

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2021

H

D

HOUSE BILL 366
Committee Substitute Favorable 3/25/21
PROPOSED COMMITTEE SUBSTITUTE H366-CSBR-10 [v.3]
04/14/2021 04:43:17 PM

Short Title: Regulatory Reform Act of 2021.

(Public)

Sponsors:

Referred to:

March 24, 2021

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:

**INCREASE LIMITS ON PUBLIC EMPLOYEES BENEFITING FROM PUBLIC
CONTRACTS**

SECTION 1.(a) G.S. 14-234 reads as rewritten:

"§ 14-234. Public officers or employees benefiting from public contracts; exceptions.

...

(d1) Subdivision (a)(1) of this section does not apply to (i) any elected official or person appointed to fill an elective office of a village, town, or city having a population of no more than ~~15,000~~20,000 according to the most recent official federal census, (ii) any elected official or person appointed to fill an elective office of a county within which there is located no village, town, or city with a population of more than ~~15,000~~20,000 according to the most recent official federal census, (iii) any elected official or person appointed to fill an elective office on a city board of education in a city having a population of no more than ~~15,000~~20,000 according to the most recent official federal census, (iv) any elected official or person appointed to fill an elective office as a member of a county board of education in a county within which there is located no village, town or city with a population of more than ~~15,000~~20,000 according to the most recent official federal census, (v) any physician, pharmacist, dentist, optometrist, veterinarian, or nurse appointed to a county social services board, local health board, or area mental health, developmental disabilities, and substance abuse board serving one or more counties within which there is located no village, town, or city with a population of more than ~~15,000~~20,000 according to the most recent official federal census, and (vi) any member of the board of directors of a public hospital if all of the following apply:

- (1) The undertaking or contract or series of undertakings or contracts between the village, town, city, county, county social services board, county or city board of education, local health board or area mental health, developmental disabilities, and substance abuse board, or public hospital and one of its officials is approved by specific resolution of the governing body adopted in an open and public meeting, and recorded in its minutes and the amount does not exceed twenty thousand dollars (\$20,000) for medically related services and ~~forty thousand dollars (\$40,000)~~ sixty thousand dollars (\$60,000) for other goods or services within a 12-month period.



* H 3 6 6 - C S B R - 1 0 *

- 1 (2) The official entering into the contract with the unit or agency does not
2 participate in any way or vote.
- 3 (3) The total annual amount of contracts with each official, shall be specifically
4 noted in the audited annual financial statement of the village, town, city, or
5 county.
- 6 (4) The governing board of any village, town, city, county, county social services
7 board, county or city board of education, local health board, area mental
8 health, developmental disabilities, and substance abuse board, or public
9 hospital which contracts with any of the officials of their governmental unit
10 shall post in a conspicuous place in its village, town, or city hall, or
11 courthouse, as the case may be, a list of all such officials with whom such
12 contracts have been made, briefly describing the subject matter of the
13 undertakings or contracts and showing their total amounts; this list shall cover
14 the preceding 12 months and shall be brought up-to-date at least quarterly.
- 15 "

16 **SECTION 1.(b)** This section is effective when it becomes law and applies to
17 contracts executed on or after that date.

18 19 **NC PRE-K SCHOOL OPTIONS**

20 **SECTION 2.(a)** The Division of Childhood Development and Early Education of
21 the Department of Health and Human Services shall post the following information on its
22 website:

- 23 (1) The educational opportunities for kindergarten offered by local school
24 administrative units.
- 25 (2) The educational opportunities for kindergarten offered by charter schools.
- 26 (3) Scholarships for enrollment in nonpublic schools provided pursuant to Part
27 2A of Article 39 of Chapter 115C of the General Statutes, or any successor
28 program.

29 This information shall be indexed or searchable by county, and the Division shall
30 update the information on June 1 each year.

