

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2017

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BILL DRAFT 2017-MWz-24A [v.5]

(THIS IS A DRAFT AND IS NOT READY FOR INTRODUCTION)
04/04/2018 02:15:39 PM

Short Title: Airport Prop. Purchase/NCEPA waiver.

(Public)

Sponsors:

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT TO REQUIRE THE DEPARTMENT OF TRANSPORTATION TO WAIVE THE
3 NORTH CAROLINA ENVIRONMENTAL POLICY ACT (NCEPA)
4 ENVIRONMENTAL DOCUMENTATION REQUIREMENTS FOR ACQUISITIONS OF
5 PROPERTY FOR FUTURE AIRPORT DEVELOPMENT, AS RECOMMENDED BY
6 THE HOUSE SELECT COMMITTEE ON STRATEGIC TRANSPORTATION
7 PLANNING AND LONG TERM FUNDING SOLUTIONS.

8 The General Assembly of North Carolina enacts:

9 **SECTION 1.** Notwithstanding any law, rule, or regulation to the contrary, the
10 Department of Transportation shall not require environmental documentation under the North
11 Carolina Environmental Policy Act from any airport meeting all of the following requirements:

- 12 (1) The airport is acquiring 40 acres or less of property for future airport
13 development.
14 (2) The airport is located in a county with a population of greater than nine
15 hundred thousand (900,000) people, according to the most recent decennial
16 federal census.
17 (3) The airport has a total annual enplanement of over twenty million
18 (20,000,000) passengers, according to the most recent data provided by the
19 Federal Aviation Administration.

20 **SECTION 2.** The Department may adopt temporary rules to implement the
21 provisions of this act. Any temporary rules adopted in accordance with this section shall
22 remain in effect until permanent rules that replace the temporary rules become effective.

23 **SECTION 3.** This act is effective when it becomes law, and expires July 1, 2020.



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Bill Draft 2017-MWz-24A: Airport Prop. Purchase/NCEPA waiver.

2017-2018 General Assembly

Committee: House Select Committee on Strategic Date: March 28, 2018
Transportation Planning and Long Term
Funding Solutions

Introduced by: Prepared by: Luke Gillenwater
Analysis of: 2017-MWz-24A Staff Attorney

OVERVIEW: 2017-MWz-24A requires the Department of Transportation ("Department") to waive the North Carolina Environmental Policy Act (NCEPA) environmental documentation requirement for certain acquisitions of property for future airport development.

CURRENT LAW: G.S. 113A-11 authorizes the Department to adopt rules that establish minimum criteria for compliance with the provisions of the NCEPA. 19A NCAC 02F .0102 lists the types and thresholds of activities in which environmental documentation under the NCEPA is not required. One activity in which environmental documentation under the NCEPA is not required is the acquisition of 10 acres or less of property for future airport development.

BILL ANALYSIS: 2017-MWz-24A does the following:

- **Section 1:** Provides that the Department shall not require environmental documentation under the NCEPA from any airport meeting all of the following requirements:
 - The airport is acquiring 40 acres or less of property for future airport development.
 - The airport is located in a county with a population of greater than 900,000 people.
 - The airport has a total annual enplanement of over 20,000,000 passengers.
- **Section 2:** Authorizes the Department to adopt temporary rules to implement the provisions of the act.

EFFECTIVE DATE: 2017-MWz-24A is effective when it becomes law, and expires July 1, 2020.

Kory Goldsmith
Director



Legislative Drafting
919-733-6660

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2017

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D

BILL DRAFT 2017-MWz-22 [v.6] (03/20)

(THIS IS A DRAFT AND IS NOT READY FOR INTRODUCTION)
03/27/2018 03:57:16 PM

Short Title: DOT Property Sale Proceeds/Highway Fund.

