

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2015

S

1

SENATE BILL 412

Short Title: Limit Confidentiality Agreements. (Public)

Sponsors: Senators McKissick, Bingham, and Daniel (Primary Sponsors).

Referred to: Rules and Operations of the Senate.

March 25, 2015

1 A BILL TO BE ENTITLED
2 AN ACT TO LIMIT THE USE OF SECRECY ORDERS AND CONFIDENTIALITY
3 AGREEMENTS IN CERTAIN CIVIL ACTIONS.

4 The General Assembly of North Carolina enacts:

5 **SECTION 1.** The General Statutes are amended by adding a new Chapter to read:

6 **"Chapter 7C.**

7 **"Concealment of Public Hazards.**

8 **"§ 7C-1. Definitions.**

9 As used in this Chapter:

- 10 (1) Confidentiality agreement. – Any terms in a court order or a private
11 agreement settling, concluding, or terminating a claim involving a public
12 hazard, whether those terms are integrated in the order or private agreement
13 or written separately.
14 (2) Final protective order. – An order of any court of competent jurisdiction
15 determining that a particular document or documents shall be protected from
16 public disclosure.
17 (3) Public hazard. – A release or threatened release of any substance that poses a
18 threat to public health or safety by presenting a present or future danger of
19 death, bodily injury, or physical or emotional disability to persons other than
20 parties to the confidentiality agreement exposed to any such substance.

21 **"§ 7C-2. Concealment of certain public hazards prohibited.**

22 In actions alleging personal injury, wrongful death, or monetary or property damages
23 caused by a public hazard, no confidentiality agreement may be entered into or enforced by the
24 court unless a final protective order regarding that information is entered. Prior to entering a
25 final protective order, the court must find that the confidentiality agreement is in the public
26 interest. In determining the public interest, the court shall balance the right of the public to
27 information regarding the alleged risk to the public hazard against the right of the public to
28 protect the confidentiality of trade secrets and other confidential research or development or
29 commercial information concerning products or business methods.

30 **"§ 7C-3. Appeal of final protective order.**

31 Any interested party may appeal the grant or denial of a final protective order to the court
32 of appeals, in accordance with the North Carolina Rules of Appellate Procedure. For purposes
33 of the appeal, the grant or denial of a final protective order shall be considered a final
34 judgment. The appellate court shall conduct de novo review of the motion and documents as to
35 which a final protective order has been sought.

36 **"§ 7C-4. Exclusions.**



1 (a) Nothing in this section shall be deemed to limit a court's authority or discretion to
2 prohibit the enforcement of a part or all of any confidentiality agreement, settlement agreement,
3 stipulated agreement, or protective order in any other cases.

4 (b) Nothing in this section shall be deemed to prohibit or compel the disclosure of the
5 monetary amount of the settlement agreement or the entry of an enforcement order of that part
6 of a confidentiality agreement, settlement agreement, or stipulated agreement between the
7 parties which requires the nondisclosure of the amount of any money paid in settlement of a
8 claim."

9 **SECTION 2.** This act becomes effective October 1, 2015, and applies to court
10 orders and private agreements entered into on or after that date.