31 Facilities participating in the NC Pre-K program shall provide to all families the
32 address of the website where the information can be found and a brief description of the
33 information available. Upon request, a facility participating in the NC Pre-K program must
34 furnish to a family a list of the following educational opportunities located in the same county as
35 the NC Pre-K facility, or, if specified, any other county:

- 36 (1) The educational opportunities for kindergarten offered by local school
37 administrative units.
- 38 (2) The educational opportunities for kindergarten offered by charter schools.
- 39 (3) Scholarships for enrollment in nonpublic schools provided pursuant to Part
40 2A of Article 39 of Chapter 115C of the General Statutes, or any successor
41 program.

42 **SECTION 2.(b)** This section becomes effective January 1, 2022.

43 44 **STUDY EXPRESS PERMITTING EXPANSION**

45 **SECTION 3.** The Department of Environmental Quality shall study and report on
46 additional positions and funding needed as well as any changes in State or federal laws and
47 regulations necessary to expand the Department's express permitting programs to include
48 additional types of permits typically required for job creating and real estate development or
49 redevelopment activities. Additional permits considered in the study shall include, at a minimum,
50 permits for facilities not discharging to the surface waters of the State under Article 21 of Chapter
51 143 of the General Statutes and permits to apply petroleum-contaminated soil to land authorized

under G.S. 143-215.1. The Department shall provide its report and recommendations to the Environmental Review Commission, the Joint Legislative Oversight Committee on Agriculture and Natural and Economic Resources, and the Fiscal Research Division no later than March 1, 2022.

WASTEWATER RESERVE PRIORITY

SECTION 4.(a) G.S. 159G-23 reads as rewritten:

"§ 159G-23. Priority consideration for loan or grant from Wastewater Reserve or Drinking Water Reserve.

The considerations for priority in this section apply to a loan or grant from the Wastewater Reserve or the Drinking Water Reserve. The Division of Water Infrastructure must consider the following items when evaluating applications:

...

(2) Effect on impaired waters. – A project that improves designated impaired waters of the ~~State~~State, with greater priority given to projects that improve designated impaired waters of the State that serve as a public water supply for a large public water system. For purposes of this subdivision, a large public water system is one serving more than 175,000 service connections.

...

(11) ~~State water supply plan. Improve regional coordination.~~ – A project that addresses a potential conflict between local plans or implements a measure in which local water supply plans could be better ~~coordinated, as identified in the State water supply plan pursuant to G.S. 143-355(m).~~coordinated.

...

(14) Disproportionate burden to protect water supply of higher-wealth neighboring local government unit. – Wastewater system improvements made by a local government unit in order to protect or preserve the water supply of a neighboring local government unit that has a lower poverty rate, lower utility bills, higher population growth, higher median household incomes, and lower unemployment."

SECTION 4.(b) This section becomes effective July 1, 2021, and applies to applications for loans or grants from the Wastewater Reserve or the Drinking Water Reserve received by the Division of Water Infrastructure on or after that date.

REVENUE LAWS STUDY

SECTION 5. The Department of Revenue shall provide to the Revenue Laws Study Committee information related to the property taxation of outdoor advertising signs. The information must include a review of the methods used to determine the fair market value of outdoor advertising signs in North Carolina, whether the Billboard Structures Valuation Guide published by the North Carolina Department of Revenue provides an accurate representation of the base costs for outdoor advertising structures in North Carolina, whether the Department should use data on actual costs attributed to structures constructed in North Carolina, the practices in other states, and any other issues the Department deems relevant.

The Department shall provide the requested information to the Committee no later than March 31, 2022.

MANUFACTURED HOMES INSTALLATION

SECTION 6.(a) G.S. 160D-910 is amended by adding a new subsection to read:

"(g) A local government may require by ordinance that manufactured homes be installed in accordance with the Set-Up and Installation Standards adopted by the Commissioner of

Insurance; provided, however, a local government shall not require a masonry curtain wall or masonry skirting for manufactured homes located on land leased to the homeowner."

