

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2001**

H

2

HOUSE BILL 338*
Committee Substitute Favorable 4/24/01

Short Title: Technical Corrections Act.

(Public)

Sponsors:

Referred to:

March 1, 2001

A BILL TO BE ENTITLED

AN ACT TO MAKE TECHNICAL CORRECTIONS AND CONFORMING
CHANGES TO THE GENERAL STATUTES AS RECOMMENDED BY THE
GENERAL STATUTES COMMISSION.

The General Assembly of North Carolina enacts:

SECTION 1. Effective July 1, 2001, G.S. 23-30.1 reads as rewritten:

"§ 23-30.1. Provisional release.

Every person who has filed a petition under the provisions of G.S. 23-30 shall be brought before a judge within 72 hours after filing the petition and shall be provisionally released from imprisonment unless a hearing shall be held and the creditor shall establish that the prisoner has fraudulently concealed assets. If, at the time he is brought before a judge, the prisoner makes a showing of indigency, counsel shall be appointed for the prisoner in accordance with rules adopted by the Office of Indigent Defense Services. A provisional release under this section shall not constitute a discharge of the debtor, and the creditor may oppose the discharge by suggesting fraud even if he has unsuccessfully attempted to oppose the provisional release on the basis of fraudulent concealment. The debtor may be provisionally released even though actual service upon the creditor has not been accomplished if 72 hours has passed since the debtor delivered the notice to the sheriff for service upon the creditor."

SECTION 2.(a) G.S. 120-123(57) reads as rewritten:

"No member of the General Assembly may serve on any of the following boards or commissions:

...

(57) The Information Resource Management Commission, as established by ~~G.S. 143B-426.21~~ G.S. 147-33.78.

...."

SECTION 2.(b) G.S. 126-5(c1)(17) reads as rewritten:

"(c1) Except as to the provisions of Articles 6 and 7 of this Chapter, the provisions of this Chapter shall not apply to:

1 ...
2 (17) The executive director of the independent staff of the Information
3 Resources Management Commission established under ~~G.S. 143B-~~
4 ~~472.41A.~~G.S. 147-33.78.

5 "

6 **SECTION 2.(c)** G.S. 143-52.1 reads as rewritten:

7 "**§ 143-52.1. Board of Awards.**

8 (a) There is created the Board of Awards. The Board shall consist of three
9 members at a time, appointed by the Chair of the Commission. Members of the Board
10 shall be appointed on a rotating basis from the membership of the Commission and the
11 Council of State. Two out of three members appointed for each meeting of the Board
12 shall constitute a quorum of the Board.

13 (b) The Board shall meet weekly as called by the Chair of the Commission,
14 except in weeks when no contracts have been submitted to the Board for review.

15 (c) When the dollar value of a contract exceeds the benchmark established either
16 pursuant to G.S. 143-53.1 or ~~G.S. 143B-472.63,~~G.S. 147-33.101, the Board shall review
17 and make a recommendation on action to be taken by the Secretary of Administration
18 on contracts to be awarded under Article 3 of Chapter 143 of the General Statutes and
19 on contracts to be awarded by the ~~Secretary of Commerce~~Chief Information Officer
20 under ~~Part 16 of Article 10 of Chapter 143B~~Article 3D of Chapter 147 of the General
21 Statutes, prior to the awarding of the contract.

22 (d) The State Budget Officer shall designate a secretary for the Board. The
23 ~~Secretaries~~Secretary of Administration and Commerce~~the State Chief Information~~
24 Officer shall each submit their matters for consideration to the secretary for inclusion on
25 the Board's agenda. Records shall be kept of each meeting and made public by the
26 ~~applicable~~Secretary of Administration or Commerce~~State Chief Information Officer,~~
27 as applicable unless the ~~applicable~~Secretary of Administration or State Chief
28 Information Officer, as applicable, determines a specific record of the meeting needs to
29 be confidential due to the nature of the contract. The ~~applicable~~Secretary of
30 Administration or State Chief Information Officer, as applicable, may elect to proceed
31 with the award of a contract without a recommendation of the Board in cases of
32 emergencies or in the event that a Board is not available. In those cases, contracts
33 awarded without Board review shall be reported to the next meeting of the Board as a
34 matter of record.

35 (e) Reports on recommendations made by the Board on matters presented by the
36 ~~Secretary of Commerce~~State Chief Information Officer to the Board shall be reported
37 monthly by the Board to the chairs of the Joint Select Committee on Information
38 Technology."

39 **SECTION 2.(d)** G.S. 143-56 reads as rewritten:

40 "**§ 143-56. Certain purchases excepted from provisions of Article.**

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

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

5 Purchase through the Secretary of Administration shall not be mandatory for
6 information technology purchased in accordance with ~~Part 16 of Article 10 of Chapter~~
7 ~~143B Article 3D of Chapter 147~~ of the General Statutes, for a purchase of supplies,
8 materials or equipment for the General Assembly if the total expenditures is less than
9 the expenditure benchmark established under the provisions of G.S. 143-53.1, for group
10 purchases made by hospitals through a competitive bidding purchasing program, as
11 defined in G.S. 143-129, by the University of North Carolina Health Care System
12 pursuant to G.S. 116-37(h), by the University of North Carolina Hospitals at Chapel Hill
13 pursuant to G.S. 116-37(a)(4), by the University of North Carolina at Chapel Hill on
14 behalf of the clinical patient care programs of the School of Medicine of the University
15 of North Carolina at Chapel Hill pursuant to G.S. 116-37(a)(4), or by East Carolina
16 University on behalf of the Medical Faculty Practice Plan pursuant to G.S. 116-40.6(c).

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

23 **SECTION 2.(e)** G.S. 150B-21.1(a4) reads as rewritten:

24 "(a4) Notwithstanding the provisions of subsection (a) of this section, the ~~Secretary~~
25 ~~of Commerce~~ State Chief Information Officer may adopt temporary rules to implement
26 the information technology procurement provisions of ~~Part 16 of Article 10 of Chapter~~
27 ~~143B Article 3D of Chapter 147~~ of the General Statutes. After having the proposed
28 temporary rule published in the North Carolina Register and at least 30 days prior to
29 adopting a temporary rule pursuant to this subsection, the ~~Secretary-Officer~~ shall:

- 30 (1) Notify persons on its mailing list maintained pursuant to G.S.
31 150B-21.2(d) and any other interested parties of its intent to adopt a
32 temporary rule;
33 (2) Accept oral and written comments on the proposed temporary rule;
34 and
35 (3) Hold at least one public hearing on the proposed temporary rule.

36 When the ~~Secretary-Officer~~ adopts a temporary rule pursuant to this subsection, the
37 ~~Secretary-Officer~~ must submit a reference to this subsection as the ~~Secretary's Officer's~~
38 statement of need to the Codifier of Rules.

39 Notwithstanding any other provision of this Chapter, the Codifier of Rules shall
40 publish in the North Carolina Register a proposed temporary rule received from the
41 ~~Secretary-Officer~~ in accordance with this subsection."

42 **SECTION 2.(f)** G.S. 150B-38(a) reads as rewritten:

- 43 "(a) The provisions of this Article shall ~~apply to the following agencies:~~ apply to:

- 1 (1) Occupational licensing agencies;
- 2 (2) The State Banking Commission, the Commissioner of Banks, the
- 3 Savings Institutions Division of the Department of Commerce, and the
- 4 Credit Union Division of the Department of Commerce; and
- 5 (3) The Department of Insurance and the Commissioner of Insurance.
- 6 (4) ~~The Department of Commerce~~ State Chief Information Officer in the
- 7 administration of the provisions of ~~Part 16 of Article 10 of Chapter~~
- 8 ~~143B~~ Article 3D of Chapter 147 of the General Statutes."

9 **SECTION 3.(a)** G.S. 24-1.1E(a)(4) and (a)(6) read as rewritten:

10 "(a) Definitions. – The following definitions apply for the purposes of this section:

11 ...

- 12 (4) A "high-cost home loan" means a loan other than an open-end credit
- 13 plan or a reverse mortgage transaction in which:
 - 14 a. The principal amount of the loan does not exceed the lesser of
 - 15 (i) the conforming loan size limit for a single-family dwelling
 - 16 as established from time to time by ~~the Federal National~~
 - 17 ~~Mortgage Association, Fannie Mae,~~ or (ii) three hundred
 - 18 thousand dollars (\$300,000);
 - 19 b. The borrower is a natural person;
 - 20 c. The debt is incurred by the borrower primarily for personal,
 - 21 family, or household purposes;
 - 22 d. The loan is secured by either (i) a security interest in a
 - 23 manufactured home (as defined in G.S. 143-147(7)) which is or
 - 24 will be occupied by the borrower as the borrower's principal
 - 25 dwelling, or (ii) a mortgage or deed of trust on real estate upon
 - 26 which there is located or there is to be located a structure or
 - 27 structures designed principally for occupancy of from one to
 - 28 four families which is or will be occupied by the borrower as
 - 29 the borrower's principal dwelling; and
 - 30 e. The terms of the loan exceed one or more of the thresholds as
 - 31 defined in subdivision (6) of this section.

