

**GENERAL ASSEMBLY OF NORTH CAROLINA**  
**SESSION 2015**

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**SENATE BILL 821**  
**PROPOSED COMMITTEE SUBSTITUTE S821-CSMN-11 [v.13]**  
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Short Title: GSC Technical Corrections 1. (Public)

Sponsors: Senator Hartsell (Primary Sponsor).

Referred to:

May 10, 2016

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

The General Assembly of North Carolina enacts:

**PART I. TECHNICAL CORRECTIONS RECOMMENDED BY THE GENERAL  
STATUTES COMMISSION.**

**SECTION 1.** G.S. 14-118.6(b1) reads as rewritten:

"(b1) When a lien or encumbrance is presented to a clerk of superior court for filing and the clerk of court has a reasonable suspicion that the lien or encumbrance is false as described in subsection (a) of this section, the clerk of court may refuse to file the lien or encumbrance. Neither the clerk of court nor the clerk's staff shall be liable for filing or the refusal to file a lien or encumbrance under this subsection. The clerk of superior court shall not file, index, or docket the document against the property of a public officer or public employee until that document is approved by any judge of the judicial district having subject matter jurisdiction for filing by the clerk of superior court by any judge of the judicial district having subject matter jurisdiction. If the judge determines that the filing is not false, the clerk shall index the claim of lien. A lien or encumbrance filed upon order of the court under this subsection shall have a priority interest as of the date and time of indexing by the clerk of superior court. If the court finds that there is no statutory or contractual basis for the proposed filing, the court shall enter an order that the proposed filing is null and void as a matter of law, and that it shall not be filed or indexed. The clerk of superior court shall serve the order and return the original denied filing to the person or entity that presented it. The person or entity shall have 30 days from the entry of the order to appeal the order. If the order is not appealed within the applicable time period, the clerk may destroy the filing."

**SECTION 1.1.** G.S. 14-159.3(a1) reads as rewritten:

"(a1) A landowner who gives a person written consent to operate an all-terrain vehicle on his or her the landowner's property owes the person the same duty of care that he or she the landowner owes a trespasser."

**SECTION 2.** G.S. 14-208.6 reads as rewritten:

**"§ 14-208.6. Definitions.**

The following definitions apply in this Article:

...

(5) "Sexually violent offense" means a violation of former G.S. 14-27.6 (attempted rape or sexual offense), G.S. 14-27.21 (first-degree forcible rape),



G.S. 14-27.22 (second-degree forcible rape), G.S. 14-27.23 (statutory rape of a child by an adult), G.S. 14-27.24 (first-degree statutory rape), G.S. 14-27.25(a) (statutory rape of a person who is 15 years of age or younger and where the defendant is at least six years older), G.S. 14-27.26 (first-degree forcible sexual offense), G.S. 14-27.27 (second-degree forcible sexual offense), G.S. 14-27.28 (statutory sexual offense with a child by an adult), G.S. 14-27.29 (first-degree statutory sexual offense), G.S. 14-27.30(a) (statutory sexual offense with a person who is 15 years of age or younger and where the defendant is at least six years older), G.S. 14-27.31 (sexual activity by a substitute parent or custodian), G.S. 14-27.32 (sexual activity with a student), G.S. 14-27.33 (sexual battery), G.S. 14-43.11 (human trafficking) if (i) the offense is committed against a minor who is less than 18 years of age or (ii) the offense is committed against any person with the intent that they be held in sexual servitude, G.S. 14-43.13 (subjecting or maintaining a person for sexual servitude), G.S. 14-178 (incest between near relatives), G.S. 14-190.6 (employing or permitting minor to assist in offenses against public morality and decency), G.S. 14-190.9(a1) (felonious indecent exposure), G.S. 14-190.16 (first degree sexual exploitation of a minor), G.S. 14-190.17 (second degree sexual exploitation of a minor), G.S. 14-190.17A (third degree sexual exploitation of a minor), G.S. 14-202.1 (taking indecent liberties with children), G.S. 14-202.3 (Solicitation of child by computer or certain other electronic devices to commit an unlawful sex act), G.S. 14-202.4(a) (taking indecent liberties with a student), G.S. 14-205.2(c) or (d) (patronizing a prostitute who is a minor or a mentally disabled person), G.S. 14-205.3(b) (promoting prostitution of a minor or a mentally disabled person), G.S. 14-318.4(a1) (parent or caretaker commit or permit act of prostitution with or by a juvenile), or G.S. 14-318.4(a2) (commission or allowing of sexual act upon a juvenile by parent or guardian). The term also includes the following: a solicitation or conspiracy to commit any of these offenses; aiding and abetting any of these offenses.

...."

**SECTION 2.1.** G.S. 20-45 reads as rewritten:

**"§ 20-45. Seizure of documents and plates.**

(a) The Division is ~~hereby~~ authorized to take possession of any certificate of title, registration card, permit, license, or registration plate issued by it upon expiration, revocation, cancellation, or suspension thereof, or which is fictitious, or which has been unlawfully or erroneously issued, or which has been unlawfully used.

(b) The Division may give notice to the owner, licensee or lessee of its authority to take possession of any certificate of title, registration card, permit, license, or registration plate issued by it and require that person to surrender it to the Commissioner or ~~his~~ the Commissioner's officers or agents. Any person who fails to surrender the certificate of title, registration card, permit, license, or registration plate or any duplicate thereof, upon personal service of notice or within 10 days after receipt of notice by mail as provided in G.S. 20-48, shall be guilty of a Class 2 misdemeanor.

(c) Any sworn law enforcement officer with jurisdiction, including a member of the State Highway Patrol, is authorized to seize the certificate of title, registration card, permit, license, or registration plate, if the officer has electronic or other notification from the Division that the item has been revoked or cancelled, or otherwise has probable cause to believe that the item has been revoked or cancelled under any law or statute, including ~~G.S. 20-309(e)~~ G.S. 20-311. If a criminal proceeding relating to a certificate of title, registration card, permit, or license is pending, the law enforcement officer in possession of that item shall retain the item pending the entry of a final

1 judgment by a court with jurisdiction. If there is no criminal proceeding pending, the law  
2 enforcement officer shall deliver the item to the Division.

3 (d) Any law enforcement officer who seizes a registration plate pursuant to this section  
4 shall report the seizure to the Division within 48 hours of the seizure and shall return the  
5 registration plate, but not a fictitious registration plate, to the Division within 10 business days of  
6 the seizure."

7 **SECTION 3.** The catch line of G.S. 20-171.24 reads as rewritten:

8 "**§ 20-171.24. Motorized all-terrain vehicle use by municipal and county employees of listed**  
9 **~~municipalities and counties~~ permitted on certain highways.**"

10 **SECTION 3.1.** G.S. 24-10.1(a) reads as rewritten:

11 "(a) Subject to the limitations contained in subsection (b) of this section, any lender may  
12 charge a party to a loan or extension of credit governed by the provisions of ~~G.S. 24-1.1, 24-1.2,~~  
13 G.S. 24-1.1 or G.S. 24-1.1A a late payment charge as agreed upon by the parties in the loan  
14 contract."

15 **SECTION 4.** G.S. 28A-2-4 reads as rewritten:

16 "**§ 28A-2-4. Subject matter jurisdiction of the clerk of superior court in estate proceedings.**

17 (a) The clerks of superior court of this State, as ex officio judges of probate, shall have  
18 original jurisdiction of estate proceedings. Except as provided in subdivision (4) of this subsection,  
19 the jurisdiction of the clerk of superior court is exclusive. Estate proceedings include, but are not  
20 limited to, the following:

- 21 (1) Probate of wills.
- 22 (2) Granting and revoking of letters testamentary and letters of administration, or  
23 other proper letters of authority for the administration of estates.
- 24 (3) Determination of the elective share for a surviving spouse as provided in  
25 G.S. 30-3.
- 26 (4) Proceedings to ascertain heirs or devisees, to approve settlement agreements  
27 pursuant to G.S. 28A-2-10, to determine questions of construction of wills, to  
28 determine priority among creditors, to determine whether a person is in  
29 possession of property belonging to an estate, to order the recovery of property  
30 of the estate in possession of third parties, and to determine the existence or  
31 nonexistence of any immunity, power, privilege, duty, or right. Any party or the  
32 clerk of superior court may file a notice of transfer of a proceeding pursuant to  
33 this subdivision to the Superior Court Division of the General Court of Justice  
34 as provided in G.S. 28A-2-6(h). In the absence of a transfer to superior court,  
35 Article 26 of Chapter 1 of the General Statutes shall apply to ~~a trust or an estate~~  
36 proceeding pending before the clerk of superior court to the extent consistent  
37 with this Article.

38 (b) Nothing in this section shall affect the right of a person to file an action in the Superior  
39 Court Division of the General Court of Justice for declaratory relief under Article 26 of Chapter 1  
40 of the General Statutes. In the event that either the petitioner or the respondent in an estate  
41 proceeding requests declaratory relief under Article 26 of Chapter 1 of the General Statutes, either  
42 party may move for a transfer of the proceeding to the Superior Court Division of the General  
43 Court of Justice as provided in Article 21 of Chapter 7A of the General Statutes. In the absence of  
44 a removal to superior court, Article 26 of Chapter 1 of the General Statutes shall apply to an estate  
45 proceeding to the extent consistent with this Article.

46 (c) Without otherwise limiting the jurisdiction of the Superior Court Division of the  
47 General Court of Justice, the clerk of superior court shall not have jurisdiction under subsection (a)  
48 or ~~(e)-(b)~~ of this section or G.S. 28A-2-5 of the following:

- 49 (1) Actions by or against creditors or debtors of an estate, except as provided in  
50 Article 19 of this Chapter.

- (2) Actions involving claims for monetary damages, including claims for breach of fiduciary duty, fraud, and negligence.
- (3) Caveats, except as provided under G.S. 31-36.
- (4) Proceeding to determine proper county of venue as provided in G.S. 28A-3-2.
- (5) Recovery of property transferred or conveyed by a decedent with intent to hinder, delay, or defraud creditors, pursuant to G.S. 28A-15-10(b)."

**SECTION 5.** Reserved.

**SECTION 6.** G.S. 28A-19-5(b) reads as rewritten:

"(b) With respect to a contingent or unliquidated claim rejected by a personal representative pursuant to G.S. 28A-19-16, the claimant may, within the three-month period prescribed by G.S. 28A-19-16, file a petition for an order of the clerk of superior court in accordance with subsection (a) of this section, provided that nothing in this section shall require the clerk of superior court to hear and determine the validity of, priority of, or amount of a contingent or unliquidated claim that has not yet become absolute."

**SECTION 7.** G.S. 31B-1(a) reads as rewritten:

"(a) A person who succeeds to a property interest as:

...

- (8) ~~Appointee~~ Appointee, permissible appointee, or taker in default under a power of appointment exercised by a testamentary instrument or a nontestamentary instrument;

...

may renounce at anytime, in whole or in part, the right of succession to any property or interest therein, including a future interest, by filing a written instrument under the provisions of this Chapter. A renunciation may be of a fractional share or any limited interest or estate. The renunciation shall be deemed to include the entire interest of the person whose property or interest is being renounced unless otherwise specifically limited. A person may renounce any interest in or power over property, including a power of appointment, even if its creator imposed a spendthrift provision or similar restriction on transfer or a restriction or limitation on the right to renounce. Notwithstanding the foregoing, there shall be no right of partial renunciation if the instrument creating the interest expressly so provides."

**SECTION 7.1.** G.S. 36C-8-816.1 reads as rewritten:

**"§ 36C-8-816.1. Trustee's special power to appoint to a second trust.**

(a) For purposes of this section, the following definitions apply:

- (1) Current beneficiary. – A person who is a permissible distributee of trust income or principal.
- (2) Original trust. – A trust established under an irrevocable trust instrument pursuant to the terms of which a trustee has a discretionary power to distribute principal or income of the trust to or for the benefit of one or more current beneficiaries of the trust.
- (3) Second trust. – A trust established under an irrevocable trust instrument, the current beneficiaries of which are one or more of the current beneficiaries of the original trust. The second trust may be a trust created under the same trust instrument as the original trust or under a different trust instrument.

(b) A trustee of an original trust may, without authorization by the court, exercise the discretionary power to distribute principal or income to or for the benefit of one or more current beneficiaries of the original trust by appointing all or part of the principal or income of the original trust subject to the power in favor of a trustee of a second trust. The trustee of the original trust may exercise this power whether or not there is a current need to distribute principal or income under any standard provided in the terms of the original trust. The trustee's special power to appoint trust principal or income in further trust under this section includes the power to create the second trust. The second trust may have a duration that is longer than the duration of the first trust.

