

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

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HOUSE BILL 162
Committee Substitute Favorable 4/23/99
Senate Judiciary II Committee Substitute Adopted 7/19/99

Short Title: 1999 Technical Corrections.

(Public)

Sponsors:

Referred to:

February 25, 1999

1 A BILL TO BE ENTITLED
2 AN ACT TO MAKE TECHNICAL CORRECTIONS AND CONFORMING CHANGES
3 TO THE GENERAL STATUTES AS RECOMMENDED BY THE GENERAL
4 STATUTES COMMISSION; AND TO MAKE VARIOUS OTHER CHANGES TO
5 THE GENERAL STATUTES AND SESSION LAWS.

6 The General Assembly of North Carolina enacts:

7 Section 1. G.S. 29-12 reads as rewritten:

8 "**§ 29-12. Escheats.**

9 If there is no person entitled to take under G.S. 29-14 or 29-15, or if in case of an
10 illegitimate intestate, there is no one entitled to take under G.S. 29-21 or 29-22 the net
11 estate shall escheat as provided in ~~G.S. 116A-2~~ G.S. 116B-2."

12 Section 2. G.S. 32A-14.1 reads as rewritten:

13 "**§ 32A-14.1. Gifts under power of attorney.**

14 (a) Except as provided in subsection (b) of this section, if any power of attorney
15 authorizes an attorney-in-fact to do, execute, or perform any act that the principal might
16 or could do or evidences the principal's intent to give the attorney-in-fact full power to
17 handle the principal's affairs or deal with the principal's property, the attorney-in-fact
18 shall have the power and authority to make gifts in any amount of any of the principal's

1 property to any individual or to any organization described in sections 170(c) and 2422(a)
2 2522(a) of the Internal Revenue Code or corresponding future provisions of federal tax
3 law, or both, in accordance with the principal's personal history of making or joining in
4 the making of lifetime gifts. As used in this subsection, "Internal Revenue Code" means
5 the "Code" as defined in G.S. 105-2.1.

6 (b) Except as provided in subsection (c) of this section, or unless gifts are
7 expressly authorized by the power of attorney, a power described in subsection (a) of this
8 section may not be exercised by the attorney-in-fact in favor of the attorney-in-fact or the
9 estate, creditors, or the creditors of the estate of the attorney-in-fact.

10 (c) If the power of attorney described in subsection (a) of this section is conferred
11 upon two or more attorneys-in-fact, it may be exercised by the attorney-in-fact or
12 attorneys-in-fact who are not disqualified by subsection (b) of this section from
13 exercising the power of appointment as if they were the only attorney-in-fact or
14 attorneys-in-fact. If the power of attorney described in subsection (a) of this section is
15 conferred upon one attorney-in-fact, the power of attorney may be exercised by the
16 attorney-in-fact in favor of the attorney-in-fact or the estate, creditors, or the creditors of
17 the estate of the attorney-in-fact pursuant to an order issued by the clerk in accordance
18 with the procedures and provisions of Article 2B of this Chapter.

19 (d) Subsection (a) of this section shall not in any way impair the right, power, or
20 ability of any principal, by express terms in the power of attorney, to authorize or limit
21 the authority of any attorney-in-fact to make gifts of the principal's property.

22 (e) An attorney-in-fact expressly authorized by this section to make gifts of the
23 principal's property may elect to request that the clerk of the superior court issue an order
24 approving a gift or gifts of the property of the principal.

25 (f) This section shall apply to all powers of attorney executed prior to, on, or after
26 ~~the effective date of this section. October 1, 1995.~~

27 Section 3. G.S. 55-1-40(9) reads as rewritten:

28 "(9) 'Entity' includes (without limiting the meaning of such term in Article
29 9) corporation and foreign corporation; nonprofit corporation;
30 professional corporation; limited liability company; profit and nonprofit
31 unincorporated association; business trust, estate, partnership, trust, and
32 two or more persons having a joint or common economic interest; and
33 state, United States, and foreign government."

34 Section 4. G.S. 122C-57(d) through (f) read as rewritten:

35 "(d) Each voluntarily admitted client, the client's legally responsible person, or a
36 health care agent named pursuant to a valid health care power of ~~attorney~~, attorney has the
37 right to consent to or refuse any treatment offered by the facility. Consent may be
38 withdrawn at any time by the person who gave the consent. If treatment is refused, the
39 qualified professional shall determine whether treatment in some other modality is
40 possible. If all appropriate treatment modalities are refused, the voluntarily admitted
41 client may be discharged. In an emergency, a voluntarily admitted client may be
42 administered treatment or medication, other than those specified in subsection (f) of this
43 section, despite the refusal of the client, the client's legally responsible person, a health

1 care agent named pursuant to a valid health care power of attorney, or the client's refusal
2 expressed in a valid advance instruction for mental health treatment. The Commission
3 may adopt rules to provide a procedure to be followed when a voluntarily admitted client
4 refuses treatment.

5 (d1) Except as provided in G.S. 90-21.4, discharge of a voluntarily admitted minor
6 from treatment shall include notice to and consultation with the minor's legally
7 responsible person and in no event shall a minor be discharged from treatment upon the
8 minor's request alone.

9 (e) In the case of an involuntarily committed client, treatment measures other than
10 those requiring express written consent as specified in subsection (f) of this section may
11 be given despite the refusal of the client, the client's legally responsible person, a health
12 care agent named pursuant to a valid health care power of attorney, or the client's refusal
13 expressed in a valid ~~advanced~~-advance instruction for mental health treatment ~~or an~~
14 ~~attorney in fact named pursuant to a valid instruction for mental health treatment~~ in the event of
15 an emergency or when consideration of side effects related to the specific treatment
16 measure is given and in the professional judgment, as documented in the client's record,
17 of the treating physician and a second physician, who is either the director of clinical
18 services of the facility, or the director's designee, either:

- 19 (1) The client, without the benefit of the specific treatment measure, is
20 incapable of participating in any available treatment plan which will
21 give the client a realistic opportunity of improving the client's condition;
22 (2) There is, without the benefit of the specific treatment measure, a
23 significant possibility that the client will harm self or others before
24 improvement of the client's condition is realized.

25 (f) Treatment involving electroshock therapy, the use of experimental drugs or
26 procedures, or surgery other than emergency surgery may not be given without the
27 express and informed written consent of the client, the client's legally responsible person,
28 a health care agent named pursuant to a valid health care power of attorney, or the client's
29 consent expressed in a valid ~~advanced~~-advance instruction ~~or for~~ mental health treatment.
30 This consent may be withdrawn at any time by the person who gave the consent. The
31 Commission may adopt rules specifying other therapeutic and diagnostic procedures that
32 require the express and informed written consent of the client, the client's legally
33 responsible person, or a health care agent named pursuant to a valid health care power of
34 ~~attorney, or an attorney in fact named pursuant to a valid advance instruction for mental health~~
35 ~~treatment prior to their initiation- attorney."~~

36 Section 5. G.S. 122C-211(f1) reads as rewritten:

37 "(f1) An individual in need of treatment for mental illness may be admitted to a
38 facility pursuant to an advance instruction for mental health treatment or pursuant to the
39 authority of a health care agent named in a valid health care power of attorney, provided
40 that the individual is incapable, as defined in ~~G.S. 122C-72(e)~~-G.S. 122C-72(4) at the time
41 of the need for admission. An individual admitted to a facility pursuant to an advance
42 instruction for mental health treatment may not be retained for more than 10 days, except
43 as provided for in subsection (b) of this section. When a health care power of attorney

1 authorizes a health care agent to seek the admission of an incapable individual, the health
2 care agent shall act for the individual in applying for admission to a facility and in
3 consenting to medical treatment at the facility when consent is required, provided that the
4 individual is incapable."

5 Section 6. G.S. 131E-23(a)(20) reads as rewritten:

6 "(20) ~~Subject to subsection (c), to~~ To lease any hospital facilities to or from
7 any municipality, other public agency of this or any other state or of
8 the United States, or to any individual, corporation, or association
9 upon any terms and subject to any conditions as may carry out the
10 purposes of this Part. ~~Subject to subsection (c), the~~ The authority may
11 provide for the lessee to use, operate, manage and control the
12 hospital facilities, and to exercise designated powers, in the same
13 manner as the authority itself might do;"

14 Section 7. G.S. 143-56 reads as rewritten:

15 **"§ 143-56. Certain purchases excepted from provisions of Article.**

16 Unless as may otherwise be ordered by the Secretary of Administration, the purchase
17 of supplies, materials and equipment through the Secretary of Administration shall be
18 mandatory in the following cases:

- 19 (1) Published books, manuscripts, maps, pamphlets and periodicals.
- 20 (2) Perishable articles such as fresh vegetables, fresh fish, fresh meat, eggs,
21 and others as may be classified by the Secretary of Administration.

22 Purchase through the Secretary of Administration shall not be mandatory for a purchase
23 of supplies, materials or equipment for the General Assembly if the total expenditures is
24 less than the expenditure benchmark established under the provisions of G.S. 143-53.1,
25 for group purchases made by hospitals through a competitive bidding purchasing
26 program, as defined in ~~G.S. 143-29~~, G.S. 143-129, by the University of North Carolina
27 Health Care System pursuant to G.S. 116-37(h), by the University of North Carolina
28 Hospitals at Chapel Hill pursuant to G.S. 116-37(a)(4), by the University of North
29 Carolina at Chapel Hill on behalf of the clinical patient care programs of the School of
30 Medicine of the University of North Carolina at Chapel Hill pursuant to G.S. 116-
31 37(a)(4), or by East Carolina University on behalf of the Medical Faculty Practice Plan
32 pursuant to G.S. 116-40.6(c).

33 All purchases of the above articles made directly by the departments, institutions and
34 agencies of the State government shall, whenever possible, be based on competitive bids.
35 Whenever an order is placed or contract awarded for such articles by any of the
36 departments, institutions and agencies of the State government, a copy of such order or
37 contract shall be forwarded to the Secretary of Administration and a record of the
38 competitive bids upon which it was based shall be retained for inspection and review."