32 ...

33 (6) "Thresholds" means:

- 34 a. Without regard to whether the loan transaction is or may be a
- 35 "residential mortgage transaction" (as the term "residential
- 36 mortgage transaction" is defined in section 226.2(a)(24) of Title
- 37 12 of the Code of Federal Regulations, as amended from time to
- 38 time), the annual percentage rate of the loan at the time the loan
- 39 is consummated is such that the loan is considered a "mortgage"
- 40 under section 152 of the Home Ownership and Equity
- 41 Protection Act of 1994 (Pub. Law 103-25, [15 U.S.C. §
- 42 1602(aa)]), as the same may be amended from time to time, and
- 43 regulations adopted pursuant thereto by the Federal Reserve

1 Board, including section 226.32 of Title 12 of the Code of
2 Federal Regulations, as the same may be amended from time to
3 time;

4 b. The total points and fees payable by the borrower at or before
5 the loan closing exceed five percent (5%) of the total loan
6 amount if the total loan amount is twenty thousand dollars
7 (\$20,000) or more, or (ii) the lesser of eight percent (8%) of the
8 total loan amount or one thousand dollars (\$1,000), if the total
9 loan amount is less than twenty thousand dollars (\$20,000);
10 provided, the following discount points and prepayment fees
11 and penalties shall be excluded from the calculation of the total
12 points and fees payable by the borrower:

- 13 1. Up to and including two bona fide loan discount points
14 payable by the borrower in connection with the loan
15 transaction, but only if the interest rate from which the
16 loan's interest rate will be discounted does not exceed by
17 more than one percentage point (1%) the required net
18 yield for a 90-day standard mandatory delivery
19 commitment for a reasonably comparable loan from
20 either ~~the Federal National Mortgage Association~~ Fannie
21 Mae or the Federal Home Loan Mortgage Corporation,
22 whichever is greater;
- 23 2. Up to and including one bona fide loan discount point
24 payable by the borrower in connection with the loan
25 transaction, but only if the interest rate from which the
26 loan's interest rate will be discounted does not exceed by
27 more than two percentage points (2%) the required net
28 yield for a 90-day standard mandatory delivery
29 commitment for a reasonably comparable loan from
30 either ~~the Federal National Mortgage Association~~ Fannie
31 Mae or the Federal Home Loan Mortgage Corporation,
32 whichever is greater;
- 33 3. Prepayment fees and penalties which may be charged or
34 collected under the terms of the loan documents which
35 do not exceed one percent (1%) of the amount prepaid,
36 provided the loan documents do not permit the lender to
37 charge or collect any prepayment fees or penalties more
38 than 30 months after the loan closing; or".

39 **SECTION 3.(b)** G.S. 53-270.1(a)(3) reads as rewritten:

40 "(a) A lender and a borrower may agree, in writing, that in addition to the
41 principal and any interest accruing on the outstanding balance of a reverse mortgage
42 loan, the lender may receive:

43 ...

- 1 (3) The shared appreciation or shared value is paid in conjunction with a
2 loan that:
- 3 a. Is outstanding for 24 months or longer; and
4 b. Either (i) is guaranteed or insured by an agency of the federal
5 government, or (ii) has been originated under a reverse
6 mortgage program approved by ~~the Federal National Mortgage~~
7 ~~Association, Fannie Mae,~~ the Government National Mortgage
8 Association, or the Federal Home Loan Mortgage Corporation,
9 provided the loan is sold to one of those agencies or enterprises
10 within 90 days of loan closing, or (iii) has been originated under
11 a reverse mortgage program of a person, firm, or corporation
12 approved as an authorized lender by the Commissioner; and
13 c. Provides that the borrower receives additional economic benefit
14 in exchange for paying the shared appreciation or shared value,
15 including, but not limited to, larger monthly payments or a
16 larger line of credit. The specific nature of the economic benefit
17 shall be provided to the Commissioner with the other
18 information about the reverse mortgage program required under
19 G.S. 53-264 for dissemination to the reverse mortgage
20 counselors; and
21 d. At least 14 days prior to closing, the borrower receives a
22 disclosure that explains the additional costs and benefits of
23 shared appreciation or shared value and compares those costs
24 and benefits with a comparable loan without shared
25 appreciation or shared value. These costs and benefits shall also
26 be included in the information required under G.S. 53-264."

27 **SECTION 3.(c)** G.S. 54-109.88(3) reads as rewritten:

28 "(3) Assets which are issued by, fully guaranteed as to principal and
29 interest by, or due from the U.S. government, its agencies, ~~the Federal~~
30 ~~National Mortgage Association, Fannie Mae,~~ or the Government
31 National Mortgage Association."

32 **SECTION 3.(d)** G.S. 54B-187 reads as rewritten:

33 "~~§ 54B-187. Federal National Mortgage Association Fannie Mae obligations.~~

34 A State association may invest in stock or other evidences of indebtedness or
35 obligations of the ~~Federal National Mortgage Association, Fannie Mae,~~ or any successor
36 thereto."

37 **SECTION 3.(e)** G.S. 54C-136 reads as rewritten:

38 "**§ 54C-136. Federal government-sponsored enterprise obligations.**

39 A savings bank may invest in stock or other evidences of indebtedness or obligations
40 of ~~the Federal National Mortgage Association, Fannie Mae,~~ the Federal Home Loan
41 Mortgage Corporation, or any other federal government sponsored enterprise, or any
42 successor thereto."

43 **SECTION 3.(f)** G.S. 58-3-140 reads as rewritten:

1 **"§ 58-3-140. Temporary contracts of insurance permitted.**

2 A lender engaged in making or servicing real estate mortgage or deed of trust loans
3 on one to four family residences shall accept as evidence of insurance a temporary
4 written contract of insurance meeting the requirements of G.S. 58-44-20(4) and issued
5 by any duly licensed insurance agent, broker, or insurance company.

6 Nothing herein prohibits the lender from refusing to accept a binder or from
7 disapproving such insurer or agent provided such refusal or disapproval is reasonable.

8 Such lender need not accept a binder unless such binder:

9 (1) Includes:

- 10 a. The name and address of the insured;
11 b. The name and address of the mortgagee;
12 c. A description of the insured collateral;
13 d. A provision that it may not be cancelled within a term of the
14 binder except upon 10 days' written notice to the mortgagee;
15 and
16 e. The amount of insurance bound.

17 (2) Is accompanied by a paid receipt for one year's premium, except in the
18 case of the renewal of a policy subsequent to the closing of a loan; and

19 (3) Includes an undertaking of agent to use his best efforts to have the
20 insurance company issue a policy.

21 The Department may require binders to contain any additional information to permit
22 the binders to comply with the reasonable requirements of ~~the Federal National~~
23 ~~Mortgage Association, Fannie Mae,~~ Government National Mortgage Association, or
24 Federal Home Loan Mortgage Corporation for purchase of mortgage loans."

25 **SECTION 3.(g)** G.S. 58-7-173(8) reads as rewritten:

26 "(8) Bonds, debentures, or other securities of the following agencies,
27 whether or not those obligations are guaranteed by the U.S.
28 Government:

- 29 a. ~~The Federal National Mortgage Association, Fannie Mae,~~ and
30 stock thereof when acquired in connection with the sale of
31 mortgage loans to the Association.
32 b. Any federal land bank, when the securities are issued under the
33 Farm Loan Act;
34 c. Any federal home loan bank, when the securities are issued
35 under the Home Loan Bank Act;
36 d. The Home Owners' Loan Corporation, created by the Home
37 Owners' Loan Act of 1933;
38 e. Any federal intermediate credit bank, created by the
39 Agricultural Credits Act;
40 f. The Central Bank for Cooperatives and regional banks for
41 cooperatives organized under the Farm Credit Act of 1933, or
42 by any of such banks; and any notes, bonds, debentures, or

1 other similar obligations, consolidated or otherwise, issued by
2 farm credit institutions under the Farm Credit Act of 1971;

3 g. Any other similar agency of the U.S. Government that is of
4 similar financial quality."

5 **SECTION 3.(h)** G.S. 115C-443(c)(6) reads as rewritten:

6 "(c) Moneys may be invested in the following classes of securities, and no others:

7 ...

8 (6) Obligations maturing no later than 18 months after the date of
9 purchase of the Federal Intermediate Credit Banks, the Federal Home
10 Loan Banks, ~~the Federal National Mortgage Association, Fannie Mae,~~
11 the Banks for Cooperatives, and the Federal Land Banks."