(Public)

Sponsors:

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT TO CLARIFY THAT NET PROCEEDS FROM THE SALE OF LAND OR
3 FACILITIES PURCHASED WITH FUNDS FROM THE STATE HIGHWAY FUND
4 ARE TO BE DEPOSITED INTO THE STATE HIGHWAY FUND, AS
5 RECOMMENDED BY THE HOUSE SELECT COMMITTEE ON STRATEGIC
6 TRANSPORTATION PLANNING AND LONG TERM FUNDING SOLUTIONS.
7 The General Assembly of North Carolina enacts:
8 **SECTION 1.** G.S. 146-30(c) reads as rewritten:
9 "(c) The amount or rate of such service charge shall be fixed by rules and regulations
10 adopted by the Governor and approved by the Council of State, but as to any particular sale,
11 lease, rental, or other disposition, it shall not exceed ten percent (10%) of the gross amount
12 received from such sale, lease, rental, or other disposition. Notwithstanding any other provision
13 of this Subchapter, the net proceeds derived from the sale of land or products of land owned by
14 or under the supervision and control of the Wildlife Resources Commission, or acquired or
15 purchased with funds of that Commission, shall be paid into the Wildlife Resources Fund.
16 Provided, however, the net proceeds derived from the sale of land or timber from land owned
17 by or under the supervision and control of the Department of Agriculture and Consumer
18 Services shall be deposited with the State Treasurer in a capital improvement account to the
19 credit of the Department of Agriculture and Consumer Services, to be used for such specific
20 capital improvement projects or other purposes as are provided by transfer of funds from those
21 accounts in the Capital Improvement Appropriations Act. Provided further, the net proceeds
22 derived from the sale of park land owned by or under the supervision and control of the
23 Department of Natural and Cultural Resources shall be deposited with the State Treasurer in a
24 capital improvement account to the credit of the Department of Administration to be used for
25 the purpose of park land acquisition as provided by transfer of funds from those accounts in the
26 Capital Improvement Appropriations Act. In the Capital Improvement Appropriations Act, line
27 items for purchase of park and agricultural lands will be established for use by the Departments
28 of Administration and Agriculture. The use of such funds for any specific capital improvement
29 project or land acquisition is subject to approval by the Director of the Budget. No other use
30 may be made of funds in these line items without approval by the General Assembly except for
31 incidental expenses related to the project or land acquisition. Additionally with the approval of
32 the Director of the Budget, either Department may request funds from the Contingency and
33 Emergency Fund when the necessity of prompt purchase of available land can be demonstrated
34 and funds in the capital improvement accounts are insufficient. Provided further, the net



1 proceeds derived from the sale of any portion of the land owned by the State in or around the
2 Butner Reservation on or after July 1, 1980, shall be deposited with the State Treasurer in a
3 capital improvement account to the credit of the Department of Health and Human Services to
4 make capital improvements on or to property owned by the State in the Butner Reservation
5 subject to approval by the Office of State Budget and Management, and may be used to build
6 industrial access roads to industries located or to be located on the Butner Reservation, to
7 construct new city streets in the Butner Reservation, extend water and sewer service on the
8 Butner Reservation, repair storm drains on the Butner Reservation, and for other capital uses on
9 the Reservation as determined by the Secretary. Provided further, notwithstanding any other
10 provision of this Subchapter, the proceeds derived from the lease dispositions of land or
11 facilities owned or under the supervision and control of East Carolina University's Division of
12 Health Sciences for the delivery of health care services shall be deposited in clinical accounts at
13 East Carolina University to be used to improve access to patient care. Provided further,
14 notwithstanding any other provision of this Subchapter, the net proceeds derived from the sale
15 of land or facilities purchased with funds from the State Highway Fund shall be deposited into
16 the State Highway Fund."

17 **SECTION 2.** This act is effective when it becomes law and applies to sales on or
18 after that date.



Bill Draft 2017-MWz-22: DOT Property Sale Proceeds/Highway Fund.

2017-2018 General Assembly

Committee:	House Select Committee on Strategic Transportation Planning and Long Term Funding Solutions	Date:	March 28, 2018
Introduced by:		Prepared by:	Joshua Freeman Committee Co-Counsel
Analysis of:	2017-MWz-22		

OVERVIEW: 2017-MWz-22 clarifies that the net proceeds from the sale of land or facilities purchased with funds from the State Highway Fund are to be deposited in the State Highway Fund.

CURRENT LAW: The net proceeds from the sale of land or facilities purchased with funds from the State Highway Fund are deposited in the General Fund.

BILL ANALYSIS: 2017-MWz-22 requires the net proceeds from the sale of land or facilities purchased with funds from the State Highway Fund to be deposited in the State Highway Fund.

EFFECTIVE DATE: This act is effective when it becomes law.

