

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013**

S

D

SENATE BILL 745*
PROPOSED COMMITTEE SUBSTITUTE S745-CSMN-14 [v.2]
6/25/2014 2:03:03 PM

Short Title: 2014 Technical Corrections.

(Public)

Sponsors:

Referred to:

May 15, 2014

A BILL TO BE ENTITLED
AN ACT TO MAKE TECHNICAL CORRECTIONS TO THE GENERAL STATUTES AND
THE SESSION LAWS, AS RECOMMENDED BY THE GENERAL STATUTES
COMMISSION.

The General Assembly of North Carolina enacts:

SECTION 1. Subsection (c) of G.S. 1A-1, Rule 59, is rewritten to read:

"(c) Time for serving affidavits. – When a motion for new trial is based upon affidavits they shall be served with the motion. The opposing party has 10 days after such service within which to serve opposing affidavits, which period may be extended for an additional period not exceeding 30 days either by the court for good cause shown or by the parties by written stipulation. The court may permit reply affidavits."

SECTION 2. G.S. 15-11.2 reads as rewritten:

"§ 15-11.2. Disposition of unclaimed firearms not confiscated or seized as trial evidence.

(a) Definition. – For purposes of this section, the term "unclaimed firearm" means a firearm that is found or received by a law enforcement agency and that remains unclaimed by the person who may be entitled to it for a period of 30 days after the publication of the notice required by subsection (b) of this section. The term does not include a firearm that is seized and disposed of pursuant to G.S. 15-11.1 or a firearm that is confiscated and disposed of pursuant to G.S. 14-269.1.

(b) Published Notice of Unclaimed Firearm. – When a law enforcement agency finds or receives a firearm and the firearm remains unclaimed for a period of 180 days, the agency shall publish at least one notice in a newspaper published in the county in which the agency is located. The notice shall include all of the following:

- (1) A statement that the firearm is unclaimed and is in the custody of the law enforcement agency.
- (2) A statement that the firearm may be sold or otherwise disposed of unless the firearm is claimed within 30 days of the date of the publication of the notice.
- (3) A brief description of the firearm and any other information that the chief or head of the law enforcement agency may consider necessary or advisable to reasonably inform the public about the firearm.

(c) Repealed by Session Laws 2013-158, s. 2, effective September 1, 2013, and applicable to any firearm found or received by a local law enforcement agency on or after that date and to any judicial order for the disposition of any firearm on or after that date.

(d) Disposition of Unclaimed Firearm. – If the firearm remains unclaimed for a period of 30 days after the publication of the notice, then the head or chief of the law enforcement agency shall order the disposition of the firearm in one of the following ways:



* S 7 4 5 - C S M N - 1 4 - V - 2 *

- 1 (1) By having the firearm destroyed if the firearm does not have a legible,
2 unique identification number or is unsafe for use because of wear, damage,
3 age, or modification and will not be disposed of pursuant to subdivision (3)
4 of this subsection. The head or chief of the law enforcement agency shall
5 maintain a record of the destruction of the firearm.
- 6 (2) By sale, trade, or exchange by the agency to a federally licensed firearm
7 dealer in accordance with all applicable State and federal firearm laws or by
8 sale of the firearm at a public auction to persons licensed as firearms
9 collectors, dealers, importers, or manufacturers. The head or chief of the law
10 enforcement agency shall dispose of the firearm pursuant to this subdivision
11 only if the firearm has a legible, unique identification number.
- 12 (3) By maintaining the firearm for training or experimental purposes or
13 transferring the firearm to a museum or historical society.
- 14 (e) Repealed by Session Laws 2013-158, s. 2, effective September 1, 2013, and
15 applicable to any firearm found or received by a local law enforcement agency on or after that
16 date and to any judicial order for the disposition of any firearm on or after that date.
- 17 (f) Disbursement of Proceeds of Sale. – If the law enforcement agency sells the firearm
18 pursuant to subdivision (2) of subsection (d) of this section, then the proceeds of the sale shall
19 be retained by the law enforcement agency and used for law enforcement purposes. The
20 receiving law enforcement agency shall maintain a record and inventory of all firearms
21 received pursuant to this section, as well as the disposition of the firearm, including any funds
22 received from a sale of a firearm or any firearms or other property received in exchange or
23 trade of a firearm."

24 **SECTION 2.1.(a)** G.S. 15A-830 reads as rewritten:

25 **"§ 15A-830. Definitions.**

- 26 (a) The following definitions apply in this Article:
- 27 (1) Accused. – A person who has been arrested and charged with committing a
28 crime covered by this Article.
- 29 (2) Arresting law enforcement agency. – The law enforcement agency that
30 makes the arrest of an accused.
- 31 (3) Custodial agency. – The agency that has legal custody of an accused or
32 defendant arising from a charge or conviction of a crime covered by this
33 Article including, but not limited to, local jails or detention facilities,
34 regional jails or detention facilities, facilities designated under
35 G.S. 122C-252 for the custody and treatment of involuntary clients, or the
36 Division of Adult Correction of the Department of Public Safety.
- 37 (4) Investigating law enforcement agency. – The law enforcement agency with
38 primary responsibility for investigating the crime committed against the
39 victim.
- 40 (5) Law enforcement agency. – An arresting law enforcement agency, a
41 custodial agency, or an investigating law enforcement agency.
- 42 (6) Next of kin. – The victim's spouse, children, parents, siblings, or
43 grandparents. The term does not include the accused unless the charges are
44 dismissed or the person is found not guilty.
- 45 (7) Victim. – A person against whom there is probable cause to believe one of
46 the following crimes was committed:
- 47 a. A Class A, B1, B2, C, D, or E felony.
- 48 b. A Class F felony if it is a violation of one of the following:
49 G.S. 14-16.6(b); 14-16.6(c); 14-18; 14-32.1(e); 14-32.2(b)(3);
50 14-32.3(a); 14-32.4; 14-34.2; 14-34.6(c); 14-41; 14-43.3; 14-43.11;