12 **SECTION 3.(i)** G.S. 122A-5.6(d) reads as rewritten:

13 "(d) The loans to mortgage lenders shall be general obligations of the respective
14 mortgage lenders owing them. The Agency shall require that such loans shall be
15 additionally secured as to payment of both principal and interest by a pledge and lien
16 upon collateral security. The collateral security itself shall be in such amount as the
17 Agency determines will assure the payment of the principal of and the interest on the
18 bonds as they become due. Collateral security shall be deemed to be sufficient if the
19 principal of and the interest on the collateral security, when due, will be sufficient to
20 pay the principal of and the interest on the bonds. The collateral security shall consist of
21 any of the following items: (i) direct obligations of, or obligations guaranteed by, the
22 State or the United States of America; (ii) bonds, debentures, notes or other evidences of
23 indebtedness, satisfactory to the Agency, issued by any of the following federal
24 agencies: Bank for Cooperatives, Federal Intermediate Credit Bank, Federal Home Loan
25 Bank System, Export-Import Bank of Washington, Federal Land Banks, ~~the Federal~~
26 ~~National Mortgage Association Fannie Mae~~ or the Government National Mortgage
27 Association; (iii) direct obligations of or obligations guaranteed by the State; (iv)
28 mortgages insured or guaranteed by the United States of America or an instrumentality
29 of it as to payment of principal and interest; (v) any other mortgages secured by real
30 estate on which there is located a residential structure, the collateral value of which shall
31 be determined by the regulations issued from time to time by the Agency; (vi)
32 obligations of Federal Home Loan Banks; (vii) certificates of deposit of banks or trust
33 companies, including the trustee, organized under the laws of the United States or any
34 state, which have a combined capital and surplus of at least fifteen million dollars
35 (\$15,000,000); (viii) Bankers Acceptances; and (ix) commercial paper that has been
36 classified for rating purposes by Dun & Bradstreet, Inc., as Prime-1 or by Standard &
37 Poor's Corp. as A-1."

38 **SECTION 3.(j)** G.S. 122A-11(3) and (4) read as rewritten:

39 "(3) In obligations which are collateralized by mortgage pass-through
40 securities guaranteed by the Government National Mortgage
41 Association, the Federal Home Loan Mortgage Corporation, or ~~the~~
42 ~~Federal National Mortgage Association; Fannie Mae;~~

1 (4) In a trust certificate or similar instrument evidencing an equity
2 investment in a trust or other similar arrangement which is formed for
3 the purpose of issuing obligations which are collateralized by
4 mortgage pass-through or participation certificates guaranteed by the
5 Government National Mortgage Association, the Federal Home Loan
6 Mortgage Corporation or the ~~Federal National Mortgage Association;~~
7 Fannie Mae; and".

8 **SECTION 3.(k)** G.S. 122D-16(b)(2) reads as rewritten:

9 "(b) All moneys of the Authority may be invested in the following:

10 ...

11 (2) Non-convertible debt securities of the following issuers:

- 12 a. The Federal Home Loan Bank Board;
13 b. ~~The Federal National Mortgage Association;~~Fannie Mae;
14 c. The Federal Farm Credit Bank; and
15 d. The Student Loan Marketing Association;"

16 **SECTION 3.(l)** G.S. 143B-472.8(7) reads as rewritten:

17 "(7) Obligations of the Federal Intermediate Credit Banks, the Federal
18 Home Loan Banks, ~~the Federal National Mortgage Association,~~Fannie
19 Mae, the Banks for Cooperatives, and the Federal Land Banks,
20 maturing no later than 18 months after the date of purchase."

21 **SECTION 3.(m)** G.S. 147-69.1(c)(2) reads as rewritten:

22 "(c) It shall be the duty of the State Treasurer to invest the cash of the funds
23 enumerated in subsection (b) of this section in excess of the amount required to meet the
24 current needs and demands on such funds, selecting from among the following:

25 ...

26 (2) Obligations of the Federal Financing Bank, the Federal Farm Credit
27 Bank, the Bank for Cooperatives, the Federal Intermediate Credit
28 Bank, the Federal Land Banks, the Federal Home Loan Banks, the
29 Federal Home Loan Mortgage Corporation, ~~the Federal National~~
30 ~~Mortgage Association,~~Fannie Mae, the Government National
31 Mortgage Association, the Federal Housing Administration, the
32 Farmers Home Administration, the United States Postal Service, the
33 Export-Import Bank, the International Bank for Reconstruction and
34 Development, the International Finance Corporation, the
35 Inter-American Development Bank, the Asian Development Bank, the
36 African Development Bank, and the Student Loan Marketing
37 Association."

38 **SECTION 3.(n)** G.S. 159B-18(b) reads as rewritten:

39 "(b) Any moneys received pursuant to the authority of this Chapter and any other
40 moneys available to a joint agency for investment may be invested:

- 41 (1) As provided in subsection (a) of this section;
42 (2) As provided in G.S. 159-30, except that:

- 1 a. A joint agency may also invest, in addition to the obligations
2 enumerated in G.S. 159-30(c)(2), in bonds, debentures, notes,
3 participation certificates, or other evidences of indebtedness
4 issued, or the principal of and the interest on which are
5 unconditionally guaranteed, whether directly or indirectly, by
6 any agency or instrumentality of, or corporation wholly owned
7 by, the United States of America.
- 8 b. For purposes of G.S. 159-30(c)(12), a joint agency may also
9 enter into repurchase agreements with respect to, in addition to
10 the obligations enumerated in G.S. 159-30(c)(12):
- 11 1. Obligations of the Federal Financing Bank, the Federal
12 Farm Credit Bank, the Bank for Cooperatives, the
13 Federal Intermediate Credit Bank, the Federal Land
14 Banks, the Federal Home Loan Banks, the Federal Home
15 Loan Mortgage Corporation, ~~the Federal National~~
16 ~~Mortgage Association, Fannie Mae,~~ the Government
17 National Mortgage Association, the Federal Housing
18 Administration, the Farmers Home Administration, and
19 the United States Postal Service;
 - 20 2. Bonds, debentures, notes, participation certificates, or
21 other evidences of indebtedness issued, or the principal
22 of and the interest on which are unconditionally
23 guaranteed, whether directly or indirectly, by any agency
24 or instrumentality of, or corporation wholly owned by,
25 the United States of America;
 - 26 3. Mortgage-backed pass-through securities guaranteed by
27 the Government National Mortgage Association, the
28 Federal Home Loan Mortgage Corporation, or ~~the~~
29 ~~Federal National Mortgage Association; Fannie Mae;~~
 - 30 4. Direct or indirect obligations which are collateralized by
31 or represent beneficial ownership interests in
32 mortgage-backed pass-through securities guaranteed by
33 the Government National Mortgage Association, the
34 Federal Home Loan Mortgage Corporation, ~~or the~~
35 ~~Federal National Mortgage Association; Fannie Mae;~~
36 and
 - 37 5. Direct or indirect obligations, trust certificates, or other
38 similar instruments which are both: (i) guaranteed by the
39 Government National Mortgage Association, the Federal
40 Home Loan Mortgage Corporation, or ~~the Federal~~
41 ~~National Mortgage Association; Fannie Mae;~~ (ii)
42 collateralized by or represent beneficial ownership
43 interests in mortgage-backed pass-through securities

1 which are guaranteed by the Government National
 2 Mortgage Association, the Federal Home Loan Mortgage
 3 Corporation, or ~~the Federal National Mortgage~~
 4 ~~Association, Fannie Mae;~~ including, but not limited to,
 5 Real Estate Mortgage Investment Conduit Certificates;
 6 and (iii) for purposes of the second proviso of G.S.
 7 159-30(c)(12)a., the financial institution serving either as
 8 trustee or as fiscal agent for a joint agency holding the
 9 obligations subject to the repurchase agreement may also
 10 be the provider of the repurchase agreement if the
 11 obligations that are subject to the repurchase agreement
 12 are held in trust by the trustee or fiscal agent for the
 13 benefit of the joint agency;

14 (3) In mortgage-backed pass-through securities guaranteed by the
 15 Government National Mortgage Association, the Federal Home Loan
 16 Mortgage Corporation, or ~~the Federal National Mortgage~~
 17 ~~Association, Fannie Mae;~~

18 (4) In direct or indirect obligations which are collateralized by or represent
 19 beneficial ownership interests in mortgage-backed pass-through
 20 securities guaranteed by the Government National Mortgage
 21 Association, the Federal Home Loan Mortgage Corporation, or ~~the~~
 22 ~~Federal National Mortgage Association, Fannie Mae;~~ and

23 (5) In direct or indirect obligations, trust certificates, or other similar
 24 instruments which are (i) guaranteed by the Government National
 25 Mortgage Association, the Federal Home Loan Mortgage Corporation,
 26 or ~~the Federal National Mortgage Association, Fannie Mae,~~ and (ii)
 27 collateralized by or represent beneficial ownership interests in
 28 mortgage-backed pass-through securities which are guaranteed by the
 29 Government National Mortgage Association, the Federal Home Loan
 30 Mortgage Corporation, or ~~the Federal National Mortgage~~
 31 ~~Association, Fannie Mae,~~ including, but not limited to, Real Estate
 32 Mortgage Investment Conduit Certificates."