Kory Goldsmith
Director



Legislative Drafting
919-733-6660

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2017

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D

BILL DRAFT 2017-MWz-21 [v.8] (03/20)

(THIS IS A DRAFT AND IS NOT READY FOR INTRODUCTION)
03/27/2018 03:59:44 PM

Short Title: Unanticipated Bridge/Road Closure/Waive Bids.

(Public)

Sponsors:

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT CLARIFYING THE AUTHORITY OF THE DEPARTMENT OF
3 TRANSPORTATION TO ENTER INTO CONTRACTS WITHOUT COMPLYING WITH
4 BIDDING REQUIREMENTS WHEN AN EMERGENCY EXISTS, AS
5 RECOMMENDED BY THE HOUSE SELECT COMMITTEE ON STRATEGIC
6 TRANSPORTATION PLANNING AND LONG TERM FUNDING SOLUTIONS.
7 The General Assembly of North Carolina enacts:
8 **SECTION 1.** G.S. 136-28.1(e) reads as rewritten:
9 "(e) The Department of Transportation may enter into contracts for construction,
10 maintenance, or repair without complying with the bidding requirements of this section upon a
11 determination of the Secretary of Transportation or the Secretary's designee that an emergency
12 exists and that it is not feasible or not in the public interest for the Department of
13 Transportation to comply with the bidding requirements. For purposes of this section the term
14 "emergency" includes an unanticipated bridge closure, road closure, or weight restriction that
15 results in detours or deters the free movement of goods and services and requires an estimated
16 expenditure of ten million dollars (\$10,000,000) or less in construction, maintenance, or repair
17 costs."
18 **SECTION 2.** This act is effective when it becomes law.



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Bill Draft 2017-MWz-21: Unanticipated Bridge/Road Closure/Waive Bids.

2017-2018 General Assembly

Committee:	House Select Committee on Strategic Transportation Planning and Long Term Funding Solutions	Date:	March 28, 2018
Introduced by:		Prepared by:	Joshua Freeman
Analysis of:	2017-MWz-21		Committee Co-Counsel

OVERVIEW: *The proposed bill clarifies the definition of "emergency" with respect to the authority of the Department of Transportation to waive bidding requirements when an emergency exists.*

CURRENT LAW: The Secretary of the Department of Transportation may waive bidding requirements in Chapter 136 of the General Statutes in an emergency. However, there is no definition of "emergency" in the statute.

BILL ANALYSIS: The proposed bill does the following:

Clarifies the term "emergency" to include:

- An unanticipated bridge closure, road closure, or weight restriction that results in detours or deters the free movement of goods and services, and
- Requires an estimated expenditure of ten million dollars (\$10,000,000) or less in construction, maintenance, or repair costs.

EFFECTIVE DATE: This act is effective when it becomes law.

Kory Goldsmith
Director



Legislative Drafting
919-733-6660

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2017

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D

BILL DRAFT 2017-MWz-20 [v.11]

(THIS IS A DRAFT AND IS NOT READY FOR INTRODUCTION)
04/27/2018 09:23:16 AM

Short Title: Replacement ROW for Utility Relocation.

(Public)

Sponsors:

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT TO AUTHORIZE THE DEPARTMENT OF TRANSPORTATION TO ACQUIRE
3 REPLACEMENT RIGHT-OF-WAY AND TO ASSIGN THE EASEMENT RIGHTS OF
4 THE REPLACEMENT RIGHT-OF-WAY TO A UTILITY, AS RECOMMENDED BY
5 THE HOUSE SELECT COMMITTEE ON STRATEGIC TRANSPORTATION
6 PLANNING AND LONG TERM FUNDING SOLUTIONS.
7 The General Assembly of North Carolina enacts:
8 **SECTION 1.** G.S. 136-19.5(c) reads as rewritten:
9 "(c) Whenever the Department of Transportation requires the relocation of utilities,
10 including cable service as defined in G.S. 105-164.3, located in a right-of-way for which the
11 utility owner contributed to the cost of acquisition, the Department of Transportation shall
12 reimburse the utility owner for the cost of moving those utilities. The Department may, with the
13 agreement of the utility owner, acquire a replacement right-of-way and assign the easement rights
14 of the replacement right-of-way to the utility owner."
15 **SECTION 2.** This act is effective when it becomes law.