(c) The terms of the second trust shall be subject to all of the following:

- (1) The beneficiaries of the second trust may include only beneficiaries of the original trust.
- (2) A beneficiary who has only a future beneficial interest, vested or contingent, in the original trust cannot have the future beneficial interest accelerated to a present interest in the second trust.
- (3) The terms of the second trust may not reduce any fixed income, annuity, or unitrust interest of a beneficiary in the assets of the original trust if that interest has come into effect with respect to the beneficiary.
- (4) If any contribution to the original trust qualified for a marital or charitable deduction for federal income, gift, or estate tax purposes under the Internal Revenue Code, then the second trust shall not contain any provision that, if included in the original trust, would have prevented the original trust from qualifying for the deduction or that would have reduced the amount of the deduction.
- (5) If contributions to the original trust have been excluded from the gift tax by the application of section 2503(b) and section 2503(c) of the Internal Revenue Code, then the second trust shall provide that the beneficiary's remainder interest in the contributions shall vest and become distributable no later than the date upon which the interest would have vested and become distributable under the terms of the original trust.
- (6) If any beneficiary of the original trust has a power of withdrawal over trust property, then either:
  - a. The terms of the second trust must provide a power of withdrawal in the second trust identical to the power of withdrawal in the original trust; or
  - b. Sufficient trust property must remain in the original trust to satisfy the outstanding power of withdrawal.
- (7) If a trustee of an original trust exercises a power to distribute principal or income that is subject to an ascertainable standard by appointing property to a second trust, then the power to distribute income or principal in the second trust must be subject to the same ascertainable standard as in the original trust and must be exercisable in favor of the same current beneficiaries to whom such distribution could be made in the original trust.
- (8) The second trust may confer a power of appointment upon a beneficiary of the original trust to whom or for the benefit of whom the trustee has the power to distribute principal or income of the original trust. The permissible appointees of the power of appointment conferred upon a beneficiary may include persons who are not beneficiaries of the original or second trust. The power of appointment conferred upon a beneficiary shall be subject to the provisions of G.S. 41-23 specifying the permissible period allowed for the suspension of the power of alienation of the original trust and the time from which that permissible period is computed.
- (9) The terms of the second trust shall not contain any provisions that would jeopardize (i) the qualification of a transfer as a direct skip under section 2642(c) of the ~~Internal Revenue~~ Internal Revenue Code, (ii) if the first trust owns subchapter S Corporation stock, the election to treat a corporation as a subchapter S Corporation under section 1362 of the Internal Revenue Code, (iii) if the first trust owns an interest in property subject to the minimum distribution rules of section 401(a)(9) of the Internal Revenue Code, a favorable distribution period by shortening the minimum distribution period, or (iv) any other specific tax benefit for which a contribution originally the first trust was

clearly designed to qualify and for which the first trust qualified or would have qualified for income, gift, estate, or generation-skipping transfer tax purposes, but for the enactment of this section. In this subdivision, "tax benefit" means a federal or State tax deduction, exemption, exclusion, or other benefit not otherwise listed in this section, except for the benefit from having the settlor considered the owner under sections 671 through 679 of the Internal Revenue Code. Subject to clause (ii) above, the second trust may be a trust as to which the settlor is not considered the owner under sections 671 through 679 of the Internal Revenue Code even if the settlor is considered the owner of the first trust, and the second trust may be a trust as to which the settlor of the first trust is considered the owner under sections 671 through 679 of the Internal Revenue Code, even if the settlor is not considered the owner of the first trust.

(10) Notwithstanding any other provision of this section, but subject to the limitations of subdivisions (1), (2), (4), (5), and (9) of this subsection, a trustee may exercise the power to appoint principal and income under subsection (b) of this section with respect to a disabled beneficiary's interest in the original trust to a second trust that is a supplemental needs trust that does not have (i) an ascertainable standard (or has a different ascertainable standard); (ii) a fixed income, annuity, or unitrust interest in the assets of the original trust; or (iii) a right of withdrawal, if the trustee determines that it would be in the best interest of the disabled beneficiary. For purposes of this subsection, the following apply:

- a. A "supplemental needs trust" means a trust that is a discretionary trust under G.S. 36C-5-504 and relative to the original trust contains either lesser or greater restrictions on the trustee's power to distribute income or principal, and which the trustee believes would, if implemented, allow the disabled beneficiary to receive greater governmental benefits than the disabled beneficiary would receive if the power to appoint principal and income had not been exercised.
- b. "Governmental benefits" means medical assistance, financial aid, or services from any local, State, or federal agency or department.
- c. A "disabled beneficiary" means a current beneficiary of the original trust who the trustee determines has a condition that substantially impairs the beneficiary's ability to provide for his or her own support, care, or custody whether or not the beneficiary has been adjudicated a "disabled person" by any government agency or department.
- d. The second supplemental needs trust shall not be liable to pay or reimburse the State or any government or public agency for medical assistance, financial aid, or services provided to the disabled beneficiary except as provided in the second supplemental needs trust.

(d) A trustee may not exercise the power to appoint principal or income under subsection (b) of this section if the trustee is a beneficiary of the original trust, but the remaining cotrustee or a majority of the remaining cotrustees may act for the trust. If all the trustees are beneficiaries of the original trust, then the court may appoint a special fiduciary with authority to exercise the power to appoint principal or income under subsection (b) of this section.

(e) The exercise of the power to appoint principal or income under subsection (b) of this section:

- (1) Shall be considered the exercise of a power of appointment, other than a power to appoint to the trustee, the trustee's creditors, the trustee's estate, or the creditors of the trustee's estate; and

- 1 (2) Shall be subject to the provisions of G.S. 41-23 specifying the permissible  
2 period allowed for the suspension of the power of alienation of the original trust  
3 and the time from which that permissible period is computed; and  
4 (3) Is not prohibited by a spendthrift provision or by a provision in the original  
5 trust instrument that prohibits amendment or revocation of the trust.

6 (f) To effect the exercise of the power to appoint principal or income under subsection (b)  
7 of this section, all of the following shall apply:

- 8 (1) The exercise of the power to appoint shall be made by an instrument in writing,  
9 signed and acknowledged by the trustee, setting forth the manner of the  
10 exercise of the power, including the terms of the second trust, and the effective  
11 date of the exercise of the power. The instrument shall be filed with the records  
12 of the original trust.  
13 (2) The trustee shall give written notice to all qualified beneficiaries of the original  
14 trust, at least 60 days prior to the effective date of the exercise of the power to  
15 appoint, of the trustee's intention to exercise the power. The notice shall include  
16 a copy of the instrument described in subdivision (1) of this subsection.  
17 (3) If all qualified beneficiaries waive the notice period by a signed written  
18 instrument delivered to the trustee, the trustee's power to appoint principal or  
19 income shall be exercisable after notice is waived by all qualified beneficiaries,  
20 notwithstanding the effective date of the exercise of the power.  
21 (4) The trustee's notice under this subsection shall not limit the right of any  
22 beneficiary to object to the exercise of the trustee's power to appoint and bring  
23 an action for breach of trust seeking appropriate relief as provided by  
24 G.S. 36C-10-1001.

25 (g) Nothing in this section shall be construed to create or imply a duty of the trustee to  
26 exercise the power to distribute principal or income, and no inference of impropriety shall be made  
27 as a result of a trustee not exercising the power to appoint principal or income conferred under  
28 subsection (b) of this section. Nothing in this section shall be construed to abridge the right of any  
29 trustee who has a power to appoint property in further trust that arises under the terms of the  
30 original trust or under any other section of this Chapter or under another provision of law or under  
31 common law.

32 (h) A trustee or beneficiary may commence a proceeding to approve or disapprove a  
33 proposed exercise of the trustee's special power to appoint to a second trust pursuant to subsection  
34 (b) of this section."

35 **SECTION 7.2.(a)** G.S. 39-33 and G.S. 39-34 are repealed.

36 **SECTION 7.2.(b)** G.S. 39-35 is recodified as G.S. 31D-5-505.

37 **SECTION 7.2.(c)** G.S. 39-36 is recodified as G.S. 31D-4-403.1.

38 **SECTION 7.3.** G.S. 42A-17(a) reads as rewritten:

39 "(a) A vacation rental agreement shall identify the name and address of the ~~bank or savings~~  
40 ~~and loan association~~ federally insured depository institution in which the tenant's security deposit  
41 and other advance payments are held in a trust account, and the landlord and real estate broker  
42 shall provide the tenant with an accounting of such deposit and payments if the tenant makes a  
43 reasonable request for an accounting prior to the tenant's occupancy of the property."

44 **SECTION 7.4.** G.S. 97-25(f) reads as rewritten:

45 "(f) In claims subject to G.S. 97-18(b) and (d), a party may file a motion as set forth in this  
46 subsection regarding a request for medical compensation or a dispute involving medical issues.  
47 The nonmoving party shall have the right to contest the motion. Motions and responses shall be  
48 submitted contemporaneously via electronic ~~mail~~ means to the Commission and to the opposing  
49 party or the opposing party's ~~attorney[, as follows]:~~ attorney, as follows:

- 50 (1) A party may file a motion with the Executive Secretary for an administrative  
51 ruling regarding a request for medical compensation or a dispute involving

1 medical issues. The motion shall be decided administratively pursuant to rules  
2 governing motions practices in contested cases. The Commission shall decide  
3 the motion within 30 days of the filing of the motion unless an extension of  
4 time to respond to the motion has been granted for good cause shown. Either  
5 party may file a motion for reconsideration of the administrative order with the  
6 Executive Secretary. Either party may request an expedited formal hearing  
7 pursuant to G.S. 97-84 and subdivision (2) of this subsection to appeal the  
8 decision of the Executive Secretary approving or denying the original motion or  
9 the motion for reconsideration. Within five days of the filing of a request for an  
10 expedited formal hearing pursuant to G.S. 97-84 and subdivision (2) of this  
11 subsection to appeal the decision of the Executive Secretary, the Commission  
12 shall assign a Deputy Commissioner to conduct the formal hearing. The  
13 decision shall not be stayed during the pendency of an appeal pursuant to  
14 G.S. 97-84 and subdivision (2) of this subsection except under those  
15 circumstances set out in subdivision (4) of this subsection. A motion to stay  
16 shall be filed with the Deputy Commissioner scheduled to conduct the formal  
17 hearing pursuant to G.S. 97-84. Either party may appeal the decision of the  
18 Deputy Commissioner pursuant to G.S. 97-84 to the Full Commission pursuant  
19 to G.S. 97-85. The decision of the Deputy Commissioner shall not be stayed  
20 during the pendency of an appeal except under those circumstances set out in  
21 subdivision (4) of this subsection. A motion to stay the decision of the Deputy  
22 Commissioner pursuant to G.S. 97-84 shall be directed to the Chair of the  
23 Commission. The Full Commission shall render a decision on the appeal of the  
24 Deputy Commissioner's decision on the motion within 60 days of the filing of  
25 the notice of appeal.

- 26 (2) In lieu of filing a motion with the Executive Secretary for an administrative  
27 ruling pursuant to subdivision (1) of this subsection, when appealing a ruling  
28 made pursuant to subdivision (1) of this subsection or when appealing an  
29 administrative ruling of the Chief Deputy or the Chief Deputy's designee on an  
30 emergency motion, a party may request a full evidentiary hearing pursuant to  
31 G.S. 97-84 on an expedited basis, limited to a request for medical compensation  
32 or a dispute involving medical issues, by filing a motion with the Office of the  
33 Chief Deputy Commissioner. The case will not be ordered into mediation based  
34 upon a party's request for hearing on the motion or appeal under this  
35 subdivision, except upon the consent of the parties. The Commission shall set  
36 the date of the expedited hearing, which shall be held within 30 days of the  
37 filing of the motion or appeal and shall notify the parties of the time and place  
38 of the hearing on the motion or appeal. Upon request, the Commission may  
39 order expedited discovery. The record shall be closed within 60 days of the  
40 filing of the motion, or in the case of an appeal pursuant to subdivisions (1) and  
41 (3) of this subsection, within 60 days of the filing of the appeal, unless the  
42 parties agree otherwise or the Commission so orders. Transcripts of depositions  
43 shall be expedited if necessary and paid pursuant to rules promulgated by the  
44 Commission related to depositions and shall be submitted electronically to the  
45 Commission. The Commission shall decide the issue in dispute and make  
46 findings of fact based upon the preponderance of the evidence in view of the  
47 entire record. The award, together with a statement of the findings of fact,  
48 rulings of law, and other matters pertinent to the questions at issue shall be filed  
49 with the record of the proceedings within 15 days of the close of the hearing  
50 record, and a copy of the award shall immediately be sent to the parties. Either  
51 party may appeal the decision of the Deputy Commissioner pursuant to



G.S. 97-84 to the Full Commission pursuant to G.S. 97-85. The decision of the Deputy Commissioner pursuant to G.S. 97-84 shall not be stayed during the pendency of an appeal except under those circumstances set out in subdivision (4) of this subsection. A motion to stay the decision of the Deputy Commissioner pursuant to G.S. 97-84 shall be directed to the Chair of the Commission. The Full Commission shall render a decision on the appeal of the Deputy Commissioner's decision on the motion within 60 days of the filing of the notice of appeal.

(3) An emergency medical motion filed by either party shall be filed with the Office of the Chief Deputy Commissioner. The Chief Deputy or Chief Deputy's designee shall rule on the motion within five days of receipt unless the Chief Deputy or Chief Deputy's designee determines that the motion is not an emergency, in which case the motion shall be referred to the Executive Secretary for an administrative ruling pursuant to subdivision (1) of this subsection. Motions requesting emergency medical relief shall contain all of the following:

- a. An explanation of the medical diagnosis and treatment recommendation of the health care provider that requires emergency attention.
- b. A specific statement detailing the time-sensitive nature of the request to include relevant dates and the potential for adverse consequences to the movant if the recommended relief is not provided emergently.
- c. An explanation of opinions known and in the possession of the movant of additional medical or other relevant experts, independent medical examiners, and second opinion examiners.
- d. Documentation known and in the possession of the movant in support of the request, including relevant medical records.
- e. A representation that informal means of resolving the issue have been attempted.

Either party may appeal the decision of the Chief Deputy or the Chief Deputy's designee on the emergency motion by requesting an expedited formal hearing pursuant to G.S. 97-84 and subdivision (2) of this subsection to appeal the administrative decision of the Chief Deputy or the Chief Deputy's designee on the emergency motion. Within five days of the filing of a request for an expedited formal hearing pursuant to G.S. 97-84 and subdivision (2) of this subsection, the Commission shall assign a Deputy Commissioner to conduct the formal hearing. The decision of the Chief Deputy or the Chief Deputy's designee shall not be stayed during the pendency of an appeal of the administrative decision except under those circumstances set out in subdivision (4) of this subsection. Any motion to stay shall be filed with the Deputy Commissioner scheduled to conduct the expedited formal hearing pursuant to G.S. 97-84 and subdivision (2) of this subsection. Either party may appeal the decision of the Deputy Commissioner pursuant to G.S. 97-84 to the Full Commission pursuant to G.S. 97-85. If so, the decision of the Deputy Commissioner shall not be stayed during the pendency of an appeal except under those circumstances set out in subdivision (4) of this subsection. Any motion to stay the decision of the Deputy Commissioner pursuant to G.S. 97-84 shall be directed to the Chair of the Commission. The Full Commission shall render a decision on the appeal of the Deputy Commissioner's decision on the motion within 60 days of the filing of the notice of appeal.