SECTION 6.(b) This section becomes effective October 1, 2021.

DIVISION OF EMERGENCY MANAGEMENT STUDY

SECTION 7.(a) Study. – The Division of Emergency Management of the Department of Public Safety shall study the needs of law enforcement, emergency medical and emergency management personnel, and firefighters to improve access to or within the interstate system of this State for the benefit of public safety. In conducting the study, the Division may consult with the Department of Transportation, the Office of State Fire Marshal of the Department of Insurance, the Office of Emergency Medical Services of the Department of Health and Human Services, and any other State or local government organizations the Division determines may be of assistance in the course of the study. In performing the study, the Division shall, at a minimum, take the following steps:

- (1) Consult with county fire marshal divisions, emergency management offices, and emergency medical service divisions to determine potential sites of interest for construction or improvement relevant to the study.
- (2) Establish criteria to prioritize sites of interest for either construction or improvement.
- (3) Review applicable federal and State laws, codes, standards, and studies relevant to the study.
- (4) Review (i) existing Department of Transportation planning, design, and construction standards for interchanges, median crossovers, and access points and (ii) how those standards consider the needs of law enforcement, emergency medical and emergency management personnel, and firefighters.
- (5) Consider the feasibility of providing opportunities for stakeholder input during the planning of future interstate improvements that focus on the needs of law enforcement, emergency medical and emergency management personnel, and firefighters.
- (6) Examine any other matters the Division deems relevant in the course of the study.

SECTION 7.(b) Report. – The Division shall report its findings and recommendations, including any legislative proposals, to the Joint Legislative Oversight Committee on Justice and Public Safety, the Joint Legislative Emergency Management Oversight Committee, and the Joint Legislative Transportation Oversight Committee no later than March 1, 2022.

INSURANCE CANCELLATION PROOF OF MAILING

SECTION 8.(a) G.S. 58-41-15 reads as rewritten:

"§ 58-41-15. Certain policy cancellations prohibited.

...

(b) Any cancellation permitted by subsection (a) of this section is not effective unless written notice of cancellation has been delivered or mailed to the insured, not less than 15 days before the proposed effective date of cancellation. The notice must be given or mailed to the insured, and any designated mortgagee or loss payee at their addresses shown in the policy or, if not indicated in the policy, at their last known addresses. The notice must state the precise reason for cancellation. ~~Proof of mailing is sufficient proof of notice.~~ Failure to send this notice to any designated mortgagee or loss payee invalidates the cancellation only as to the mortgagee's or loss payee's interest.

...

(f) For purposes of this section, proof of mailing is sufficient proof of notice."

1 **SECTION 8.(b)** This section becomes effective October 1, 2021, and applies to
2 policies issued, amended, or renewed on or after that date.

3
4 **CLARIFICATION AND REAFFIRMATION OF RECOVERY OF OUT-OF-POCKET**
5 **EXPENSES AND LITIGATION COSTS IN SUMMARY EJECTMENTS**

6 **SECTION 9.(a)** G.S. 42-46 reads as rewritten:

7 "**§ 42-46. Authorized ~~late fees and eviction fees.~~ fees, costs, and expenses.**

8 (a) Late Fee. — In all residential rental agreements in which a definite time for the
9 payment of the rent is fixed, the parties may agree to a late fee not inconsistent with the provisions
10 of this subsection, to be chargeable only if any rental payment is five days or more late. If the
11 rent:

- 12 (1) Is due in monthly installments, a landlord may charge a late fee not to exceed
13 fifteen dollars (\$15.00) or five percent (5%) of the monthly rent, whichever is
14 greater.
15 (2) Is due in weekly installments, a landlord may charge a late fee not to exceed
16 four dollars (\$4.00) or five percent (5%) of the weekly rent, whichever is
17 greater.
18 (3) Repealed by Session Laws 2009-279, s. 4, effective October 1, 2009, and
19 applicable to leases entered into on or after that date.