Bill Draft 2017-MWz-20: Replacement ROW for Utility Relocation.

2017-2018 General Assembly

Committee:	House Select Committee on Strategic Transportation Planning and Long Term Funding Solutions	Date:	March 28, 2018
Introduced by:		Prepared by:	Joshua Freeman Luke Gillenwater Staff Attorney
Analysis of:	2017-MWz-20		

OVERVIEW: 2017-MWz-20 authorizes the Department of Transportation ("Department") to, upon agreement with a utility owner, acquire replacement right-of-way ("ROW") and assign the easement rights to the ROW to the utility owner.

CURRENT LAW: Pursuant to G.S. 136-19.5(c), when the Department requires the relocation of utilities, the Department reimburses utility owners for the cost of purchase and relocation to a new ROW if the utility owner originally contributed to the cost of the ROW.

BILL ANALYSIS: As another option, 2017-MWz-20 authorizes the Department to acquire a replacement ROW for the purpose of assigning the easement rights of the replacement ROW to the utility owner. The Department may only do this upon agreement with the utility owner.

EFFECTIVE DATE: 2017-MWz-20 is effective when it becomes law.

Kory Goldsmith
Director



Legislative Drafting
919-733-6660

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2017

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D

BILL DRAFT 2017-MWz-23A [v.4] (03/20)

(THIS IS A DRAFT AND IS NOT READY FOR INTRODUCTION)
03/27/2018 04:30:11 PM

Short Title: DOT Highway Division/SHRA Exemption. (Public)

Sponsors: Representative Torbett.

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT TO EXEMPT CERTAIN POSITIONS IN THE DEPARTMENT OF
3 TRANSPORTATION HIGHWAY DIVISION FROM THE STATE HUMAN
4 RESOURCES ACT FOR THE PURPOSES OF COMPENSATION AND
5 RECRUITMENT, AS RECOMMENDED BY THE HOUSE SELECT COMMITTEE ON
6 STRATEGIC TRANSPORTATION PLANNING AND LONG TERM FUNDING
7 SOLUTIONS.
8 The General Assembly of North Carolina enacts:
9 **SECTION 1.** G.S. 126-5 is amended by adding a new subsection to read:
10 "(c14) Upon the approval of the Secretary of the Department of Transportation and notice
11 to the Director of the Office of State Human Resources, engineering technician positions in the
12 Department of Transportation, Highway Division, are exempt from the following provisions of
13 this Chapter:
14 (1) The compensation and recruitment policies, rules, and plans established by
15 the Commission pursuant to G.S. 126-4(1) through G.S. 126-4(4).
16 (2) The job posting requirements of G.S. 126-7.1."
17 **SECTION 2.** G.S. 126-5(d) does not apply to the exemptions from the North
18 Carolina Human Resources Act authorized by Section 1 of this act.
19 **SECTION 3.** This act is effective when it becomes law.



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Bill Draft 2017-MWz-23A: DOT Highway Division/SHRA Exemption.

2017-2018 General Assembly

Committee:	House Select Committee on Strategic Transportation Planning and Long Term Funding Solutions	Date:	March 27, 2018
Introduced by:		Prepared by:	Phyllis Pickett Joshua Freeman Committee Co-Counsel
Analysis of:	2017-MWz-23A		

OVERVIEW: *The proposed bill authorizes the Secretary of the Department of Transportation to designate engineer technician positions in the Highway Division as exempt from the compensation and recruitment policies and rules established under the North Carolina Human Resources Act.*

CURRENT LAW: The State Human Resources Commission, pursuant to the North Carolina Human Resources Act, establishes policies and rules governing, among other things, the compensation and recruitment of State employees.

BILL ANALYSIS: The proposed bill does the following:

Section 1. Authorizes the Secretary of Transportation, with notice to the Director of the Office of State Human Resources, to designate certain engineering technician positions in the Highway Division as exempt from State Human Resources Act provisions and policies pertaining to the following:

- Position classification, G.S. 126-4(1).
- Compensation, G.S. 126-4(2).
- Qualification for position, G.S. 126-4(3).
- Recruitment, G.S. 126-4(4).
- Job posting requirements, G.S. 126-7.1.

Section 2. Clarifies that G.S. 126-5(d), governing exempt positions in the executive branch, does not apply to the exemptions made by the Secretary of Transportation pursuant to new G.S. 126-5(c14), as enacted by this act.