(4) The Commission shall consider, among other factors, all of the following when determining whether to grant a motion to stay filed pursuant to this subsection:

- 1 a. Whether there would be immediate and irreparable injury, harm, loss, or  
2 damage to either party.  
3 b. The nature and cost of the medical relief sought.  
4 c. The risk for further injury or disability to the employee inherent in the  
5 treatment or its delay.  
6 d. Whether it has been recommended by an authorized physician.  
7 e. Whether alternative therapeutic modalities are available and reasonable.  
8 (5) If the Commission determines that any party has acted unreasonably by  
9 initiating or objecting to a motion filed pursuant to this section, the Commission  
10 may assess costs associated with any proceeding, including any reasonable  
11 attorneys' fees and deposition costs, against the offending party."

12 **SECTION 8.** The catch line of G.S. 108A-70.21 reads as rewritten:

13 **"§ 108A-70.21. Program eligibility; benefits; enrollment fee and other cost-sharing;**  
14 **coverage from private plans; ~~purchase of extended coverage plans.~~"**

15 **SECTION 9.** G.S. 120-4.16(b) reads as rewritten:

16 "(b) Purchase of Service Credits Through Rollover Contributions From Certain Other Plans.  
17 – Notwithstanding any other provision of this Article, and without regard to any limitations on  
18 contributions otherwise set forth in this Article, a member, who is eligible to restore or purchase  
19 membership or creditable service pursuant to the provisions of this Article, may purchase such  
20 service credits through rollover contributions to the Annuity Savings Fund from (i) an annuity  
21 contract described in Section 403(b) of the Internal Revenue Code, (ii) an eligible plan under  
22 Section 457(b) of the Internal Revenue Code which is maintained by a state, political subdivision  
23 of a state, or any agency or instrumentality of a state or political subdivision of a state, (iii) an  
24 individual retirement account or annuity described in Section 408(a) or 408(b) of the Internal  
25 Revenue Code that is eligible to be rolled over and would otherwise be includible in gross income,  
26 or (iv) a qualified plan described in Section 401(a) or 403(a) of the Internal Revenue Code.  
27 Notwithstanding the foregoing, the Retirement System shall not accept any amount as a rollover  
28 contribution unless such amount is eligible to be rolled over to a qualified trust in accordance with  
29 applicable law and the member provides evidence satisfactory to the Retirement System that such  
30 amount qualifies for rollover treatment. Unless received by the Retirement System in the form of a  
31 direct rollover, the rollover contribution must be paid to the Retirement System on or before the  
32 60th day after the date it was received by the member.

33 (b1) Purchase of Service Credits Through Plan-to-Plan Transfers. – Notwithstanding any  
34 other provision of this Article, and without regard to any limitations on contributions otherwise set  
35 forth in this Article, a member, who is eligible to restore or purchase membership or creditable  
36 service pursuant to the provisions of this Article, may purchase such service credits through a  
37 direct transfer to the Annuity Savings Fund of funds from (i) an annuity contract described in  
38 Section 403(b) of the Internal Revenue Code or (ii) an eligible plan under Section 457(b) of the  
39 Code which is maintained by a state, political subdivision of a state, or any agency or  
40 instrumentality of a state or political subdivision of a state."

41 **SECTION 9.1.** G.S. 120-57 is repealed.

42 **SECTION 9.2.** G.S. 136-41.2(c) reads as rewritten:

43 "(c) No municipality shall be eligible to receive funds under G.S. 136-41.1 unless it has  
44 formally adopted a budget ordinance in substantial compliance with ~~G.S. 160-410.3, G.S. 159-8~~  
45 and G.S. 159-13, showing revenue received from all sources, and showing that funds have been  
46 appropriated for at least two of the following municipal services if the municipality was  
47 incorporated with an effective date prior to January 1, 2000, water distribution; sewage collection  
48 or disposal; garbage and refuse collection or disposal; fire protection; police protection; street  
49 maintenance, construction, or right-of-way acquisition; or street lighting, or at least four of the  
50 following municipal services if the municipality was incorporated with an effective date of on or  
51 after January 1, 2000: (i) police protection; (ii) fire protection; (iii) solid waste collection or

disposal; (iv) water distribution; (v) street maintenance; (vi) street construction or right-of-way acquisition; (vii) street lighting; and (viii) zoning."

**SECTION 9.3.** G.S. 143-215.31(a1) reads as rewritten:

"(a1) The owner of a dam classified by the Department as a high-hazard dam or an intermediate-hazard dam shall develop an Emergency Action Plan for the dam as provided in this subsection; subsection:

- (1) The owner of the dam shall submit a proposed Emergency Action Plan for the dam within 90 days after the dam is classified as a high-hazard dam or an intermediate-hazard dam to the Department and the Department of Public Safety for their review and approval. The Department and the Department of Public Safety shall approve the Emergency Action Plan if they determine that it complies with the requirements of this subsection and will protect public health, safety, and welfare; the environment; and natural resources.
- (2) The Emergency Action Plan shall include, at a minimum, all of the following:
  - a. A description of potential emergency conditions that could occur at the dam, including security risks.
  - b. A description of actions to be taken in response to an emergency condition at the dam.
  - c. Emergency notification procedures to aid in warning and evacuations during an emergency condition at the dam.
  - d. A downstream inundation map depicting areas affected by a dam failure and sudden release of the impoundment. A downstream inundation map prepared pursuant to this section does not require preparation by a licensed professional engineer or a person under the responsible charge of a licensed professional engineer unless the dam is associated with a coal combustion residuals surface impoundment, as defined by G.S. 130A-309.201.
- (3) The owner of the dam shall update the Emergency Action Plan annually and shall submit it to the Department and the Department of Public Safety for their review and approval within one year of the prior approval.
- (4) The Department shall provide a copy of the Emergency Action Plan to the regional offices of the Department that might respond to an emergency condition at the dam.
- (5) The Department of Public Safety shall provide a copy of the Emergency Action Plan to all local emergency management agencies that might respond to an emergency condition at the dam.
- (6) Information included in an Emergency Action Plan that constitutes sensitive public security information, as provided in G.S. 132-1.7, shall be maintained as confidential information and shall not be subject to disclosure under the Public Records Act. For purposes of this section, "sensitive public security information" shall include Critical Energy Infrastructure Information protected from disclosure under rules adopted by the Federal Energy Regulatory Commission in ~~48 C.F.R. § 333.112~~, 18 C.F.R. § 388.112."

**SECTION 9.4.** G.S. 143B-168.5 reads as rewritten:

**"§ 143B-168.5. Child Care – special unit.**

There is established within the Department of Health and Human ~~Services~~ Services, Division of Child Development and Early Education, a special unit to deal primarily with violations involving child abuse and neglect in child care arrangements. The Child Care Commission shall make rules for the investigation of reports of child abuse or neglect and for administrative action when child abuse or neglect is substantiated, pursuant to G.S. 110-88(6a), 110-105, ~~and 110-105.2, 110-105.3, 110-105.4, 110-105.5, and 110-105.6.~~"

**SECTION 9.5.** G.S. 143B-931(b) reads as rewritten:

"(b) The Department of Public Safety may provide a criminal history record check to the board of directors of a regional school of a person who is employed at a regional school or of a person who has applied for employment at a regional school if the employee or applicant consents to the record check. The Department may also provide a criminal history record check of school personnel as defined in ~~G.S. 115C-238.56N~~ G.S. 115C-238.73 by fingerprint card to the board of directors of the regional school from the National Repositories of Criminal Histories, in accordance with ~~G.S. 115C-238.56N~~ G.S. 115C-238.73. The information shall be kept confidential by the board of directors of the regional school as provided in ~~G.S. 115C-238.56N~~ G.S. 115C-238.73."

**SECTION 9.6.** G.S. 143C-6-4(b) reads as rewritten:

"(b) Budget Adjustments. – Notwithstanding the provisions of G.S. 143C-6-1, a State agency may, with approval of the Director of the Budget, spend more than was appropriated in the certified budget by adjusting the authorized budget for all of the following:

- (1) Line items within programs. – An object or line item within a purpose or program so long as the total amount expended for the purpose or program is no more than was authorized in the certified budget for the purpose or program.
- (2) Responses to extraordinary events. – A purpose or program if the overexpenditure of the purpose or program is:
  - a. Required by a court or Industrial Commission order;
  - b. Authorized under ~~G.S. 166A-19.40(a)~~ G.S. 166A-19.40(a)(1) and (c) of the North Carolina Emergency Management Act; or
  - c. Required to call out the North Carolina National Guard.
- (3) Responses to unforeseen circumstances. – A purpose or program not subject to the provisions of subdivision (b)(2) of this subsection, if each of the following conditions is satisfied:
  - a. The overexpenditure is required to continue the purpose or programs due to complications or changes in circumstances that could not have been foreseen when the budget for the fiscal period was enacted.
  - b. The scope of the purpose or program is not increased.
  - c. The overexpenditure is authorized on a one-time nonrecurring basis for one year only, unless the overexpenditure is the result of (i) salary adjustments authorized by law or (ii) the establishment of time-limited positions funded with agency receipts."

**SECTION 10.** G.S. 146-9(b) reads as rewritten:

"(b) Notwithstanding subsection (a) of this section, or any other provision of law, prior to expiration of a lease of mineral deposits in State lands, the Department of Administration or other entity designated by the Department shall solicit competitive bids for lease of such mineral deposits, which shall include a process for upset bids as described in this subsection. An upset bid is an increased or raised bid whereby a person offers to lease such mineral rights for an amount exceeding the highest bid received in response to the initial solicitation for competitive bids, or the last upset bid, as applicable, by a minimum of five percent (5%). The process shall provide that the Department or other designated entity that issued the solicitation for competitive bids shall issue a notice of high bid to the person submitting the highest bid in response to the initial solicitation for competitive bids, or the person submitting the last upset bid, as applicable, and any other bidders that have submitted a bid in an amount seventy-five percent (75%) or more of the highest bid received in response to the initial solicitation for competitive bids, or the last upset bid, as applicable, of the highest bid received at that point within 10 days of the closure of the bidding period, as provided in the solicitation for competitive bids, through notice delivered by any means authorized under G.S. 1A-1, Rule 4. Thereafter, an upset bid may be made by delivering to the Department or other designated entity, subject to all of the following requirements and conditions:

1 ...

- 2 (4) When an upset bid is made as provided in this subsection, the Department or  
3 other designated entity shall notify ~~to~~ the highest prior bidder, and any other  
4 bidders that have submitted a bid in an amount seventy-five percent (75%) or  
5 more of the current high bid received in response to the initial solicitation for  
6 competitive bids, or the last upset bid, as applicable.

7 ..."

8 **SECTION 10.1.** G.S. 147-12(a) reads as rewritten:

9 "(a) In addition to the powers and duties prescribed by the Constitution, the Governor has  
10 the powers and duties prescribed in this and the following sections:

- 11 (1) To supervise the official conduct of all executive and ministerial officers; and  
12 when the Governor deems it advisable to visit all State institutions for the  
13 purpose of inquiring into the management and needs of the same.

14 ...

- 15 (12) To name and locate State government buildings, monuments, memorials, and  
16 improvements, as provided by ~~G.S. 143B-373(1)~~. G.S. 143B-373(a)(1).

17 ..."

18 **SECTION 11.** G.S. 153A-340(h) reads as rewritten:

19 "(h) As provided in this subsection, counties may adopt temporary moratoria on any ~~county~~  
20 ~~development approval required by law~~. county development approval required by law, except for  
21 the purpose of developing and adopting new or amended plans or ordinances as to residential uses.  
22 The duration of any moratorium shall be reasonable in light of the specific conditions that warrant  
23 imposition of the moratorium and may not exceed the period of time necessary to correct, modify,  
24 or resolve such conditions. Except in cases of imminent and substantial threat to public health or  
25 safety, before adopting an ordinance imposing a development moratorium with a duration of 60  
26 days or any shorter period, the board of commissioners shall hold a public hearing and shall  
27 publish a notice of the hearing in a newspaper having general circulation in the area not less than  
28 seven days before the date set for the hearing. A development moratorium with a duration of 61  
29 days or longer, and any extension of a moratorium so that the total duration is 61 days or longer, is  
30 subject to the notice and hearing requirements of G.S. 153A-323. Absent an imminent threat to  
31 public health or safety, a development moratorium adopted pursuant to this section shall not apply  
32 to any project for which a valid building permit issued pursuant to G.S. 153A-357 is outstanding,  
33 to any project for which a conditional use permit application or special use permit application has  
34 been accepted, to development set forth in a site-specific or phased development plan approved  
35 pursuant to G.S. 153A-344.1, to development for which substantial expenditures have already  
36 been made in good faith reliance on a prior valid administrative or quasi-judicial permit or  
37 approval, or to preliminary or final subdivision plats that have been accepted for review by the  
38 county prior to the call for public hearing to adopt the moratorium. Any preliminary subdivision  
39 plat accepted for review by the county prior to the call for public hearing, if subsequently  
40 approved, shall be allowed to proceed to final plat approval without being subject to the  
41 moratorium.

42 Any ordinance establishing a development moratorium must expressly include at the time of  
43 adoption each of the following:

- 44 (1) A clear statement of the problems or conditions necessitating the moratorium  
45 and what courses of action, alternative to a moratorium, were considered by the  
46 county and why those alternative courses of action were not deemed adequate.  
47 (2) A clear statement of the development approvals subject to the moratorium and  
48 how a moratorium on those approvals will address the problems or conditions  
49 leading to imposition of the moratorium.

(3) An express date for termination of the moratorium and a statement setting forth why that duration is reasonably necessary to address the problems or conditions leading to imposition of the moratorium.

(4) A clear statement of the actions, and the schedule for those actions, proposed to be taken by the county during the duration of the moratorium to address the problems or conditions leading to imposition of the moratorium.

No moratorium may be subsequently renewed or extended for any additional period unless the city shall have taken all reasonable and feasible steps proposed to be taken by the county in its ordinance establishing the moratorium to address the problems or conditions leading to imposition of the moratorium and unless new facts and conditions warrant an extension. Any ordinance renewing or extending a development moratorium must expressly include, at the time of adoption, the findings set forth in subdivisions (1) through (4) of this subsection, including what new facts or conditions warrant the extension.