39 Section 8. Effective December 1, 1999, G.S. 1-539.2A(b), as enacted by
40 Section 4 of S.L. 1999-212, reads as rewritten:

41 "(b) A civil action under this section shall be commenced before expiration of the
42 time period prescribed in G.S. 1-54. In actions alleging injury arising from the

1 transmission of unsolicited bulk commercial electronic mail, personal jurisdiction may be
2 exercised pursuant to G.S. ~~1-75.4(13)~~. 1-75.4."

3 Section 9.(a) The prefatory language of Section 4 of Senate Bill 974, 1999
4 Regular Session, reads as rewritten:

5 "Section 4. G.S. 7A-292 reads as rewritten:"

6 Section 9.(b) If Senate Bill 974, 1999 Regular Session, becomes law, then
7 effective January 1, 2000, G.S. 7A-292, as rewritten by Section 4 of Senate Bill 974,
8 1999 Regular Session, reads as rewritten:

9 **"§ 7A-292. Additional powers of magistrates.**

10 In addition to the jurisdiction and powers assigned in this Chapter to the magistrate in
11 civil and criminal actions, each magistrate has the following additional powers:

- 12 (1) To administer oaths;
- 13 (2) To punish for direct criminal contempt subject to the limitations
14 contained in Chapter 5A of the General Statutes of North Carolina;
- 15 (3) When authorized by the chief district judge, to take depositions and
16 examinations before trial;
- 17 (4) To issue subpoenas and capiases valid throughout the county;
- 18 (5) To take affidavits for the verification of pleadings;
- 19 (6) To issue writs of habeas corpus ad testificandum, as provided in G.S.
20 17-41;
- 21 (7) To assign a year's allowance to the surviving spouse and a child's
22 allowance to the children as provided in Chapter 30, Article 4, of the
23 General Statutes;
- 24 (8) To take acknowledgments of instruments, as provided in G.S. 47-1;
- 25 (9) To perform the marriage ceremony, as provided in G.S. 51-1;
- 26 (10) To take acknowledgment of a written contract or separation agreement
27 between husband and wife; and
- 28 (11) Repealed by Session Laws 1973, c. 503, s. 9.
- 29 (12) To assess contribution for damages or for work done on a dam, canal, or
30 ditch, as provided in G.S. 156-15.
- 31 (13) Repealed by Session Laws 1973, c. 503, s. 9.
- 32 (14) ~~If the office the clerk of superior court is closed, to accept the filing of a~~
33 ~~complaint and to issue a summons in cases for expedited eviction~~
34 ~~proceedings under Article 4 of Chapter 42A of the General Statutes. To~~
35 ~~accept the filing of complaints and to issue summons pursuant to Article~~
36 ~~4 of Chapter 42A of the General Statutes in expedited eviction~~
37 ~~proceedings when the office of the clerk of superior court is closed."~~

38 Section 10. G.S. 18B-603(d) reads as rewritten:

39 "(d) Mixed Beverage Elections. – If a mixed beverage election is held under G.S.
40 18B-602(h) and the sale of mixed beverages is approved, the Commission may issue
41 permits to qualified persons and establishments in the jurisdiction that held the election as
42 follows:

- 43 (1) The Commission may issue mixed beverage permits.

- 1 (2) The Commission may issue on-premises malt beverage, unfortified
2 wine, and fortified wine permits for establishments with mixed beverage
3 permits, regardless of any other election or any local act concerning
4 sales of those kinds of alcoholic beverages.
- 5 (3) The Commission may issue off-premises malt beverage permits to any
6 establishment that meets the requirements under G.S. 18B-1001(2) in
7 any township which has voted to permit the sale of mixed beverages,
8 regardless of any other local act concerning sales of those kinds of
9 alcoholic beverages. The Commission may also issue off-premises
10 unfortified wine permits to any establishment that meets the
11 requirements under G.S. 18B-1001(4) in any township which has voted
12 to permit the sale of mixed beverages, regardless of any other local act
13 concerning sales of those kinds of alcoholic beverages.
- 14 (4) The Commission may issue brown-bagging permits for private clubs
15 and congressionally chartered veterans organizations but may no longer
16 issue and may not renew brown-bagging permits for restaurants, hotels,
17 and community theatres. A restaurant, hotel, or community theatre may
18 not be issued a mixed beverage permit under subdivision (1) until it
19 surrenders its brown-bagging permit.
- 20 (5) The Commission may continue to issue culinary permits for
21 establishments that do not have mixed beverage permits. An
22 establishment may not be issued a mixed beverage permit under
23 subdivision (1) until it surrenders its culinary permit.

24 In any county in which the sale of mixed beverages has been approved in elections in
25 at least three cities that, combined, contain more than two-thirds the total county
26 population as of the most recent federal census, the county board of commissioners may
27 by resolution approve the sale of mixed beverages throughout the county, and the
28 Commission may issue permits as if mixed beverages had been approved in a county
29 election.

30 If a county or city holds a mixed beverage election and an ABC store election at the
31 same time and the voters do not approve the establishment of an ABC store, the
32 Commission may ~~not~~ issue mixed beverage permits in that county or city. The mixed
33 beverages purchase-transportation permit authorized by G.S. 18B-404(b) shall be
34 issued by a local board operating a store located in the county."

35 Section 11. G.S. 20-28.5(a) reads as rewritten:

36 "(a) Sale. – A motor vehicle ordered forfeited and sold or a seized motor vehicle
37 authorized to be sold pursuant to G.S. 20-28.3(i), shall be sold at a public sale conducted
38 in accordance with the provisions of Article 12 of Chapter 160A of the General Statutes,
39 applicable to sales authorized pursuant to G.S. 160A-266(a)(2), (3), or (4), subject to the
40 notice requirements of this subsection, and shall be conducted by the county board of
41 education or a person acting on its behalf. Notice of sale, including the date, time,
42 location, and manner of sale, shall be given by first-class mail to all motor vehicle owners
43 of the vehicle to be sold at the address shown by the records of the Division. ~~Division and~~

1 at any other address of the motor vehicle owner as may be found in the criminal file in which the
2 forfeiture was ordered.—Written notice of sale shall also be given to all lienholders on file
3 with the Division. Notice of sale shall be given to the Division in accordance with the
4 procedures established by the Division. Notices required to be given under this
5 subsection shall be mailed at least 10 days prior to the date of sale. A lienholder shall be
6 permitted to purchase the motor vehicle at any such sale by bidding in the amount of its
7 lien, if that should be the highest bid, without being required to tender any additional
8 funds, other than the towing and storage fees. The county board of education, or its agent,
9 shall not sell, give, or otherwise transfer possession of the forfeited motor vehicle to the
10 defendant, the motor vehicle owner who owned the motor vehicle immediately prior to
11 forfeiture, or any person acting on the defendant's or motor vehicle owner's behalf."

12 Section 12. G.S. 47-108.11 reads as rewritten:

13 **"§ 47-108.11. Validation of recorded instruments where seals have been omitted.**

14 In all cases of any deed, deed of trust, mortgage, lien or other instrument authorized or
15 required to be registered in the office of the register of deeds of any county in this State
16 where it appears of record or it appears that from said instrument, as recorded in the
17 office of the register of deeds of any county in the State, there has been omitted from said
18 recorded or registered instrument the word "seal," "notarial seal" and that any of said
19 recorded or registered instruments shows or recites that the grantor or grantors "have
20 hereunto fixed or set their hands and seals" and the signature of the grantor or grantors
21 appears without a seal thereafter or on the recorded or registered instrument or in all
22 cases where it appears there is an attesting clause which recites "signed, sealed and
23 delivered in the presence of," and the signature of the grantor or grantors appears on the
24 recorded or registered instrument without any seal appearing thereafter or of record, then
25 all such deeds, mortgages, deeds of trust, liens or other instruments, and the registration
26 of same in the office of the register of deeds, are hereby declared to be in all respects
27 valid and binding and are hereby made in all respects valid and binding to the same
28 extent as if the word "seal" or "notarial seal" had not been omitted, and the registration and
29 recording of such instruments in the office of the register of deeds in any county in this
30 State are hereby declared to be valid, proper, legal and binding registrations.

31 This section shall not apply in any respect to any instrument recorded or registered
32 subsequent to ~~January 1, 1995~~ January 1, 1999, or to pending litigation or to any such
33 instruments now directly or indirectly involved in pending litigation."

34 Section 13. G.S. 50-13.4(f)(7) reads as rewritten:

35 "(7) A minor child or other person for whose benefit an order for the
36 payment of child support has been entered shall be a creditor within the
37 meaning of Article ~~3~~3A of Chapter 39 of the General Statutes
38 pertaining to fraudulent conveyances."

39 Section 14. G.S. 50-16.7(h) reads as rewritten:

40 "(h) A dependent spouse for whose benefit an order for the payment of alimony or
41 postseparation support has been entered shall be a creditor within the meaning of Article
42 ~~3~~3A of Chapter 39 of the General Statutes pertaining to fraudulent conveyances."

