIREMENTS FOR USED VEHICLES SOLD BY**
17 **DEALERS ON A SALVAGE CERTIFICATE OF TITLE**

18 **SECTION 9.(a)** G.S. 20-183.4C(a) reads as rewritten:

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

21 ...

22 (2) ~~A~~Except as otherwise provided in this subdivision, a used vehicle must be
23 inspected before it is offered for sale at retail in this State by a dealer. Upon
24 purchase, a receipt approved by the Division must be provided to the new
25 owner certifying compliance. A dealer may sell, without inspection, a used
26 vehicle issued a salvage certificate of title in accordance with the provisions
27 of this Chapter if (i) no repairs have been made to the vehicle after issuance
28 of the salvage certificate of title and (ii) the dealer discloses in writing on a
29 form approved by the Division that no inspection has been performed.

30"

31 **SECTION 9.(b)** This section is effective when it becomes law and applies to used
32 vehicles sold on or after that date.
33

34 **AMEND REQUIREMENTS FOR HEALTH BENEFIT PLANS COVERING SMALL**
35 **EMPLOYERS**

36 **SECTION 10.** G.S. 58-50-130(a) reads as rewritten:

37 "(a) Health benefit plans covering small employers are subject to the following
38 provisions:

39 (1) to (4) Repealed by Session Laws 1997-259, s. 5, effective July 14, 1997.

40 (4a) A carrier may continue to enforce reasonable employer participation and
41 contribution requirements on small employers applying for coverage;
42 however, participation and contribution requirements may vary among small
43 employers only by the size of the small employer group and shall not differ
44 because of the health benefit plan involved. In applying minimum
45 participation requirements to a small employer, a small employer carrier
46 shall not consider employees or dependents who have qualifying existing
47 coverage in determining whether an applicable participation level is met.
48 "Qualifying existing coverage" means benefits or coverage provided under:
49 (i) Medicare, Medicaid, and other government funded programs; or (ii) an
50 employer-based health insurance or health benefit arrangement, including a

- 1 self-insured plan, that provides benefits similar to or in excess of benefits
2 provided under the basic health care plan.
- 3 (4b) Late enrollees may only be excluded from coverage for the greater of 18
4 months or an 18-month preexisting-condition exclusion; however, if both a
5 period of exclusion from coverage and a preexisting-condition exclusion are
6 applicable to a late enrollee, the combined period shall not exceed 18
7 months. If a period of exclusion from coverage is applied, a late enrollee
8 shall be enrolled at the end of that period in the health benefit plan held at
9 the time by the small employer.
- 10 (5) No small employer carrier, insurer, subsidiary of an insurer, or controlled
11 individual of an insurance holding company shall provide stop loss,
12 catastrophic, or reinsurance coverage to small employers who employ fewer
13 than ~~26~~ five eligible employees that does not comply with the underwriting,
14 rating, and other applicable standards in this Act. An insurer shall not issue a
15 stop loss health insurance policy to any person, firm, corporation,
16 partnership, or association defined as a small employer that does any of the
17 following:
- 18 a. Provides direct coverage of health expenses payable to an individual.
19 b. Has an annual attachment point for claims incurred per individual
20 that is lower than twenty thousand dollars (\$20,000) for plan years
21 beginning in 2013. For subsequent policy years, the amount shall be
22 indexed using the Consumer Price Index for Medical Services for All
23 Urban Consumers for the South Region and shall be rounded to the
24 nearest whole thousand dollars. The index factor shall be the index as
25 of July of the year preceding the change divided by the index as of
26 July 2012.
- 27 c. Has an annual aggregate attachment point lower than the greater of
28 one of the following:
- 29 1. One hundred twenty percent (120%) of expected claims.
30 2. Twenty thousand dollars (\$20,000) for plan years beginning
31 in 2013. For subsequent policy years, the amount shall be
32 indexed using the Consumer Price Index for Medical Services
33 for All Urban Consumers for the South Region and shall be
34 rounded to the nearest whole thousand dollars. The index
35 factor shall be the index as of July of the year preceding the
36 change divided by the index as of July 2012.
- 37 Nothing in this subsection prohibits an insurer from providing
38 additional incentives to small employers with benefits
39 promoting a medical home or benefits that provide health
40 care screenings, are focused on outcomes and key
41 performance indicators, or are reimbursed on an outcomes
42 basis rather than a fee-for-service basis.
- 43 (6) If a small employer carrier offers coverage to a small employer, the small
44 employer carrier shall offer coverage to all eligible employees of a small
45 employer and their dependents. A small employer carrier shall not offer
46 coverage to only certain individuals in a small employer group except in the
47 case of late enrollees as provided in G.S. 58-50-130(a)(4).
- 48 (7), (8) Repealed by Session Laws 1997-259, s. 5.
- 49 (9) The health benefit plan must meet the applicable requirements of Article 68
50 of this Chapter."
51