Any person aggrieved by the imposition of a moratorium on development approvals required by law may apply to the appropriate division of the General Court of Justice for an order enjoining the enforcement of the moratorium, and the court shall have jurisdiction to issue that order. Actions brought pursuant to this section shall be set down for immediate hearing, and subsequent proceedings in those actions shall be accorded priority by the trial and appellate courts. In any such action, the county shall have the burden of showing compliance with the procedural requirements of this subsection."

**SECTION 12.** G.S. 160A-332(a) reads as rewritten:

"(a) The suppliers of electric service inside the corporate limits of any city in which a secondary supplier was furnishing electric service on the determination ~~date (as defined in G.S. 160A-331(1))~~ date, as defined in G.S. 160A-331(1b), shall have rights and be subject to restrictions as follows:

...."

**SECTION 13.(a)** G.S. 160A-372(e) reads as rewritten:

"(e) The ordinance may provide that a developer may provide funds to the city whereby the city may acquire recreational land or areas to serve the development or subdivision, including the purchase of land that may be used to serve more than one subdivision or development within the immediate area. All funds received by the city pursuant to this ~~paragraph [subsection]~~ subsection shall be used only for the acquisition or development of recreation, park, or open space sites. Any formula enacted to determine the amount of funds that are to be provided under this ~~paragraph [subsection]~~ subsection shall be based on the value of the development or subdivision for property tax purposes. The ordinance may allow a combination or partial payment of funds and partial dedication of land when the governing body of the city determines that this combination is in the best interests of the citizens of the area to be served."

**SECTION 13.(b)** G.S. 160A-372(f) reads as rewritten:

"(f) The ordinance may provide that in lieu of required street construction, a developer may be required to provide funds that the city may use for the construction of roads to serve the occupants, residents, or invitees of the subdivision or development and these funds may be used for roads which serve more than one subdivision or development within the area. All funds received by the city pursuant to this ~~paragraph [subsection]~~ subsection shall be used only for development of roads, including design, land acquisition, and construction. However, a city may undertake these activities in conjunction with the Department of Transportation under an agreement between the city and the Department of Transportation. Any formula adopted to determine the amount of funds the developer is to pay in lieu of required street construction shall be based on the trips generated from the subdivision or development. The ordinance may require a combination of partial payment of funds and partial dedication of constructed streets when the governing body of the city determines that a combination is in the best interests of the citizens of the area to be served."

1           **SECTION 14.(a)** Section 7.1 of S.L. 2014-107 reads as rewritten:  
2           **"SECTION 7.1.** Section 5.1 of this act applies to all trusts created before, on, or after the  
3 effective date of this act. Except as otherwise provided, this act is effective when it becomes law."

4           **SECTION 14.(b)** This section becomes retroactively effective August 6, 2014.

5           **SECTION 14.1.** The introductory language of Section 54.5(b) of S.L. 2015-264 reads  
6 as rewritten:

7           **"SECTION 54.5.(b)** ~~Section 32.2(e)~~ Section 32.3(c) of S.L. 2015-241 reads as rewritten:".

8 **PART II. ADDITIONAL TECHNICAL AND OTHER AMENDMENTS.**

9           **SECTION 15.(a)** G.S. 1A-1, Rule 22, reads as rewritten:

10 **"Rule 22. Interpleader.**

11           (a) Persons having claims against the plaintiff may be joined as defendants and required to  
12 interplead when their claims expose or may expose the plaintiff to double or multiple liability. It is  
13 not ground for objection to the joinder that the claims of the several claimants or the titles on  
14 which their claims depend do not have a common origin or are not identical but are adverse to and  
15 independent of one another, or that the plaintiff avers that he is not liable in whole or in part to any  
16 or all of the claimants. A defendant exposed to similar liability may obtain such interpleader by  
17 way of crossclaim or counterclaim. The provisions of this rule supplement and do not in any way  
18 limit the joinder of parties permitted in Rule 20.

19           (b) Where funds are subject to competing claims by parties to the action, the court may  
20 order the party in possession of the funds either to deposit the funds in an interest bearing account  
21 in a ~~bank, savings and loan, or trust company licensed to do business in this State~~ federally insured  
22 depository institution or a trust institution authorized to do business in this State or to deposit the  
23 funds with the clerk. If the funds are deposited in a ~~bank, savings and loan, or trust company,~~  
24 federally insured depository institution or a trust institution authorized to do business in this State,  
25 the court shall specify the type of interest bearing account to be used. Funds deposited with the  
26 clerk shall be invested or deposited as provided in G.S. 7A-112 and G.S. 7A-112.1. Upon  
27 determination of the action, the judgment shall provide for disbursement of the principal and  
28 interest earned on the funds while so deposited."

29           **SECTION 15.(b)** G.S. 20-63.01 reads as rewritten:

30 **"§ 20-63.01. Bonds required for commission contractors.**

31           (a) A guaranty bond is required for each commission contractor that is not a governmental  
32 subdivision of this State that is granted a contract to issue license plates or conduct business  
33 pursuant to G.S. 20-63. Provided, however, a commission contractor that is unable to secure a  
34 bond may, with the consent of the Division, provide an alternative to a guaranty bond, as provided  
35 in subsection (c) of this section.

36           The Division may revoke, with cause, a contract with a commission contractor that fails to  
37 maintain a bond or an alternative to a bond, pursuant to this section.

38           (b) (1) When application is made for a contract or contract renewal, the applicant shall  
39 file a guaranty bond with the clerk of the superior court and/or the register of  
40 deeds of the county in which the commission contractor will be located. The  
41 bond shall be in favor of the Division. The bond shall be executed by the  
42 applicant as principal and by a bonding company authorized to do business in  
43 this State. The bond shall be conditioned to provide indemnification to the  
44 Division for a loss of revenue for any reason, including bankruptcy, employee  
45 embezzlement or theft, foreclosure, or ceasing to operate.

46           (2) The bond shall be in an amount determined by the Division to be adequate to  
47 provide indemnification to the Division under the terms of the bond. The bond  
48 amount shall be at least one hundred thousand dollars (\$100,000).

49           (3) The bond shall remain in force and effect until cancelled by the guarantor. The  
50 guarantor may cancel the bond upon 30 days' notice to the Division.

Cancellation of the bond shall not affect any liability incurred or accrued prior to the termination of the notice period.

- (4) The Division may be able to negotiate bonds for contractors who qualify for bonds as a group under favorable rates or circumstances. If so, the Division may require those contractors who can qualify for the group bond to obtain their bond as part of a group of contractors. The Division may deduct the premiums for any bonds it may be able to negotiate at group rates from the commissioned contractors' compensation.

(c) An applicant that is unable to secure a bond may seek a waiver of the guaranty bond from the Division and approval of one of the guaranty bond alternatives set forth in this subsection. With the approval of the Division, an applicant may file with the clerk of the superior court and/or the register of deeds of the county in which the commission contractor will be located, in lieu of a bond:

- (1) An assignment of a savings account in an amount equal to the bond required (i) which is in a form acceptable to the Division; (ii) which is executed by the applicant; (iii) which is executed by a ~~state or federal savings and loan association, state bank, or national bank that is doing business in North Carolina and whose accounts are insured by a federal depositors corporation;~~ federally insured depository institution lawfully doing business in this State; and (iv) for which access to the account in favor of the State of North Carolina is subject to the same conditions as for a bond in subsection (b) of this section.
- (2) A certificate of deposit (i) which is executed by a ~~state or federal savings and loan association, state bank, or national bank which is doing business in North Carolina and whose accounts are insured by a federal depositors corporation;~~ federally insured depository institution lawfully doing business in this State; (ii) which is either payable to the State of North Carolina, unrestrictively endorsed to the Division of Motor Vehicles; in the case of a negotiable certificate of deposit, is unrestrictively endorsed to the Division of Motor Vehicles; or in the case of a nonnegotiable certificate of deposit, is assigned to the Division of Motor Vehicles in a form satisfactory to the Division; and (iii) for which access to the certificate of deposit in favor of the State of North Carolina is subject to the same conditions as for a bond in subsection (b) of this section."

**SECTION 15.(c)** G.S. 85B-7.1(a) reads as rewritten:

"(a) Each licensee who does not disburse all funds to the seller on auction day shall maintain a trust or escrow account and shall deposit in the account all funds that are received for the benefit of another person and are not disbursed to the seller on auction day. The licensee shall deposit funds that are not disbursed on auction day with ~~an insured bank or savings and loan association~~ a federally insured depository institution located in North Carolina. At or before the time of all final settlements, the auctioneer shall provide the seller or consignor with a settlement statement, which includes a description of all goods sold, the selling price of the goods sold, the net proceeds due to the seller or consignor, the name and address of the person receiving the disbursement, and the amount of the disbursement. All settlement statements shall be signed by the licensee or the licensee's agent and by the person receiving the disbursement."

**SECTION 15.(d)** G.S. 85B-8 reads as rewritten:

**"§ 85B-8. Prohibited acts; assessment of civil penalty; denial, suspension, or revocation of license.**

(a) The following shall be grounds for the assessment of a civil penalty in accordance with G.S. 85B-3.1(b) or the denial, suspension, or revocation of an auctioneer, auctioneer apprentice, or auction firm license:

...



- (7) Commingling the funds or property of a client with the licensee's own or failing to maintain and deposit in a trust or escrow account in ~~an insured bank or savings and loan association~~ a federally insured depository institution located in North Carolina funds received for another person through sale at auction.

...."

**SECTION 15.(e)** G.S. 86A-22 reads as rewritten:

**"§ 86A-22. Licensing and regulating barber schools and colleges.**

The North Carolina State Board of Barber Examiners may approve barber schools or colleges in the State, and may prescribe rules and regulations for their operation. The Board shall adopt rules establishing criteria for barber schools and colleges to maintain their accreditation. No barber school or college shall be approved by the Board unless the school or college meets all of the following requirements:

...

- (7) a. Each school shall provide a guaranty bond unless the school has already provided a bond or an alternative to a bond under G.S. 115D-95.

The North Carolina State Board of Barber Examiners may revoke the approval of a school that fails to maintain a bond or an alternative to a bond pursuant to this subdivision or G.S. 115D-95.

- b. When application is made for approval or renewal of approval, the applicant shall file a guaranty bond with the clerk of the superior court of the county in which the school will be located. The bond shall be in favor of the students. The bond shall be executed by the applicant as principal and by a bonding company authorized to do business in this State. The bond shall be conditioned to provide indemnification to any student, or his parent or guardian, who has suffered a loss of tuition or any fees by reason of the failure of the school to offer or complete student instruction, academic services, or other goods and services related to course enrollment for any reason, including the suspension, revocation, or nonrenewal of a school's approval, bankruptcy, foreclosure, or the school ceasing to operate.

The bond shall be in an amount determined by the Board to be adequate to provide indemnification to any student, or his parent or guardian, under the terms of the bond. The bond amount for a school shall be at least equal to the maximum amount of prepaid tuition held at any time during the last fiscal year by the school. The bond amount shall also be at least ten thousand dollars (\$10,000).

Each application for approval shall include a letter signed by an authorized representative of the school showing in detail the calculations made and the method of computing the amount of the bond pursuant to this subpart and the rules of the Board. If the Board finds that the calculations made and the method of computing the amount of the bond are inaccurate or that the amount of the bond is otherwise inadequate to provide indemnification under the terms of the bond, the Board may require the applicant to provide an additional bond.

The bond shall remain in force and effect until cancelled by the guarantor. The guarantor may cancel the bond upon 30 days notice to the Board. Cancellation of the bond shall not affect any liability incurred or accrued prior to the termination of the notice period.

- c. An applicant that is unable to secure a bond may seek a waiver of the guaranty bond from the Board and approval of one of the guaranty bond alternatives set forth in this subpart. With the approval of the Board, an

applicant may file with the clerk of the superior court of the county in which the school will be located, in lieu of a bond:

1. An assignment of a savings account in an amount equal to the bond required (i) which is in a form acceptable to the Board; (ii) which is executed by the applicant; and (iii) which is executed by a ~~state or federal savings and loan association, state bank, or national bank, that is doing business in North Carolina and whose accounts are insured by a federal depositors corporation;~~ federally insured depository institution lawfully doing business in this State; and (iv) for which access to the account in favor of the State of North Carolina is subject to the same conditions as for a bond in subpart b. above.
2. A certificate of deposit (i) which is executed by a ~~state or federal savings and loan association, state bank, or national bank, which is doing business in North Carolina and whose accounts are insured by a federal depositors corporation;~~ federally insured depository institution lawfully doing business in this State; and (ii) which is either payable to the State of North Carolina, unrestrictively endorsed to the Board; in the case of a negotiable certificate of deposit, is unrestrictively endorsed to the Board; or in the case of a nonnegotiable certificate of deposit, is assigned to the Board in a form satisfactory to the Board; and (iii) for which access to the certificate of deposit in favor of the State of North Carolina is subject to the same conditions as for a bond in subpart b. above."

**SECTION 15.(f)** G.S. 88B-17 reads as rewritten:

**"§ 88B-17. Bond required for private cosmetic art schools.**

(a) Each private cosmetic art school shall provide a guaranty bond unless the school has already provided a bond or an alternative to a bond under G.S. 115D-95. The Board may restrict, suspend, revoke, or refuse to renew or reinstate the license of a school that fails to maintain a bond or an alternative to a bond pursuant to this section or G.S. 115D-95.

(b) (1) The applicant shall file the guaranty bond with the clerk of superior court in the county in which the school is located. The bond shall be in favor of the students. The bond shall be executed by the applicant as principal and by a bonding company authorized to do business in this State. The bond shall be conditioned to provide indemnification to any student or the student's parent or guardian who has suffered loss of tuition or any fees by reason of the failure of the school to offer or complete student instruction, academic services, or other goods and services as related to course enrollment for any reason, including suspension, revocation, or nonrenewal of a school's approval, bankruptcy, foreclosure, or the school's ceasing to operate.

(2) The bond amount shall be at least equal to the maximum amount of prepaid tuition held at any time by the school during the last fiscal year, but in no case shall be less than ten thousand dollars (\$10,000). Each application for license or license renewal shall include a letter signed by an authorized representative of the school showing the calculations made and the method of computing the amount of the bond in accordance with rules prescribed by the Board. If the Board finds that the calculations made and the method of computing the amount of the bond are inaccurate or that the amount of the bond is otherwise inadequate to provide indemnification under the terms of the bond, the Board may require the applicant to provide an additional bond.