- 1 ~~14-190.17; 14-190.19; 14-202.1; 14-277.3A; 14-288.9; 20-138.5;~~
2 ~~former G.S. 14-190.19 or former G.S. 14-277.3.~~
3 c. A Class G felony if it is a violation of one of the following:
4 G.S. 14-32.3(b); 14-51; 14-58; ~~14-87.1; or 20-141.4; or 14-87.1.~~
5 d. A Class H felony if it is a violation of one of the following:
6 G.S. 14-32.3(a); ~~14-32.3(e); 14-33.2; 14-34.6(b); 14-190.17A;~~
7 ~~14-277.3A; former G.S. 14-32.3(c) or former G.S. 14-277.3.~~
8 e. A Class I felony if it is a violation of ~~one of the following:~~
9 ~~G.S. 14-32.3(b); 14-34.6(b); or 14-190.17A; G.S. 14-32.3(b).~~
10 f. An attempt of any of the felonies listed in this subdivision if the
11 attempted felony is punishable as a felony.
12 g. Any of the following misdemeanor offenses when the offense is
13 committed between persons who have a personal relationship as
14 defined in G.S. 50B-1(b): G.S. 14-33(c)(1); 14-33(c)(2); 14-33(a);
15 14-34; 14-134.3; 14-277.3A; or former G.S. 14-277.3.
16 h. Any violation of a valid protective order under G.S. 50B-4.1.

17 (b) If the victim is deceased, then the next of kin, in the order set forth in the definition
18 contained in this section, is entitled to the victim's rights under this Article. However, the right
19 contained in G.S. 15A-834 may only be exercised by the personal representative of the victim's
20 estate. An individual entitled to exercise the victim's rights as a member of the class of next of
21 kin may designate anyone in the class to act on behalf of the class."

22 **SECTION 2.1.(b)** This section does not affect the rights granted by Article 46 of
23 Chapter 15A of the General Statutes to any person who was a victim as defined in
24 G.S. 15A-830 before the effective date of this section.

25 **SECTION 2.2.** The title of G.S. 20-28.9 reads as rewritten:

26 **"§ 20-28.9. Authority for the Department of Public Instruction to administer a statewide**
27 **or regional towing, storage, and sales program for driving while impaired**
28 **vehicles forfeited."**

29 **SECTION 2.3.** G.S. 28A-22-7(c) is repealed.

30 **SECTION 2.4.** G.S. 31-33 reads as rewritten:

31 **"§ 31-33. Cause transferred to trial docket.**

32 ~~The caveator's~~

33 (a) Upon the filing of a caveat, the clerk shall transfer the cause to the superior court for
34 trial by jury. The caveat shall be served upon all interested parties in accordance with
35 G.S. 1A-1, Rule 4 of the Rules of Civil Procedure.

36 (b) After service under subsection (a) of this section, the caveator shall cause notice of a
37 hearing to align the parties to be served upon all parties in accordance with G.S. 1A-1, Rule 5
38 of the Rules of Civil Procedure. At the alignment hearing, all of the interested parties who wish
39 to be aligned as parties shall appear and be aligned by the court as parties with the caveators or
40 parties with the propounders of the will. If an interested party does not appear to be aligned or
41 chooses not to be aligned, the judge shall dismiss that interested party from the proceeding, but
42 that party shall be bound by the proceeding.

43 (c) Within 30 days following the entry of an order aligning the parties, any interested
44 party who was aligned may file a responsive pleading to the caveat, provided, however, that
45 failure to respond to any averment or claim of the caveat shall not be deemed an admission of
46 that averment or claim. An extension of time to file a responsive pleading to the caveat may be
47 granted as provided by G.S. 1A-1, Rule 6 of the Rules of Civil Procedure.

48 (d) Upon motion of an aligned party, the court may require a caveator to provide
49 security in such sum as the court deems proper for the payment of such costs and damages as
50 may be incurred or suffered by the estate if the estate is found to have been wrongfully
51 enjoined or restrained. The court may consider relevant facts related to whether a bond should

be required and the amount of any such bond, including, but not limited to, (i) whether the estate may suffer irreparable injury, loss, or damage as a result of the caveat and (ii) whether the caveat has substantial merit. Provisions for bringing suit in forma pauperis apply to the provisions of this subsection."

SECTION 3. G.S. 42A-15 reads as rewritten:

"§ 42A-15. Trust account uses.