1 **ELIMINATE DUPLICATIVE AND UNNECESSARY ELECTRICAL EQUIPMENT**
2 **AND APPLIANCE CERTIFICATION REQUIREMENTS**

3 **SECTION 11.(a)** G.S. 66-25 reads as rewritten:

4 **"§ 66-25. Acceptable listings as to safety of goods.**

5 (a) All electrical materials, devices, appliances, and equipment shall be evaluated for
6 safety and suitability for intended use. Except as provided in ~~subsection (b)~~ subsections (b) and
7 (c) of this section, this evaluation shall be conducted in accordance with nationally recognized
8 standards and shall be conducted by a qualified testing laboratory. The Commissioner of
9 Insurance, through the Engineering Division of the Department of Insurance, shall implement
10 the procedures necessary to approve suitable national standards and to approve suitable
11 qualified testing laboratories. The Commissioner may assign his authority to implement the
12 procedures for specific materials, devices, appliances, or equipment to other agencies or bodies
13 when they would be uniquely qualified to implement those procedures.

14 In the event that the Commissioner determines that electrical materials, devices, appliances,
15 or equipment in question cannot be adequately evaluated through the use of approved national
16 standards or by approved qualified testing laboratories, the Engineering Division of the
17 Department of Insurance shall specify any alternative evaluations which safety requires.

18 The Engineering Division of the Department of Insurance shall keep in file, where
19 practical, copies of all approved national standards and resumes of approved qualified testing
20 laboratories.

21 (b) Electrical devices, appliances, or equipment used by the Division of Adult
22 Correction of the Department of Public Safety in institutional kitchens and manufacturing
23 equipment used by Correction Enterprises are exempt from the evaluation requirement of
24 subsection (a) of this section.

25 (c) The Department of Administration, Division of Purchase and Contract, shall not
26 seek to enforce the provisions of subsection (a) of this section by any means, including
27 requiring acceptance inspections or additional testing of electrical materials, devices,
28 appliances, or equipment purchased by State departments, agencies, and institutions."

29 **SECTION 11.(b)** Upon the effective date of this section, the Department of
30 Administration, Division of Purchase and Contract, shall publish a notice on its Web site
31 indicating that acceptance inspections and additional testing are no longer required for the
32 purchase of electrical materials, devices appliances, or equipment by State departments,
33 agencies, and institutions.

34
35 **AMEND LAW ON CONTRACTS WITH AUTOMATIC RENEWAL CLAUSES**

36 **SECTION 12.(a)** G.S. 75-41 is amended by adding a new subsection to read:

37 **"§ 75-41. Contracts with automatic renewal clauses.**

38 (a) Any person engaged in commerce that sells, leases, or offers to sell or lease, any
39 products or services to a consumer pursuant to a contract, where the contract automatically
40 renews unless the consumer cancels the contract, shall do all of the following:

- 41 (1) Disclose the automatic renewal clause clearly and conspicuously in the
42 contract or contract offer.
- 43 (2) Disclose clearly and conspicuously how to cancel the contract in the initial
44 contract, contract offer, or with delivery of products or services.
- 45 (3) For any automatic renewal exceeding 60 days, provide written notice to the
46 consumer by personal delivery, electronic mail, or first-class mail, at least 15
47 days but no earlier than 45 days before the date the contract is to be
48 automatically renewed, stating the date on which the contract is scheduled to
49 automatically renew and notifying the consumer that the contract will
50 automatically renew unless it is cancelled by the consumer prior to that date.

1 (4) If the terms of the contract will change upon the automatic renewal of the
2 contract, disclose the changing terms of the contract clearly and
3 conspicuously on the notification in at least 12 point type and in bold print.

4 (b) Repealed by Session Laws 2016-113, s. 16(a), effective July 26, 2016, and
5 applicable to contracts entered into on or after that date.

6 (c) A person that fails to comply with the requirements of this section is in violation of
7 this section unless the person demonstrates that all of the following are its routine business
8 practice:

9 (1) The person has established and implemented written procedures to comply
10 with this section and enforces compliance with the procedures.

11 (2) Any failure to comply with this section is the result of error.

12 (3) Where an error has caused the failure to comply with this section, the person
13 provides a full refund or credit for all amounts billed to or paid by the
14 consumer from the date of the renewal until the date of the termination of the
15 contract, or the date of the subsequent notice of renewal, whichever occurs
16 first.