(3) The bond shall remain in force and effect until canceled by the guarantor. The guarantor may cancel the bond upon 30 days' notice to the Board. Cancellation of the bond shall not affect any liability incurred or accrued prior to the termination of the notice period.

(c) An applicant who is unable to secure a bond may seek from the Board a waiver of the guaranty bond requirement and approval of one of the guaranty bond alternatives set forth in this subsection. With the approval of the Board, an applicant may file one of the following instead of a bond with the clerk of court in the county in which the school is located:

(1) An assignment of a savings account in an amount equal to the bond required that is in a form acceptable to the Board, and is executed by the applicant and a ~~state or federal savings and loan association, state bank, or national bank that is doing business in this State and whose accounts are insured by a federal depositor's corporation, federally insured depository institution lawfully doing business in this State,~~ and access to the account is subject to the same conditions as those for a bond in subsection (b) of this section.

(2) A certificate of deposit that is executed by a ~~state or federal savings and loan association, state bank, or national bank that is doing business in this State and whose accounts are insured by a federal depositor's corporation~~ federally insured depository institution lawfully doing business in this State and access to the certificate of deposit is subject to the same conditions as those for a bond in subsection (b) of this section."

**SECTION 15.(g)** G.S. 90-171.55 reads as rewritten:

**"§ 90-171.55. Nurses Aides Registry.**

(a) The Board of Nursing, established pursuant to G.S. 90-171.21, shall establish a Nurses Aides Registry for persons functioning as nurses aides regardless of title. The Board shall consider those Level I nurses aides employed in State licensed or Medicare/Medicaid certified nursing facilities who meet applicable State and federal registry requirements as adopted by the North Carolina Medical Care Commission as having fulfilled the training and registry requirements of the Board. The Board may not charge an annual fee to a nurse aide I registry applicant. The Board may charge an annual fee of twelve dollars (\$12.00) for each nurse aide II registry applicant. The Board shall adopt rules to ensure that whenever possible, the fee is collected through the employer or prospective employer of the registry applicant. Fees collected may be used by the Board in administering the registry. The Board's authority granted by this Article shall not conflict with the authority of the Medical Care Commission.

(b) (1) Each nurses aide training program, except for those operated by (i) institutions under the Board of Governors of The University of North Carolina, (ii) institutions of the North Carolina Community College System, (iii) public high schools, and (iv) hospital authorities acting pursuant to G.S. 131E-23(31), shall provide a guaranty bond unless the program has already provided a bond or an alternative to a bond under G.S. 115D-95. The Board of Nursing may revoke the approval of a program that fails to maintain a bond or an alternative to a bond pursuant to this subsection or G.S. 115D-95.

(2) When application is made for approval or renewal of approval, the applicant shall file a guaranty bond with the clerk of the superior court of the county in which the program will be located. The bond shall be in favor of the students. The bond shall be executed by the applicant as principal and by a bonding company authorized to do business in this State. The bond shall be conditioned to provide indemnification to any student, or his parent or guardian, who has suffered a loss of tuition or any fees by reason of the failure of the program to offer or complete student instruction, academic services, or other goods and services related to course enrollment for any reason, including the suspension,

1 revocation, or nonrenewal of a program's approval, bankruptcy, foreclosure, or  
2 the program ceasing to operate.

3 The bond shall be in an amount determined by the Board to be adequate to  
4 provide indemnification to any student, or his parent or guardian, under the  
5 terms of the bond. The bond amount for a program shall be at least equal to the  
6 maximum amount of prepaid tuition held at any time during the last fiscal year  
7 by the program. The bond amount shall also be at least ten thousand dollars  
8 (\$10,000).

9 Each application for a license shall include a letter signed by an authorized  
10 representative of the program showing in detail the calculations made and the  
11 method of computing the amount of the bond pursuant to this subdivision and  
12 the rules of the Board. If the Board finds that the calculations made and the  
13 method of computing the amount of the bond are inaccurate or that the amount  
14 of the bond is otherwise inadequate to provide indemnification under the terms  
15 of the bond, the Board may require the applicant to provide an additional bond.

16 The bond shall remain in force and effect until cancelled by the guarantor.  
17 The guarantor may cancel the bond upon 30 days notice to the Board.  
18 Cancellation of the bond shall not affect any liability incurred or accrued prior  
19 to the termination of the notice period.

20 (3) An applicant that is unable to secure a bond may seek a waiver of the guaranty  
21 bond from the Board and approval of one of the guaranty bond alternatives set  
22 forth in this subdivision. With the approval of the Board, an applicant may file  
23 with the clerk of the superior court of the county in which the program will be  
24 located, in lieu of a bond:

25 a. An assignment of a savings account in an amount equal to the bond  
26 required (i) which is in a form acceptable to the Board; (ii) which is  
27 executed by the applicant; and (iii) which is executed by a ~~state or~~  
28 ~~federal savings and loan association, state bank, or national bank, that is~~  
29 ~~doing business in North Carolina and whose accounts are insured by a~~  
30 ~~federal depositors corporation; federally insured depository institution~~  
31 lawfully doing business in this State; and (iv) for which access to the  
32 account in favor of the State of North Carolina is subject to the same  
33 conditions as for a bond in subdivision (2) of this subsection.

34 b. A certificate of deposit (i) which is executed by a ~~state or federal~~  
35 ~~savings and loan association, state bank, or national bank, which is~~  
36 ~~doing business in North Carolina and whose accounts are insured by a~~  
37 ~~federal depositors corporation; federally insured depository institution~~  
38 lawfully doing business in this State; and (ii) which is either payable to  
39 the State of North Carolina, unrestrictively endorsed to the Board; in the  
40 case of a negotiable certificate of deposit, is unrestrictively endorsed to  
41 the Board; or in the case of a nonnegotiable certificate of deposit, is  
42 assigned to the Board in a form satisfactory to the Board; and (iii) for  
43 which access to the certificate of deposit in favor of the State of North  
44 Carolina is subject to the same conditions as for a bond in subdivision  
45 (2) of this subsection."

46 **SECTION 15.(h)** G.S. 90-210.86 reads as rewritten:

47 **"§ 90-210.86. Deposit or investment of funds of mutual burial associations.**

48 Funds belonging to each mutual burial association over and above the amount determined by  
49 the Board of Funeral Service to be necessary for operating capital shall be invested in:

50 (1) Deposits in any ~~bank or trust company in this State.~~ federally insured depository  
51 institution or any trust institution authorized to do business in this State.

- (2) Obligations of the United States of America.
- (3) Obligations of any agency or instrumentality of the United States of America if the payment of interest and principal of such obligations is fully guaranteed by the United States of America.
- (4) Obligations of the State of North Carolina.
- (5) Bonds and notes of any North Carolina local government or public authority, subject to such restrictions as the Board of Funeral Service may impose.
- (6) Shares of or deposits in any savings and loan association organized under the laws of this State and shares of or deposits in any federal savings and loan association having its principal office in this State, provided that any such savings and loan association is insured by the United States of America or any agency thereof or by any mutual deposit guaranty association authorized by the Commissioner of Insurance of North Carolina to do business in North Carolina pursuant to Article 7A of Chapter 54 of the General Statutes.
- (7) Obligations of the Federal Intermediate Credit Banks, the Federal Home Loan Banks, Fannie Mae, the Banks for Cooperatives, and the Federal Land Banks, maturing no later than 18 months after the date of purchase.

Violation of the provisions of this section shall, after hearing, be cause for revocation or suspension of license to operate a mutual burial association."

**SECTION 15.(i)** G.S. 93A-3 reads as rewritten:

**"§ 93A-3. Commission created; compensation; organization.**

...

(b) The provisions of G.S. 93B-5 notwithstanding, members of the Commission shall receive as compensation for each day spent on work for the Commission a per diem in an amount established by the Commission by rule, and mileage reimbursement for transportation by privately owned automobile at the business standard mileage rate set by the Internal Revenue Service per mile of travel along with actual cost of tolls paid. The total expense of the administration of this Chapter shall not exceed the total income therefrom; and none of the expenses of said Commission or the compensation or expenses of any office thereof or any employee shall ever be paid or payable out of the treasury of the State of North Carolina; and neither the Commission nor any officer or employee thereof shall have any power or authority to make or incur any expense, debt or other financial obligation binding upon the State of North Carolina. After all expenses of operation, the Commission may set aside an expense reserve each year. The Commission may deposit moneys in accounts, certificates of deposit, or time deposits as the Commission may approve, in any ~~bank, savings and loan association, or trust company.~~ federally insured depository institution or any trust institution authorized to do business in this State. Moneys also may be invested in the same classes of securities referenced in G.S. 159-30(c).

...."

**SECTION 15.(j)** G.S. 93A-42 reads as rewritten:

**"§ 93A-42. Time shares deemed real estate.**

...

(d) The independent escrow agent provided by G.S. 93A-42(c)(2) shall deposit and maintain the purchaser's payments in an insured trust or escrow account in a ~~bank or savings and loan association located in this State.~~ federally insured depository institution lawfully doing business in this State. The trust or escrow account may be interest-bearing and the interest earned shall belong to the developer, if agreed upon in writing by the purchaser; provided, however, if the time share instrument is not recorded within the time periods specified in this section, then the interest earned shall belong to the purchaser. The independent escrow agent shall return all payments to the purchaser at the expiration of 180 days following the execution of the contract of sale by the purchaser, unless prior to that time the time share instrument has been recorded. However, if prior to the expiration of 180 days following the execution of the contract of sale, the

1 developer and the purchaser provide their written consent to the independent escrow agent, the  
2 developer's obligation to record the time share instrument and the escrow period may be extended  
3 for an additional period of 120 days. Upon recordation of the time share instrument, the  
4 independent escrow agent shall pay the purchaser's funds to the developer. Upon request by the  
5 Commission, the independent escrow agent shall promptly make available to the Commission  
6 inspection of records of money held by the independent escrow agent.

7 ....

8 **SECTION 15.(k)** G.S. 93A-45 reads as rewritten:

9 **"§ 93A-45. Purchaser's right to cancel; escrow; violation.**

10 ...

11 (c) Any payments received by a time share developer or time share salesperson in  
12 connection with the sale of the time share shall be immediately deposited by such developer or  
13 salesperson in a trust or escrow account in ~~an insured bank or savings and loan association in~~  
14 ~~North Carolina~~ a federally insured depository institution lawfully doing business in this State and  
15 shall remain in such account for 10 days or cancellation by the purchaser, whichever occurs first.  
16 Payments held in such trust or escrow accounts shall be deemed to belong to the purchaser and not  
17 the developer. In lieu of such escrow requirements, the Commission shall have the authority to  
18 accept, in its discretion, alternative financial assurances adequate to protect the purchaser's interest  
19 during the contract cancellation period, including but not limited to a surety bond, corporate bond,  
20 cash deposit or irrevocable letter of credit in an amount equal to the escrow requirements.

21 ....

22 **SECTION 16.(a)** G.S. 20-63.01, as amended by Section 15(b) of this act, reads as  
23 rewritten:

24 **"§ 20-63.01. Bonds required for commission contractors.**

25 (a) A guaranty bond is required for each commission contractor that is not a governmental  
26 subdivision of this State that is granted a contract to issue license plates or conduct business  
27 pursuant to G.S. 20-63. Provided, however, a commission contractor that is unable to secure a  
28 bond may, with the consent of the Division, provide an alternative to a guaranty bond, as provided  
29 in subsection (c) of this section.

30 The Division may revoke, with cause, a contract with a commission contractor that fails to  
31 maintain a bond or an alternative to a bond, pursuant to this section.

- 32 (b) (1) When application is made for a contract or contract renewal, the applicant shall  
33 file a guaranty bond with the clerk of the superior court and/or the register of  
34 deeds of the county in which the commission contractor will be located. The  
35 bond shall be in favor of the Division. The bond shall be executed by the  
36 applicant as principal and by a bonding company authorized to do business in  
37 this State. The bond shall be conditioned to provide indemnification to the  
38 Division for a loss of revenue for any reason, including bankruptcy, employee  
39 embezzlement or theft, foreclosure, or ceasing to operate.
- 40 (2) The bond shall be in an amount determined by the Division to be adequate to  
41 provide indemnification to the Division under the terms of the bond. The bond  
42 amount shall be at least one hundred thousand dollars (\$100,000).
- 43 (3) The bond shall remain in force and effect until cancelled by the guarantor. The  
44 guarantor may cancel the bond upon 30 days' notice to the Division.  
45 Cancellation of the bond shall not affect any liability incurred or accrued prior  
46 to the termination of the notice period.
- 47 (4) The Division may be able to negotiate bonds for contractors who qualify for  
48 bonds as a group under favorable rates or circumstances. If so, the Division  
49 may require those contractors who can qualify for the group bond to obtain  
50 their bond as part of a group of contractors. The Division may deduct the

premiums for any bonds it may be able to negotiate at group rates from the commissioned contractors' compensation.

(c) An applicant that is unable to secure a bond may seek a waiver of the guaranty bond from the Division and approval of one of the guaranty bond alternatives set forth in this subsection. With the approval of the Division, an applicant may file with the clerk of the superior court and/or the register of deeds of the county in which the commission contractor will be located, in lieu of a bond:

(1) An assignment of a savings account in an amount equal to the bond required (i) which is in a form acceptable to the Division; (ii) which is executed by the applicant; (iii) which is executed by a federally insured depository institution ~~lawfully doing business in this State; or a trust institution authorized to do business in this State;~~ and (iv) for which access to the account in favor of the State of North Carolina is subject to the same conditions as for a bond in subsection (b) of this section.

(2) A certificate of deposit (i) which is executed by a federally insured depository institution ~~lawfully doing business in this State; or a trust institution authorized to do business in this State;~~ (ii) which is either payable to the State of North Carolina, unrestrictively endorsed to the Division of Motor Vehicles; in the case of a negotiable certificate of deposit, is unrestrictively endorsed to the Division of Motor Vehicles; or in the case of a nonnegotiable certificate of deposit, is assigned to the Division of Motor Vehicles in a form satisfactory to the Division; and (iii) for which access to the certificate of deposit in favor of the State of North Carolina is subject to the same conditions as for a bond in subsection (b) of this section."