A landlord or real estate broker may require a tenant to pay all or part of any required rent, security deposit, or other fees permitted by law in advance of the commencement of a tenancy under this Chapter if these payments are expressly authorized in the vacation rental agreement. If the tenant is required to make any advance payments, other than a security deposit, whether the payment is denominated as rent or otherwise, the landlord or real estate broker shall deposit these payments in a trust account in an insured bank or savings and loan association in North Carolina no later than three banking days after the receipt of ~~the~~ these payments. These payments deposited in a trust account shall not earn interest unless the landlord and tenant agree in the vacation rental agreement that the payments may be deposited in an interest-bearing account. The landlord and tenant shall also provide in the agreement to whom the accrued interest shall be disbursed."

SECTION 4. G.S. 53-244.111 reads as rewritten:

"§ 53-244.111. Prohibited acts.

In addition to the activities prohibited under other provisions of this Article, it shall be unlawful for any person in the course of any residential mortgage loan transaction:

...

- (22) For a person acting as a mortgage servicer to fail to mail, at least 45 days before foreclosure is initiated, a notice addressed to the borrower at the borrower's last known address with the following information:
- a. An itemization of all past due amounts causing the loan to be in default.
 - b. An itemization of any other charges that must be paid in order to bring the loan current.
 - c. A statement that the borrower may have options available other than foreclosure and that the borrower may discuss the options with the mortgage lender, the mortgage servicer, or a counselor approved by the U.S. Department of Housing and Urban Development (HUD).
 - d. The address, telephone number, and other contact information for the mortgage lender, the mortgage servicer, or the agent for either of them who is authorized to attempt to work with the borrower to avoid foreclosure.
 - e. The name, address, telephone number, and other contact information for one or more HUD-approved counseling agencies operating to assist borrowers in North Carolina to avoid foreclosure.
 - f. The address, telephone number, and other contact information for the ~~consumer complaint section of the Office of the Commissioner of Banks~~ State Home Foreclosure Prevention Project of the Housing Finance Agency.

...."

SECTION 4.1. G.S. 58-50-75(b) reads as rewritten:

"(b) This Part applies to all insurers that offer a health benefit plan and that provide or perform utilization review pursuant to G.S. 58-50-61, the State Health Plan for Teachers and State Employees, and any optional plans or programs operating under Part 2 of Article 3A of Chapter 135 of the General Statutes, the North Carolina Health Insurance Risk Pool, and the Health Insurance Program for Children. Statutes. With respect to second-level grievance review

1 decisions, this Part applies only to second-level grievance review decisions involving
2 noncertification decisions."

3 **SECTION 5.** G.S. 95-111.4 reads as rewritten:

4 **"§ 95-111.4. Powers and duties of Commissioner.**

5 The Commissioner of Labor is hereby ~~empowered~~empowered to do all of the following:

- 6 (1) To delegate to the Director of the Elevator and Amusement Device Division
7 such powers, duties and responsibilities as the Commissioner determines
8 will best serve the public interest in the safe operation of amusement
9 ~~devices;~~devices.
- 10 (2) To supervise the Director of the Elevator and Amusement Device
11 ~~Division;~~Division.
- 12 (3) To adopt, modify, or revoke such rules and regulations as are necessary for
13 the purpose of carrying out the provisions of this Article including, but not
14 limited to, those governing the design, construction, installation, plans
15 review, testing, inspection, certification, operation, use, maintenance,
16 alteration and relocation of devices subject to the provisions of this Article.
17 The rules and regulations promulgated pursuant to this rulemaking authority
18 shall conform with good engineering and safety standards, formulas and
19 ~~practices;~~practices.
- 20 (4) To enforce rules and regulations adopted under authority of this
21 ~~Article;~~Article.
- 22 (5) To inspect and have tested for acceptance all new and relocated devices
23 subject to the provisions of this Article. Relocated amusement devices shall
24 be inspected upon reassembly at each new location within this State;
25 provided that the Commissioner may provide for less frequent inspections
26 when he determines that the device is of such a type and its use is of such a
27 nature that inspection less often than upon each reassembly would not
28 expose the public to an unsafe condition likely to result in serious personal
29 injury or property ~~damage;~~damage.
- 30 (6) To inspect amusement devices which have been substantially rebuilt or
31 substantially modified so as to change the original action, structure or
32 capacity of the ~~device;~~device.
- 33 (7) To make maintenance and periodic inspections and tests of all devices
34 subject to the provisions of this Article. Devices located in amusement parks
35 shall be inspected at least once ~~annually;~~annually.
- 36 (8) To issue certificates of operation which certify for use such devices as are
37 found to be in compliance with this Article and the rules and regulations
38 promulgated ~~thereunder;~~thereunder.
- 39 (9) To have reasonable access, with or without notice, to the devices subject to
40 the provisions of this Article during reasonable hours, for purposes of
41 inspection or ~~testing;~~testing.
- 42 (10) To obtain an Administrative Search and Inspection Warrant in accordance
43 with the provisions of Article 4A of Chapter 15 of the General
44 ~~Statutes;~~Statutes.
- 45 (11) To investigate accidents involving devices subject to the provisions of this
46 Article to determine the cause of ~~such—the~~ accident, and ~~he—the~~
47 Commissioner shall have full subpoena powers in conducting ~~such~~
48 ~~investigation;~~the investigation.
- 49 (12) To institute proceedings in the civil courts of this State, when a provision of
50 this Article or the rules and regulations promulgated thereunder has been
51 ~~violated;~~violated.