17 (d) This section does not apply to insurers licensed under Chapter 58 of the General
18 Statutes, or to banks, trust companies, savings and loan associations, savings banks, or credit
19 unions licensed or organized under the laws of any state or the United States, or any foreign
20 bank maintaining a branch or agency licensed under the laws of the United States, or any
21 subsidiary or affiliate thereof, nor does this section apply to any entity subject to regulation by
22 the Federal Communications Commission under Title 47 of the United States Code or by the
23 North Carolina Utilities Commission under Chapter 62 of the General Statutes, or to any entity
24 doing business directly or through an affiliate pursuant to a franchise, license, certificate, or
25 other authorization issued by a political subdivision of the State or an agency thereof.

26 (d1) This section does not apply to real estate professionals licensed under Chapter 93A
27 of the General Statutes.

28 (e) A violation of this section renders the automatic renewal clause void and
29 unenforceable."

30 **SECTION 12.(b)** This section becomes effective October 1, 2017, and applies to
31 contracts entered into on or after that date.

32
33 **AUTHORIZE PRIVATE CONDEMNATION OF LAND FOR PIPELINES AND MAINS**
34 **ORIGINATING OUTSIDE OF NORTH CAROLINA**

35 **SECTION 13.** G.S. 40A-3(a) reads as rewritten:

36 "**§ 40A-3. By whom right may be exercised.**

37 (a) Private Condemnors. – For the public ~~use or benefit~~use, the persons or
38 organizations listed below shall have the power of eminent domain and may acquire by
39 purchase or condemnation property for the stated purposes and other works which are
40 authorized by law.

41 (1) Corporations, bodies politic or persons have the power of eminent domain
42 for the construction of railroads, power generating facilities, substations,
43 switching stations, microwave towers, roads, alleys, access railroads,
44 turnpikes, street railroads, plank roads, tramroads, canals, telegraphs,
45 telephones, electric power lines, electric lights, public water supplies, public
46 sewerage systems, flumes, bridges, and pipelines or mains ~~originating in~~
47 ~~North Carolina~~ for the transportation of petroleum products, coal, gas,
48 limestone or minerals. Land condemned for any liquid pipelines shall:

49 a. Not be less than 50 feet nor more than 100 feet in width; and

50 b. Comply with the provisions of G.S. 62-190(b).

- 1 The width of land condemned for any natural gas pipelines shall not be more
2 than 100 feet.
- 3 (2) School committees or boards of trustees or of directors of any corporation
4 holding title to real estate upon which any private educational institution is
5 situated, have the power of eminent domain in order to obtain a pure and
6 adequate water supply for such institution.
- 7 (3) Franchised motor vehicle carriers or union bus station companies organized
8 by authority of the Utilities Commission, have the power of eminent domain
9 for the purpose of constructing and operating union bus stations: Provided,
10 that this subdivision shall not apply to any city or town having a population
11 of less than 60,000.
- 12 (4) Any railroad company has the power of eminent domain for the purposes of:
13 constructing union depots; maintaining, operating, improving or
14 straightening lines or of altering its location; constructing double tracks;
15 constructing and maintaining new yards and terminal facilities or enlarging
16 its yard or terminal facilities; connecting two of its lines already in operation
17 not more than six miles apart; or constructing an industrial siding.
- 18 (5) A condemnation in fee simple by a State-owned railroad company for the
19 purposes specified in subdivision (4) of this subsection and as provided
20 under G.S. 124-12(2).

21 The width of land condemned for any single or double track railroad purpose shall be not
22 less than 80 feet nor more than 100 feet, except where the road may run through a town, where
23 it may be of less width, or where there may be deep cuts or high embankments, where it may be
24 of greater width.

25 No rights granted or acquired under this subsection shall in any way destroy or abridge the
26 rights of the State to regulate or control any railroad company or to regulate foreign
27 corporations doing business in this State. Whenever it is necessary for any railroad company
28 doing business in this State to cross the street or streets in a town or city in order to carry out
29 the orders of the Utilities Commission, to construct an industrial siding, the power is hereby
30 conferred upon such railroad company to occupy such street or streets of any such town or city
31 within the State. Provided, license so to do be first obtained from the board of aldermen, board
32 of commissioners, or other governing authorities of such town or city.

33 No such condemnor shall be allowed to have condemned to its use, without the consent of
34 the owner, his burial ground, usual dwelling house and yard, kitchen and garden, unless
35 condemnation of such property is expressly authorized by statute.