**SECTION 16.(b)** G.S. 42-50 reads as rewritten:

**"§ 42-50. Deposits from the tenant.**

Security deposits from the tenant in residential dwelling units shall be deposited in a trust account with a licensed and federally insured depository institution ~~lawfully doing business in this State; or a trust institution authorized to do business in this State~~ or the landlord may, at ~~his-the~~ landlord's option, furnish a bond from an insurance company licensed to do business in North Carolina. The security deposits from the tenant may be held in a trust account outside of the State of North Carolina only if the landlord provides the tenant with an adequate bond in the amount of ~~said-the~~ deposits. The landlord or ~~his-the~~ landlord's agent shall notify the tenant within 30 days after the beginning of the lease term of the name and address of the bank or institution where ~~his the tenant's~~ deposit is currently located or the name of the insurance company providing the bond."

**SECTION 16.(c)** 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 a federally insured depository institution ~~lawfully doing business in this State; or a trust institution authorized to do business in this State~~ no later than three banking days after the receipt of 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 16.(d)** G.S. 42A-17(a), as amended by Section 7.3 of this act, reads as rewritten:

"(a) A vacation rental agreement shall identify the name and address of the federally insured depository institution or trust institution in which the tenant's security deposit and other advance payments are held in a trust account, and the landlord and real estate broker shall provide the tenant with an accounting of such deposit and payments if the tenant makes a reasonable request for an accounting prior to the tenant's occupancy of the property."

**SECTION 16.(e)** G.S. 47C-4-110 reads as rewritten:

**"§ 47C-4-110. Escrow of deposits.**

(a) Any deposit made in connection with the purchase or reservation of a unit from a person required to deliver a public offering statement pursuant to G.S. 47C-4-102(c) shall be immediately deposited in a trust or escrow account in a federally insured depository institution ~~lawfully doing business in this State~~ or a trust institution authorized to do business in this State and shall remain in such account for such period of time as a purchaser is entitled to cancel pursuant to G.S. 47C-4-108 or cancellation by the purchaser thereunder whichever occurs first. Payments held in such trust or escrow accounts shall be deemed to belong to the purchaser and not the seller.

(b) Except as provided in G.S. 47C-4-108, nothing in subsection (a) is intended to preclude the parties to a contract from providing for the use of progress payments by the declarant during construction."

**SECTION 16.(f)** G.S. 85B-7.1(a), as amended by Section 15(c) of this act, reads as rewritten:

"(a) Each licensee who does not disburse all funds to the seller on auction day shall maintain a trust or escrow account and shall deposit in the account all funds that are received for the benefit of another person and are not disbursed to the seller on auction day. The licensee shall deposit funds that are not disbursed on auction day with a federally insured depository institution ~~located in North Carolina~~ or a trust institution authorized to do business in this State. At or before the time of all final settlements, the auctioneer shall provide the seller or consignor with a settlement statement, which includes a description of all goods sold, the selling price of the goods sold, the net proceeds due to the seller or consignor, the name and address of the person receiving the disbursement, and the amount of the disbursement. All settlement statements shall be signed by the licensee or the licensee's agent and by the person receiving the disbursement."

**SECTION 16.(g)** G.S. 85B-8, as amended by Section 15(d) of this act, reads as rewritten:

**"§ 85B-8. Prohibited acts; assessment of civil penalty; denial, suspension, or revocation of license.**

(a) The following shall be grounds for the assessment of a civil penalty in accordance with G.S. 85B-3.1(b) or the denial, suspension, or revocation of an auctioneer, auctioneer apprentice, or auction firm license:

...

(7) Commingling the funds or property of a client with the licensee's own or failing to maintain and deposit in a trust or escrow account in a federally insured depository institution ~~located in North Carolina~~ or a trust institution authorized to do business in this State funds received for another person through sale at auction.

...."

**SECTION 16.(h)** G.S. 86A-22, as amended by Section 15(e) of this act, reads as rewritten:

**"§ 86A-22. Licensing and regulating barber schools and colleges.**

The North Carolina State Board of Barber Examiners may approve barber schools or colleges in the State, and may prescribe rules and regulations for their operation. The Board shall adopt rules establishing criteria for barber schools and colleges to maintain their accreditation. No barber



1 school or college shall be approved by the Board unless the school or college meets all of the  
2 following requirements:

3 ...  
4 (7) a. Each school shall provide a guaranty bond unless the school has already  
5 provided a bond or an alternative to a bond under G.S. 115D-95.

6 The North Carolina State Board of Barber Examiners may revoke  
7 the approval of a school that fails to maintain a bond or an alternative to  
8 a bond pursuant to this subdivision or G.S. 115D-95.

9 b. When application is made for approval or renewal of approval, the  
10 applicant shall file a guaranty bond with the clerk of the superior court  
11 of the county in which the school will be located. The bond shall be in  
12 favor of the students. The bond shall be executed by the applicant as  
13 principal and by a bonding company authorized to do business in this  
14 State. The bond shall be conditioned to provide indemnification to any  
15 student, or his parent or guardian, who has suffered a loss of tuition or  
16 any fees by reason of the failure of the school to offer or complete  
17 student instruction, academic services, or other goods and services  
18 related to course enrollment for any reason, including the suspension,  
19 revocation, or nonrenewal of a school's approval, bankruptcy,  
20 foreclosure, or the school ceasing to operate.

21 The bond shall be in an amount determined by the Board to be  
22 adequate to provide indemnification to any student, or his parent or  
23 guardian, under the terms of the bond. The bond amount for a school  
24 shall be at least equal to the maximum amount of prepaid tuition held at  
25 any time during the last fiscal year by the school. The bond amount  
26 shall also be at least ten thousand dollars (\$10,000).

27 Each application for approval shall include a letter signed by an  
28 authorized representative of the school showing in detail the  
29 calculations made and the method of computing the amount of the bond  
30 pursuant to this subpart and the rules of the Board. If the Board finds  
31 that the calculations made and the method of computing the amount of  
32 the bond are inaccurate or that the amount of the bond is otherwise  
33 inadequate to provide indemnification under the terms of the bond, the  
34 Board may require the applicant to provide an additional bond.

35 The bond shall remain in force and effect until cancelled by the  
36 guarantor. The guarantor may cancel the bond upon 30 days notice to  
37 the Board. Cancellation of the bond shall not affect any liability  
38 incurred or accrued prior to the termination of the notice period.

39 c. An applicant that is unable to secure a bond may seek a waiver of the  
40 guaranty bond from the Board and approval of one of the guaranty bond  
41 alternatives set forth in this subpart. With the approval of the Board, an  
42 applicant may file with the clerk of the superior court of the county in  
43 which the school will be located, in lieu of a bond:

44 1. An assignment of a savings account in an amount equal to the  
45 bond required (i) which is in a form acceptable to the Board; (ii)  
46 which is executed by the applicant; and (iii) which is executed  
47 by a federally insured depository institution ~~lawfully doing~~  
48 ~~business in this State; or a trust institution authorized to do~~  
49 ~~business in this State;~~ and (iv) for which access to the account in  
50 favor of the State of North Carolina is subject to the same  
51 conditions as for a bond in subpart b. above.

2. A certificate of deposit (i) which is executed by a federally insured depository institution ~~lawfully doing business in this State; or a trust institution authorized to do business in this State;~~ and (ii) which is either payable to the State of North Carolina, unrestrictively endorsed to the Board; in the case of a negotiable certificate of deposit, is unrestrictively endorsed to the Board; or in the case of a nonnegotiable certificate of deposit, is assigned to the Board in a form satisfactory to the Board; and (iii) for which access to the certificate of deposit in favor of the State of North Carolina is subject to the same conditions as for a bond in subpart b. above."

**SECTION 16.(i)** G.S. 88B-17, as amended by Section 15(f) of this act, reads as rewritten:

**"§ 88B-17. Bond required for private cosmetic art schools.**

(a) Each private cosmetic art school shall provide a guaranty bond unless the school has already provided a bond or an alternative to a bond under G.S. 115D-95. The Board may restrict, suspend, revoke, or refuse to renew or reinstate the license of a school that fails to maintain a bond or an alternative to a bond pursuant to this section or G.S. 115D-95.

(b) (1) The applicant shall file the guaranty bond with the clerk of superior court in the county in which the school is located. The bond shall be in favor of the students. The bond shall be executed by the applicant as principal and by a bonding company authorized to do business in this State. The bond shall be conditioned to provide indemnification to any student or the student's parent or guardian who has suffered loss of tuition or any fees by reason of the failure of the school to offer or complete student instruction, academic services, or other goods and services as related to course enrollment for any reason, including suspension, revocation, or nonrenewal of a school's approval, bankruptcy, foreclosure, or the school's ceasing to operate.

(2) The bond amount shall be at least equal to the maximum amount of prepaid tuition held at any time by the school during the last fiscal year, but in no case shall be less than ten thousand dollars (\$10,000). Each application for license or license renewal shall include a letter signed by an authorized representative of the school showing the calculations made and the method of computing the amount of the bond in accordance with rules prescribed by the Board. If the Board finds that the calculations made and the method of computing the amount of the bond are inaccurate or that the amount of the bond is otherwise inadequate to provide indemnification under the terms of the bond, the Board may require the applicant to provide an additional bond.

(3) The bond shall remain in force and effect until canceled by the guarantor. The guarantor may cancel the bond upon 30 days' notice to the Board. Cancellation of the bond shall not affect any liability incurred or accrued prior to the termination of the notice period.

(c) An applicant who is unable to secure a bond may seek from the Board a waiver of the guaranty bond requirement and approval of one of the guaranty bond alternatives set forth in this subsection. With the approval of the Board, an applicant may file one of the following instead of a bond with the clerk of court in the county in which the school is located:

(1) An assignment of a savings account in an amount equal to the bond required that is in a form acceptable to the Board, and is executed by the applicant and a federally insured depository institution ~~lawfully doing business in this State; or~~ a trust institution authorized to do business in this State, and access to the

1 account is subject to the same conditions as those for a bond in subsection (b)  
2 of this section.

- 3 (2) A certificate of deposit that is executed by a federally insured depository  
4 institution ~~lawfully doing business in this State~~ or a trust institution authorized  
5 to do business in this State and access to the certificate of deposit is subject to  
6 the same conditions as those for a bond in subsection (b) of this section."

7 **SECTION 16.(j)** G.S. 90-171.55, as amended by Section 15(g) of this act, reads as  
8 rewritten:

9 **"§ 90-171.55. Nurses Aides Registry.**

10 (a) The Board of Nursing, established pursuant to G.S. 90-171.21, shall establish a Nurses  
11 Aides Registry for persons functioning as nurses aides regardless of title. The Board shall consider  
12 those Level I nurses aides employed in State licensed or Medicare/Medicaid certified nursing  
13 facilities who meet applicable State and federal registry requirements as adopted by the North  
14 Carolina Medical Care Commission as having fulfilled the training and registry requirements of  
15 the Board. The Board may not charge an annual fee to a nurse aide I registry applicant. The Board  
16 may charge an annual fee of twelve dollars (\$12.00) for each nurse aide II registry applicant. The  
17 Board shall adopt rules to ensure that whenever possible, the fee is collected through the employer  
18 or prospective employer of the registry applicant. Fees collected may be used by the Board in  
19 administering the registry. The Board's authority granted by this Article shall not conflict with the  
20 authority of the Medical Care Commission.

- 21 (b) (1) Each nurses aide training program, except for those operated by (i) institutions  
22 under the Board of Governors of The University of North Carolina, (ii)  
23 institutions of the North Carolina Community College System, (iii) public high  
24 schools, and (iv) hospital authorities acting pursuant to G.S. 131E-23(31), shall  
25 provide a guaranty bond unless the program has already provided a bond or an  
26 alternative to a bond under G.S. 115D-95. The Board of Nursing may revoke  
27 the approval of a program that fails to maintain a bond or an alternative to a  
28 bond pursuant to this subsection or G.S. 115D-95.

- 29 (2) When application is made for approval or renewal of approval, the applicant  
30 shall file a guaranty bond with the clerk of the superior court of the county in  
31 which the program will be located. The bond shall be in favor of the students.  
32 The bond shall be executed by the applicant as principal and by a bonding  
33 company authorized to do business in this State. The bond shall be conditioned  
34 to provide indemnification to any student, or his parent or guardian, who has  
35 suffered a loss of tuition or any fees by reason of the failure of the program to  
36 offer or complete student instruction, academic services, or other goods and  
37 services related to course enrollment for any reason, including the suspension,  
38 revocation, or nonrenewal of a program's approval, bankruptcy, foreclosure, or  
39 the program ceasing to operate.

40 The bond shall be in an amount determined by the Board to be adequate to  
41 provide indemnification to any student, or his parent or guardian, under the  
42 terms of the bond. The bond amount for a program shall be at least equal to the  
43 maximum amount of prepaid tuition held at any time during the last fiscal year  
44 by the program. The bond amount shall also be at least ten thousand dollars  
45 (\$10,000).

46 Each application for a license shall include a letter signed by an authorized  
47 representative of the program showing in detail the calculations made and the  
48 method of computing the amount of the bond pursuant to this subdivision and  
49 the rules of the Board. If the Board finds that the calculations made and the  
50 method of computing the amount of the bond are inaccurate or that the amount

of the bond is otherwise inadequate to provide indemnification under the terms of the bond, the Board may require the applicant to provide an additional bond.

The bond shall remain in force and effect until cancelled by the guarantor. The guarantor may cancel the bond upon 30 days notice to the Board. Cancellation of the bond shall not affect any liability incurred or accrued prior to the termination of the notice period.