20 (b) A late fee under subsection (a) of this section may be imposed only one time for each
21 late rental payment. A late fee for a specific late rental payment may not be deducted from a
22 subsequent rental payment so as to cause the subsequent rental payment to be in default.

23 (c) Repealed by Session Laws 2009-279, s. 4, effective October 1, 2009, and applicable
24 to leases entered into on or after that date.

25 (d) A lessor shall not charge a late fee to a lessee pursuant to subsection (a) of this section
26 because of the lessee's failure to pay for water or sewer services provided pursuant to
27 G.S. 62-110(g).

28 (e) Administrative Complaint-Filing Fee. — Pursuant to a written lease, a landlord may
29 charge ~~a~~ an administrative complaint-filing fee not to exceed fifteen dollars (\$15.00) or five
30 percent (5%) of the monthly rent, whichever is greater, only if the tenant was in default of the
31 lease, the landlord filed and served a complaint for summary ejectment and/or money owed, the
32 tenant cured the default or claim, and the landlord dismissed the complaint prior to judgment.
33 The landlord can include this fee in the amount required to cure the default.

34 (f) Administrative Court-Appeal Fee. — Pursuant to a written lease, a landlord may
35 charge ~~a~~ an administrative court-appearance fee in an amount equal to ten percent (10%) of the
36 monthly rent only if the tenant was in default of the lease and the landlord filed, served, and
37 prosecuted successfully a complaint for summary ejectment and/or monies owed in the small
38 claims court. If the tenant appeals the judgment of the magistrate, and the magistrate's judgment
39 is vacated, any fee awarded by a magistrate to the landlord under this subsection shall be vacated.

40 (g) Second Administrative Trial Fee. — Pursuant to a written lease, a landlord may charge
41 a second administrative trial fee for a new trial following an appeal from the judgment of a
42 magistrate. To qualify for the fee, the landlord must prove that the tenant was in default of the
43 lease and the landlord prevailed. The landlord's fee may not exceed twelve percent (12%) of the
44 monthly rent in the lease.

45 (h) Limitations on Charging and Collection of ~~Fees.~~ Administrative Fees and
46 Out-of-Pocket Expenses and Litigation Costs.

- 47 (1) A landlord who claims administrative fees under subsections (e) through (g)
48 of this section is entitled to charge and retain only one of the above fees for
49 the landlord's complaint for summary ejectment and/or money owed.
50 (2) A landlord who earns ~~a~~ an administrative fee under subsections (e) through
51 (g) of this section may not deduct payment of that fee from a tenant's

- subsequent rent payment or declare a failure to pay the fee as a default of the lease for a subsequent summary ejectment action.
- (3) It is contrary to public policy for a landlord to put in a lease or claim any administrative fee for filing a complaint for summary ejectment and/or money owed other than the ones expressly authorized by subsections (e) through (g) [and] (i) of this section, and a reasonable attorney's fee as allowed by law-section. This limitation does not apply to out-of-pocket expenses or litigation costs.
- (3a) It is contrary to public policy for a landlord to claim, or for a lease to provide for the payment of, any out-of-pocket expenses or litigation costs for filing a complaint for summary ejectment and/or money owed rather than those expressly authorized under subsection (i) of this section.
- (4) Any provision of a residential rental agreement contrary to the provisions of this section is against the public policy of this State and therefore void and unenforceable.
- (5) If the rent is subsidized by the United States Department of Housing and Urban Development, by the United States Department of Agriculture, by a State agency, by a public housing authority, or by a local government, any fee charged pursuant to this section shall be calculated on the tenant's share of the contract rent only, and the rent subsidy shall not be included.
- (i) Out-of-Pocket Expenses.—Expenses and Litigation Costs. — In addition to the late fees referenced in subsections (a) and (b) of this section and the administrative fees of a landlord referenced in subsections (e) through (g) of this section, a landlord ~~is also~~ is permitted to charge and recover from a tenant the following actual out-of-pocket expenses:
- (1) Filing fees charged by the court.
- (2) Costs for service of process pursuant to G.S. 1A-1, Rule 4 of the North Carolina Rules of Civil Procedure and G.S. 42-29.
- (3) Reasonable attorneys' fees actually ~~incurred, paid or owed,~~ pursuant to a written lease, not to exceed fifteen percent (15%) of the amount owed by the tenant, or fifteen percent (15%) of the monthly rent stated in the lease if the eviction is based on a default other than the nonpayment of rent.
- (j) The out-of-pocket expenses and litigation costs listed in subsection (i) of this section are allowed to be included by the landlord in the amount required to cure a default.
- (k) As used in this section, the term "administrative fees" does not include out-of-pocket expenses, litigation costs, or other fees."