33 **SECTION 3.(o)** G.S. 159-30(c)(2) reads as rewritten:

34 "(c) Moneys may be invested in the following classes of securities, and no others:

35 ...
 36 (2) Obligations of the Federal Financing Bank, the Federal Farm Credit
 37 Bank, the Bank for Cooperatives, the Federal Intermediate Credit
 38 Bank, the Federal Land Banks, the Federal Home Loan Banks, the
 39 Federal Home Loan Mortgage Corporation, ~~the Federal National~~
 40 ~~Mortgage Association, Fannie Mae,~~ the Government National
 41 Mortgage Association, the Federal Housing Administration, the
 42 Farmers Home Administration, the United States Postal Service."

43 **SECTION 4.** G.S. 1-17 reads as rewritten:

1 **"§ 1-17. Disabilities.**

2 (a) A person entitled to commence an action who is under a disability at the time
3 the cause of action accrued ~~either~~

4 (1) ~~Within the age of 18 years; or~~

5 (2) ~~Insane; or~~

6 (3) ~~Incompetent as defined in G.S. 35A-1101(7) or (8)~~

7 may bring his or her action within the time ~~herein limited~~, limited in this Subchapter,
8 after the disability is removed, except in an action for the recovery of real property, or to
9 make an entry or defense founded on the title to real property, or to rents and services
10 out of the ~~same, when he real property, when the person~~ must commence his or her
11 action, or make ~~his-the~~ entry, within three years next after the removal of the disability,
12 and at no time thereafter.

13 For the purpose of this section, a person is under a disability if the person meets one
14 or more of the following conditions:

15 (1) The person is within the age of 18 years.

16 (2) The person is insane.

17 (3) The person is incompetent as defined in G.S. 35A-1101(7) or (8).

18 (a1) For those persons under a disability on January 1, 1976, as a result of being
19 imprisoned on a criminal charge, or in execution under sentence for a criminal offense,
20 the statute of limitations shall commence to run and no longer be tolled from January 1,
21 1976.

22 (b) Notwithstanding the provisions of subsection (a) of this section, an action on
23 behalf of a minor for malpractice arising out of the performance of or failure to perform
24 professional services shall be commenced within the limitations of time specified in
25 ~~G.S. 1-15(c): Provided, that if said G.S. 1-15(c), except that if those time limitations~~
26 ~~expire before such-the~~ minor attains the full age of 19 years, the action may be brought
27 before ~~said-the~~ minor attains the full age of 19 years."

28 **SECTION 5.** G.S. 7B-507(b)(4) reads as rewritten:

29 "(4) A court of competent jurisdiction has determined that: the parent has
30 committed murder or voluntary manslaughter of another child of the
31 parent; has aided, abetted, attempted, conspired, or solicited to commit
32 murder or ~~voluntarily-voluntary~~ manslaughter of the child or another
33 child of the parent; or has committed a felony assault resulting in
34 serious bodily injury to the child or another child of the parent."

35 **SECTION 6.** G.S. 7B-1501 reads as rewritten:

36 **"§ 7B-1501. Definitions.**

37 In this Subchapter, unless the context clearly requires otherwise, the following
38 words have the listed ~~meanings; meanings.~~ The singular includes the plural, unless
39 otherwise specified.

40 (1) Chief court counselor. – The person responsible for administration and
41 supervision of juvenile intake, probation, and post-release supervision
42 in each judicial district, operating under the supervision of the
43 Department of Juvenile Justice and Delinquency Prevention.

- 1 (2) Clerk. – Any clerk of superior court, acting clerk, or assistant or
2 deputy clerk.
- 3 (3) Community-based program. – A program providing nonresidential or
4 residential treatment to a juvenile under the jurisdiction of the juvenile
5 court in the community where the juvenile's family lives. A
6 community-based program may include specialized foster care, family
7 counseling, shelter care, and other appropriate treatment.
- 8 (4) Court. – The district court division of the General Court of Justice.
- 9 (5) Court counselor. – A person responsible for probation and post-release
10 supervision to juveniles under the supervision of the chief court
11 counselor.
- 12 (6) Custodian. – The person or agency that has been awarded legal
13 custody of a juvenile by a court.
- 14 (7) Delinquent juvenile. – Any juvenile who, while less than 16 years of
15 age but at least 6 years of age, commits a crime or infraction under
16 State law or under an ordinance of local government, including
17 violation of the motor vehicle laws.
- 18 (7a) Department. – The Department of Juvenile Justice and Delinquency
19 Prevention created under Article 12 of Chapter 143B of the General
20 Statutes.
- 21 (8) Detention. – The secure confinement of a juvenile under a court order.
- 22 (9) Detention facility. – A facility approved to provide secure confinement
23 and care for juveniles. Detention facilities include both State and
24 locally administered detention homes, centers, and facilities.
- 25 (10) District. – Any district court district as established by G.S. 7A-133.
- 26 (11) Holdover facility. – A place in a jail which has been approved by the
27 Department of Health and Human Services as meeting the State
28 standards for detention as required in G.S. 153A-221 providing close
29 supervision where the juvenile cannot converse with, see, or be seen
30 by the adult population.
- 31 (12) House arrest. – A requirement that the juvenile remain at the juvenile's
32 residence unless the court or the juvenile court counselor authorizes
33 the juvenile to leave for specific purposes.
- 34 (13) Intake counselor. – A person who screens and evaluates a complaint
35 alleging that a juvenile is delinquent or undisciplined to determine
36 whether the complaint should be filed as a petition.
- 37 (14) Interstate Compact on Juveniles. – An agreement ratified by 50 states
38 and the District of Columbia providing a formal means of returning a
39 juvenile, who is an absconder, escapee, or runaway, to the juvenile's
40 home state, and codified in Article 28 of this Chapter.
- 41 (15) Judge. – Any district court judge.
- 42 (16) Judicial district. – Any district court district as established by G.S.
43 7A-133.

- 1 (17) Juvenile. – Except as provided in subdivisions (7) and (27) of this
2 section, any person who has not reached the person's eighteenth
3 birthday and is not married, emancipated, or a member of the armed
4 forces of the United States. Wherever the term "juvenile" is used with
5 reference to rights and privileges, that term encompasses the attorney
6 for the juvenile as well.
- 7 (18) Juvenile court. – Any district court exercising jurisdiction under this
8 Chapter.
- 9 (19) Repealed by Session Laws 2000, c. 137, s. 2.
- 10 (20) Petitioner. – The individual who initiates court action by the filing of a
11 petition or a motion for review alleging the matter for adjudication.
- 12 (21) Post-release supervision. – The supervision of a juvenile who has been
13 returned to the community after having been committed to the
14 Department for placement in a training school.
- 15 (22) Probation. – The status of a juvenile who has been adjudicated
16 delinquent, is subject to specified conditions under the supervision of a
17 court counselor, and may be returned to the court for violation of those
18 conditions during the period of probation.
- 19 (23) Prosecutor. – The district attorney or assistant district attorney
20 assigned by the district attorney to juvenile proceedings.
- 21 (24) Protective supervision. – The status of a juvenile who has been
22 adjudicated undisciplined and is under the supervision of a court
23 counselor.
- 24 (25) Teen court program. – A community resource for the diversion of
25 cases in which a juvenile has allegedly committed certain offenses for
26 hearing by a jury of the juvenile's peers, which may assign the juvenile
27 to counseling, restitution, curfews, community service, or other
28 rehabilitative measures.
- 29 (26) Training school. – A secure residential facility authorized to provide
30 long-term treatment, education, and rehabilitative services for
31 delinquent juveniles committed by the court to the Department.
- 32 (27) Undisciplined juvenile. –
33 a. A juvenile who, while less than 16 years of age but at least 6
34 years of age, is unlawfully absent from school; or is regularly
35 disobedient to and beyond the disciplinary control of the
36 juvenile's parent, guardian, or custodian; or is regularly found in
37 places where it is unlawful for a juvenile to be; or has run away
38 from home for a period of more than 24 hours; or
39 b. A juvenile who is 16 or 17 years of age and who is regularly
40 disobedient to and beyond the disciplinary control of the
41 juvenile's parent, guardian, or custodian; or is regularly found in
42 places where it is unlawful for a juvenile to be; or has run away
43 from home for a period of more than 24 hours.

1 (28) Wilderness program. – A rehabilitative residential treatment program
2 in a rural or outdoor setting.