(3) An applicant that is unable to secure a bond may seek a waiver of the guaranty bond from the Board and approval of one of the guaranty bond alternatives set forth in this subdivision. With the approval of the Board, an applicant may file with the clerk of the superior court of the county in which the program will be located, in lieu of a bond:

a. An assignment of a savings account in an amount equal to the bond required (i) which is in a form acceptable to the Board; (ii) which is executed by the applicant; and (iii) which is executed by a federally insured depository institution ~~lawfully doing business in this State; or a trust institution authorized to do business in this State;~~ and (iv) for which access to the account in favor of the State of North Carolina is subject to the same conditions as for a bond in subdivision (2) of this subsection.

b. A certificate of deposit (i) which is executed by a federally insured depository institution ~~lawfully doing business in this State; or a trust institution authorized to do business in this State;~~ and (ii) which is either payable to the State of North Carolina, unrestrictively endorsed to the Board; in the case of a negotiable certificate of deposit, is unrestrictively endorsed to the Board; or in the case of a nonnegotiable certificate of deposit, is assigned to the Board in a form satisfactory to the Board; and (iii) for which access to the certificate of deposit in favor of the State of North Carolina is subject to the same conditions as for a bond in subdivision (2) of this subsection."

**SECTION 16.(k)** G.S. 93A-42, as amended by Section 15(j) of this act, reads as

rewritten:

**"§ 93A-42. Time shares deemed real estate.**

...

(d) The independent escrow agent provided by G.S. 93A-42(c)(2) shall deposit and maintain the purchaser's payments in an insured trust or escrow account in a federally insured depository institution ~~lawfully doing business in this State; or a trust institution authorized to do business in this State.~~ The trust or escrow account may be interest-bearing and the interest earned shall belong to the developer, if agreed upon in writing by the purchaser; provided, however, if the time share instrument is not recorded within the time periods specified in this section, then the interest earned shall belong to the purchaser. The independent escrow agent shall return all payments to the purchaser at the expiration of 180 days following the execution of the contract of sale by the purchaser, unless prior to that time the time share instrument has been recorded. However, if prior to the expiration of 180 days following the execution of the contract of sale, the developer and the purchaser provide their written consent to the independent escrow agent, the developer's obligation to record the time share instrument and the escrow period may be extended for an additional period of 120 days. Upon recordation of the time share instrument, the independent escrow agent shall pay the purchaser's funds to the developer. Upon request by the Commission, the independent escrow agent shall promptly make available to the Commission inspection of records of money held by the independent escrow agent.

...."

SECTION 16.(l) G.S. 93A-45, as amended by Section 15(k) of this act, reads as rewritten:

"§ 93A-45. Purchaser's right to cancel; escrow; violation.

...  
(c) Any payments received by a time share developer or time share salesperson in connection with the sale of the time share shall be immediately deposited by such developer or salesperson in a trust or escrow account in a federally insured depository institution ~~lawfully doing business in this State~~ or a trust institution authorized to do business in this State and shall remain in such account for 10 days or cancellation by the purchaser, whichever occurs first. Payments held in such trust or escrow accounts shall be deemed to belong to the purchaser and not the developer. In lieu of such escrow requirements, the Commission shall have the authority to accept, in its discretion, alternative financial assurances adequate to protect the purchaser's interest during the contract cancellation period, including but not limited to a surety bond, corporate bond, cash deposit or irrevocable letter of credit in an amount equal to the escrow requirements.

...."

SECTION 16.1. G.S. 14-27.23(c) and G.S. 14-27.28(c) are repealed.

SECTION 16.3. G.S. 28A-2B-2 reads as rewritten:

"§ 28A-2B-2. Venue.

The venue for a petition under G.S. 28A-2B-1 is the county of this State in which the petitioner whose will or codicil is the subject of the petition ~~is domiciled~~ resides."

SECTION 16.4. G.S. 31D-5-505, as recodified by Section 7.2(b) of this act, reads as rewritten:

"§ 31D-5-505. Requisites of release ~~or limitation~~ as against creditors and purchasers for value.

No release ~~or limitation~~ of a power of appointment after March 8, 1943, which is made by the owner of the legal title to real property in this State shall be valid as against creditors and purchasers for a valuable consideration until an instrument in writing setting forth the release ~~or limitation~~ is executed and acknowledged in the manner required for a deed and recorded in the county where the real property is."

SECTION 16.5. G.S. 36C-5-505 reads as rewritten:

"§ 36C-5-505. Creditor's claim against settlor.

...  
(c) Subject to the Uniform Voidable Transactions Act, Article 3A of Chapter 39 of the General Statutes, for purposes of this section, property contributed to the following trusts is not considered to have been contributed by the settlor and a person who would otherwise be treated as a settlor or a deemed settlor of the following trusts may not be treated as a settlor:

(1) If the settlor is a beneficiary after the death of the settlor's spouse:

- a. An irrevocable inter vivos marital trust that is treated as a general power of appointment trust described in section 2523(e) of the Internal Revenue Code.
- b. An irrevocable inter vivos marital trust that is treated as a qualified terminable interest trust under section 2523(f) of the Internal Revenue Code.
- c. An irrevocable inter vivos trust of which the settlor's spouse is a beneficiary during the spouse's lifetime but which does not qualify for the federal gift tax marital deduction, and during the lifetime of the settlor's spouse (i) the settlor's spouse is the only beneficiary or (ii) the settlor's spouse and ~~the settlor's issue~~ any issue of the settlor or the settlor's spouse, or both, are the only beneficiaries.

d. Another trust, to the extent that the property of the other trust is attributable to property passing from a trust described in sub-subdivisions a., b., and c. of this subdivision.

For purposes of this subdivision, notwithstanding the provisions of G.S. 36C-1-103(3), the settlor is a beneficiary whether so named under the initial trust instrument or through the exercise of a limited or general power of appointment.

(2) An irrevocable inter vivos trust for the benefit of a person if the settlor is the person's spouse, regardless of whether or when that person was a settlor of an irrevocable inter vivos trust for the benefit of the person's spouse.

For purposes of this subsection, the "settlor's spouse" refers to the person to whom the settlor was married at the time the irrevocable inter vivos trust was created, notwithstanding a subsequent dissolution of the marriage."

**SECTION 16.6.** G.S. 39-13.7 is amended by adding two new subsections to read:

"(f) Notice that the real property held in trust receives immunity from the claims of separate creditors may be given in a statement in the conveyance of the tenancy by the entireties real property to the trust that the real property is held under this section and that as of the date of the conveyance, the requirements of subsection (b) of this section are met.

(g) A person entering a transaction involving real property held in trust under this section may request confirmation from the trustee whether the requirements of this section providing immunity from the claims of separate creditors are met at the time of the transaction."

**SECTION 16.8.** G.S. 62-133.10 reads as rewritten:

**"§ 62-133.10. Retention of fuel and fuel-related cost savings associated with the purchase or construction of a carbon offset facility.**

(a) The Commission shall permit an electric public utility that purchases or constructs a carbon offset facility to adjust its fuel and fuel-related costs in G.S. 62-133.2 to retain the North Carolina retail allocation of the system fuel and fuel-related cost savings resulting from the purchase or construction of the facility, not to exceed the annual revenue requirement associated with the allocated North Carolina retail portion of the facility as determined using the cost of service methodology approved by the Commission in the utility's last general rate case.

(b) For purposes of this section, "carbon offset facility" means a facility in this State that meets all of the following:

(1) The facility is purchased or constructed by an electric public ~~utility between July 1, 2009, and July 1, 2014.~~utility.

(2) The facility uses solar electric, solar thermal, wind, hydropower, geothermal, or ocean current or wave energy to generate electricity or equivalent BTUs.

(3) The electricity or equivalent BTUs produced by the facility will displace electric generation so as to reduce greenhouse gas emissions from existing fossil fuel fired generating facilities used by the utility to meet the electricity needs of its North Carolina customers.

(c) An electric public utility seeking the adjustment authorized by this section first shall file with the Commission a petition requesting a determination that the facility the utility proposes to purchase or construct is a carbon offset facility. The utility shall include in its petition all of the following information in such form and detail as the Commission may require:

(1) Description and location of the facility.

(2) The benefit of the facility.

(3) A list of all necessary permitting and approvals and their status.

(4) Purchase or construction schedule, with in-service or completion date.

(5) Projected costs to purchase or construct and the annual revenue requirement for the facility.

- 1 (6) Projected annual generation output of the facility and information detailing how  
2 the generation projections were calculated.
- 3 (7) Information demonstrating that the operation of the facility will displace  
4 electric generation resulting in a reduction of greenhouse gas emissions from  
5 existing fossil fuel fired facilities used by the utility to meet the electricity  
6 needs of its North Carolina customers.
- 7 (8) The projected fuel and fuel-related cost savings the utility seeks to retain and  
8 how the savings were calculated.
- 9 (d) Upon the filing of the petition, the Public Staff shall conduct an investigation and shall  
10 file a report with the Commission setting forth the results of its investigation and stating whether  
11 the facility is a carbon offset facility. The Public Staff's report shall be filed not later than 45 days  
12 after the date the petition was filed, unless the Commission grants an extension of time not to  
13 exceed 15 days for good cause shown. Other interested persons may file comments in response to  
14 the utility's petition and the Public Staff's report not later than 15 days after the Public Staff files  
15 its report. The Commission shall enter an order either granting or denying the petition not later  
16 than 105 days after the date the petition was filed. A finding by the Commission that the facility is  
17 a carbon offset facility shall establish that the utility's decision to purchase or construct the facility  
18 is reasonable and prudent.
- 19 (e) Nothing in this section shall be construed to exempt an electric public utility from  
20 obtaining all applicable permits and certificates, including a certificate of public convenience and  
21 necessity required by G.S. 62-110.1. An electric public utility shall file annual cost and schedule  
22 updates with the Commission until the purchase or construction of an approved carbon offset  
23 facility is completed.
- 24 (f) Upon placement into service of an approved carbon offset facility, the electric public  
25 utility shall, in addition to the information and data provided under G.S. 62-133.2, submit the  
26 following in conjunction with its application for a fuel and fuel-related charge adjustment:
- 27 (1) A calculation of the annual revenue requirement associated with the carbon  
28 offset facility.
- 29 (2) Information demonstrating the specific items of costs associated with the  
30 carbon offset facility's annual revenue requirement are reasonable and prudent.
- 31 (3) The fuel and fuel-related cost savings resulting from operation of the carbon  
32 offset facility.
- 33 (4) Actual generation output of the carbon offset facility, including a demonstration  
34 and quantification of how this generation displaced electric generation resulting  
35 in reduced greenhouse gas emissions from existing fossil fuel fired facilities  
36 used by the utility to meet the electricity needs of its North Carolina customers  
37 during the test year.
- 38 (g) The Commission shall approve an estimate of the projected fuel and fuel-related cost  
39 savings and an annual revenue requirement for an approved facility, as appropriate, in each  
40 G.S. 62-133.2 proceeding. The Commission also may approve a true-up procedure for the  
41 projected fuel and fuel-related cost savings. In the first G.S. 62-133.2 proceeding conducted after  
42 the approved facility is placed in service, the Commission shall determine the reasonable and  
43 prudent cost of the facility for ratemaking purposes. The revenue requirement associated with the  
44 facility shall include but not be limited to: depreciation; operating and maintenance costs;  
45 applicable taxes; and a return on investment, net of accumulated depreciation, accumulated  
46 deferred income taxes, and other applicable savings or adjustments. The rate of return on  
47 investment shall be based on the then current capital structure, embedded cost of preferred stock,  
48 and embedded cost of debt of the public utility net of appropriate income taxes, and the cost of  
49 common equity approved in the public utility's then most recent general rate case.
- 50 (h) The Commission shall authorize the electric public utility to utilize deferral accounting  
51 for the fuel and fuel-related cost savings realized in conjunction with the operation of an approved

1 facility. The Commission shall, by rule or order, approve the terms and conditions of the deferral  
2 accounting.

3 (i) The annual revenue requirement of the approved facility in excess of the annual fuel  
4 and fuel-related cost savings shall be deemed recovered through the utility's then current base  
5 rates.

6 (j) The adjustment authorized by this section shall terminate upon the establishment of  
7 new rates in the electric public utility's next general rate case following the placement into service  
8 and inclusion into base rates of the approved facility."

9 **SECTION 17.** G.S. 90-91 reads as rewritten:

10 **"§ 90-91. Schedule III controlled substances.**

11 This schedule includes the controlled substances listed or to be listed by whatever official  
12 name, common or usual name, chemical name, or trade name designated. In determining that a  
13 substance comes within this schedule, the Commission shall find: a potential for abuse less than  
14 the substances listed in Schedules I and II; currently accepted medical use in the United States;  
15 and abuse may lead to moderate or low physical dependence or high psychological dependence.  
16 The following controlled substances are included in this schedule:

17 ...

18 (k) Anabolic steroids. The term "anabolic steroid" means any drug or hormonal substance,  
19 chemically and pharmacologically related to testosterone (other than estrogens, progestins, and  
20 corticosteroids) that promotes muscle growth, including, but not limited to, the following:

- 21 1. Methandrostenolone,
- 22 2. Stanozolol,
- 23 3. Ethylestrenol,
- 24 4. Nandrolone phenpropionate,
- 25 5. Nandrolone decanoate,
- 26 6. Testosterone propionate,
- 27 7. Chorionic gonadotropin,
- 28 8. Boldenone,
- 29 9. Chlorotestosterone (4-chlorotestosterone),
- 30 10. Clostebol,
- 31 11. Dehydrochlormethyltestosterone,
- 32 12. Dihydrotestosterone (4-dihydrotestosterone),
- 33 13. Drostanolone,
- 34 14. Fluoxymesterone,
- 35 15. Formebolone (formebolone),
- 36 16. Mesterolene,
- 37 17. Methandienone,
- 38 18. Methandranone,
- 39 19. Methandriol,
- 40 20. Methenolone,
- 41 21. Methyltestosterone,
- 42 22. Mibolerone,
- 43 23. Nandrolene,
- 44 24. Norethandrolene,
- 45 25. Oxandrolone,
- 46 26. Oxymesterone,
- 47 27. Oxymetholone,
- 48 28. Stanolone,
- 49 29. Testolactone,
- 50 30. Testosterone,
- 51 31. Trenbolone, and



32. Any salt, ester, or isomer of a drug or substance described or listed in this subsection, if that salt, ester, or isomer promotes muscle growth. ~~Except~~  
~~Except~~ such term does not include (i) an anabolic steroid which is expressly intended for administration through implants to cattle or other nonhuman species and which has been approved by the Secretary of Health and Human Services for such ~~administration-administration~~, or (ii) chorionic gonadotropin when administered by injection for veterinary use by or upon the order of a licensed veterinarian. If any person prescribes, dispenses, or distributes such steroid for human use, such person shall be considered to have prescribed, dispensed, or distributed an anabolic steroid within the meaning of this subsection.