1 Section 15.(a) The catchline of G.S. 58-3-176, as enacted by S.L. 1999-231, reads
2 as rewritten:

3 "~~§ 58-3-176.~~ **§ 58-3-178. Coverage for prescription contraceptive drugs or devices**
4 **and for outpatient contraceptive services; exemption for religious**
5 **employers."**

6 Section 15.(b) Section 2 of S.L. 1999-231 is repealed.

7 Section 15.(c) The prefatory language of Section 2.1 of S.L. 1999-231 reads as
8 rewritten:

9 "Section 2.1. ~~If House Bill 314, 1999 Regular Session, becomes law, then Section 2~~
10 ~~of this act is repealed and effective~~ Effective January 1, 2000, G.S. 58-50-155(a) as
11 rewritten by Section 2 of ~~House Bill 314, 1999 Regular Session~~ S.L. 1999-197 is
12 amended by adding a new subdivision to read:"

13 Section 15.(d) G.S. 58-50-155(a)(5), as enacted by Section 2.1 of S.L. 1999-231,
14 reads as rewritten:

15 "(5) Prescribed contraceptive drugs or devices that prevent pregnancy and
16 that are approved by the United States Food and Drug Administration
17 for use as contraceptives, or outpatient contraceptive services at least
18 equal to the coverage required by G.S. ~~58-3-174, 58-3-178,~~ if the plan
19 covers prescription drugs or devices, or outpatient services, as
20 applicable. The same exceptions and exclusions as are provided under
21 G.S. ~~58-3-174~~ 58-3-178 apply to standard plans developed and approved
22 under G.S. 58-50-125."

23 Section 16. If ratified Senate Bill 594 becomes law, then G.S. 58-3-167(b), as
24 enacted by Section 5 of that act, reads as rewritten:

25 "(b) Whenever a law is enacted by the General Assembly on or after the effective
26 date of this section that applies to a health benefit plan, the term 'health benefit plan' shall
27 be defined for purposes of that law as provided in subsection (a) of this section unless
28 that law provides a different definition or otherwise expressly provides that the definition
29 in this section is not applicable."

30 Section 17. G.S. 62-159(a) reads as rewritten:

31 "(a) In order to facilitate the construction of facilities in and the extension of natural
32 gas service to unserved areas, the Commission may provide funding through
33 appropriations from the General Assembly or the proceeds of general obligation bonds as
34 provided in this section to either (i) an existing natural gas local distribution ~~company or~~
35 ~~(ii) a person or a gas district awarded a new franchise company;~~ (ii) a person awarded a new
36 franchise; or (iii) a gas district for the construction of natural gas facilities that it
37 otherwise would not be economically feasible for the company, person, or gas district to
38 construct."

39 Section 18. G.S. 62A-25(d) reads as rewritten:

40 "(d) In no event shall any invoice for reimbursement be approved for payment of
41 costs of any CMRS provider exceeding one hundred twenty-five percent (125%) of the
42 service charges remitted by such CMRS provider unless prior approval for such
43 expenditures is received from the Board. If the total amount of invoices submitted to the

1 Board and approved for payment exceeds the amount in the Wireless Fund in any month,
2 CMRS providers that have invoices approved for payment shall receive a pro rata share
3 of the Wireless Fund, based on the relative amount of their approved invoices available
4 that month, and the balance of the payments will be carried over to the following month
5 or months and shall include interest at ~~the rate set out in G.S. 24-1~~ a rate equal to the rate
6 earned by the Wireless Fund until all of the approved payments are made."

7 Section 19. G.S. 74C-5 reads as rewritten:

8 **"§ 74C-5. Powers of the Board.**

9 In addition to the powers conferred upon the Board elsewhere in this Chapter, the
10 Board shall have the power to:

- 11 (1) Promulgate rules necessary to carry out and administer the provisions of
12 this Chapter including the authority to require the submission of reports
13 and information by licensees under this Chapter;
- 14 (2) Determine minimum qualifications, establish and require written or oral
15 examinations, and establish minimum education, experience, and
16 training standards for applicants and licensees under this Chapter;
- 17 (3) Conduct investigations regarding alleged violations and to make
18 evaluations as may be necessary to determine if licensees and trainees
19 under this Chapter are complying with the provisions of this Chapter;
- 20 (4) Adopt and amend bylaws, consistent with law, for its internal
21 management and control;
- 22 (5) Approve individual applicants to be licensed or registered according to
23 this Chapter;
- 24 (6) Deny, suspend, or revoke any license or trainee permit issued or to be
25 issued under this Chapter to any applicant, licensee, or permit holder
26 who fails to satisfy the requirements of this Chapter or the rules
27 established by the Board. The denial, suspension, or revocation shall be
28 in accordance with Chapter 150B of the General Statutes of North
29 Carolina;
- 30 (7) Issue subpoenas to compel the attendance of witnesses and the
31 production of pertinent books, accounts, records, and documents. The
32 district court shall have the power to impose punishment pursuant to
33 G.S. ~~[Chapter]~~ Chapter 5A, Article 2, for acts occurring in matters
34 pending before the Private Protective Services Board which would
35 constitute civil contempt if the acts occurred in an action pending in
36 court; ~~and~~
- 37 (8) Repealed by Session Laws 1989, c. 759, s. 5.
- 38 (9) Establish rules governing detection of deception schools, and charge
39 fees for reimbursement of costs incurred pursuant to approval of such
40 ~~schools.~~ schools; and
- 41 (10) Contract for services as necessary to carry out the functions of the
42 Board."

43 Section 20. G.S. 74C-6 reads as rewritten:

1 **"§ 74C-6. Position of Administrator created.**

2 The position of Administrator of the Private Protective Services Board is hereby
3 created within the ~~State Bureau of Investigation~~ Department of Justice. The Attorney
4 General shall appoint a person to fill this full-time position. The Administrator's duties
5 shall be to administer the directives contained in this Chapter and the rules promulgated
6 by the Board to implement this Chapter and to carry out the administrative duties incident
7 to the functioning of the Board in order to actively police the private protective services
8 industry to ensure compliance with the law in all aspects."

9 Section 21. G.S. 74D-5(a) reads as rewritten:

10 "(a) In addition to the powers conferred upon the Board elsewhere in this Chapter,
11 the Board shall have the power to:

- 12 (1) Promulgate rules necessary to carry out and administer the provisions of
13 this Chapter including the authority to require the submission of reports
14 and information by licensees under this Chapter;
- 15 (2) Determine minimum qualifications and establish minimum education,
16 experience, and training standards for applicants and licensees under
17 this Chapter;
- 18 (3) Conduct investigations regarding alleged violations and make
19 evaluations as may be necessary to determine if licensees and registrants
20 under this Chapter are complying with the provisions of this Chapter;
- 21 (4) Adopt and amend bylaws, consistent with law, for its internal
22 management and control;
- 23 (5) Investigate and approve individual applicants to be licensed or
24 registered according this Chapter;
- 25 (6) Deny, suspend, or revoke any license issued or to be issued under this
26 Chapter to any applicant or licensee who fails to satisfy the
27 requirements of this Chapter or the rules established by the Board. The
28 denial, suspension, or revocation of such license shall be in accordance
29 with Chapter 150B of this General Statutes of North Carolina;
- 30 (7) Issue subpoenas to compel the attendance of witnesses and the
31 production of pertinent books, accounts, records, and documents. The
32 district court shall have the power to impose punishment pursuant to
33 G.S. 5A-21 et seq. for acts occurring in matters pending before the
34 Board which would constitute civil contempt if the acts occurred in an
35 action pending in ~~court~~ court; and
- 36 (8) Contract for services as necessary to carry out the functions of the
37 Board."

38 Section 22. G.S. 74D-5.1 reads as rewritten:

39 **"§ 74D-5.1. Position of Administrator created.**

40 The position of Administrator of the Alarm Systems Licensing Board is hereby
41 created within the ~~State Bureau of Investigation~~ Department of Justice. The Attorney
42 General shall appoint a person to fill this full-time position. The Administrator's duties
43 shall be to administer the directives contained in this Chapter and the rules promulgated

1 by the Board to implement this Chapter and to carry out the administrative duties incident
2 to the functioning of the Board in order to actively police the alarm systems industry to
3 insure compliance with the law in all aspects. The Administrator may issue a temporary
4 grant or denial of a request for registration subject to final action by the Board at its next
5 regularly scheduled meeting.”

6 Section 23. Effective October 1, 1999, G.S. 85B-3.1(a), as enacted by Section
7 2 of S.L. 1999-142, reads as rewritten:

8 "(a) The Commission shall have the following powers and duties:

- 9 (1) To receive and act upon applications for licenses.
10 (2) To issue licenses.
11 (3) To deny, suspend, and revoke licenses pursuant to G.S. 85B-8.
12 ~~(3) To adopt rules for auctioneers and auctions that are consistent with the~~
13 ~~provisions of this Chapter and the General Statutes.~~
14 (4) To issue declaratory rulings.
15 (5) To adopt rules for auctioneers and auctions that are consistent with the
16 provisions of this Chapter and the General Statutes."

17 Section 24. G.S. 90-113.31, as rewritten by Section 1 of S.L. 1999-164, reads
18 as rewritten:

19 "**§ 90-113.31. Definitions.**

20 The following definitions shall apply in this Article:

- 21 (1) Board. – The North Carolina Substance Abuse Professional
22 Certification Board.
23 (1a) Certified clinical addictions specialist. – A person certified by the Board
24 to practice as a clinical addictions specialist in accordance with the
25 provisions of this Article.
26 (1b) Certified clinical supervisor. – A person certified by the Board to
27 practice as a clinical supervisor in accordance with the provisions of this
28 Article.
29 (1c) Certified residential facility director. – A person certified by the Board
30 to practice as a residential facility director in accordance with the
31 provisions of this Article.
32 (2) Certified substance abuse counselor. – A person certified by the Board
33 to practice as a substance abuse counselor in accordance with the
34 provisions of this Article.
35 (3) Repealed by S.L. 1997-492, s. 2.
36 ~~(4) (3a)~~ Certified substance abuse prevention consultant. – A person
37 certified by the Board to practice substance abuse prevention in
38 accordance with the provisions of this Article.
39 (4) Clinical supervisor intern. – A person designated by the Board to
40 practice as a clinical supervisor intern for a period not to exceed three
41 years without a showing of good cause in accordance with the
42 provisions of this Article.