3 ~~The singular includes the plural, unless otherwise specified."~~

4 **SECTION 7.** Effective July 1, 2001, G.S. 7B-1808(b)(2) reads as rewritten:

5 "(b) At the first appearance, the court shall:

6 ...

7 (2) Determine whether the juvenile has retained counsel or has been
8 assigned ~~counsel~~-counsel;"

9 **SECTION 8.** Effective June 30, 2001, G.S. 17C-3(a)(5) reads as rewritten:

10 "(5) Citizens and Others. – The President of The University of North
11 Carolina; the Director of the Institute of Government; and two citizens,
12 one of whom shall be selected by the Governor and one of whom shall
13 be selected by the Attorney General. The General Assembly shall
14 appoint two persons, one upon the recommendation of the Speaker of
15 the House of Representatives and one upon the recommendation of the
16 President Pro Tempore of the Senate. Appointments by the General
17 Assembly shall be made in accordance with G.S. 120-122.
18 Appointments by the General Assembly shall ~~serve~~be for two-year
19 terms to conclude on June 30th in odd-numbered years."

20 **SECTION 9.** G.S. 20-16.5(a)(4) reads as rewritten:

21 "(a) Definitions. – As used in this section the following words and phrases have
22 the following meanings:

23 ...

24 (4) Revocation Report. – A sworn statement by a charging officer and a
25 chemical analyst containing facts indicating that the conditions of
26 subsection (b) have been met, and whether the person has a pending
27 offense for which ~~their~~the person's license had been or is revoked
28 under this section. When one chemical analyst analyzes a person's
29 blood and another chemical analyst informs a person of his rights and
30 responsibilities under G.S. 20-16.2, the report must include the
31 statements of both analysts."

32 **SECTION 10.** G.S. 20-16.5(g) reads as rewritten:

33 "(g) Hearing before Magistrate or Judge if Person Contests Validity of
34 Revocation. – A person whose license is revoked under this section may request in
35 writing a hearing to contest the validity of the revocation. The request may be made at
36 the time of the person's initial appearance, or within 10 days of the effective date of the
37 revocation to the clerk or a magistrate designated by the clerk, and may specifically
38 request that the hearing be conducted by a district court judge. The Administrative
39 Office of the Courts must develop a hearing request form for any person requesting a
40 hearing. Unless a district court judge is requested, the hearing must be conducted within
41 the county by a magistrate assigned by the chief district court judge to conduct such
42 hearings. If the person requests that a district court judge hold the hearing, the hearing
43 must be conducted within the district court district as defined in G.S. 7A-133 by a

1 district court judge assigned to conduct such hearings. The revocation remains in effect
2 pending the hearing, but the hearing must be held within three working days following
3 the request if the hearing is before a magistrate or within five working days if the
4 hearing is before a district court judge. The request for the hearing must specify the
5 grounds upon which the validity of the revocation is challenged and the hearing must be
6 limited to the grounds specified in the request. A witness may submit his evidence by
7 affidavit unless he is subpoenaed to appear. Any person who appears and testifies is
8 subject to questioning by the judicial official conducting the hearing, and the judicial
9 official may adjourn the hearing to seek additional evidence if he is not satisfied with
10 the accuracy or completeness of evidence. The person contesting the validity of the
11 revocation may, but is not required to, testify in his own behalf. Unless contested by the
12 person requesting the hearing, the judicial official may accept as true any matter stated
13 in the revocation report. If any relevant condition under subsection (b) is contested, the
14 judicial official must find by the greater weight of the evidence that the condition was
15 met in order to sustain the revocation. At the conclusion of the hearing the judicial
16 official must enter an order sustaining or rescinding the revocation. The judicial
17 official's findings are without prejudice to the person contesting the revocation and to
18 any other potential party as to any other proceedings, civil or criminal, that may involve
19 facts bearing upon the conditions in subsection (b) considered by the judicial official.
20 The decision of the judicial official is final and may not be appealed in the General
21 Court of Justice. If the hearing is not held and completed within three working days of
22 the written request for a hearing before a magistrate or within five working days of the
23 written request for a hearing before a district court judge, the judicial official must enter
24 an order rescinding the revocation, unless the person contesting the revocation
25 contributed to the delay in completing the hearing. If the person requesting the hearing
26 fails to appear at the hearing or any rescheduling thereof after having been properly
27 notified, he forfeits his right to a hearing."

28 **SECTION 11.** G.S. 20-28.3(m) reads as rewritten:

29 "(m) Trial Priority. – District court trials of impaired driving offenses involving
30 forfeitures of motor vehicles pursuant to G.S. 20-28.2 shall be scheduled on the
31 arresting officer's next court date or within 30 days of the offense, whichever comes
32 first.

33 Once scheduled, the case shall not be continued unless all of the following
34 conditions are met:

- 35 (1) A written motion for continuance is filed with notice given to the
36 opposing party prior to the motion being heard.
- 37 (2) The judge makes a finding of a "compelling reason" for the
38 continuance.
- 39 (3) The motion and finding are attached to the court case record.

40 Upon a determination of guilt, the issue of vehicle forfeiture shall be heard by the
41 judge immediately, or as soon thereafter as feasible, and the judge shall issue the
42 appropriate orders pursuant to G.S. 20-28.2(d).

1 Should a defendant appeal the conviction to superior court, any party who has not
2 previously been heard on a petition for pretrial release under ~~subsections~~ subsection (e1)
3 or (e3) of this section or any party whose motor vehicle has not been the subject of a
4 forfeiture hearing held pursuant to G.S. 20-28.2(d) may be heard on a petition for
5 pretrial release pursuant to ~~subsections~~ subsection (e1) or (e3) of this section. The
6 provisions of subsection (e) of this section shall also apply to seized motor vehicles
7 pending trial in superior court. Where a motor vehicle was released pursuant to
8 subsection (e) of this section pending trial in district court, the release of the motor
9 vehicle continues, and the terms and conditions of the original bond remain the same as
10 those required for the initial release of the motor vehicle under subsection (e) of this
11 section, pending the resolution of the underlying offense involving impaired driving in
12 superior court."

13 **SECTION 12.** G.S. 20-118(c)(14) reads as rewritten:

14 "(c) Exceptions. – The following exceptions apply to G.S. 20-118(b) and
15 20-118(e).

16 ...

17 (14) Subsections (b) and (e) of this section do not apply to a vehicle that
18 meets all of the ~~following conditions:~~ conditions below, but all other
19 enforcement provisions of this Article remain applicable:

- 20 a. Is hauling aggregates from a distribution yard or a
21 State-permitted production site within a North Carolina county
22 contiguous to the North Carolina State border to a destination in
23 an adjacent state as verified by a weight ticket in the driver's
24 possession and available for inspection by enforcement
25 personnel.
- 26 b. Does not operate on an interstate highway or posted bridge.
- 27 c. Does not exceed 69,850 pounds gross vehicle weight and
28 53,850 pounds per axle grouping for tri-axle vehicles. For
29 purposes of this subsection, a tri-axle vehicle is a single unit
30 vehicle with a three consecutive axle group on which the
31 respective distance between any two consecutive axles of the
32 group, measured longitudinally center to center to the nearest
33 foot, does not exceed eight feet. For purposes of this subsection,
34 the tolerance provisions of subsection (h) of this section do not
35 apply.
- 36 ~~d. All other enforcement provisions of this Article remain~~
37 ~~applicable."~~

38 **SECTION 13.** G.S. 20-294(2) reads as rewritten:

39 "(2) Willfully and intentionally failing to comply with this Article, Article
40 15 of this Chapter, or G.S. 20-52.1, 20-75, ~~20-82,~~ 20-108, 20-109, or a
41 rule adopted by the Division under this Article."

42 **SECTION 14.** Effective July 1, 2001, G.S. 25-9-705(c) reads as rewritten:

1 (c) Pre-effective-date filing in jurisdiction formerly governing perfection. – This
2 act does not render ineffective an effective financing statement that, before July 1, 2001,
3 is filed and satisfies the applicable requirements for perfection under the law of the
4 jurisdiction governing perfection as provided in G.S. 25-9-103 of former Article 9.
5 However, except as otherwise provided in subsections (d) and (e) of this section and
6 G.S. 25-9-706, the financing statement ceases to be effective at the earlier of:

- 7 (1) The time the financing statement would have ceased to be effective
8 under the law of the jurisdiction in which it is filed; ~~and~~ or
- 9 (2) June 30, 2006."