36 The power of eminent domain shall be exercised by private condemnors under the
37 procedures of Article 2 of this Chapter."
38

39 **CLARIFY STORMWATER LAWS**

40 **SECTION 14.** G.S. 143-214.7(b3) reads as rewritten:

41 "(b3) Stormwater runoff rules and programs shall not require private property owners to
42 install new or increased stormwater controls for (i) preexisting development or (ii)
43 redevelopment activities that do not remove or decrease existing stormwater controls. When a
44 preexisting development is redeveloped, either in whole or in part, increased stormwater
45 controls shall only be required for the amount of impervious surface being created that exceeds
46 the amount of impervious surface that existed before the redevelopment."
47

48 **AMEND THE THRESHOLD FOR COASTAL STORMWATER REQUIREMENTS** 49 **FOR RESIDENTIAL PROJECTS**

50 **SECTION 15.(a)** Definitions. – "Coastal Stormwater Rule" means 15A NCAC
51 02H .1019 (Coastal Counties) for purposes of this section and its implementation.

1 **SECTION 15.(b)** Coastal Stormwater Rule. – Until the effective date of the
 2 revised permanent rule that the Environmental Management Commission is required to adopt
 3 pursuant to subsection (d) of this section, the Commission and the Department of
 4 Environmental Quality shall implement the Coastal Stormwater Rule, as provided in subsection
 5 (c) of this section.

6 **SECTION 15.(c)** Implementation. – The Commission and the Department shall not
 7 require a State stormwater permit for a residential project unless the residential project would
 8 cumulatively add more than 10,000 square feet of built upon area.

9 **SECTION 15.(d)** Additional Rule-Making Authority. – The Commission shall
 10 adopt a rule to amend the Coastal Stormwater Rule consistent with subsection (c) of this
 11 section. Notwithstanding G.S. 150B-19(4), the rule adopted by the Commission, pursuant to
 12 this section, shall be substantively identical to the provisions of subsection (c) of this section.
 13 Rules adopted pursuant to this section are not subject to Part 3 of Article 2A of Chapter 150B
 14 of the General Statutes. Rules adopted pursuant to this section shall become effective as
 15 provided in G.S. 150B-21.3(b1) as though 10 or more written objections had been received as
 16 provided by G.S. 150B-21.3(b2).

17 **SECTION 15.(e)** Sunset. – This section expires when permanent rules adopted as
 18 required by subsection (d) of this section become effective.

19
 20 **CLARIFY STAFFING STANDARDS FOR BOARDING KENNELS OFFERING DOG**
 21 **DAY CARE SERVICES**

22 **SECTION 16.(a)** G.S. 19A-23 reads as rewritten:

23 **"§ 19A-23. Definitions.**

24 For the purposes of this Article, the following terms, when used in the Article or the rules
 25 or orders made pursuant thereto, shall be construed respectively to mean:

26 ...
 27 (6) "Commissioner" means the Commissioner of Agriculture of the State of
 28 North Carolina.

29 (6a) "Common area" means any area within a housing facility providing an open
 30 space where more than four dogs are free to exercise or play together.

31 ...
 32 (10) "Housing facility" means any room, building, or area used to contain a
 33 primary ~~enclosure or enclosures~~ enclosures or common areas.

34 ...
 35 (13) "Primary enclosure" means any structure used to immediately restrict ~~an~~
 36 ~~animal or four or fewer~~ animals to a limited amount of space, such as a
 37 room, pen, cage compartment or hutch.

38 "

39 **SECTION 16.(b)** G.S. 19A-24(a)(1) reads as rewritten:

40 "(1) Establish standards for the care of animals at animal shelters, boarding
 41 kennels, pet shops, and public auctions. A boarding kennel that offers dog
 42 day care ~~services and services and~~ as to each common area, (i) has a ratio of
 43 dogs to employees or supervisors, or both employees and supervisors, within
 44 the housing facility of not more than 40-15 to one, one and (ii) has no more
 45 than 50 dogs in any common area at any time shall not as to such day care
 46 services be subject to any regulations that restrict impose further supervisory
 47 requirements on the number of dogs that are permitted within any primary
 48 enclosure; the common area or any primary enclosure beyond a requirement
 49 that at least one staffer be present in a common area at all times that five or
 50 more dogs are within the common area."

51 **SECTION 16.(c)** This section becomes effective October 1, 2017.