- (13) To adopt, modify or revoke rules and regulations governing the qualifications of ~~inspectors~~inspectors.
- (14) To grant exceptions from the requirements of the rules and regulations promulgated under authority of this Article and to permit the use of other devices when ~~such~~these exceptions and uses will not expose the public to an unsafe condition likely to result in serious personal injury or property ~~damage~~damage.
- (15) To require that before any device subject to the provisions of this Article is erected in this State, or before any additions or alterations which substantially change ~~such~~the device are made, or before the physical spacing between ~~such~~the devices is changed, the owner or ~~his~~the owner's authorized agent shall file with the Commissioner a written notice of ~~his~~the owner's intention to do so and the type of device involved. Should circumstances necessitate, the Commissioner may require that ~~such~~the owner or ~~his~~the owner's authorized agent furnish a copy of the plans, diagrams, specifications or stress analyses of ~~such~~the device before the inspection of ~~same~~the device. When ~~such~~ plans, diagrams, specifications or stress analyses are requested by the Commissioner, ~~he~~the Commissioner shall review them within 10 days of receipt, and upon approval, ~~he~~ shall authorize the device for use by the ~~public~~public.
- (16) To prohibit the use of any device subject to the provisions of this Article which is found upon inspection to expose the public to an unsafe condition likely to cause personal injury or property damage. Such a device shall be made operational only upon the Commissioner's determination that ~~such device~~it has been made ~~safe~~safe.
- (17) To order the payment of all civil penalties provided by this Article. The clear proceeds of funds collected pursuant to a civil penalty order shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with ~~G.S. 115C-457.2; and~~G.S. 115C-457.2.
- (18) To coordinate enforcement and inspection activity relative to equipment, devices and operations covered by this Article in order to minimize duplication of liability or regulatory responsibility on the part of the employer or owner.
- (19) To establish fees not to exceed two hundred fifty dollars (\$250.00) for the inspection and issuance of certificates of operation for devices subject to this Article that are in use."

SECTION 6. G.S. 95-148 reads as rewritten:

"§ 95-148. Safety and health programs of State agencies and local governments.

It shall be the responsibility of each administrative department, commission, board, division or other agency of the State and of counties, cities, towns and subdivisions of government to establish and maintain an effective and comprehensive occupational safety and health program which is consistent with the standards and regulations promulgated under this Article. The head of each agency shall:

- (1) Provide safe and healthful places and conditions of employment, consistent with the standards and regulations promulgated by this ~~Article~~Article.
- (2) Acquire, maintain, and require the use of safety equipment, personal protective equipment, and devices reasonably necessary to protect ~~employees~~employees.
- (3) Consult with and encourage employees to cooperate in achieving safe and healthful working ~~conditions~~conditions.

- (4) Keep adequate records of all occupational accidents and illnesses for proper evaluation and corrective ~~action~~action.
- (5) Consult with the Commissioner as to the adequacy as to form and content of records kept pursuant to this ~~section~~section.
- (6) Make an annual report to the Commissioner with respect to occupational accidents and injuries and the agency's program under this section.

The Commissioner shall transmit annually to the Governor and the General Assembly a report of the activities of the State agency and instrumentalities under this section. If the Commissioner has reason to believe that any local government program or program of any agency of the State is ineffective, ~~he~~the Commissioner shall, after unsuccessfully seeking by negotiations to abate ~~such~~this failure, include this in ~~his~~the Commissioner's annual report to the Governor and the General Assembly, together with the reasons therefor, and may recommend legislation intended to correct ~~such~~the condition.

The Commissioner shall have access to the records and reports kept and filed by State agencies and instrumentalities pursuant to this section unless such records and reports are required to be kept secret in the interest of national defense, in which case the Commissioner shall have access to such information as will not jeopardize national defense.

Employees of any agency or department covered under this section are afforded the same rights and protections as granted employees in the private sector.

This section shall not apply to volunteer fire departments not a part of any municipality.

Any municipality with a population of 10,000 or less may exclude its fire department from the operation of this section by a resolution of the governing body of the municipality, except that the resolution may not exclude those firefighters who are employees of the municipality.

The North Carolina Fire and Rescue Commission shall recommend regulations and standards for fire departments."

SECTION 7.(a) G.S. 111-47.1 reads as rewritten:

"§ 111-47.1. Food service at North Carolina aquariums.

(a) Notwithstanding ~~Article 3 of Chapter 111 of the General Statutes,~~this Article, the North Carolina Aquariums may operate or contract for the operation of food or vending services at the North Carolina Aquariums. Notwithstanding G.S. 111-43, the net proceeds of revenue generated by food and vending services that are provided at the North Carolina Aquariums and are operated by or whose operation is contracted for by the Division of North Carolina Aquariums shall be credited to the North Carolina Aquariums Fund.

(b) This section shall not be construed to alter any contract for food or vending services at the North Carolina Aquariums that is in force ~~at the time this section becomes law.~~on July 1, 1999."

SECTION 7.(b) G.S. 111-47.2 reads as rewritten:

"§ 111-47.2. Food service at museums and historic sites operated by the Department of Cultural Resources.

Notwithstanding ~~Article 3 of Chapter 111 of the General Statutes,~~this Article, the North Carolina Department of Cultural Resources may operate or contract for the operation of food or vending services at museums and historic sites operated by the Department. Notwithstanding G.S. 111-43, the net proceeds of revenue generated by food and vending services provided at museums and historic sites operated by the Department or a vendor with whom the Department has contracted shall be credited to the appropriate fund of the museum or historic site where the funds were generated and shall be used for the operation of that museum or historic site."

