

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

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SENATE BILL 1143
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Short Title: Contracts Continue/Euro. Union.

(Public)

Sponsors: Senators Warren; Carpenter, Carrington, Cochrane, Dalton, Forrester, Garrou, Garwood, Harris, Horton, Hoyle, Kerr, Kinnaird, Metcalf, Moore, Rand, Robinson, Soles, Weinstein, and Wellons.

Referred to: Commerce.

April 15, 1999

1 A BILL TO BE ENTITLED
2 AN ACT TO PROVIDE FOR THE CONTINUITY OF CONTRACTS UNDER THE
3 MONETARY UNION IN MEMBER STATES OF THE EUROPEAN UNION.

4 The General Assembly of North Carolina enacts:

5 Section 1. Chapter 53 of the General Statutes is amended by adding a new
6 Article to read:

7 **"ARTICLE 23.**

8 **"CONTINUITY OF CONTRACT UNDER EUROPEAN MONETARY UNION.**

9 **"§ 53-295. Definitions.**

10 The following definitions shall apply in this Article:

11 (1) Euro. – The currency of participating member states of the European
12 Union that adopt a single currency in accordance with the Treaty on
13 European Union dated February 7, 1992.

14 (2) European Currency Unit (ECU). – The currency as defined in the
15 European Council regulation number 3320/94.

- 1 (3) Introduction of the Euro. – The implementation of economic and
2 monetary union of member states of the European Union in accordance
3 with the Treaty on European Union dated February 7, 1992.

4 **"§ 53-296. Continuity of contract.**

5 (a) If a subject of medium of payment of a contract, security, or instrument is a
6 currency that has been substituted or replaced by the euro, the euro shall be a
7 commercially reasonable substitute and substantial equivalent that may either be used in
8 determining the value of that currency, or tendered at the conversion rate specified in and
9 otherwise calculated in accordance with the regulations adopted by the council of the
10 European Union.

11 (b) If a subject or medium of payment of a contract, security, or instrument is the
12 ECU, the euro will be a commercially reasonable substitute and substantial equivalent
13 that may be either used in determining the value of that currency, or tendered at the
14 conversion rate specified in and otherwise calculated in accordance with the regulations
15 adopted by the council of the European Union.

16 (c) Performance of any of the obligations described in subsections (a) or (b) may
17 be made in the currencies originally designated in the contract, security, or instrument, so
18 long as the currencies remain legal tender, or in euro, but not in any other currency,
19 whether or not the currency has been substituted or replaced by the euro, or is a currency
20 that is considered a denomination of the euro and has a fixed conversion rate with respect
21 to the euro.

22 **"§ 53-297. Effect of currency substitution on performance.**

23 None of the following shall have the effect of discharging or excusing performance
24 under any contract, security, or instrument, or give a party the right unilaterally to alter or
25 terminate any contract, security, or instrument:

26 (1) Introduction of the euro.

27 (2) Tender of euros in connection with any obligation in compliance with
28 G.S. 53-296.

29 (3) Determination of the value of any obligation in compliance with G.S.
30 53-296.

31 (4) Calculation or determination of the subject or medium of payment of a
32 contract, security, or instrument with reference to an interest rate or
33 other basis that has been substituted or replaced due to the introduction
34 of the euro and that is a commercially reasonable substitute and
35 substantial equivalent.

36 **"§ 53-298. References to ECU in contracts.**

37 (a) References to the ECU in a contract, security, or other instrument that also
38 refers in substance to the definition of the ECU as set forth in G.S. 53-295 shall be
39 replaced by references to the euro at a rate of one euro to one ECU.

40 (b) References to the ECU in a contract, security, or instrument without a
41 definition as set forth in G.S. 53-295 shall be presumed, rebuttable by proof of the
42 contrary intention of the parties, to be references to the currency basket that is from time
43 to time used as the unit of account of the European community.

1 **"§ 53-299. Application.**

2 Notwithstanding any other law, this Article shall apply to all contracts, securities, and
3 instruments, including contracts with respect to commercial transactions.

4 **"§ 53-300. No application to other currency alteration.**

5 In circumstances of currency alteration other than the introduction of the euro, this
6 Article shall not be interpreted as creating any negative inference or negative
7 presumption regarding the validity or enforceability of contracts, securities, or
8 instruments denominated in whole or in part in a currency affected by that alteration."

9 Section 2. This act is effective when it becomes law and applies to contracts
10 entered into or issued before, on, or after the effective date.