EFFECTIVE DATE: Section 3 makes the act effective when it becomes law.

Kory Goldsmith
Director



Legislative Drafting
919-733-6660

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2017

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D

BILL DRAFT 2017-MLz-201 [v.5] (03/27)

(THIS IS A DRAFT AND IS NOT READY FOR INTRODUCTION)
03/28/2018 09:59:51 AM

Short Title: DOT/Project Delivery Method Pilot Project.

(Public)

Sponsors:

Referred to:

1 A BILL TO BE ENTITLED

2 AN ACT AUTHORIZING THE DEPARTMENT OF TRANSPORTATION TO ESTABLISH
3 AND IMPLEMENT A PILOT PROJECT TO AWARD TRANSPORTATION PROJECT
4 CONTRACTS ON A CONSTRUCTION MANAGER-GENERAL CONTRACTOR
5 BASIS, AS RECOMMENDED BY THE HOUSE SELECT COMMITTEE ON
6 STRATEGIC TRANSPORTATION PLANNING AND LONG TERM FUNDING
7 SOLUTIONS.

8 The General Assembly of North Carolina enacts:

9 **SECTION 1.** Definition. – For purposes of this act, the term "construction
10 manager-general contractor" means a project delivery method that allows the use of a
11 construction manager during the design process to provide input on the design. During the
12 design phase, the construction manager provides advice, including constructability review,
13 scheduling, pricing, and phasing, to assist in designing a more efficient and well-designed
14 project. The construction manager may subsequently act as the general contractor and construct
15 the project if the department and the construction manager-general contractor reach agreement
16 on a guaranteed maximum price for construction.

17 **SECTION 2.** Pilot Project. – Notwithstanding any provision of Chapter 136 of the
18 General Statutes to the contrary, the Department of Transportation may establish and
19 implement a pilot project to award contracts for up to five projects for the construction of
20 transportation projects on a construction manager-general contractor basis. The Department
21 may only award a contract under this section if (i) the cost of the project is determined by the
22 Department to be less than one hundred million dollars (\$100,000,000), (ii) the Department
23 determines that it is in the public interest to use the construction manager-general contractor
24 basis for the project, (iii) the Department prequalifies the contractor that will be awarded the
25 contract, (iv) the Department complies with the pre-award reporting requirement set forth in
26 Section 3 of this act, and (v) the Department has established and implemented guidelines as
27 required under Section 4 of this act.

28 **SECTION 3.** Report. – Prior to the award of a contract under the authority set
29 forth in Section 2 of this act, the Department shall submit a pre-award report to the Joint
30 Legislative Transportation Oversight Committee on the nature and scope of the project and the
31 reasons using the construction manager-general contractor basis will best serve the public
32 interest. Upon completion of a project awarded under Section 2 of this act, the Department
33 shall submit a post-completion report to the Joint Legislative Transportation Oversight



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1 Committee detailing the results of the project, including any cost and time efficiencies achieved
2 as a result of using the construction manager-general contractor basis.

3 **SECTION 4.** Guidelines. – The Department shall develop and implement
4 guidelines for the awarding of contracts under Section 2 of this act.

5 **SECTION 5.** Effective Date. – This act is effective when it becomes law. This act
6 expires upon submission of the post-completion report required under Section 3 of this act for
7 the final project completed under the authority set forth in Section 2 of this act.



Bill Draft 2017-MLz-201: DOT/Project Delivery Method Pilot Project.

2017-2018 General Assembly

Committee: House Select Committee on Strategic Date: March 28, 2018
Transportation Planning and Long Term
Funding Solutions

Introduced by: Prepared by: Luke Gillenwater
Analysis of: 2017-MLz-201 Staff Attorney

OVERVIEW: 2017-MLz-201 authorizes the Department of Transportation ("Department") to establish and implement a pilot project to award transportation project contracts on a construction manager-general contractor basis.

CURRENT LAW: Chapter 136 of the General Statutes lists several requirements that must be met by the Department when letting contracts. For example, G.S. 136-28.1 requires, for all contracts over five million dollars (\$5,000,000), the use of public advertising, the solicitation of at least three informal bids, and the awarding of the contract to the lowest responsible bidder. One exception to this statutory framework is located in G.S. 136-28.11, which allows the Department to award contracts for the construction of transportation projects on a design-build basis.