...."

**SECTION 18.** G.S. 90-96 reads as rewritten:

**"§ 90-96. Conditional discharge for first offense.**

(a) Whenever any person who has not previously been convicted of (i) any felony offense under any state or federal laws; (ii) any offense under this Article; or (iii) an offense under any statute of the United States or any state relating to those substances included in Article 5 or 5A of Chapter 90 or to that paraphernalia included in Article 5B of Chapter 90 of the General Statutes pleads guilty to or is found guilty of (i) a misdemeanor under this Article by possessing a controlled substance included within Schedules I through VI of this Article or by possessing drug paraphernalia as prohibited by ~~G.S. 90-113.22, G.S. 90-113.22 or G.S. 90-113.22A~~, or (ii) a felony under G.S. 90-95(a)(3), the court shall, without entering a judgment of guilt and with the consent of ~~such the person~~, defer further proceedings and place ~~him the person~~ on probation upon such reasonable terms and conditions as it may require, unless the court determines with a written finding, and with the agreement of the District Attorney, that the offender is inappropriate for a conditional discharge for factors related to the offense. Notwithstanding the provisions of G.S. 15A-1342(c) or any other statute or law, probation may be imposed under this section for an offense under this Article for which the prescribed punishment includes only a fine. To fulfill the terms and conditions of probation the court may allow the defendant to participate in a drug education program approved for this purpose by the Department of Health and Human Services or in the Treatment for Effective Community Supervision Program under Subpart B of Part 6 of Article 13 of Chapter 143B of the General Statutes. Upon violation of a term or condition, the court may enter an adjudication of guilt and proceed as otherwise provided. Upon fulfillment of the terms and conditions, the court shall discharge ~~such the person~~ and dismiss the ~~proceedings against him. proceedings.~~ Discharge and dismissal under this section shall be without court adjudication of guilt and shall not be deemed a conviction for purposes of this section or for purposes of disqualifications or disabilities imposed by law upon conviction of a crime including the additional penalties imposed for second or subsequent convictions under this Article. Discharge and dismissal under this section or G.S. 90-113.14 may occur only once with respect to any person. Disposition of a case to determine discharge and dismissal under this section at the district court division of the General Court of Justice shall be final for the purpose of appeal. Prior to taking any action to discharge and dismiss under this section the court shall make a finding that the defendant has no record of previous convictions as provided in this subsection.

(a1) Upon the first conviction only of any offense which qualifies under the provisions of subsection (a) of this section, and the provisions of this subsection, the court may place defendant on probation under this section for an offense under this Article including an offense for which the prescribed punishment includes only a fine. The probation, if imposed, shall be for not less than one year and shall contain a minimum condition that the defendant who was found guilty or pleads guilty enroll in and successfully complete, within 150 days of the date of the imposition of said probation, the program of instruction at the drug education school approved by the Department of Health and Human Services pursuant to G.S. 90-96.01. The court may impose probation that does not contain a condition that defendant successfully complete the program of instruction at a drug education school if:

- 1 (1) There is no drug education school within a reasonable distance of the  
2 defendant's residence; or  
3 (2) There are specific, extenuating circumstances which make it likely that  
4 defendant will not benefit from the program of instruction.

5 The court shall enter such specific findings in the record; provided that in the case of subdivision  
6 (2) above, such findings shall include the specific, extenuating circumstances which make it likely  
7 that the defendant will not benefit from the program of instruction.

8 Upon fulfillment of the terms and conditions of the probation, the court shall discharge such  
9 person and dismiss the proceedings against the person.

10 For the purposes of determining whether the conviction is a first conviction or whether a  
11 person has already had discharge and dismissal, no prior offense occurring more than seven years  
12 before the date of the current offense shall be considered. In addition, convictions for violations of  
13 a provision of G.S. 90-95(a)(1) or 90-95(a)(2) or 90-95(a)(3), or 90-113.10, or 90-113.11, or  
14 90-113.12, or ~~90-113.22~~ 90-113.22, or 90-113.22A shall be considered previous convictions.

15 Failure to complete successfully an approved program of instruction at a drug education school  
16 shall constitute grounds to revoke probation pursuant to this subsection and deny application for  
17 expunction of all recordation of defendant's arrest, indictment, or information, trial, finding of  
18 guilty, and dismissal and discharge pursuant to G.S. 15A-145.2. For purposes of this subsection,  
19 the phrase "failure to complete successfully the prescribed program of instruction at a drug  
20 education school" includes failure to attend scheduled classes without a valid excuse, failure to  
21 complete the course within 150 days of imposition of probation, willful failure to pay the required  
22 fee for the course as provided in G.S. 90-96.01(b), or any other manner in which the person fails  
23 to complete the course successfully. The instructor of the course to which a person is assigned  
24 shall report any failure of a person to complete successfully the program of instruction to the court  
25 which imposed probation. Upon receipt of the instructor's report that the person failed to complete  
26 the program successfully, the court shall revoke probation, shall not discharge such person, shall  
27 not dismiss the proceedings against the person, and shall deny application for expunction of all  
28 recordation of defendant's arrest, indictment, or information, trial, finding of guilty, and dismissal  
29 and discharge pursuant to G.S. 15A-145.2. A person may obtain a hearing before the court of  
30 original jurisdiction prior to revocation of probation or denial of application for expunction.

31 This subsection is supplemental and in addition to existing law and shall not be construed so as  
32 to repeal any existing provision contained in the General Statutes of North Carolina.

33 (b) Upon the discharge of such person, and dismissal of the proceedings against the person  
34 under subsection (a) or (a1) of this section, such person, if he or she was not over 21 years of age  
35 at the time of the offense, may be eligible to apply for expunction of certain records relating to the  
36 offense pursuant to G.S. 15A-145.2(a).

37 (c) Repealed by Session Laws 2009-510, s. 8(b), effective October 1, 2010.

38 (d) Whenever any person is charged with a misdemeanor under this Article by possessing  
39 a controlled substance included within Schedules I through VI of this Article or a felony under  
40 G.S. 90-95(a)(3), upon dismissal by the State of the charges against such person, upon entry of a  
41 nolle prosequi, or upon a finding of not guilty or other adjudication of innocence, the person may  
42 be eligible to apply for expunction of certain records relating to the offense pursuant to  
43 G.S. 15A-145.2(b).

44 (e) Whenever any person who has not previously been convicted of (i) any felony offense  
45 under any state or federal laws; (ii) any offense under this Article; or (iii) an offense under any  
46 statute of the United States or any state relating to controlled substances included in any schedule  
47 of this Article or to that paraphernalia included in Article 5B of Chapter 90 of the General Statutes  
48 pleads guilty to or has been found guilty of (i) a misdemeanor under this Article by possessing a  
49 controlled substance included within Schedules I through VI of this Article, or by possessing drug  
50 paraphernalia as prohibited by G.S. 90-113.22 or G.S. 90-113.22A, or (ii) a felony under

1 G.S. 90-95(a)(3), the person may be eligible to apply for cancellation of the judgment and  
2 expunction of certain records related to the offense pursuant to G.S. 15A-145.2(c).

3 (f) Repealed by Session Laws 2009-577, s. 6, effective December 1, 2009, and applicable  
4 to petitions for expunctions filed on or after that date."

5 **SECTION 18.5.(a)** G.S. 115C-401.2(a)(8), as enacted by S.L. 2016-11, reads as  
6 rewritten:

7 "(8) Targeted advertising. – Presenting an advertisement to a student where the  
8 advertisement is selected based on information obtained or inferred over time  
9 from that student's online behavior, usage of applications, or covered  
10 information. Targeted advertising does not include (i) using covered  
11 information to identify nonprofit institutions of higher education or scholarship  
12 providers to students or (ii) advertising to a student at an online location based  
13 upon that student's current visit to that location, or in response to that student's  
14 request for information or feedback, without the retention of that student's  
15 online activities or requests over time for the purpose of targeting subsequent  
16 ads."

17 **SECTION 18.5.(b)** G.S. 115C-401.2(e), as enacted by S.L. 2016-11, reads as  
18 rewritten:

19 "(e) Permissible Operator Actions. – This section does not prohibit an operator from doing  
20 any of the following:

- 21 (1) Using covered information that is not associated with an identified student  
22 within the operator's site, service, or application or other sites, services, or  
23 applications owned by the operator to improve educational products.
- 24 (2) Using covered information that is not associated with an identified student to  
25 demonstrate the effectiveness of the operator's products or services, including in  
26 their marketing.
- 27 (3) Sharing covered information that is not associated with an identified student for  
28 the development and improvement of educational sites, services, or  
29 applications.
- 30 (4) Using recommendation engines to recommend to a student either of the  
31 following:
  - 32 a. Additional content relating to an educational, other learning, or  
33 employment opportunity purpose within the operator's site, service, or  
34 application if the recommendation is not determined in whole or in part  
35 by payment or other consideration from a third ~~party-party~~, excluding  
36 nonprofit institutions of higher education or scholarship providers that  
37 are seeking to enroll students who meet specific criteria.
  - 38 b. Additional services relating to an educational, other learning, or  
39 employment opportunity purpose within the operator's site, service, or  
40 application if the recommendation is not determined in whole or in part  
41 by payment or other consideration from a third party.
- 42 (5) Responding to a student's request for information or for feedback to help  
43 improve learning without the information or response being determined in  
44 whole or in part by payment or other consideration from a third ~~party-party~~,  
45 excluding nonprofit institutions of higher education or scholarship providers  
46 that are seeking to enroll students who meet specific criteria."

47 **SECTION 19.** G.S. 147-12(b) reads as rewritten:

48 "(b) The Department of Transportation, the Division of Adult Correction of the Department  
49 of Public Safety, the State Highway Patrol, the Wildlife Resources Commission, the Division of  
50 Parks and Recreation in the ~~Department of Natural and Natural Resources [Department of Natural~~  
51 ~~and Cultural Resources]~~, Department of Natural and Cultural Resources, and the Division of

Marine Fisheries in the Department of Environmental Quality shall deliver to the Governor by February 1 of each year detailed information on the agency's litter enforcement, litter prevention, and litter removal efforts. The Administrative Office of the Courts shall deliver to the Governor, by February 1 of each year, detailed information on the enforcement of the littering laws of the State, including the number of charges and convictions under the littering laws of the State. The Governor shall gather the information submitted by the respective agencies and deliver a consolidated annual report, on or before March 1 of each year, to the Environmental Review Commission, the Joint Legislative Transportation Oversight Committee, and the House of Representatives and the Senate appropriations committees with jurisdiction over natural and economic resources."

**SECTION 19.2.** G.S. 147-86.59 reads as rewritten:

**"§ 147-86.59. Certification required.**

(a) A State agency shall ~~require~~ certify that a person that attempts to contract with the State or political subdivision of the State, including a contract renewal or assumption, ~~to certify, at the time when~~ the bid is submitted or the contract is entered into, renewed, or assigned, that the person or the assignee is not identified on a list created by the State Treasurer pursuant to G.S. 147-86.58. A State agency shall include certification information in the procurement record. If a State agency and the same person enter into multiple contracts or multiple contract renewals or assumptions within 180 days after a certification is made, a new certification need not be made.

(b) A person that contracts with the State or a political subdivision of the State, including a contract renewal or assumption, shall not utilize on the contract with the State agency any subcontractor that is identified on a list created pursuant to G.S. 147-86.58.

(c) Upon receiving information that a person who has ~~made the certification~~ been certified as required by subsection (a) of this section is in violation thereof, the State agency shall review the information and offer the person an opportunity to respond. If the person fails to demonstrate that the person should not have been identified on the list created pursuant to G.S. 147-86.58 within 90 days after the determination of the violation, then the State agency shall take action as may be appropriate and provided for by law, rule, or contract."

**SECTION 19.4.(a)** G.S. 153A-99(b) reads as rewritten:

"(b) Definitions. For the purposes of this section:

(1) "County employee" or "employee" means any person employed by a county or any department or program thereof that is supported, in whole or in part, by county ~~funds~~ funds. For the purposes of this section, a deputy sheriff and an employee of a sheriff are "county employees" or "employees";

(2) "On duty" means that time period when an employee is engaged in the duties of his or her employment; and

(3) "Workplace" means any place where an employee engages in his or her job duties."

**SECTION 19.4.(b)** This section becomes effective October 1, 2016.

**SECTION 19.6.** G.S. 160A-538.1(a1), as enacted by S.L. 2016-8, reads as rewritten:

"(a1) Request for Reduction by Owner. – A property owner may submit a written request to the city council to remove the owner's tract or parcel of land from a service district. The owner shall specify the tract or parcel, state with particularity the reasons why the tract or parcel is not in need of the services, facilities, or functions of the proposed district to a demonstrably greater extent than the remainder of the city, and provide any other additional information the owner deems relevant. Upon receipt of the request, the city council shall hold a public hearing as required by subsection (a) of this section. The city council may establish a policy to hear all requests submitted under this subsection at regular intervals, but no less than once per year. If the city council finds that the tract or parcel is not in need of the services, facilities, or functions of the district to a demonstrably greater extent than the remainder of the city, the city council may, by ordinance, redefine the service district by removing therefrom the tract or parcel."

**SECTION 20.** Section 1 of S.L. 2015-52 is repealed.

1           **SECTION 21.(a)** The Revisor of Statutes shall cause to be printed an explanatory  
2 comment to G.S. 36C-1-112 prepared by the Estate Planning and Fiduciary Law Section of the  
3 North Carolina Bar Association, that Section having originally prepared Chapter 36C of the  
4 General Statutes for introduction in 2005, as the Revisor may deem appropriate.

5           **SECTION 21.(b)** The Revisor of Statutes shall cause to be printed all explanatory  
6 comments of the drafters of Sections 7.1, 7.2(b) and (c), 16.4, and 16.5, as the Revisor may deem  
7 appropriate.

8 **PART III. EFFECTIVE DATE.**

9           **SECTION 22.** Except as otherwise provided in this act, this act is effective when it  
10 becomes law.