- 1 (4a) Credentialing body. – A board that licenses, certifies, or regulates a
2 profession or practice.
- 3 (4b) Deemed status. – Recognition by the Board of the credentials offered by
4 a professional discipline whereby the individuals certified, licensed, or
5 otherwise recognized by the discipline as having met the standards of a
6 substance abuse specialist may apply individually for certification as a
7 certified clinical addictions specialist.
- 8 (4c) Human services field. – An area of study that focuses on the biological,
9 psychological, and social aspects of human beings.
- 10 (5) Prevention. – The reduction, delay, or avoidance of alcohol and of other
11 drug use behavior. "Prevention" includes the promotion of positive
12 environments and individual strengths that contribute to personal health
13 and well-being over an entire life and the development of strategies that
14 encourage individuals, families, and communities to take part in
15 assessing and changing their lifestyle and environments.
- 16 (6) Professional discipline. – A field of study characterized by the technical,
17 educational, and ethical standards of a profession.
- 18 (7) Substance abuse counseling. – The assessment, evaluation, and
19 provision of counseling to persons suffering from substance, drug, or
20 alcohol abuse or dependency.
- 21 (7a) Substance abuse counselor intern. – A person who successfully
22 completes 300 hours of Board approved supervised practical training
23 and a written examination in pursuit of certification as a substance abuse
24 counselor.
- 25 (8) Substance abuse professional. – A certified substance abuse counselor,
26 certified substance abuse prevention consultant, certified clinical
27 supervisor, certified clinical addictions specialist, or certified residential
28 facility director."

29 Section 25. Effective July 1, 2000, Article 9G of Chapter 90 of the General
30 Statutes, as enacted by S.L. 1999-245, is amended by adding a new section to read:

31 **"§ 90-171.94. Applicability of compact.**

32 This Article is applicable only to nurses whose home states are determined by the
33 North Carolina Board of Nursing to have licensure requirements that are substantially
34 equivalent or more stringent than those of North Carolina."

35 Section 26. If Senate Bill 55, 1999 Regular Session, becomes law, then the
36 catchline of G.S. 105-37.1, as amended by Senate Bill 55, reads as rewritten:

37 **"§ 105-37.1. (Effective July 1, 1999) – Dances, athletic events, shows, exhibitions, and**
38 **other entertainments."**

39 Section 27. G.S. 113-270.1A(d) reads as rewritten:

40 "(d) Nothing in this section shall be construed to prohibit the sale of lifetime
41 licenses as provided in ~~G.S. 113-270.2(c)(1a)~~ G.S. 113-270.1D(b) or G.S. 113-270.2(c)(2).
42 Pending satisfactory completion of the hunter safety course, persons who possess such
43 licenses may exercise the privileges thereof when accompanied by an adult at least 21

1 years of age who is licensed to hunt in this State. For the purpose of this section,
2 "accompanied" is defined as being able to take immediate control of the hunting device."

3 Section 28. G.S. 113-271(a) reads as rewritten:

4 "(a) All the hook-and-line fishing licenses set forth in ~~subsection (b) of this section~~
5 ~~entitle the holder to fish with hook and line in the inland and joint waters of the State, but~~
6 ~~not in public mountain trout waters. The licenses set forth in~~ subdivisions (1), (3), (7),
7 and (9) of subsection (d) of this section ~~further~~ entitle the holder to fish with hook and
8 line in public mountain trout waters."

9 Section 29. G.S. 113-276(e) reads as rewritten:

10 "(e) A resident individual fishing with hook and line in the county of his residence
11 using natural bait is exempt from the hook-and-line fishing-license requirements of ~~G.S.~~
12 ~~113-271.~~ G.S. 113-270.1B(a). "Natural bait" is bait which may be beneficially digested by
13 fish. Where a municipality is bounded by a boundary river or stream, residents of the
14 county in which the municipality is located may fish in the boundary river or stream from
15 those banks of such river or stream in any adjoining county lying directly opposite to the
16 banks of the municipality in question and be deemed fishing within their county for the
17 purposes of the exemption contained in this subsection. The same is deemed true of
18 fishing from the banks of any island in the boundary river or stream within the area
19 opposite the banks of the municipality or municipalities. For the purposes of this section,
20 a boundary river or stream is such portion of a river or stream which either forms a
21 county boundary line or follows the course of such a line. Such line may follow the
22 middle, thread, some former channel, the edge, or some other course in, along, under, or
23 touching the waters of such river or stream so long as the course of the river or stream
24 substantially represents or follows the course of such boundary line."

25 Section 30. G.S. 113-276(j) reads as rewritten:

26 "(j) A migrant farm worker who has in his possession a temporary certification of
27 his status as such by the Rural Employment Service of the North Carolina Employment
28 Security Commission on a form provided by the Wildlife Resources Commission is
29 entitled to the privileges of a resident of the State and of the county indicated on such
30 certification during the term thereof for the purposes of:

- 31 (1) Purchasing and using the resident fishing licenses provided by ~~G.S. 113-~~
32 ~~271(d)(2a), (3), and (4);~~ G.S. 113-271(d)(2), (4), and (6)a.; and
33 (2) Utilizing the natural-bait exemption in subsection (e) above."

34 Section 31. G.S. 113-276.2(a) reads as rewritten:

35 "(a) This section applies to the administrative control of:

- 36 (1) Persons, other than individual hunters and fishermen taking wildlife as
37 sportsmen, holding permits under this Article;
38 (2) Individuals holding special device licenses under ~~G.S. 113-272.2(e)(1)~~
39 ~~and (2);~~ G.S. 113-272.2(c)(1), (1a), (2), and (2a);
40 (3) Individuals holding collection licenses under G.S. 113-272.4;
41 (4) Individuals holding captivity licenses under G.S. 113-272.5; and
42 (5) Persons holding dealer licenses under G.S. 113-273."

43 Section 32. G.S. 113-291.4A(a) reads as rewritten:

1 "(a) There is an open season for the taking of foxes with firearms in all areas of the
2 State east of Interstate Highway 77 and in Mitchell and Caldwell Counties from the
3 beginning of the season established by the Wildlife Resources Commission for the taking
4 of rabbits and quail through January 1 of each year. The selling, buying, or possessing for
5 sale of any fox or fox part taken pursuant to this subsection is prohibited, and is
6 punishable as provided by ~~G.S. 113-294(a) or (k)~~. G.S. 113-294(a) or (j)."

7 Section 33.(a) G.S. 14-34.3(b)(1) reads as rewritten:

8 ...

9 "(1) Officers and enlisted personnel of the armed forces of the
10 United States when in discharge of their official duties as such and
11 acting under orders requiring them to carry arms or weapons, civil
12 officers of the United States while in the discharge of their official
13 duties, officers and soldiers of the militia ~~and the State guard~~ when
14 called into actual service, officers of the State, or of any county, city
15 or town, charged with the execution of the laws of the State, when
16 acting in the discharge of their official duties;"

17 Section 33.(b) G.S. 14-409(b) reads as rewritten:

18 "(b) It shall be unlawful for any person, firm or corporation to
19 manufacture, sell, give away, dispose of, use or possess machine guns, submachine guns,
20 or other like weapons as defined by subsection (a) of this section: Provided, however,
21 that this subsection shall not apply to the following:

22 Banks, merchants, and recognized business establishments for use in their respective
23 places of business, who shall first apply to and receive from the sheriff of the county in
24 which said business is located, a permit to possess the said weapons for the purpose of
25 defending the said business; officers and soldiers of the United States Army, when in
26 discharge of their official duties, officers and soldiers of the militia ~~and the State guard~~
27 when called into actual service, officers of the State, or of any county, city or town,
28 charged with the execution of the laws of the State, when acting in the discharge of their
29 official duties; the manufacture, use or possession of such weapons for scientific or
30 experimental purposes when such manufacture, use or possession is lawful under federal
31 laws and the weapon is registered with a federal agency, and when a permit to
32 manufacture, use or possess the weapon is issued by the sheriff of the county in which the
33 weapon is located. Provided, further, that any bona fide resident of this State who now
34 owns a machine gun used in former wars, as a relic or souvenir, may retain and keep
35 same as his or her property without violating the provisions of this section upon his
36 reporting said ownership to the sheriff of the county in which said person lives."

37 Section 33.(c) G.S. 97-2(2), as rewritten by Section 1 of Senate Bill 877, 1999
38 Regular Session, reads as rewritten:

39 ...

40 "(2) Employee. – The term 'employee' means every person
41 engaged in an employment under any appointment or contract of hire
42 or apprenticeship, express or implied, oral or written, including aliens,
43 and also minors, whether lawfully or unlawfully employed, but

1 excluding persons whose employment is both casual and not in the
2 course of the trade, business, profession or occupation of his
3 employer, and as relating to those so employed by the State, the term
4 'employee' shall include all officers and employees of the State,
5 including such as are elected by the people, or by the General
6 Assembly, or appointed by the Governor to serve on a per diem, part-
7 time or fee basis, either with or without the confirmation of the
8 Senate; as relating to municipal corporations and political
9 subdivisions of the State, the term 'employee' shall include all officers
10 and employees thereof, including such as are elected by the people.
11 The term 'employee' shall include members of the North Carolina
12 national guard while on State active duty under orders of the
13 Governor and members of the North Carolina State ~~guard~~ Defense
14 Militia while on State active duty under orders of the Governor. The
15 term 'employee' shall include deputy sheriffs and all persons acting in
16 the capacity of deputy sheriffs, whether appointed by the sheriff or by
17 the governing body of the county and whether serving on a fee basis
18 or on a salary basis, or whether deputy sheriffs serving upon a full-
19 time basis or a part-time basis, and including deputy sheriffs
20 appointed to serve in an emergency, but as to those so appointed, only
21 during the continuation of the emergency. The sheriff shall furnish to
22 the board of county commissioners a complete list of all deputy
23 sheriffs named or appointed by him immediately after their
24 appointment, and notify the board of commissioners of any changes
25 made therein promptly after such changes are made. Any reference to
26 an employee who has been injured shall, when the employee is dead,
27 include also his legal representative, dependents, and other persons to
28 whom compensation may be payable: Provided, further, that any
29 employee as herein defined of a municipality, county, or of the State
30 of North Carolina while engaged in the discharge of his official duty
31 outside the jurisdictional or territorial limits of the municipality,
32 county, or the State of North Carolina and while acting pursuant to
33 authorization or instruction from any superior officer, shall have the
34 same rights under this Article as if such duty or activity were
35 performed within the territorial boundary limits of his employer.