BILL ANALYSIS: 2017-MLz-201 does the following:

- **Section 1:** Defines the term "construction manager-general contractor" to mean a project delivery method whereby a construction manager is used during the design process to provide input on the design, and that same construction manager may subsequently act as the general contractor and construct the project.
- **Section 2:** Authorizes the Department to establish and implement the pilot project to award up to five transportation construction contracts on a construction manager-general contractor basis. The Department may only award contracts under this section if (i) the cost of the project is less than one hundred million dollars (\$100,000,000), (ii) the Department determines it is in the public interest to use this delivery method, (iii) the Department prequalifies the contractor, (iv) the Department complies with the pre-award reporting requirement, and (v) the Department has established and implemented guidelines governing the award of contracts under the pilot program.
- **Section 3:** Requires the Department to submit a pre-award report to the Joint Legislative Transportation Oversight Committee ("JLTOC") on the nature and scope of the project. Also requires the Department to submit a post-completion report to the JLTOC detailing the results of the project.
- **Section 4:** Requires the Department to develop and implement guidelines for the awarding of contracts under the pilot project.

EFFECTIVE DATE: 2017-MLz-201 is effective when it becomes law, and expires upon submission of the post-completion report for the final contract awarded under the pilot program.

Kory Goldsmith
Director



Legislative Drafting
919-733-6660

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2017

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BILL DRAFT 2017-MLz-182 [v.8]

(THIS IS A DRAFT AND IS NOT READY FOR INTRODUCTION)
04/11/2018 02:07:09 PM

Short Title: Clarify Oversight Authority/Auto Appraisers.

(Public)

Sponsors:

Referred to:

A BILL TO BE ENTITLED

AN ACT TO CLARIFY THE ROLE OF THE DEPARTMENT OF INSURANCE AND
DIVISION OF MOTOR VEHICLES REGARDING MOTOR VEHICLE APPRAISERS,
AS RECOMMENDED BY THE HOUSE SELECT COMMITTEE ON STRATEGIC
TRANSPORTATION PLANNING AND LONG TERM FUNDING SOLUTIONS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 20-279.2 reads as rewritten:

"§ 20-279.2. ~~Commissioner~~Commissioners to administer Article; appeal to court.

(a) ~~The~~Except for G.S. 20-279.21(d1), the Commissioner shall administer and enforce the provisions of this Article and may make rules and regulations necessary for its administration and shall provide for hearings upon request of persons aggrieved by orders or acts of the Commissioner under the provisions of this Article. The Commissioner of Insurance shall administer and enforce the provisions of G.S. 20-279.21(d1) and may make rules and regulations necessary for its administration.

(b) Any person aggrieved by an order or act of the Commissioner of Motor Vehicles requiring a suspension or revocation of ~~his~~the person's license under the provisions of this Article, or requiring the posting of security as provided in this Article, or requiring the furnishing of proof of financial responsibility, may file a petition in the superior court of the county in which the petitioner resides for a review, and the commencement of ~~such a~~the proceeding shall suspend the order or act of the Commissioner pending the final determination of the review. A copy of ~~such~~the petition shall be served upon the Commissioner, and the Commissioner shall have 20 days after ~~such~~ service in which to file answer. The appeal shall be heard in said county by the judge holding court in said county or by the resident judge. At the hearing upon the petition the judge shall sit without the intervention of a jury and shall receive ~~such~~any evidence ~~as shall be~~ deemed by the judge to be relevant and proper. Except as otherwise provided in this section, upon the filing of the petition herein provided for, the procedure shall be the same as in civil actions.

The matter shall be heard de novo and the judge shall enter ~~his~~an order affirming the act or order of the Commissioner, or modifying same, including the amount of bond or security to be given by the petitioner. If the court is of the opinion that the petitioner was probably not guilty of negligence or that the negligence of the other party was probably the sole proximate cause of the collision, the judge shall reverse the act or order of the Commissioner. Either party may appeal from ~~such~~the order to the Supreme Court in the same manner as in other appeals from



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1 the superior court and the appeal shall have the effect of further staying the act or order of the
2 Commissioner requiring a suspension or revocation of the petitioner's license.

3 No act, or order given or rendered in any proceeding hereunder shall be admitted or used in
4 any other civil or criminal action."