SECTION 8. G.S. 113-133.1(e) reads as rewritten:

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

1 Alleghany: Session Laws 1951, Chapter 665; Session Laws 1977, Chapter 526; Session
2 Laws 1979, Chapter 556.
3 Anson: Former G.S. 113-111, as amended by Session Laws 1955, Chapter 286.
4 Ashe: Former G.S. 113-111; Session Laws 1951, Chapter 665.
5 Avery: Former G.S. 113-122.
6 Beaufort: Session Laws 1947, Chapter 466, as amended by Session Laws 1979, Chapter
7 219; Session Laws 1957, Chapter 1364; Session Laws 1971, Chapter 173.
8 Bertie: Session Laws 1955, Chapter 1376; Session Laws 1975, Chapter 287.
9 Bladen: Public-Local Laws 1933, Chapter 550, Section 2 (as it pertains to fox season);
10 Session Laws 1961, Chapter 348 (as it applies to Bladen residents fishing in Robeson County);
11 Session Laws 1961, Chapter 1023; Session Laws 1971, Chapter 384.
12 Brunswick: Session Laws 1975, Chapter 218.
13 Buncombe: Public-Local Laws 1933, Chapter 308.
14 Burke: Public-Local Laws 1921, Chapter 454; Public-Local Laws 1921 (Extra Session),
15 Chapter 213, Section 3 (with respect to fox seasons); Public-Local Laws 1933, Chapter 422,
16 Section 3; Session Laws 1977, Chapter 636.
17 Caldwell: Former G.S. 113-122; Session Laws 1977, Chapter 636; Session Laws 1979,
18 Chapter 507.
19 Camden: Session Laws 1955, Chapter 362 (to the extent it applies to inland fishing waters);
20 Session Laws 1967, Chapter 441.
21 Carteret: Session Laws 1955, Chapter 1036; Session Laws 1977, Chapter 695.
22 Caswell: Public-Local Laws 1933, Chapter 311; Public-Local Laws 1937, Chapter 411.
23 Catawba: Former G.S. 113-111, as amended by Session Laws 1955, Chapter 1037.
24 Chatham: Public-Local Laws 1937 Chapter 236; Session Laws 1963, Chapter 271.
25 Chowan: Session Laws 1979, Chapter 184; Session Laws 1979, Chapter 582.
26 Cleveland: Public Laws 1907, Chapter 388; Session Laws 1951, Chapter 1101; Session
27 Laws 1979, Chapter 587.
28 Columbus: Session Laws 1951, Chapter 492, as amended by Session Laws 1955, Chapter
29 506.
30 Craven: Session Laws 1971, Chapter 273, as amended by Session Laws 1971, Chapter 629.
31 Cumberland: Session Laws 1975, Chapter 748; Session Laws 1977, Chapter 471.
32 Dare: Session Laws 1973, Chapter 259.
33 Davie: Former G.S. 113-111, as amended by Session Laws 1947, Chapter 333.
34 Duplin: Session Laws 1965, Chapter 774; Session Laws 1973 (Second Session 1974),
35 Chapter 1266; Session Laws 1979, Chapter 466.
36 Edgecombe: Session Laws 1961, Chapter 408.
37 Gates: Session Laws 1959, Chapter 298; Session Laws 1975, Chapter 269; Session Laws
38 1975, Chapter 748.
39 Granville: Session Laws 1963, Chapter 670.
40 Greene: Session Laws 1975, Chapter 219; Session Laws 1979, Chapter 360.
41 Halifax: Public-Local Laws 1925, Chapter 571, Section 3 (with respect to fox-hunting
42 seasons); Session Laws 1947, Chapter 954; Session Laws 1955, Chapter 1376.
43 Haywood: Former G.S. 113-111, as modified by Session Laws 1963, Chapter 322.
44 Henderson: Former G.S. 113-111.
45 Hertford: Session Laws 1959, Chapter 298; Session Laws 1975, Chapter 269; Session Laws
46 1975, Chapter 748; Session Laws 1977, Chapter 67.
47 Hoke: Session Laws 1963, Chapter 267.
48 Hyde: Public-Local Laws 1929, Chapter 354, Section 1 (as it relates to foxes); Session
49 Laws 1951, Chapter 932.
50 Iredell: Session Laws 1979, Chapter 577.
51 Jackson: Session Laws 1965, Chapter 765.