SECTION 9.(b) This section is effective when it becomes law and is intended to apply retroactively to all pending controversies as of that date. The amendments contained in this section are intended to be clarifying of the General Assembly's intent under previous amendments to this statute.

CLARIFY RESIDENTIAL TENANCY WITH RESPECT TO TRANSIENT LODGING

SECTION 10.(a) Article 1 of Chapter 42 of the General Statutes is amended by adding a new section to read:

"§ 42-14.5. Transient occupancies excluded.

The provisions of this Chapter shall not apply to transient occupancies, as defined in G.S. 72-1(c). An agreement related to a transient occupancy shall not be deemed to create a tenancy or a residential tenancy unless expressly provided in the agreement."

SECTION 10.(b) G.S. 42-39 reads as rewritten:

"§ 42-39. Exclusions.

~~(a) The provisions of this Article shall not apply to transient occupancy in a hotel, motel, or similar lodging subject to regulation by the Commission for Public Health.~~

...."

SECTION 10.(c) G.S. 72-1 reads as rewritten:

"§ 72-1. Must furnish accommodations; contracts for termination valid.

(a) Every innkeeper shall at all times provide suitable lodging accommodations for persons accepted as guests in ~~his inn or hotel~~ an inn, hotel, motel, recreational vehicle park, campground, or other similar transient occupancy.

(b) A written statement setting forth the time period during which a guest may occupy an assigned room, signed or initialed by the guest, shall be deemed a valid contract, and at the expiration of such time period the lodger may be restrained from entering and any property of the guest may be removed by the innkeeper without liability, except for damages to or loss of such property attributable to its removal.

(c) For the purposes of this section, a "transient occupancy" is the rental of an accommodation by an inn, hotel, motel, recreational vehicle park, campground, or similar lodging facility to the same guest or occupant for fewer than 90 consecutive days."

SECTION 10.(d) This act is effective when it becomes law and applies to a person renting an accommodation in a hotel, motel, recreational vehicle park, campground, or similar lodging facility on or after that date. A person's rental period shall be calculated from the first day of consecutive occupation, or right of occupation, in the lodging facility regardless of whether the period began before the effective date of this act.

DISALLOW CERTAIN TRANSPORTATION RULES FROM BECOMING EFFECTIVE

SECTION 11.(a) The following rules, as adopted by the North Carolina Department of Transportation on August 28, 2020, and approved by the Rules Review Commission on February 18, 2021, shall not become effective:

- (1) 19A NCAC 02E .0204 (Local Zoning Authorities)
- (2) 19A NCAC 02E .0206 (Applications)
- (3) 19A NCAC 02E .0225 (Repair/Maintenance/Alteration/Reconstruction of Signs)

SECTION 11.(b) This section is effective when it becomes law.

ALLOW DISTILLERIES TO SELL SPIRITUOUS LIQUOR PRODUCED BY THE DISTILLER DIRECTLY TO CONSUMERS IN OTHER STATES

SECTION 12.(a) G.S. 18B-800 reads as rewritten:

"§ 18B-800. Sale of alcoholic beverages in ABC stores.