LRC STUDY OF REGULATORY BARRIERS IN COASTAL ECONOMIES

SECTION 17.(a) The Legislative Research Commission shall study the regulatory, financial, and infrastructure burdens in coastal communities. For purposes of this study, coastal community shall refer to any county in the State containing or to the east of Interstate 95. In its study, the Commission may consider the following:

- (1) Administrative burdens and increased costs due to unnecessary or duplicative environmental regulations.
- (2) Impacts on private property rights and land development due to land use and other restrictions imposed by local governments.
- (3) Impacts of underinvestment in necessary infrastructure to encourage and sustain economic development.
- (4) Any other topic or issue relevant to this study.

SECTION 17.(b) The Legislative Research Commission shall make its final report to the 2018 Regular Session of the 2017 General Assembly.

STUDY ELECTRICAL SAFETY FOR SWIMMING POOLS

SECTION 18. The Building Code Council shall review electrical safety requirements for swimming pools to determine if the requirements should be amended in order to better protect public safety. No later than December 1, 2017, the Council shall report its findings and recommendations, including any actions the Council has taken related to electrical safety requirements for swimming pools, to the General Assembly.

STUDY USE OF UNGRADED LUMBER IN CERTAIN CIRCUMSTANCES

SECTION 19. The Building Code Council shall study under what circumstances it would be appropriate to use lumber that has not been grade-stamped under the authority of a lumber grading bureau in construction in North Carolina. The Council shall consider cost, durability, public safety, and any other factors the Council deems necessary. No later than December 1, 2017, the Council shall report its findings and recommendations to the General Assembly.

INCLUDE BACKUP LIGHTS IN VEHICLE SAFETY INSPECTION AND STUDY DECREASING THE FREQUENCY OF VEHICLE INSPECTIONS

SECTION 20.(a) G.S. 20-183.3(a) reads as rewritten:

"(a) Safety. – A safety inspection of a motor vehicle consists of an inspection of the following equipment to determine if the vehicle has the equipment required by Part 9 of Article 3 of this Chapter and if the equipment is in a safe operating condition:

- (1) Brakes, as required by G.S. 20-124.
- (2) Lights, as required by G.S. 20-129 or ~~G.S. 20-129.1~~ G.S. 20-129.1, including properly functioning backup lights.
- (3) Horn, as required by G.S. 20-125(a).
- (4) Steering mechanism, as required by G.S. 20-123.1.
- (5) Windows and windshield wipers, as required by G.S. 20-127. To determine if a vehicle window meets the window tinting restrictions, a safety inspection mechanic must first determine, based on use of an automotive film check card or knowledge of window tinting techniques, if after-factory tint has been applied to the window. If after-factory tint has been applied, the mechanic must use a light meter approved by the Commissioner to determine if the window meets the window tinting restrictions.
- (6) Directional signals, as required by G.S. 20-125.1.
- (7) Tires, as required by G.S. 20-122.1.

- 1 (8) Mirrors, as required by G.S. 20-126.
2 (9) Exhaust system and emissions control devices, as required by G.S. 20-128.
3 For a vehicle that is subject to an emissions inspection in addition to a safety
4 inspection, a visual inspection of the vehicle's emissions control devices is
5 included in the emissions inspection rather than the safety inspection."

6 **SECTION 20.(b)** The Department of Transportation and the Department of
7 Environmental Quality shall jointly study whether the frequency of vehicle safety inspections
8 and vehicle emissions inspections should be decreased. The Departments shall consider public
9 safety, air quality, savings to vehicle owners, impacts on State revenues, and any other factors
10 the Departments deem necessary. No later than March 1, 2018, the Departments shall jointly
11 report their findings and recommendations to the Joint Legislative Transportation Oversight
12 Committee.

13 **SECTION 20.(c)** Subsection (a) of this section becomes effective October 1, 2017.
14

15 **STUDY CREATION OF BOARD TO MEDIATE AND ARBITRATE DISPUTES**
16 **BETWEEN LOCAL GOVERNMENTS AND OWNERS AND DEVELOPERS OR**
17 **PROPERTY**

18 **SECTION 21.** The Legislative Research Commission shall study the creation of a
19 mediation and arbitration board that would serve as a mediator and arbitrator of disputes
20 between local governments and owners or developers of property regarding regulation of the
21 use or development of property. The Legislative Research Commission shall report its findings
22 and recommendations to the 2018 Regular Session of the 2017 General Assembly when it
23 convenes.
24

25 **SEVERABILITY CLAUSE AND EFFECTIVE DATE**

26 **SECTION 22.(a)** If any section or provision of this act is declared unconstitutional
27 or invalid by the courts, it does not affect the validity of this act as a whole or any part other
28 than the part declared to be unconstitutional or invalid.

29 **SECTION 22.(b)** Except as otherwise provided, this act is effective when it
30 becomes law.