36 Every executive officer elected or appointed and empowered in
37 accordance with the charter and bylaws of a corporation shall be
38 considered as an employee of such corporation under this Article.

39 Any such executive officer of a corporation may,
40 notwithstanding any other provision of this Article, be exempt from the
41 coverage of the corporation's insurance contract by such corporation
42 specifically excluding such executive officer in such contract of
43 insurance and the exclusion to remove such executive officer from the

1 coverage shall continue for the period such contract of insurance is in
2 effect, and during such period such executive officers thus exempted
3 from the coverage of the insurance contract shall not be employees of
4 such corporation under this Article.

5 All county agricultural extension service employees who do not
6 receive official federal appointments as employees of the United States
7 Department of Agriculture and who are field faculty members with
8 professional rank as designated in the memorandum of understanding
9 between the North Carolina Agricultural Extension Service, North
10 Carolina State University, A & T State University and the boards of
11 county commissioners shall be deemed to be employees of the State of
12 North Carolina. All other county agricultural extension service
13 employees paid from State or county funds shall be deemed to be
14 employees of the county board of commissioners in the county in which
15 the employee is employed for purposes of workers' compensation.

16 The term employee shall also include members of the Civil Air
17 Patrol currently certified pursuant to G.S. 143B-491(a) when
18 performing duties in the course and scope of a State approved mission
19 pursuant to Article 11 of Chapter 143B.

20 Employee shall not include any person performing voluntary
21 service as a ski patrolman who receives no compensation for such
22 services other than meals or lodging or the use of ski tow or ski lift
23 facilities or any combination thereof.

24 Any sole proprietor or partner of a business or any member of a
25 limited liability company may elect to be included as an employee under
26 the workers' compensation coverage of such business if he is actively
27 engaged in the operation of the business and if the insurer is notified of
28 his election to be so included. Any such sole proprietor or partner or
29 member of a limited liability company shall, upon such election, be
30 entitled to employee benefits and be subject to employee responsibilities
31 prescribed in this Article."

32 Section 33.(d) G.S. 97-29 reads as rewritten:

33 **"§ 97-29. Compensation rates for total incapacity.**

34 Except as hereinafter otherwise provided, where the incapacity for work resulting
35 from the injury is total, the employer shall pay or cause to be paid, as hereinafter
36 provided, to the injured employee during such total disability a weekly compensation
37 equal to sixty-six and two-thirds percent (66 2/3%) of his average weekly wages, but not
38 more than the amount established annually to be effective October 1 as provided herein,
39 nor less than thirty dollars (\$30.00) per week.

40 In cases of total and permanent disability, compensation, including medical
41 compensation, shall be paid for by the employer during the lifetime of the injured
42 employee. If death results from the injury then the employer shall pay compensation in
43 accordance with the provisions of G.S. 97-38.

1 The weekly compensation payment for members of the North Carolina national guard
2 and the North Carolina State Defense Militia ~~guard~~ shall be the maximum amount
3 established annually in accordance with the last paragraph of this section per week as
4 fixed herein. The weekly compensation payment for deputy sheriffs, or those acting in
5 the capacity of deputy sheriffs, who serve upon a fee basis, shall be thirty dollars (\$30.00)
6 a week as fixed herein.

7 An officer or member of the State Highway Patrol shall not be awarded any weekly
8 compensation under the provisions of this section for the first two years of any incapacity
9 resulting from an injury by accident arising out of and in the course of the performance
10 by him of his official duties if, during such incapacity, he continues to be an officer or
11 member of the State Highway Patrol, but he shall be awarded any other benefits to which
12 he may be entitled under the provisions of this Article.

13 Notwithstanding any other provision of this Article, on July 1 of each year, a
14 maximum weekly benefit amount shall be computed. The amount of this maximum
15 weekly benefit shall be derived by obtaining the average weekly insured wage in
16 accordance with G.S. 96-8(22), by multiplying such average weekly insured wage by
17 1.10, and by rounding such figure to its nearest multiple of two dollars (\$2.00), and this
18 said maximum weekly benefit shall be applicable to all injuries and claims arising on and
19 after January 1 following such computation. Such maximum weekly benefit shall apply
20 to all provisions of this Chapter and shall be adjusted July 1 and effective January 1 of
21 each year as herein provided."

22 Section 33.(e) G.S. 115C-254 reads as rewritten:

23 "**§ 115C-254. Use of school buses by State guard-militia or national guard.**

24 When requested to do so by the Governor, the board of education of any local school
25 administrative unit is authorized and directed to furnish a sufficient number of school
26 buses to the North Carolina State ~~guard-Defense Militia~~ or the national guard for the
27 purpose of transporting members of the State ~~guard-militia~~ ~~or~~ members of the national
28 guard to and from authorized places of encampment, or to and from places to which
29 members of the State ~~guard-militia~~ or members of the national guard are ordered to
30 proceed for the purpose of suppressing riots or insurrections, repelling invasions or
31 dealing with any other emergency. Public school buses so furnished by any local school
32 administrative unit to the North Carolina State ~~guard-Defense Militia~~ or the national guard
33 shall be operated by members or employees of the State militia or national guard, and all
34 expense of such operation, including any repair or replacement of any bus occasioned by
35 such operation, shall be paid by the State from the appropriations available for the use of
36 the State ~~guard-militia~~ or the national guard."

37 Section 33.(f) G.S. 147-33.2(8)d. reads as rewritten:

38 ...
39 "d. Whenever it should be certified by the Adjutant General of the
40 State that emergency conditions require such procedure, the
41 Governor, with the approval of the Council of State, shall have
42 the power to call up and mobilize State ~~militia in addition to the~~
43 ~~existing units of the State guard-militia~~ to provide transportation

1 and facilities for mobilization and full utilization of the State
2 ~~guard, or other units of militia~~, in such emergency; and to allocate
3 from the Contingency and Emergency Fund such amounts as
4 may be necessary for such purposes during the period of such
5 emergency;"

6 Section 34. G.S. 115C-325(c) is amended by adding a new subdivision to
7 read:

8 ...

9 "(5) Consecutive Years of Service. – If a probationary teacher in
10 a full-time permanent position does not work for at least 120
11 workdays in a school year because the teacher is on sick leave,
12 disability leave, or both, that school year shall not be deemed to
13 constitute (i) a consecutive year of service for the teacher or (ii) a
14 break in the continuity in consecutive years of service for the teacher."

15 Section 35. Effective July 1, 2000, G.S. 115C-47(32a), as rewritten by S.L.
16 1999-237, reads as rewritten:

17 **"§ 115C-47. Powers and duties generally.**

18 In addition to the powers and duties designated in G.S. 115C-36, local boards of
19 education shall have the power or duty:

20 ...

21 (32a) To Establish Alternative Learning Programs and Develop Policies and
22 Guidelines. – Each local board of education shall establish at least one
23 alternative learning ~~programs~~ program and shall adopt guidelines for
24 assigning students to alternative learning programs. These guidelines
25 shall include (i) a description of the programs and services to be
26 provided, (ii) a process for ensuring that an assignment is appropriate
27 for the student and that the student's parents are involved in the
28 decision, and (iii) strategies for providing alternative learning programs,
29 when feasible and appropriate, for students who are subject to long-term
30 suspension or expulsion. In developing these guidelines, local boards
31 shall consider the State Board's policies and guidelines developed under
32 G.S. 115C-12(24). Upon adoption of policies and guidelines under this
33 subdivision, local boards are encouraged to incorporate them in their
34 safe school plans developed under G.S. 115C-105.47.

35 The General Assembly urges local boards to adopt policies that
36 prohibit superintendents from assigning to any alternative learning
37 program any professional public school employee who has received
38 within the last three years a rating on a formal evaluation that is less
39 than above standard."

40 Section 36. G.S. 122C-251(h), as rewritten by S.L. 1999-201, reads as
41 rewritten:

42 "(h) The cost and expenses of transporting a respondent to or from a 24-hour
43 facility is the responsibility of the county of residence of the respondent. The State

(when providing transportation under G.S. 122C-408(b)), a city, or a county is entitled to recover the reasonable cost of transportation from the county of residence of the respondent. The county of residence of the respondent shall reimburse the State, another county, or a city the reasonable transportation costs incurred as authorized by this subsection. The county of residence of the respondent is entitled to recover the reasonable cost of transportation it has paid to the State, a city, or a county. Provided that the county of residence provides the respondent or other individual liable for the respondent's support ~~is provided~~—a reasonable notice and opportunity to object to the ~~reimbursement.~~ The reimbursement, the county of residence of the respondent may recover that cost from:

- (1) The respondent, if the respondent is not indigent;
- (2) Any person or entity that is legally liable for the resident's support and maintenance provided there is sufficient property to pay the cost;
- (3) Any person or entity that is contractually responsible for the cost; or
- (4) Any person or entity that otherwise is liable under federal, State, or local law for the cost."

Section 37. G.S. 128-21(11), as rewritten by Section 2 of S.L. 1999-167, reads as rewritten:

- "(11) "Employer" shall mean any county, incorporated city or town, the board of alcoholic control of any county or incorporated city or town, the North Carolina League of Municipalities, and the State Association of County Commissioners. "Employer" shall also mean any separate, juristic political subdivision of the State as may be approved by the Board of Trustees upon the advice of the Attorney General. "Employer" also means any fire department that serves a city or county or any part of a city or county and that is supported in whole or in part by municipal or county funds."

Section 38. G.S. 146-32, as amended by S.L. 1999-252, reads as rewritten:

"§ 146-32. Exemptions as to leases, etc.