...

(c2) Orders of Eligible Distillery Products by Mixed Beverages Permittees. – A local board shall fulfill an order by a mixed beverages permittee for individual bottles or cases of spirituous liquor produced by an eligible distillery that are listed as a regular code item for sale in the State. If a local board cannot fulfill an order of a mixed beverages permittee for individual bottles or cases of spirituous liquor produced by an eligible distillery that are listed as a regular code item for sale in the State because the product ordered is not in the local board's stock inventory or the order cannot otherwise be fulfilled within the time period requested by the permittee, the local board shall notify the Commission within 48 hours of the request for the order and request authorization for direct shipment. The Commission shall then determine if the eligible distillery desires to directly ship the ordered product directly to the local board, and if so the Commission shall authorize the eligible distillery to ship the spirituous liquor ordered to the local board for the fulfillment of the mixed beverages permittee's order. Merchandise authorized to be shipped by direct shipment under this subsection shall be consigned by the State ABC warehouse to the distiller's account in care of the local board. The local board shall acknowledge receipt of the merchandise on the shipping documents and forward them to the State ABC

warehouse for processing through the accounting system as though the merchandise were shipped from the State ABC warehouse. As used in this subsection, an "eligible distillery" is a distillery (i) that sells, to consumers at the distillery, to exporters, to local boards, and to private or public agencies or establishments of other states or nations, fewer than 10,000 proof gallons of in-house brand spirituous liquors distilled or produced and manufactured by it at the permit holder's distillery per year, and (ii) that is either the holder of a distillery permit pursuant to G.S. 18B-1105 or is a business located outside the State that is licensed or permitted to manufacture spirituous liquor in the jurisdiction where the business is located and whose products are lawfully sold in this State.

...
(e) Each ABC store shall display spirits which are distilled or produced in North Carolina in an area dedicated solely to North Carolina products."

SECTION 12.(b) G.S. 18B-1001(19)e. reads as rewritten:

"e. The spirituous liquor used in the consumer tasting event shall be distilled or produced at the distillery where the event is being held by the permit holder conducting the event."

SECTION 12.(c) G.S. 18B-1105(a)(4) reads as rewritten:

"(4) Sell spirituous liquor distilled or produced at the distillery in closed containers to visitors who tour the distillery for consumption off the premises. Sales under this subdivision are allowed only in a county where the establishment of a county or municipal ABC store has been approved pursuant to G.S. 18B-602(g) and are subject to the time and day restrictions in G.S. 18B-802. Spirituous liquor sold under this subdivision shall (i) be listed as a code item for sale in the State, (ii) be sold at the price set by the Commission for the code item pursuant to G.S. 18B-804(b), and (iii) have affixed to its bottle any labeling requirements set by law."

SECTION 12.(d) G.S. 18B-1105(a) reads as rewritten:

"(a) The holder of a distillery permit may do any of the following:

...
(2) Sell, deliver and ship spirituous liquor in closed containers at wholesale to (i) exporters and local boards within the State, and, (ii) subject to the laws of other jurisdictions, at wholesale or retail to consumers, private or public agencies—agencies, or establishments—establishments, of other states or nations—nations, except that the holder of a distillery permit may not sell, deliver, or ship spirituous liquor at retail to consumers in jurisdictions that require reciprocity in order to allow such sales, deliveries, or shipments.

...."

SECTION 12.(e) The Alcoholic Beverage Control Commission shall amend its rules consistent with the provisions of this section. The Commission may use the procedure set forth in G.S. 150B-21.1 to amend any rules as required under this section.

SECTION 12.(f) This section becomes effective July 1, 2021, and subsection (d) of this section applies to sales made on or after that date.

EFFECTIVE DATE

SECTION 13. Except as otherwise provided, this act is effective when it becomes law.