5 **SECTION 2.** G.S. 20-279.21 reads as rewritten:

6 **"§ 20-279.21. "Motor vehicle liability policy" defined.**

7 ...

8 (d1) Such motor vehicle liability policy shall provide an alternative method of
9 determining the amount of property damage to a motor vehicle when liability for coverage for
10 the claim is not in dispute. For a claim for property damage to a motor vehicle against an
11 insurer, the policy shall provide that if:

12 (1) The claimant and the insurer fail to agree as to the difference in fair market
13 value of the vehicle immediately before the accident and immediately after
14 the accident; and

15 (2) The difference in the claimant's and the insurer's estimate of the diminution
16 in fair market value is greater than two thousand dollars (\$2,000) or
17 twenty-five percent (25%) of the fair market retail value of the vehicle prior
18 to the accident as determined by the latest edition of the National
19 Automobile Dealers Association Pricing Guide Book or other publications
20 approved by the Commissioner of Insurance, whichever is less, then on the
21 written demand of either the claimant or the insurer, each shall select a
22 competent and disinterested appraiser and notify the other of the appraiser
23 selected within 20 days after the demand. The appraisers shall then appraise
24 the loss. Should the appraisers fail to agree, they shall then select a
25 competent and disinterested appraiser to serve as an umpire. If the appraisers
26 cannot agree upon an umpire within 15 days, either the claimant or the
27 insurer may request that a magistrate resident in the county where the
28 insured motor vehicle is registered or the county where the accident occurred
29 select the umpire. The appraisers shall then submit their differences to the
30 umpire. The umpire then shall prepare a report determining the amount of
31 the loss and shall file the report with the insurer and the claimant. The
32 agreement of the two appraisers or the report of the umpire, when filed with
33 the insurer and the claimant, shall determine the amount of the damages. In
34 preparing the report, the umpire shall not award damages that are higher or
35 lower than the determinations of the appraisers. In no event shall appraisers
36 or the umpire make any determination as to liability for damages or as to
37 whether the policy provides coverage for claims asserted. The claimant or
38 the insurer shall have 15 days from the filing of the report to reject the report
39 and notify the other party of such rejection. If the report is not rejected
40 within 15 days from the filing of the report, the report shall be binding upon
41 both the claimant and the insurer. Each appraiser shall be paid by the party
42 selecting the appraiser, and the expenses of appraisal and umpire shall be
43 paid by the parties equally. For purposes of this section, "appraiser" and
44 "umpire" shall mean a person licensed as a motor vehicle damage appraiser
45 under G.S. 58-33-26 and G.S. 58-33-30 and who as a part of his or her
46 regular employment is in the business of advising relative to the nature and
47 amount of motor vehicle damage and the fair market value of damaged and
48 undamaged motor vehicles.

49 ...

50 (o) An insurer that fails to comply with ~~subsection~~ subsections (d1) or (m) of this
51 section is subject to a civil penalty under G.S. 58-2-70."

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SECTION 3. This act is effective when it becomes law.



Bill Draft 2017-MLz-182: Clarify Oversight Authority/Auto Appraisers.

2017-2018 General Assembly

Committee:	House Select Committee on Strategic Transportation Planning and Long Term Funding Solutions	Date:	March 28, 2018
Introduced by:		Prepared by:	Luke Gillenwater Staff Attorney
Analysis of:	2017-MLz-182		

OVERVIEW: 2017-MLz-182 clarifies the role of the Department of Insurance and the Division of Motor Vehicles in regards to enforcing a certain law governing motor vehicle appraisers.

CURRENT LAW: G.S. 20-279.2(a) provides that the Commissioner of the Division of Motor Vehicles administers and enforces the provisions of G.S. 20-279.21(d1), which directs how motor vehicle appraisers are to appraise the value of motor vehicles involved in certain claims.

BILL ANALYSIS: 2017-MLz-182 clarifies that the Commissioner of the Department of Insurance administers and enforces the provisions of G.S. 20-279.21(d1).

EFFECTIVE DATE: 2017-MLz-182 is effective when it becomes law.

Kory Goldsmith
Director



Legislative Drafting
919-733-6660

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2017

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BILL DRAFT 2017-MWz-30 [v.7]

(THIS IS A DRAFT AND IS NOT READY FOR INTRODUCTION)
04/25/2018 08:59:48 AM

Short Title: DMV/Motorcoach Study.