1 Johnston: Session Laws 1975, Chapter 342.
2 Jones: Session Laws 1979, Chapter 441.
3 Lee: Session Laws 1963, Chapter 271; Session Laws 1977, Chapter 636.
4 Lenoir: Session Laws 1979, Chapter 441.
5 Lincoln: Public-Local Laws 1925, Chapter 449, Sections 1 and 2; Session Laws 1955,
6 Chapter 878.
7 Madison: Public-Local Laws 1925, Chapter 418, Section 4; Session Laws 1951, Chapter
8 1040.
9 Martin: Session Laws 1955, Chapter 1376; Session Laws 1977, Chapter 636.
10 Montgomery: Session Laws 1977 (Second Session 1978), Chapter 1142.
11 Nash: Session Laws 1961, Chapter 408.
12 New Hanover: Session Laws 1971, Chapter 559; Session Laws 1975, Chapter 95.
13 Northampton: Session Laws 1955, Chapter 1376; Session Laws 1975, Chapter 269; Session
14 Laws 1975, Chapter 748; Session Laws 1977, Chapter 67; Session Laws 1979, Chapter 548.
15 Orange: Public-Local Laws 1913, Chapter 547.
16 Pamlico: Session Laws 1977, Chapter 636.
17 Pender: Session Laws 1961, Chapter 333; Session Laws 1967, Chapter 229; Session Laws
18 1969, Chapter 258, as amended by Session Laws 1973, Chapter 420; Session Laws 1977,
19 Chapter 585, as amended by Session Laws 1985, Chapter 421; Session Laws 1977, Chapter
20 805; Session Laws 1979, Chapter 546.
21 Perquimans: Former G.S. 113-111; Session Laws 1973, Chapter 160; Session Laws 1973,
22 Chapter 264.
23 Polk: ~~Session Laws 1975, Chapter 397~~; Session Laws 1975, Chapter 269, as amended by
24 Session Laws 1977, Chapter 167.
25 Randolph: Public-Local Laws 1941, Chapter 246; Session Laws 1947, Chapter 920.
26 Robeson: Public-Local Laws 1924 (Extra Session), Chapter 92; Session Laws 1961,
27 Chapter 348.
28 Rockingham: Former G.S. 113-111; Public-Local Laws 1933, Chapter 310.
29 Rowan: Session Laws 1975, Chapter 269, as amended by Session Laws 1977, Chapter 106,
30 and Session Laws 1977, Chapter 500; Session Laws 1979, Chapter 556.
31 Rutherford: Session Laws 1973, ~~Chapter 114~~; ~~Session Laws 1975, Chapter 397~~ Chapter
32 114.
33 Sampson: Session Laws 1979, Chapter 373.
34 Scotland: Session Laws 1959, Chapter 1143; Session Laws 1977, Chapter 436.
35 Stokes: Former G.S. 113-111; Public-Local Laws 1933, Chapter 310; Session Laws 1979,
36 Chapter 556.
37 Surry: Public-Local Laws 1925, Chapter 474, Section 6 (as it pertains to fox seasons);
38 Session Laws 1975, Chapter 269, as amended by Session Laws 1977, Chapter 167.
39 Swain: Public-Local Laws 1935, Chapter 52; Session Laws 1953, Chapter 270; Session
40 Laws 1965, Chapter 765.
41 Transylvania: Public Laws 1935, Chapter 107, Section 2, as amended by Public Laws 1935,
42 Chapter 238.
43 Tyrrell: Former G.S. 113-111; Session Laws 1953, Chapter 685.
44 Wake: Session Laws 1973 (Second Session 1974), Chapter 1382.
45 Washington: Session Laws 1947, Chapter 620.
46 Wayne: Session Laws 1975, Chapter 269; Session Laws 1975, Chapter 342, as amended by
47 Session Laws 1977, Chapter 43; Session Laws 1975, Chapter 343, as amended by Session
48 Laws 1977, Chapter 45; Session Laws 1977, Chapter 695.
49 Wilkes: Former G.S. 113-111, as amended by Session Laws 1971, Chapter 385; Session
50 Laws 1951, Chapter 665; Session Laws 1973, Chapter 106; Session Laws 1979, Chapter 507.

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

3 Yancey: Session Laws 1965, Chapter 522."

4 **SECTION 9.** G.S. 115C-325(h)(7) reads as rewritten:

5 "(7) Within five days of being notified of the request for a hearing before a
6 hearing officer, the Superintendent of Public Instruction shall submit to both
7 parties a list of hearing officers trained and approved by the State Board of
8 Education. Within five days of receiving the list, the parties may jointly
9 select a hearing officer from that list, or, if the parties cannot agree to a
10 hearing officer, each party may strike up to one-third of the names on the list
11 and submit its strikeout list to the Superintendent of Public Instruction. The
12 Superintendent of Public Instruction shall then appoint a hearing officer
13 from those individuals remaining on the list. Further, the parties may jointly
14 agree on another hearing officer not on the State Board of ~~Education's~~
15 Education's list, provided that individual is available to proceed in a timely
16 manner and is willing to accept the terms of appointment required by the
17 State Board of Education. No person eliminated by the career employee or
18 superintendent shall be designated as the hearing officer for that case."

19 **SECTION 10.** G.S. 130A-294.1(b) reads as rewritten:

20 "(b) Funds collected pursuant to this section shall be used for personnel and other
21 resources necessary to:

- 22 (1) Provide a high level of technical assistance and waste minimization effort
23 for the hazardous waste management ~~program;program.~~
- 24 (2) Provide timely review of permit ~~applications;applications.~~
- 25 (3) Insure that permit decisions are made on a sound technical basis and that
26 permit decisions incorporate all conditions necessary to accomplish the
27 purposes of this ~~Part;Part.~~
- 28 (4) Improve monitoring and compliance of the hazardous waste management
29 ~~program;program.~~
- 30 (5) Increase the frequency of ~~inspections;inspections.~~
- 31 (6) Provide chemical, biological, toxicological, and analytical support for the
32 hazardous waste management ~~program;andprogram.~~
- 33 (7) Provide resources for emergency response to imminent hazards associated
34 with the hazardous waste management ~~program;program.~~
- 35 (8) Implement and provide oversight of necessary response activities involving
36 inactive hazardous substance or waste disposal ~~sites;sites.~~
- 37 (9) Provide compliance and prevention activities within the solid waste program
38 to ensure that hazardous waste is not disposed in solid waste management
39 facilities."