The Governor, acting with the approval of the Council of State, may adopt rules and ~~regulations.~~ regulations:

- (1) Exempting from any or all of the requirements of this Subchapter such classes of lease, rental, easement, and right-of-way transactions as he deems advisable; and
- (2) Authorizing any State agency to enter into and/or approve those classes of transactions exempted by such rules and regulations from the requirements of this Chapter.
- (3) No rule or regulation adopted under this section may exempt from the provisions of G.S. 146-25.1 any class of lease or rental which has a duration of more than 21 days, unless the class of lease or rental:
 - a. Is a lease or rental necessitated by a fire, flood, or other disaster that forces the agency seeking the new lease or rental to cease use of real property;

- 1 b. Is a lease or rental necessitated because an agency had intended
2 to move to new or renovated real property that was not
3 completed when planned, but a lease or rental exempted under
4 this subparagraph may not be for a period of more than six
5 months; or
6 c. Is a lease or rental which requires a unique location or a location
7 that adjoins or is in close proximity to an existing rental
8 location."

9 Section 39. G.S. 143-135.9(a) reads as rewritten:

10 "(a) For purposes of this section:

- 11 (1) 'Best Value' procurement means the selection of a contractor based on a
12 determination of which proposal offers the best trade-off between price
13 and performance, where quality is considered an integral performance
14 factor. The award decision is made based on multiple factors, including:
15 total cost of ownership, meaning the cost of acquiring, operating,
16 maintaining, and supporting a product or service over its projected
17 lifetime; the evaluated technical merit of the vendor's proposal; the
18 vendor's past performance; and the evaluated probability of performing
19 the requirements stated in the solicitation on time, with high quality, and
20 in a manner that accomplishes the stated business objectives and
21 maintains industry standards compliance.
22 (2) 'Government-Vendor Partnership' means a mutually beneficial
23 contractual relationship between State government and a contractor,
24 wherein the two share risk and reward, and value is added to the
25 procurement of complex technology.
26 (3) 'Information technology' includes electronic data processing and
27 telecommunications goods and services, microelectronics, software,
28 information processing, office systems, any services related to the
29 foregoing, and consulting or other services for design and/or redesign of
30 business processes.
31 (4) 'Solution-Based Solicitation' means a solicitation in which the
32 requirements are stated in terms of how the product or service being
33 purchased should accomplish the business objectives, rather than in
34 terms of the technical design of the product or service.
35 (5) 'State government', 'agency', 'procuring agency', and 'State of North
36 Carolina' include the governing board of any county, city, town, or other
37 subdivision of the State.'"

38 Section 40. G.S. 143-138 is amended by adding a new subsection to read:

39 "(j1) A nonbusiness occupancy building built prior to the adoption of the 1953
40 Building Code that is not in compliance with Section 402.1.3.5 of Volume IX of the
41 Building Code or Section 3407.2.2 of Volume I of the Building Code must comply with
42 the applicable sections by December 31, 2006.'"

1 Section 41. If Senate Bill 1149, 1999 Regular Session, becomes law, then
2 Section 6 of Senate Bill 1149 is repealed.

3 Section 42. G.S. 143B-426.24(j) reads as rewritten:

4 "(j) The Board may acquire investment vehicles from any company duly
5 authorized to conduct such business in this State or may establish, alter, amend and
6 modify, to the extent it deems necessary or desirable, a trust for the purpose of facilitating
7 the administration, investment and maintenance of assets acquired by the investment of
8 deferred funds. ~~Any assets of such investment vehicles or trusts shall remain solely the~~
9 ~~property and rights of the State subject only to the claims of the State's general creditors.~~ All
10 assets of the Plan, including all deferred amounts, property and rights purchased with
11 deferred amounts, and all income attributed thereto shall be held in trust for the exclusive
12 benefit of the Plan participants and their beneficiaries."

13 Section 43. G.S. 162A-5(a) reads as rewritten:

14 "(a) Each authority organized under this Article shall consist of the number of
15 members as may be agreed upon by the participating political ~~subdivision, subdivisions,~~
16 such members to be selected by the respective political subdivision. A proportionate
17 number (as nearly as can be) of members of the authority first appointed shall have terms
18 expiring one year, two years and three years respectively from the date on which the
19 creation of the authority becomes effective. Successor members and members appointed
20 by a political subdivision subsequently joining the authority shall each be appointed for a
21 term of three years, but any person appointed to fill the vacancy shall be appointed to
22 serve only for the unexpired term and any member may be reappointed; provided,
23 however, that a political subdivision subsequently joining an authority created under G.S.
24 162A-3.1 shall not have the right to appoint any members to such authority.
25 Appointments of successor members shall, in each instance, be made by the governing
26 body of the political subdivision appointing the member whose successor is to be
27 appointed. Any member of the authority may be removed, with or without cause, by the
28 governing body appointing said member. This subsection does not apply in the case of an
29 authority that a city joins under G.S. 162A-5.1."

30 Section 44. G.S. 168A-3(10)a.6., as rewritten by S.L. 1999-160, reads as
31 rewritten:

32 "6. Make physical changes to accommodate a person with a
33 disability where:

34 I. For a new employee the cost of such changes
35 would exceed five percent (5%) of the annual
36 salary or annualized hourly wage for the job in
37 question; or

38 II. For an existing employee the cost of the changes
39 would bring the total cost of physical changes
40 made to accommodate the employee's ~~handicapping~~
41 disabling conditions since the beginning of the
42 employee's employment with the employer to
43 greater than five percent (5%) of the employee's

1 current salary or current annualized hourly wage;
2 or"

3 Section 45. Section 2 of S.L. 1999-55 is amended by deleting "94.6" and
4 substituting "Sec. 94.6".

5 Section 46. Section 1 of S.L. 1999-99 reads as rewritten:

6 "Section 1. Section 7.109 of the Charter of the City of Charlotte, being Chapter 713
7 of the 1965 Session Laws, as added by Chapter 55 of the 1981 Session Laws and as
8 amended by Chapter 346 of the 1985 Session Laws, reads as rewritten:

9 'Sec. 7.109. ~~Uptown~~ Public-private development projects.

10 (a) Definition. In this Article, ~~'uptown-public-private~~ development projects' means
11 a capital project located: (i) in the city's central business district, as defined by the city
12 council, council; (ii) in or along a major transportation corridor; or (iii) in a development
13 zone designated pursuant to G.S. 105-129.3A; comprising one or more buildings or other
14 improvements and including both public and private facilities. By way of illustration but
15 not limitation, such a project might include a single building comprising a publicly
16 owned parking structure and publicly owned convention center and a privately owned
17 hotel or office building.

18 (b) Authorization. If the city council finds that it is likely to ~~have a significant effect~~
19 ~~on the revitalization of the central business district, be of significant economic benefit to the~~
20 area of the city in which the project is located, the city may acquire, construct, own, and
21 operate or participate in the acquisition, construction, ownership, and operation of ~~an~~
22 ~~uptown~~ a public-private development project or of specific facilities within such a project.
23 The city may enter into binding contracts with one or more private developers with
24 respect to acquiring, constructing, owning, or operating such a project. Such a contract
25 shall among other provisions, specify the following:

- 26 (1) The property interest of both the city and the developer or developers in
27 the project.
28 (2) The responsibilities of the city and the developer or developers for
29 construction of the project.
30 (3) The responsibilities of the city and the developer or developers with
31 respect to financing the project.
32 (4) The responsibilities of the city and the developer or developers with
33 respect to the operation of the project.

34 Such a contract may be entered into before the acquisition of any real property
35 necessary to the project.

36 (c) Property acquisition. ~~An uptown~~ A public-private development project may be
37 constructed on property acquired by the developer or developers or on property directly
38 acquired by the city by any means.

39 (d) Property disposition. In connection with ~~an uptown~~ a public-private
40 development project, the city may lease or convey interests in property owned by it,
41 including air rights over public facilities, by private negotiation or sale, and Article 12 of
42 Chapter 160A of the General Statutes does not apply to such dispositions.

1 (e) Construction of the project. The contract between the city and the developer or
2 developers may provide that the developer or developers shall be responsible for
3 construction of the entire ~~uptown~~ public-private development project. If so, the contract
4 shall include such provisions as the city council deems sufficient to assure that the public
5 facility or facilities included in the project meet the needs of the city and are constructed
6 at a reasonable price. A project constructed pursuant to this paragraph is not subject to
7 Article 8 of Chapter 143 of the General ~~Statutes.~~ Statutes as long as city funds constitute
8 not more than fifty percent (50%) of the total costs of the project.

9 (f) Operation. The city may contract for the operation of any public facility or
10 facilities included in ~~an uptown~~ a public-private development project by a person,
11 partnership, firm, or corporation, public or private. Such a contract shall include
12 provisions sufficient to assure that any such facility or facilities are operated for the
13 benefit of the citizens of the city.

14 (g) Grant funds. To assist in the financing of its share of ~~an uptown~~ a public-
15 private development project, the city may apply for, accept and expend grant funds from
16 the federal or State governments."

17 Section 47.(a) Effective December 1, 1999, G.S. 8-45.1(b), as enacted by S.L.
18 1999-131, reads as rewritten:

19 "(b) The provisions of subsection (a) of this section shall apply to records stored on
20 any form of permanent, computer-readable media, such as a CD-ROM, if the medium is
21 not subject to erasure or alteration. ~~The provisions shall not apply to magnetic tape, CD-R, or~~
22 ~~CD-RW.~~ Nonerasable, computer-readable storage media shall not be used for
23 preservation duplicates, as defined in G.S. 132-8.2, or for the preservation of permanently
24 valuable records as provided in G.S. 121-5(d), except to the extent expressly approved by
25 the Department of Cultural Resources pursuant to standards and conditions established by
26 the Department."