(Public)

Sponsors:

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT TO REQUIRE THE DIVISION OF MOTOR VEHICLES TO STUDY FEDERAL
3 AND STATE REGULATION OF MOTORCOACHES, AS RECOMMENDED BY THE
4 HOUSE SELECT COMMITTEE ON STRATEGIC TRANSPORTATION PLANNING
5 AND LONG TERM FUNDING SOLUTIONS.

6 The General Assembly of North Carolina enacts:

7 **SECTION 1.** Motorcoach study. – The Division of Motor Vehicles, in consultation
8 with the Department of Public Safety and the North Carolina Motorcoach Association, shall
9 study federal and state regulation of motorcoaches. As part of the study, the Division of Motor
10 Vehicles shall consider all of the following:

- 11 (1) Federal regulation of motorcoaches.
- 12 (2) State regulations and requirements for motorcoaches, including the effect of
13 laws in Virginia, South Carolina, Georgia, Florida, Tennessee, Pennsylvania,
14 Washington, D.C., and New York, on North Carolina registered motorcoaches
15 traveling and doing business in those states.
- 16 (3) Regulations and requirements for out-of-state motorcoaches traveling and
17 doing business in North Carolina.
- 18 (4) The equity of regulations and requirements governing North Carolina
19 registered motorcoaches traveling and doing business in other states and
20 jurisdictions and out-of-state registered motorcoaches traveling and doing
21 business in North Carolina.
- 22 (5) Whether North Carolina may establish or enter into reciprocity agreements
23 with other states and jurisdictions to exempt North Carolina registered
24 motorcoaches traveling and doing business in those other states and
25 jurisdictions.
- 26 (6) Whether any legislative changes are necessary to ensure North Carolina
27 registered motorcoaches are not at a competitive disadvantage with
28 motorcoaches registered in other states and jurisdictions.
- 29 (7) Any other topic or issue the Division of Motor Vehicles determines to be
30 relevant to this study.

31 **SECTION 2.** Report. – By December 1, 2018, the Division of Motor Vehicles shall
32 report its findings from the study required under Section 1 of this act, including any legislative
33 recommendations, to the chairs of the Joint Legislative Transportation Oversight Committee and
34 the Joint Legislative Oversight Committee on Justice and Public Safety.



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SECTION 3. Effective Date. – This act is effective when it becomes law.



Bill Draft 2017-MWz-30: DMV/Motorcoach Study.

2017-2018 General Assembly

Committee:	House House Select Committee on Strategic Transportation Planning and Long Term Funding Solutions	Date:	April 13, 2018
Introduced by:		Prepared by:	Joshua Freeman
Analysis of:	2017-MWz-30		Committee Co-Counsel

OVERVIEW: *The proposed bill directs the Division of Motor Vehicles (DMV) to study federal and state regulation of motorcoaches. In particular, the equity of regulations and requirements governing North Carolina registered motorcoaches traveling and doing business in other states and jurisdictions and out-of-state registered motorcoaches traveling and doing business in North Carolina*

CURRENT LAW:

- Federal law preempts a state's economic authority over motorcoaches, i.e. the scheduling of service, transportation rates, and the authority to provide charter bus transportation.
- However, this preemption has a savings clause which clarifies that Federal law does not restrict a state's safety regulatory authority, its authority to impose highway route controls, or minimum financial responsibility.
- Based on the savings clause, many states and jurisdictions are enacting or have enacted safety regulations on buses traveling and doing business in those jurisdictions. These regulations are more comprehensive than those imposed by North Carolina.

BILL ANALYSIS: The proposed bill does the following:

- Directs DMV to study:
 - Federal regulation of motorcoaches.
 - Regulation of motorcoaches in other states and jurisdictions.
 - The equity of regulations and requirements governing North Carolina registered motorcoaches traveling and doing business in other states and jurisdictions and out-of-state registered motorcoaches traveling and doing business in North Carolina
 - Whether North Carolina may enter into reciprocity agreements with other states and jurisdictions.
- Requires DMV to report its findings along with any legislative recommendations.

EFFECTIVE DATE: This act is effective when it becomes law.

Kory Goldsmith
Director



Legislative Drafting
919-733-6660