40 **SECTION 10.1.** G.S. 130A-335(f1) reads as rewritten:

41 "(f1) A preconstruction conference with the owner or developer, or an agent of the owner
42 or developer, and a representative of the local health department shall be required for any
43 authorization for wastewater system construction issued with an improvement permit under
44 ~~G.S. 130-336~~ G.S. 130A-336 when the authorization is greater than five years old. Following
45 the conference, the local health department shall issue a revised authorization for wastewater
46 system construction that includes current technology that can reasonably be expected to
47 improve the performance of the system."

48 **SECTION 11.** G.S. 136-93(b) reads as rewritten:

49 "(b) Except as provided in G.S. 136-133.1(g), no vegetation, including any tree, shrub,
50 or underbrush, in or on any right-of-way of a State road or State highway shall be planted, cut,
51 trimmed, pruned, or removed without a written selective vegetation removal permit issued

pursuant to G.S. 136-133.2 and in accordance with the rules of the Department. Requests for a permit for selective vegetation cutting, thinning, pruning, or removal shall be made by the owner of an outdoor advertising sign or the owner of a business facility to the appropriate person in the Division of Highways office on a form prescribed by the Department. For purposes of this section, G.S. 136-133.1, 136-133.2, and 136-133.4, the phrase "outdoor advertising" shall mean the outdoor advertising expressly permitted under ~~G.S. 136-129(a)(4)~~ G.S. 136-129(4) or ~~G.S. 136-129(a)(5)~~ G.S. 136-129(5). These provisions shall not be used to provide visibility to on-premises signs."

SECTION 11.1. G.S. 143-52.2 is repealed.

SECTION 12. G.S. 143-151.57 reads as rewritten:

"§ 143-151.57. Fees.

(a) Maximum Fees. – The Board may adopt fees that do not exceed the amounts set in the following table for administering this Article:

<u>Item</u>	<u>Maximum Fee</u>
Application for home inspector license	\$35.00
Home inspector examination	80.00
Issuance or renewal of home inspector license	160.00
Late renewal of home inspector license	30.00
Application for course approval	150.00
Renewal of course approval	75.00
Course fee, per credit hour per licensee	5.00
Credit for unapproved continuing education course	50.00
Copies of Board rules or licensure standards	Cost of printing and mailing.

~~Or renewal 20.00 110.00 20.00~~

(b) Subsequent Application. – An individual who applied for a license as a home inspector and who failed the home inspector examination is not required to pay an additional application fee if the individual submits another application for a license as a home inspector. The individual must pay the examination fee, however, to be eligible to take the examination again. An individual may take the examination only once every 180 days."

SECTION 13. G.S. 143-151.77 reads as rewritten:

"§ 143-151.77. Enforcement and penalties.

(a) In addition to injunctive relief, the Commissioner may assess and collect a civil penalty against any person who violates any of the provisions of this Article or rules adopted pursuant to this Article, as provided in this ~~subsection~~ section. The maximum civil penalty for a violation is five thousand dollars (\$5,000). A civil penalty may be assessed from the date of the violation. Each day of a continuing violation may constitute a separate violation.

(b) The Commissioner shall determine the amount of the civil penalty and shall notify the person who is assessed the civil penalty of the amount of the penalty and the reason for assessing the penalty. The notice of assessment shall be served by any means authorized under Rule 4 of G.S. 1A-1 and shall direct the violator to either pay the assessment or contest the assessment within 30 calendar days by filing a petition for a contested case under Article 3 of Chapter 150B of the General Statutes. If a violator does not pay a civil penalty assessed by the Commissioner within 30 calendar days after it is due, the Commissioner shall request that the Attorney General institute a civil action to recover the amount of the assessment. The civil action may be brought in the superior court of any county where the violation occurred. A civil action must be filed within one year of the date the assessment was due. An assessment that is not contested is due when the violator is served with a notice of assessment. An assessment that is contested is due at the conclusion of the administrative and judicial review of the assessment.

(c) In determining the amount of the penalty, the Commissioner shall consider the degree and extent of harm caused by the violation, the cost of rectifying the damage, the

1 amount of money the violator saved by noncompliance, whether the violation was committed
2 willfully, the prior record of the violator in complying or failing to comply with this Article,
3 and the action of the person to remedy the violation.

4 (d) The clear proceeds of civil penalties collected by the Commissioner under this
5 subsection shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with
6 G.S. 115C-457.2."

7 **SECTION 14.** G.S. 150B-41 reads as rewritten:

8 **"§ 150B-41. Evidence; stipulations; official notice.**

9 (a) In all contested cases, irrelevant, immaterial, and unduly repetitious evidence shall
10 be excluded. Except as otherwise provided, the rules of evidence as applied in the trial division
11 of the General Court of Justice shall be followed; but, when evidence is not reasonably
12 available under such rules to show relevant facts, they may be shown by the most reliable and
13 substantial evidence available. It shall not be necessary for a party or his attorney to object to
14 evidence at the hearing in order to preserve the right to object to its consideration by the agency
15 in reaching its decision, or by the court of judicial review.