10 **SECTION 15.** G.S. 30-3.2 reads as rewritten:

11 "**§ 30-3.2. Definitions.**

12 The following definitions apply in this Article:

- 13 ~~(a)~~(1) "Code" means the Internal Revenue Code in effect at the time of the
14 decedent's death.
- 15 ~~(b)~~(2) "Death taxes" means any estate, inheritance, succession, and similar
16 taxes imposed by any taxing authority, reduced by any applicable
17 credits against those taxes.
- 18 ~~(c)~~(3) "Nonadverse trustee" means a trustee who would be deemed
19 nonadverse under section 672 of the Code.
- 20 ~~(d)~~(4) "Total Net Assets" means, after the payment or provision for payment
21 of the decedent's funeral expenses, year's allowances to persons other
22 than to the surviving spouse, debts, claims, and administration
23 expenses, the sum of the following:
 - 24 ~~(1)~~a. All property to which the decedent had legal and equitable title
25 immediately prior to death;
 - 26 ~~(2)~~b. All property received by the decedent's personal representative
27 by reason of the decedent's death, other than wrongful death
28 proceeds;
 - 29 ~~(3)~~c. One-half of the value of any property held by the decedent and
30 the surviving spouse as tenants by the entirety, or as joint
31 tenants with rights of survivorship;
 - 32 ~~(4)~~d. The entire value of any interest in property held by the decedent
33 and another person, other than the surviving spouse, as joint
34 tenants with right of survivorship, except to the extent that
35 contribution can be proven by clear and convincing evidence;
 - 36 ~~(5)~~e. The value of any property which would be included in the
37 taxable estate of the decedent pursuant to sections 2033, 2035,
38 2036, 2037, 2038, 2039, or 2040 of the Code.
 - 39 ~~(6)~~f. Any donative transfers of property made by the decedent to
40 donees other than the surviving spouse within six months of the
41 decedent's death, excluding:
 - 42 ~~a.~~1. Any gifts within the annual exclusion provisions of
43 section 2503 of the Code;

b.2. Any gifts to which the surviving spouse consented. A signing of a deed, or income or gift tax return reporting such gift shall be considered consent; and

e.3. Any gifts made prior to marriage;

(7)g. Any proceeds of any individual retirement account, pension or profit-sharing plan, or any private or governmental retirement plan or annuity of which the decedent controlled the designation of beneficiary, excluding any benefits under the federal social security system;

(8)h. Any other Property Passing to Surviving Spouse under G.S. 30-3.3; and

(9)i. In case of overlapping application of the same property under more than one provision, the property shall be included only once under the provision yielding the greatest value."

SECTION 16. G.S. 40A-64(c) reads as rewritten:

"(c) If the owner is to be allowed to remove any timber, building or other permanent ~~improvement of fixtures~~ improvement, or fixtures from the property, the value thereof shall not be included in the compensation award, but the cost of removal shall be considered as an element to be compensated."

SECTION 17. G.S. 58-5-15 reads as rewritten:

"§ 58-5-15. Minimum deposit required upon admission.

Upon admission to do business in the State of North Carolina every foreign or alien fire, marine, or fire and marine, fidelity, surety or casualty company shall deposit with the Commissioner securities in the amounts required under G.S. 58-5-5 and G.S. 58-5-10."

SECTION 18. G.S. 58-31-40(b) reads as rewritten:

"(b) No agency or other person authorized or directed by law to select a plan and erect a building for the use of the State or any State institution shall receive and approve of the plan until it is submitted to and approved by the Commissioner as to the safety of the proposed building from fire, including the property's occupants or contents. No agency or person authorized or directed by law to select a plan or erect a building comprising 10,000 square feet ~~or~~ or more for the use of any county, city, or school district shall receive and approve of the plan until it is submitted to and approved by the Commissioner as to the safety of the proposed building from fire, including the property's occupants or contents."

SECTION 19. The catch line of G.S. 59-31 reads as rewritten:

"§ 59-31. ~~Name of Article.~~ North Carolina Uniform Partnership Act."

SECTION 20. G.S. 59-1106 reads as rewritten:

"§ 59-1106. Fees; expedited filing.

The Secretary of State shall collect the following fees and remit them to the State Treasurer for the use of the State:

- (1) For filing a certificate of limited partnership (G.S. 59-201)..... \$50.00

| | | | |
|----|------|--|----------------|
| 1 | (2) | For filing a certificate of amendment | |
| 2 | | (G.S. 59-202; 59-905) | 25.00 |
| 3 | (3) | For filing a certificate of cancellation | |
| 4 | | (G.S. 59-203; 59-906) | 25.00 |
| 5 | (4) | For filing an application for reservation of name | |
| 6 | | (G.S. 59-104(a)) | 10.00 |
| 7 | (5) | For filing a transfer of name | |
| 8 | | (G.S. 59-104(d)) | 10.00 |
| 9 | (6) | For filing an application for registration | |
| 10 | | as foreign limited partnership | |
| 11 | | (G.S. 59-502) (G.S. 59-902)..... | 50.00 |
| 12 | (7) | For preparing and furnishing a copy of any | |
| 13 | | document, instrument or paper filed or recorded | |
| 14 | | relating to a limited partnership (G.S. 59-206(c)) | |
| 15 | | For each page..... | 1.00 |
| 16 | | For affixing the certificate and official seal thereto | 5.00 |
| 17 | (8) | For comparing a copy furnished to him of any | |
| 18 | | document, instrument or paper filed or recorded | |
| 19 | | relating to a limited partnership | |
| 20 | | For each page..... | 1.00 |
| 21 | (9) | For filing any other document not herein specifically | |
| 22 | | provided for | 10.00 |
| 23 | (10) | For the expedited filing by the end of the same | |
| 24 | | business day of a document received in good order | |
| 25 | | by 12:00 noon Eastern Standard Time | 200.00 |
| 26 | | | additional fee |
| 27 | (11) | For the expedited filing of a document received in | |
| 28 | | good order within 24 hours after receipt, excluding | |
| 29 | | weekends and holidays..... | 100.00 |
| 30 | | | additional fee |
| 31 | (12) | Advisory review of a document | 200.00. |

32 The Secretary of State shall not collect the fees allowed in subdivisions (10) and (11)
 33 of this section unless the person submitting the document for filing requests an
 34 expedited filing and is informed by the Secretary of State of the fees prior to the filing
 35 of the document. Upon receipt of a document in proper form and payment of the
 36 required filing fee, the Secretary of State shall guarantee the expedited filing of the
 37 document."

38 **SECTION 21.** G.S. 90-88(d) reads as rewritten:
 39 "(d) If any substance is designated, rescheduled or deleted as a controlled
 40 substance under federal law, the Commission shall similarly control or cease control of,
 41 the substance under this Article unless the Commission objects to such inclusion. The
 42 Commission, at its next regularly scheduled meeting that takes place 30 days after
 43 publication in the Federal Register of a final order scheduling a substance, shall

1 determine either to adopt a rule to similarly control the substance under this Article or to
2 object to such action. No rule-making notice or hearing as specified by Chapter 150B
3 ~~150B~~ of the General Statutes is required if the Commission makes a decision to
4 similarly control a substance. However, if the Commission makes a decision to object to
5 adoption of the federal action, it shall initiate rule-making procedures pursuant to
6 Chapter 150B of the General Statutes within 180 days of its decision to object."

7 **SECTION 22.** G.S. 96-35(b) reads as rewritten:

8 "(b) The Office of State Budget, Planning, and Management shall report ~~to~~ to the
9 Governor and to the General Assembly upon the convening of each biennial session, its
10 evaluation of and recommendations regarding job training, education, and placement
11 programs for which data was provided to the CFS."

12 **SECTION 23.** G.S. 105-357(b)(2) reads as rewritten:

13 "(2) Penalty. – In addition to interest for nonpayment of taxes provided by
14 G.S. 105-360 and in addition to any criminal penalties provided by law
15 for the giving of worthless checks, the penalty for giving in payment of
16 taxes a check that is returned because of insufficient funds or
17 nonexistence of an account of the drawer is ten percent (10%) of the
18 amount of the check, subject to a minimum of one dollar (\$1.00) and a
19 maximum of one thousand dollars (\$1,000). This penalty does not
20 apply if the tax collector finds that, when the check was presented for
21 payment, the drawer of the check had sufficient funds in an account at
22 a financial institution in this State to pay the check and, by
23 ~~inadvertance, inadvertence,~~ inadvertance, inadvertence, the drawer of the check failed to draw the
24 check on the account that had sufficient funds. This penalty shall be
25 added to and collected in the same manner as the taxes for which the
26 check was given."

27 **SECTION 24.** G.S. 113A-241(c) reads as rewritten:

28 "(c) The Secretary of Environment and Natural Resources shall report to the
29 Governor and the Environmental Review Commission annually beginning on
30 September 1, 2000, on the State's progress towards attaining the goal established in
31 ~~Section 2~~ of this Article."