27 Section 47.(b) Effective December 1, 1999, G.S. 8-45.3(b), as enacted by S.L.
28 1999-131, reads as rewritten:

29 "(b) The provisions of subsection (a) of this section shall apply to records stored on
30 any form of permanent, computer-readable media, such as a CD-ROM, if the medium is
31 not subject to erasure or alteration. ~~The provisions shall not apply to magnetic tape, CD-R, or~~
32 ~~CD-RW.~~ Nonerasable, computer-readable storage media shall not be used for
33 preservation duplicates, as defined in G.S. 132-8.2, or for the preservation of permanently
34 valuable records as provided in G.S. 121-5(d), except to the extent expressly approved by
35 the Department of Cultural Resources pursuant to standards and conditions established by
36 the Department."

37 Section 47.(c) Effective December 1, 1999, G.S. 8-34(b), as enacted by S.L. 1999-
38 131, reads as rewritten:

39 "(b) The provisions of subsection (a) of this section shall apply to records stored on
40 any form of permanent, computer-readable media, such as a CD-ROM, if the medium is
41 not subject to erasure or alteration. ~~The provisions shall not apply to magnetic tape, CD-R, or~~
42 ~~CD-RW.~~ Nonerasable, computer-readable storage media shall not be used for
43 preservation duplicates, as defined in G.S. 132-8.2, or for the preservation of permanently

1 valuable records as provided in G.S. 121-5(d), except to the extent expressly approved by
2 the Department of Cultural Resources pursuant to standards and conditions established by
3 the Department."

4 Section 47.(d) Effective December 1, 1999, G.S. 153A-436(f), as enacted by S.L.
5 1999-131, reads as rewritten:

6 "(f) The provisions of this section shall apply to records stored on any form of
7 permanent, computer-readable media, such as a CD-ROM, if the medium is not subject to
8 erasure or alteration. ~~The provisions shall not apply to magnetic tape, CD-R, or CD-RW.~~
9 Nonerasable, computer-readable storage media shall not be used for preservation
10 duplicates, as defined in G.S. 132-8.2, or for the preservation of permanently valuable
11 records as provided in G.S. 121-5(d), except to the extent expressly approved by the
12 Department of Cultural Resources pursuant to standards and conditions established by the
13 Department."

14 Section 47.(e) Effective December 1, 1999, G.S. 160A-490(b), as enacted by
15 S.L. 1999-131, reads as rewritten:

16 "(b) The provisions of subsection (a) of this section shall apply to records stored on
17 any form of permanent, computer-readable media, such as a CD-ROM, if the medium is
18 not subject to erasure or alteration. ~~The provisions shall not apply to magnetic tape, CD-R, or~~
19 ~~CD-RW.~~ Nonerasable, computer-readable storage media shall not be used for
20 preservation duplicates, as defined in G.S. 132-8.2, or for the preservation of permanently
21 valuable records as provided in G.S. 121-5(d), except to the extent expressly approved by
22 the Department of Cultural Resources pursuant to standards and conditions established by
23 the Department."

24 Section 48.(a) This section is designed to resolve duplicate enactments of the
25 same material by S.L. 1999-181 and S.L. 1999-182. This section does not add any
26 municipalities to the coverage of G.S. 160A-300.1 that were not added separately by one
27 or both of those Session Laws.

28 Section 48.(b) Section 1 of S.L. 1999-182 is repealed.

29 Section 48.(c) Section 2 of S.L. 1997-216, as amended by S.L. 1999-17 and
30 S.L. 1999-181, reads as rewritten:

31 "Section 2. This act applies to the Cities of Charlotte, Fayetteville, Greensboro, High
32 Point, ~~and Rocky Mount~~ Rocky Mount, and Wilmington, and the Towns of Cornelius,
33 Huntersville, and Matthews only."

34 Section 48.(d) Section 2 of S.L. 1999-182 is repealed.

35 Section 49. Section 1 of S.L. 1999-208 reads as rewritten:

36 "Section 1. G.S. 160A-58.1(b)(2) shall not apply to the City of Hickory or the Town
37 of Brookford as to any property if the City or Town has entered into an annexation
38 agreement pursuant to Part 6 of Article 4A of Chapter 160A of the General Statutes with
39 the city to which a point on the proposed satellite corporate limits is closer and that
40 agreement states that the other city will not annex the property, except that this
41 modification shall not apply to the boundary agreement between the City of Hickory and
42 the City of Newton dated May 7, 1996. This section shall have no effect on the ability of
43 the City of Hickory to annex property under Part 4 of Article 4A of Chapter 160A of the

1 General Statutes if the property is closer to the Town of Maiden than it is to the City of
2 Hickory."

3 Section 50. Section 2.2 of S.L. 1999-189 reads as rewritten:

4 "Section 2.2. G.S. 57C-2-20 reads as rewritten:

5 **§ 57C-2-20. Formation.**

6 (a) One or more persons may ~~organize~~form a limited liability company by
7 delivering executed articles of organization to the Secretary of State for filing.

8 (b) (1) When the filing by the Secretary of State ~~files of the articles~~
9 ~~of organization,~~ organization becomes effective, the proposed
10 organization becomes a limited liability company subject to this
11 Chapter and to the purposes, conditions, and provisions stated in the
12 ~~articles, and the persons executing the articles of organization become~~
13 ~~members of the limited liability company.~~ articles of organization.

14 (2) Filing of the articles of organization by the Secretary of State is
15 conclusive evidence of the ~~organization~~formation of the limited liability
16 company, except in a proceeding by the State to cancel or revoke the
17 articles of organization or involuntarily dissolve the limited liability
18 company.

19 (c) If initial members are not identified in the articles of organization of a limited
20 liability company in the manner provided in G.S. 57C-3-01(a), the organizers shall hold
21 one or more meetings at the call of a majority of the organizers to identify the initial
22 members of the limited liability company. Unless otherwise provided in this Chapter or
23 in the articles of organization of the limited liability company, all decisions to be made by
24 the organizers at such meetings shall require the approval, consent, agreement, or
25 ratification of a majority of the organizers. Unless otherwise provided in the articles of
26 organization, the organizers may, in lieu of a meeting, take action as described in this
27 subsection by written consent signed by all of the organizers. The written consent may
28 be incorporated in, or otherwise made part of, the initial written operating agreement of
29 the limited liability company."

30 Section 51. G.S. 57C-3-03 reads as rewritten:

31 **"§ 57C-3-03. Voting of members.**

32 Except as provided in the articles of organization or a written operating agreement,
33 the affirmative vote, approval, agreement, or consent of all members shall be required to:

- 34 (1) Adopt or amend an operating agreement;
35 (2) Admit any person as a member;
36 (3) Sell, transfer, or otherwise dispose of all or substantially all of the assets
37 of the limited liability company prior to the dissolution of the limited
38 liability ~~company;~~ company.
39 (4) ~~Merge the limited liability company into or with another limited liability~~
40 ~~company."~~

41 Section 52.(a) If Senate Bill 835, 1999 Regular Session, becomes law, then G.S.
42 57C-1-03(3a), as enacted by Senate Bill 835, reads as rewritten:

43 ...

1 "(3a) Business entity. – A corporation (including a professional corporation as
2 defined in G.S. 55B-2), a foreign corporation (including a foreign
3 professional corporation as defined in G.S. 55B-16), a domestic or
4 foreign nonprofit corporation as defined in G.S. 55A-1-40, a domestic
5 or foreign limited liability company, a domestic or foreign limited
6 partnership as defined in G.S. 59-102, or any other partnership as
7 defined in G.S. 59-36 whether or not formed under the laws of this State
8 (including a registered limited liability partnership as defined in G.S.
9 59-32 and any other limited liability partnership formed under a law
10 other than the laws of this ~~State~~.State)."

11 Section 52.(b) If Senate Bill 835, 1999 Regular Session, becomes law, then G.S.
12 57C-9A-08(a)(1), as enacted by Senate Bill 835, reads as rewritten:

13 ...

14 "(1) Each other merging business entity merges into the surviving
15 business entity, and the separate existence of each merging business
16 ~~entity, entity~~ entity except the surviving business entity ceases;"

17 Section 53. S.L. 1999-237 is amended by rewriting the two lines above the
18 heading to Section 11.58 to read:

19 "Requested by: Representatives Earle, Nye, Easterling, Hardaway, Redwine, Boyd-
20 McIntyre, Senators Martin of Guilford, Foxx, Plyler, Perdue, Odom".

21 Section 54. Section 15.15 of S.L. 1999-237 is amended by designating the
22 existing language as (a) and adding a new subsection to read:

23 "Section 15.15.(b) If the Director of the Office of State Budget determines that
24 sufficient State funds are available from any source to match federal funds for the
25 detoxification of the Warren County polychlorinated biphenyl (PCB) landfill, consistent
26 with the provisions of Section 29.9 of S.L. 1998-212, the Director may transfer funds not
27 to exceed seven million dollars (\$7,000,000) to the Department of Environment and
28 Natural Resources to be placed in the nonreverting reserve established under Section
29 29.9(a) of S.L. 1998-212."

30 Section 55. Section 16.7(c)(10) of S.L. 1999-237 reads as rewritten:

31 "(10) One representative from the American Lung Association of North
32 Carolina who is a resident of this State, appointed by the President Pro
33 Tempore of the Senate."

34 Section 56. Section 18.13 of S.L. 1999-237 reads as rewritten:

35 "Section 18.13. The Department of Correction may use funds available to the
36 Department during the 1999-2001 biennium for payment to claimants as part of the
37 settlement of the Title VII lawsuit over the recruitment, hiring, and promotion of females
38 in the Department. ~~Prior to final settlement of the lawsuit, the~~ The Department shall report
39 ~~on the proposed settlement~~ to the Joint Legislative Commission on Governmental
40 Operations, Operations on the details of the settlement of the lawsuit within 60 days of the
41 court's entry of the final order. The Department shall also report to the Joint Legislative
42 Corrections and Crime Control Oversight Committee, and the Chairs of the Senate and
43 House Appropriations Subcommittees on Justice and Public Safety."