16 (b) Evidence in a contested case, including records and documents shall be offered and
17 made a part of the record. Other factual information or evidence shall not be considered in
18 determination of the case, except as permitted under ~~G.S. 150B-30.~~ subsection (d) of this
19 section. Documentary evidence may be received in the form of a copy or excerpt or may be
20 incorporated by reference, if the materials so incorporated are available for examination by the
21 parties. Upon timely request, a party shall be given an opportunity to compare the copy with the
22 original if available.

23 (c) The parties in a contested case under this Article by a stipulation in writing filed
24 with the agency may agree upon any fact involved in the controversy, which stipulation shall be
25 used as evidence at the hearing and be binding on the parties thereto. Parties should agree upon
26 facts when practicable. Except as otherwise provided by law, disposition may be made of a
27 contested case by stipulation, agreed settlement, consent order, waiver, default, or other method
28 agreed upon by the parties.

29 (d) Official notice may be taken of all facts of which judicial notice may be taken and
30 of other facts within the specialized knowledge of the agency. The noticed fact and its source
31 shall be stated and made known to affected parties at the earliest practicable time, and any party
32 shall on timely request be afforded an opportunity to dispute the noticed fact through
33 submission of evidence and argument. An agency may use its experience, technical
34 competence, and specialized knowledge in the evaluation of evidence presented to it."

35 **SECTION 15.(a)** G.S. 153A-357(d) is repealed.

36 **SECTION 15.(b)** G.S. 160A-417(c) is repealed.

37 **SECTION 15.1.** G.S. 160A-58.64 reads as rewritten:

38 **"§ 160A-58.64. Referendum prior to involuntary annexation ordinance.**

39 (a) After the adoption of the resolution of intent under this Part, the municipality shall
40 place the question of annexation on the ballot. The municipal governing board shall notify the
41 appropriate county board or boards of elections of the adoption of the resolution of intent and
42 provide a legible map and clear written description of the proposed annexation area.

43 (b) In accordance with ~~G.S. 163-58.55,~~ G.S. 160A-58.55, the municipal governing
44 board shall adopt a resolution setting the date for the referendum and so notify the appropriate
45 county board or boards of elections.

46 (c) The county board or boards of elections shall cause legal notice of the election to be
47 published. That notice shall include the general statement of the referendum. The referendum
48 shall be conducted, returned, and the results declared as in other municipal elections in the
49 municipality. Only registered voters of the proposed annexation area shall be allowed to vote
50 on the referendum.

(d) The referendum of any number of proposed involuntary annexations may be submitted at the same election; but as to each proposed involuntary annexation, there shall be an entirely separate ballot question.

(e) The ballots used in a referendum shall submit the following proposition:

"[] FOR [] AGAINST

The annexation of (clear description of the proposed annexation area)."

(f) If less than a majority of the votes cast on the referendum are for annexation, the municipal governing body may not proceed with the adoption of the annexation ordinance or begin a separate involuntary annexation process with respect to that proposed annexation area for at least 36 months from the date of the referendum. If a majority of the votes cast on the referendum are for annexation, the municipal governing body may proceed with the adoption of the annexation ordinance under G.S. 160A-58.55."

SECTION 16.(a) On March 13, 1895, the General Assembly enacted "An act to incorporate the town of Columbus." The act was published in the 1895 "Private Laws of North Carolina," appearing on pages 404 through 406. The session law designation that appears at the beginning of the act is "Chapter 354," although (i) the act is physically located between Chapters 253 and 255, and (ii) pages 404 through 406 have a running header showing Chapter 254 as the session law contained on those pages. There is otherwise no Chapter 254 in the 1895 "Private Laws of North Carolina," and the last session law in that volume is Chapter 353. It therefore appears that the intended session law designation for the act was Chapter 254 and that the published session law number contains a typographical error. The act has been cited at least once in a subsequent session law as "Chapter 354 of the Private Laws of 1895" and was repealed in Chapter 46 of the 1985 Session Laws ("An act to revise and consolidate the charter of the town of Columbus").

SECTION 16.(b) To remove any ambiguity, any reference to "Chapter 354" of the 1895 Private Laws of this State or to "Chapter 254" of the 1895 Private Laws of this State shall be construed as a reference to the act enacted by the General Assembly on March 13, 1895, entitled "An act to incorporate the town of Columbus."

SECTION 16.1. Section 5 of S.L. 2011-84 reads as rewritten:

"**SECTION 5.** Sections 2, 3, and 4 of this act do not apply to a city or joint agency providing communications service as of January 1, 2011, provided the city or joint agency limits the provision of communications service as provided in G.S. 160A-340.2(c). In the event a city subject to the exemption set forth in this section provides communications service to a customer outside the limits set forth in ~~G.S. 160A-340(e)~~, G.S. 160A-340.2(c), the city shall have 30 days from the date of notice or discovery to cease providing service to the customer without loss of the exemption."

SECTION 17. Section 60(c) of S.L. 2013-413 reads as rewritten:

"**SECTION 60.(c)** This act ~~Part~~ becomes effective July 1, 2015."

SECTION 18. Except as otherwise provided, this act is effective when it becomes law.