

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2019

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SENATE BILL 208
State and Local Government Committee Substitute Adopted 4/30/19
House Committee Substitute Favorable 6/24/20

Short Title: COVID-19 Immunity/IHEs.

(Public)

Sponsors:

Referred to:

March 11, 2019

1 A BILL TO BE ENTITLED
2 AN ACT TO PROVIDE IMMUNITY FOR INSTITUTIONS OF HIGHER EDUCATION FOR
3 CLAIMS RELATED TO COVID-19 CLOSURES FOR SPRING 2020.

4 The General Assembly of North Carolina enacts:

5 **SECTION 1.** Chapter 116 of the General Statutes is amended by adding a new
6 Article to read:

7 "Article 37.

8 "COVID-19 Immunity for Institutions of Higher Education.

9 **"§ 116-310. Definitions.**

10 The following definitions apply in this Article:

- 11 (1) Claim. – A claim or cause of action seeking any legal or equitable remedy or
12 relief.
- 13 (2) COVID-19. – The coronavirus disease 2019.
- 14 (3) COVID-19 emergency declaration. – Executive Order No. 116 issued March
15 10, 2020, by Governor Roy A. Cooper, including any amendments issued by
16 executive order, subject to extensions under Chapter 166A of the General
17 Statutes.
- 18 (4) COVID-19 essential business executive order. – Executive Order No. 121
19 issued March 27, 2020, by Governor Roy A. Cooper, including any
20 amendments issued by executive order, subject to extensions under Chapter
21 166A of the General Statutes.
- 22 (5) Individual. – A person paying, or on whose behalf a third party is paying,
23 tuition, fees, or room and board to an institution of higher education for the
24 spring academic semester of 2020.
- 25 (6) Institution of higher education. – Any of the following institutions, including
26 the owners, directors, trustees, officers, employees, contractors, and agents of
27 those institutions:
- 28 a. A constituent institution under the jurisdiction of The University of
29 North Carolina.
- 30 b. A community college under the jurisdiction of the State Board of
31 Community Colleges.
- 32 c. An eligible private postsecondary institution, as defined in
33 G.S. 116-280(3).

34 **"§ 116-311. Institutions of higher education; tuition liability limitation.**



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1 (a) Notwithstanding any other provision of law and subject to G.S. 116-312, an
2 institution of higher education shall have immunity from claims by an individual, if all of the
3 following apply:

4 (1) The claim arises out of or is in connection with tuition or fees paid to the
5 institution of higher education for the spring academic semester of 2020.

6 (2) The claim alleges losses or damages arising from an act or omission by the
7 institution of higher education during or in response to COVID-19, the
8 COVID-19 emergency declaration, or the COVID-19 essential business
9 executive order.

10 (3) The alleged act or omission by the institution of higher education was
11 reasonably related to protecting the public health, safety, or welfare in
12 response to the COVID-19 emergency declaration, COVID-19 essential
13 business executive order, or applicable guidance from the Centers for Disease
14 Control and Prevention.

15 (4) The institution of higher education offered remote learning options for
16 enrolled students during the spring academic semester of 2020 that allowed
17 students to complete the semester coursework.

18 (b) Subsection (a) of this section shall not apply to losses or damages that resulted solely
19 from a breach of an express contractual provision allocating liability in the event of a pandemic
20 event.

21 (c) Subsection (a) of this section shall not apply to losses or damages caused by an act or
22 omission of the institution of higher education that was in bad faith or malicious.

23 **"§ 116-312. Applicability.**

24 This Article applies to alleged acts or omissions occurring on or after the issuance of the
25 COVID-19 emergency declaration until June 1, 2020. The provisions of this Article shall be in
26 addition to all other immunities provided by applicable State law.

27 **"§ 116-313. Severability.**

28 It is a matter of vital State concern affecting the public health, safety, and welfare that
29 institutions of higher education continue to be able to fulfill their educational missions during the
30 COVID-19 pandemic without civil liability for any acts or omissions for which immunity is
31 provided in this Article. This Article shall be liberally construed to effectuate those public
32 purposes. The provisions of this Article are severable. If any part of this Article is declared to be
33 invalid by a court, the invalidity does not affect other parts of this Article that can be given effect
34 without the invalid provision."

35 **SECTION 2.** This act is effective when it becomes law and applies to all actions
36 commenced on or after March 27, 2020.