32 **SECTION 25.** G.S. 116D-4(b) reads as rewritten:

33 "(b) ~~Participation in providing professional services.~~ Participation in Providing
34 Professional Services. – The Department of State Treasurer shall provide contracting
35 opportunities for historically underutilized businesses in providing professional services
36 in connection with the issuance of bonds and notes authorized by this section. As used
37 in this subsection, the term 'historically underutilized business' means a business
38 described in G.S. 143-48. The Department of State Treasurer shall strive to increase the
39 amount of legal, financial, and other professional services acquired by it from
40 historically underutilized businesses. With the assistance of the Office for Historically
41 Underutilized Businesses in the Department of Administration, the Department of State
42 Treasurer shall set objectives for contracting with these businesses, identify and
43 eliminate barriers or constraints that may restrict these businesses from contracting with

1 the Department, and develop a plan for meeting its objectives. The Department of State
2 Treasurer shall report quarterly to the Office for Historically Underutilized Businesses
3 on its progress in carrying out the requirements of this subsection."

4 **SECTION 26.** G.S. 116D-11(g) reads as rewritten:

5 "(g) University Improvement Bonds Fund. – The proceeds of university
6 improvement general obligation bonds and notes, including premium thereon, if any,
7 except the proceeds of bonds the issuance of which has been anticipated by bond
8 anticipation notes or the proceeds of refunding bonds or notes, shall be placed by the
9 State Treasurer in a special fund to be designated 'University Improvement Bonds
10 Fund'. Moneys in the University Improvement Bonds Fund shall be used for the
11 purposes set forth in this Article.

12 Any additional moneys that may be received by means of a grant or grants from the
13 United States of America or any agency or department thereof or from any other source
14 to aid in financing the cost of any university improvements authorized by this Article
15 may be placed by the State Treasurer in the University Improvement Bonds Fund or in a
16 separate account or fund and shall be disbursed, to the extent permitted by the terms of
17 the grant or grants, without regard to any limitations imposed by this ~~aet.~~ Article.

18 The proceeds of university improvement general obligation bonds and notes may be
19 used with any other moneys made available by the General Assembly for the making of
20 university improvements, including the proceeds of any other State bond issues,
21 whether previously made available or which may be made available after the effective
22 date of this Article. The proceeds of university improvement bonds and notes shall be
23 expended and disbursed under the direction and supervision of the Director of the
24 Budget. The funds provided by this Article for university improvements shall be
25 disbursed for the purposes provided in this Article upon warrants drawn on the State
26 Treasurer by the State Controller, which warrants shall not be drawn until requisition
27 has been approved by the Director of the Budget and which requisition shall be
28 approved only after full compliance with the Executive Budget Act, Article 1 of Chapter
29 143 of the General Statutes."

30 **SECTION 27.** G.S. 116D-46(g) reads as rewritten:

31 "(g) Community College Bonds Fund. – The proceeds of community college
32 general obligation bonds and notes, including premium thereon, if any, except the
33 proceeds of bonds the issuance of which has been anticipated by bond anticipation notes
34 or the proceeds of refunding bonds or notes, shall be placed by the State Treasurer in a
35 special fund to be designated 'Community College Bonds Fund'. Moneys in the
36 Community College Bonds Fund shall be used for the purposes set forth in this Article.

37 Any additional moneys that may be received by means of a grant or grants from the
38 United States of America or any agency or department thereof or from any other source
39 to aid in financing the cost of any community college capital facilities authorized by this
40 Article may be placed by the State Treasurer in the Community College Bonds Fund or
41 in a separate account or fund and shall be disbursed, to the extent permitted by the terms
42 of the grant or grants, without regard to any limitations imposed by this ~~aet.~~ Article.

1 The proceeds of community college general obligation bonds and notes may be used
2 with any other moneys made available by the General Assembly for the making of
3 grants to community colleges for capital facilities, including the proceeds of any other
4 State bond issues, whether previously made available or which may be made available
5 after the effective date of this Article. The proceeds of community college bonds and
6 notes shall be expended and disbursed under the direction and supervision of the
7 Director of the Budget. The funds provided by this Article for grants to community
8 colleges shall be disbursed for the purposes provided in this Article upon warrants
9 drawn on the State Treasurer by the State Controller, which warrants shall not be drawn
10 until requisition has been approved by the Director of the Budget and which requisition
11 shall be approved only after full compliance with the Executive Budget Act, Article 1 of
12 Chapter 143 of the General Statutes."

13 **SECTION 28.** Effective July 1, 2001, G.S. 122C-269(b) reads as rewritten:

14 "(b) An official of the facility shall immediately notify the clerk of superior court
15 of the county in which the facility is located of a determination to hold the respondent
16 pending hearing. That clerk shall request transmittal of all documents pertinent to the
17 proceedings from the clerk of superior court where the proceedings were initiated. The
18 requesting clerk shall assume all duties set forth in G.S. 122C-264. The counsel for
19 ~~indigent respondents~~ ~~the counsel~~ provided for in G.S. 122C-268(d) shall be appointed in
20 accordance with rules adopted by the Office of Indigent Defense Services."

21 **SECTION 29.** G.S. 131D-2(b)(1) reads as rewritten:

22 "(b) Licensure; inspections. –

23 (1) The Department of Health and Human Services shall inspect and
24 license, under rules adopted by the Medical Care Commission, all
25 adult care homes for persons who are aged or mentally or physically
26 disabled except those exempt in subsection (c) of this section. Licenses
27 issued under the authority of this section shall be valid for one year
28 from the date of issuance unless revoked earlier by the Secretary for
29 failure to comply with any part of this section or any rules adopted
30 ~~hereunder~~ ~~adult care~~ hereunder. Licenses shall be renewed annually
31 upon filing and the Department's approval of the renewal application.
32 A license shall not be renewed if outstanding fines and penalties
33 imposed by the State against the home have not been paid. Fines and
34 penalties for which an appeal is pending are exempt from
35 consideration. The renewal application shall contain all necessary and
36 reasonable information that the Department may by rule require.
37 Except as otherwise provided in this subdivision, the Department may
38 amend a license by reducing it from a full license to a provisional
39 license for a period of not more than 90 days whenever the Department
40 finds that:

41 a. The licensee has substantially failed to comply with the
42 provisions of Articles 1 and 3 of Chapter 131D of the General
43 Statutes and the rules adopted pursuant to these Articles;

- 1 b. There is a reasonable probability that the licensee can remedy
2 the licensure deficiencies within a reasonable length of time;
3 and
4 c. There is a reasonable probability that the licensee will be able
5 thereafter to remain in compliance with the licensure rules for
6 the foreseeable future.

7 The Department may extend a provisional license for not more than
8 one additional 90-day period upon finding that the licensee has made
9 substantial progress toward remedying the licensure deficiencies that
10 caused the license to be reduced to provisional status.

11 The Department may revoke a license whenever:

- 12 a. The Department finds that:
13 1. The licensee has substantially failed to comply with the
14 provisions of Articles 1 and 3 of Chapter 131D of the
15 General Statutes and the rules adopted pursuant to these
16 Articles; and
17 2. It is not reasonably probable that the licensee can remedy
18 the licensure deficiencies within a reasonable length of
19 time; or
20 b. The Department finds that:
21 1. The licensee has substantially failed to comply with the
22 provisions of Articles 1 and 3 of Chapter 131D of the
23 General Statutes and the rules adopted pursuant to these
24 Articles; and
25 2. Although the licensee may be able to remedy the
26 deficiencies within a reasonable time, it is not reasonably
27 probable that the licensee will be able to remain in
28 compliance with licensure rules for the foreseeable
29 future; or
30 c. The Department finds that the licensee has failed to comply
31 with the provisions of Articles 1 and 3 of Chapter 131D of the
32 General Statutes and the rules adopted pursuant to these
33 Articles, and the failure to comply endangered the health,
34 safety, or welfare of the patients in the facility.

35 The Department may also issue a provisional license to a facility,
36 pursuant to rules adopted by the Medical Care Commission, for
37 substantial failure to comply with the provisions of this section or rules
38 adopted pursuant to this section. Any facility wishing to contest the
39 issuance of a provisional license shall be entitled to an administrative
40 hearing as provided in the Administrative Procedure Act, Chapter
41 150B of the General Statutes. A petition for a contested case shall be
42 filed within 30 days after the Department mails written notice of the
43 issuance of the provisional license."

1 **SECTION 30.** Effective July 1, 2003, G.S. 143-15.3B(a) reads as rewritten:

2 "(a) **(Effective July 1, 2003)** The Clean Water Management Trust Fund is
3 established in G.S. 113-145.3. The General Assembly finds that, due to the critical need
4 in this State to clean up pollution in the State's surface waters and to protect and
5 conserve those waters that are not yet polluted, it is imperative that the State provide a
6 minimum of one hundred million dollars (\$100,000,000) each calendar year to the
7 Clean Water Management ~~Management~~ Trust Fund; therefore, there is annually
8 appropriated from the General Fund to the Clean Water Management Trust Fund the
9 sum of one hundred million dollars (\$100,000,000)."