1 Section 57. Notwithstanding the provisions of the Joint Conference
2 Committee Report on the Continuation, Expansion and Capital Budgets, dated June 29,
3 1999, which was distributed in the House of Representatives and the Senate and used to
4 explain S.L. 1999-237, funds in the amount of two hundred forty thousand dollars
5 (\$240,000) that were appropriated to the State Board of Education for the 1999-2000
6 fiscal year in S.L. 1999-237 for the school leadership pilot project shall be used by four
7 local school administrative units to participate in the nationwide program of the Center
8 for Leadership in School Reform.

9 Section 58.(a) For the 1999-2001 biennium, the Department of Health and Human
10 Services shall continue to provide the current office space for the four regional offices of
11 the Governor's Advocacy Council for Persons with Disabilities or office space that is
12 comparable to that now used by the Council.

13 Section 58.(b) For the 1999-2001 biennium, the Secretary of Administration may
14 use funds from parking revenues that are in excess of parking system expense
15 requirements to fund the fifteen dollar (\$15.00) per month subsidies for vanpools and
16 transit passes.

17 Section 59. Whenever any law, public or local, provides a form requiring the
18 user of the form to fill in the last two digits of the year and the number "19" appears as the
19 first two digits of the year, then effective January 1, 2000, those first two digits are
20 deleted from the law.

21 Section 60. Articles 1 through 11 of Subchapter I of Chapter 7B of the General
22 Statutes, as enacted by Section 6 of S.L. 1998-202, and as amended by Sections 18
23 through 28 of S.L. 1998-229, become effective July 1, 1999, and apply to abuse, neglect,
24 and dependency reports received, petitions filed, and reviews commenced on and after
25 that date.

26 Section 61.(a) If Senate Bill 10, 1999 General Assembly, is enacted, then G.S.
27 131D-4.5(6), as enacted by Senate Bill 10, reads as rewritten:

28 ...

29 "(6) Establishing procedures for determining the compliance history of adult
30 care homes' principals and affiliates. The rules shall include criteria for
31 refusing to ~~license~~ renew the license of facilities which have a history of,
32 or have principals or affiliates with a history of, noncompliance with
33 State law, or disregard for the health, safety, and welfare of residents."

34 Section 61.(b) If Senate Bill 10, 1999 General Assembly, is enacted, then G.S.
35 131D-2(b)(6), as enacted by Senate Bill 10, reads as rewritten:

36 ...

37 "(6) Prior to ~~issuing a new license or~~ renewing an existing license, the
38 Department shall conduct a compliance history review of the facility
39 and its principals and affiliates. The Department may refuse to ~~license~~
40 renew the license of a facility when the compliance history review
41 shows a pattern of noncompliance with State law by the facility or its
42 principals or affiliates, or otherwise demonstrates disregard for the
43 health, safety, and welfare of residents in current or past facilities. The

1 Department shall require compliance history information and make its
2 determination according to rules adopted by the Medical Care
3 Commission."

4 Section 61.(c) If Senate Bill 10, 1999 General Assembly, is enacted, then G.S.
5 131D-7, as enacted by that act, is recodified as "G.S. 131D-8", and all references in
6 Senate Bill 10, as enacted, to "G.S. 131D-7" are rewritten to read "G.S. 131D-8".

7 Section 61.(d) If Senate Bill 10, 1999 Regular Session, becomes law, then G.S. 14-
8 32.2(e1), as enacted by Section 3.15 of that act, is amended by deleting "health, welfare,
9 or comfort" and substituting "health or welfare".

10 Section 62. The prefatory language of Section 3 of Ratified House Bill 253,
11 1999 Regular Session, reads as rewritten:

12 "Section 3. G.S. 143B-472.41(a)(8) reads as rewritten:"

13 Section 63. If both House Bill 1072 and Senate Bill 881 of the 1999 Regular
14 Session become law, then G.S. 163-278.23, as amended by Section 5(b) of Senate Bill
15 881, is amended by deleting the word "opinions" the second time that word appears.

16 Section 64. If Senate Bill 1115, 1999 Regular Session, becomes law, then G.S.
17 105-129.3(e)(1), as enacted by that act, is amended by deleting "has is designated", and
18 substituting "is designated".

19 Section 65. Effective July 1, 1999, Section 16.35(a) of S.L. 1999-237 reads as
20 rewritten:

21 "Section 16.35.(a) Of the funds appropriated in this act to the Rural Economic
22 Development Center, Inc., the sum of ~~one million four hundred seventy thousand dollars~~
23 ~~(\$1,470,000)~~ one million four hundred fifty-seven thousand three hundred thirty-eight
24 dollars (\$1,457,338) for the 1999-2000 fiscal year and the sum of ~~one million four hundred~~
25 ~~seventy thousand dollars (\$1,470,000)~~ one million four hundred fifty-seven thousand three
26 hundred thirty-eight dollars (\$1,457,338) for the 2000-2001 fiscal year shall be allocated
27 as follows:

	<u>1999-2000 FY</u>	<u>2000-2001 FY</u>
28 Research and Demonstration Grants	\$475,864	\$475,864
29 Technical Assistance and Center		
30 Administration of Research		
31 and Demonstration Grants	444,136	444,136
32 Center Administration, Oversight,		
33 and Other Programs	350,000 <u>337,338</u>	350,000 <u>337,338</u>
34 Administration of Clean Water/ 35 Natural Gas Critical Needs		
36 Bond Act of 1998	200,000	200,000."

37 Section 66. G.S. 58-79-30 is repealed.

38 Section 67. If Senate Bill 746, 1999 Regular Session, becomes law, then it
39 becomes effective October 1, 1999. G.S. 1-543.12, as enacted by that act, reads as
40 rewritten:

41 "**§ 1-543.12. Structured settlement payment rights.**

1 No direct or indirect transfer of structured settlement payment rights shall be
2 effective, and no structured settlement obligor or annuity issuer shall be required to make
3 any payment directly or indirectly to any transferee of structured settlement payment
4 rights unless the transfer has been authorized in advance in a final order of a court of
5 competent jurisdiction or a responsible administrative authority based on express findings
6 by such court or responsible administrative authority that:

- 7 (1) The transfer complies with the requirements of this Article law;
8 (2) Not less than 10 days prior to the date on which the payee first incurred
9 any obligation with respect to the transfer, the transferee has provided to
10 the payee a disclosure statement in bold type, no smaller than 14 point
11 setting forth:
12 a. The amounts and due dates of the structured settlement payments
13 to be transferred;
14 b. The aggregate amount of such payments;
15 c. The discounted present value of such payments;
16 d. The gross amount payable to the payee in exchange for such
17 payments;
18 e. An itemized listing of all brokers' commissions, service charges,
19 application fees, processing fees, closing costs, filing fees,
20 administrative fees, legal fees, notary fees and other
21 commissions, fees, costs, expenses, and charges payable by the
22 payee or deductible from the gross amount otherwise payable to
23 the payee;
24 f. The net amount payable to the payee after deduction of all
25 commissions, fees, costs, expenses, and charges described in sub-
26 subdivision e. of this subdivision;
27 g. The quotient (expressed as a percentage) obtained by dividing the
28 net payment amount by the discounted present value of the
29 payments;
30 h. The discount rate used by the transferee to determine the net
31 amount payable to the payee for the structured settlement
32 payments to be transferred; and
33 i. The amount of any penalty and the aggregate amount of any
34 liquidated damages (inclusive of penalties) payable by the payee
35 in the event of any breach of the transfer agreement by the payee;
36 (3) The transfer is in the best interest of the payee;
37 (4) The payee has received independent professional advice regarding the
38 legal, tax, and financial implications of the transfer;
39 (5) The transferee has given written notice of the transferee's name, address,
40 and taxpayer identification number to the annuity issuer and the
41 structured settlement obligor and has filed a copy of such notice with
42 the court or responsible administrative authority;

- 1 (6) The discount rate used in determining the net amount payable to the
2 payee, as provided in subdivision (2) of this section, does not exceed an
3 annual percentage rate of prime plus five percentage points calculated as
4 if the net amount payable to the payee, as provided in sub-subdivision
5 (2)f. of this section, was the principal of a consumer loan made by the
6 transferee to the payee, and if the structured settlement payments to be
7 transferred to the transferee were the payee's payments of principal plus
8 interest on such loan. For purposes of this subdivision, the prime rate
9 shall be as reported by the Federal Reserve Statistical Release H.15 on
10 the first Monday of the month in which the transfer agreement is signed
11 by both the payee and the transferee, except when the transfer
12 agreement is signed prior to the first Monday of that month then the
13 prime rate shall be as reported by the Federal Reserve Statistical Release
14 H.15 on the first Monday of the preceding month;
- 15 (7) Any brokers' commissions, service charges, application fees, processing
16 fees, closing costs, filing fees, administrative fees, notary fees and other
17 commissions, fees, costs, expenses, and charges payable by the payee or
18 deductible from the gross amount otherwise payable to the payee do not
19 exceed two percent (2%) of the net amount payable to the payee;
- 20 (8) The transfer of structured settlement payment rights is fair and
21 reasonable; and
- 22 (9) Notwithstanding a provision of the structured settlement agreement
23 prohibiting an assignment by the payee, the court may order a transfer
24 of periodic payment rights provided that the court finds that the
25 provisions of this Article are satisfied.

26 If the court or responsible administrative authority authorizes the transfer pursuant to
27 this section, the court or responsible administrative authority shall order the structured
28 settlement obligor to execute an acknowledgment of assignment letter on behalf of the
29 transferee for the amount of the structured settlement payment rights to be ~~transferred.~~
30 transferred; provided, however, structured settlement payment rights arising from a claim
31 pursuant to Chapter 97 shall not be authorized."

32 Section 68. Except as otherwise provided herein, this act is effective when it
33 becomes law.