10 **SECTION 31.** G.S. 143B-434(b) reads as rewritten:

11 "(b) Membership. – The Economic Development Board shall consist of 36
12 members. The Secretary of Commerce shall serve ex officio as a member and as the
13 secretary of the Economic Development Board. Four members of the House of
14 Representatives appointed by the Speaker of the House of Representatives, four
15 members of the Senate appointed by the President Pro Tempore of the Senate, the
16 President of The University of North Carolina, or designee, the President of the North
17 Carolina Community College System, or designee, the Secretary of State, and the
18 President of the Senate (or the designee of the President of the Senate), shall serve as
19 members of the Board. The Governor shall appoint the remaining 23 members of the
20 ~~Board, provided that effective~~ Board. Effective with the terms beginning July 1, 1997,
21 one of ~~those~~ the Governor's appointees shall be a representative of a nonprofit
22 organization involved in economic development and two of ~~those~~ the Governor's
23 appointees shall be county economic development representatives. The Governor shall
24 designate a chair and a vice-chair from among the members of the Board. Appointments
25 to the Board made by the Governor for terms beginning July 1, 1997, and appointments
26 to the Board made by the Speaker of the House of Representatives and the President Pro
27 Tempore of the Senate for terms beginning July 9, 1993, should reflect the ethnic and
28 gender diversity of the State as nearly as practical.

29 The initial appointments to the Board shall be for terms beginning on July 9, 1993.
30 Of the initial appointments made by the Governor, the terms shall expire July 1, 1997.
31 Of the initial appointments made by the Speaker of the House of Representatives and by
32 the President Pro Tempore of the Senate two appointments of each shall be designated
33 to expire on July 1, 1995; the remaining terms shall expire July 1, 1997. Thereafter, all
34 appointments shall be for a term of four years.

35 The appointing officer shall make a replacement appointment to serve for the
36 unexpired term in the case of a vacancy.

37 The members of the Economic Development Board shall receive per diem and
38 necessary travel and subsistence expenses payable to members of State Boards and
39 agencies generally pursuant to G.S. 138-5 and ~~{G.S.}~~ G.S. 138-6, as the case may be.
40 The members of the Economic Development Board who are members of the General
41 Assembly shall not receive per diem but shall receive necessary travel and subsistence
42 expenses at rates prescribed by G.S. 120-3.1."

43 **SECTION 32.** G.S. 143B-456.1(e) reads as rewritten:

1 "(e) Notwithstanding any other provision of law, the Authority may agree that all
2 contracts relating to the acquisition, construction, installation and equipping of the
3 special user project shall be solicited, negotiated, awarded and executed by the private
4 party or parties for which the Authority is financing the special user project or their
5 agents subject only to such approvals by the Authority as the Authority may require.
6 The Authority may, out of the proceeds of bonds or notes, make advances to or
7 reimburse such private parties or such agents for all or a portion of the costs incurred in
8 connection with such contracts. The provisions of ~~Section G.S.~~ 143B-463 of this Part
9 shall have no application to funds and moneys derived pursuant to this section."

10 **SECTION 33.** G.S. 147-33.85(b) reads as rewritten:

11 "(b) The Office shall coordinate with the Office of State Budget, Planning, and
12 Management ~~and the Office of State Budget, Planning, and Management~~ to integrate
13 agency strategic and business planning, technology planning and budgeting, and project
14 expenditure processes into the Office's information technology portfolio-based
15 management. The Office shall provide recommendations for agency annual budget
16 requests for information technology investments, projects, and initiatives to the Office
17 of State Budget, Planning, and Management."

18 **SECTION 34.** Effective July 1, 2001, G.S. 159D-23 reads as rewritten:

19 "**§ 159D-23. Application of Article 9 of Chapter 25.**

20 Article 9 of Chapter 25 of the General Statutes applies to transactions under this
21 Chapter.

22 ~~G.S. Article as if G.S.":~~

23 **SECTION 35.** G.S. 160A-37(f1) and (f2) read as rewritten:

24 "(f1) Property Subject to Present-Use Value Appraisal. – If an area described in an
25 annexation ordinance includes agricultural land, horticultural land, or forestland that
26 meets either of the conditions listed below on the effective date of ~~annexation is:~~
27 annexation, then the annexation becomes effective as to that property pursuant to
28 subsection (f2) of this section:

29 (1) The land is being taxed at present-use value pursuant to G.S. ~~105-~~
30 ~~277.4; or 105-277.4.~~

31 (2) The land meets both of the following conditions:

32 a. ~~Was on~~On the date of the resolution of intent for annexation it
33 was being used for actual production and is eligible for
34 present-use value taxation under G.S. 105-277.4, but had not
35 been in use for actual production for the required time under
36 G.S. ~~105-277.3; and 105-277.3.~~

37 b. The assessor for the county where the land subject to
38 annexation is located has certified to the city that the land meets
39 the requirements of this ~~subdivision~~ subdivision.

40 ~~the annexation becomes effective as to that property pursuant to subsection (f2) of this~~
41 ~~section.~~

1 (f2) Effective Date of Annexation for Certain Property. – Annexation of property
2 subject to annexation under subsection (f1) of this section ~~shall become effective;~~
3 becomes effective as provided in this subsection.

4 (1) Upon the effective date of the annexation ordinance, the property is
5 considered part of the city only (i) for the purpose of establishing city
6 boundaries for additional annexations pursuant to this Article and (ii)
7 for the exercise of city authority pursuant to Article 19 of this Chapter.

8 (2) For all other purposes, the annexation becomes effective as to each
9 tract of the property or part thereof on the last day of the month in
10 which that tract or part thereof becomes ineligible for classification
11 pursuant to G.S. ~~105-227.4~~105-277.4 or no longer meets the
12 requirements of subdivision (f1)(2) of this section. Until annexation of
13 a tract or a part of a tract becomes effective pursuant to this
14 subdivision, the tract or part of a tract is not subject to taxation by the
15 city under Article 12 of Chapter 105 of the General Statutes nor is the
16 tract or part of a tract entitled to services provided by the city."

17 **SECTION 36.** G.S. 160A-300.1(d) reads as rewritten:

18 "(d) This act applies to the Cities of Charlotte, Fayetteville, Greensboro, ~~High~~
19 ~~Point, Rocky Mount, Wilmington, Greenville, and Lumberton, Greenville, High Point,~~
20 Lumberton, Rocky Mount, and Wilmington, and the Towns of Chapel Hill, Cornelius,
21 Huntersville, Matthews, and Pineville only."

22 **SECTION 37.(a)** G.S. 93A-2 reads as rewritten:

23 "**§ 93A-2. Definitions and exceptions.**

24 (a) A real estate broker within the meaning of this Chapter is any person,
25 partnership, corporation, limited liability company, association, or other business entity
26 who for a compensation or valuable consideration or promise thereof lists or offers to
27 list, sells or offers to sell, buys or offers to buy, auctions or offers to auction
28 (specifically not including a mere crier of sales), or negotiates the purchase or sale or
29 exchange of real estate, or who leases or offers to lease, or who sells or offers to sell
30 leases of whatever character, or rents or offers to rent any real estate or the improvement
31 thereon, for others.

32 (a1) The term broker-in-charge within the meaning of this Chapter ~~shall mean~~
33 means a real estate broker who has been designated as the broker having responsibility
34 for the supervision of real estate ~~salesperson~~salespersons engaged in real estate
35 brokerage at a particular real estate office and for other administrative and supervisory
36 duties as the Commission shall prescribe by rule.

37 (b) The term real estate salesperson within the meaning of this Chapter shall
38 mean and include any person who under the supervision of a real estate broker
39 designated as broker-in-charge of a real estate office, for a compensation or valuable
40 consideration is associated with or engaged by or on behalf of a licensed real estate
41 broker to do, perform or deal in any act, acts or transactions set out or comprehended by
42 the foregoing definition of real estate broker.

43 (c) The provisions of this Chapter ~~shall do not apply to and shall do not include:~~

- 1 (1) Any person, partnership, corporation, limited liability company,
2 association, or other business entity who, as owner or lessor, shall
3 perform any of the acts aforesaid with reference to property owned or
4 leased by them, where the acts are performed in the regular course of
5 or as incident to the management of that property and the investment
6 therein.
- 7 (2) Any person acting as an attorney-in-fact under a duly executed power
8 of attorney from the owner authorizing the final consummation of
9 performance of any contract for the sale, lease or exchange of real
10 estate.
- 11 (3) The acts or services of an attorney-at-law.
- 12 (4) Any person, while acting as a receiver, trustee in bankruptcy, guardian,
13 administrator or executor or any person acting under order of any
14 court.
- 15 (5) Any person, while acting as a trustee under a trust agreement, deed of
16 trust or will, or ~~his~~ that person's regular salaried employees.
- 17 (6) Any salaried person employed by a licensed real estate broker, for and
18 on behalf of the owner of any real estate or the improvements thereon,
19 which the licensed broker has contracted to manage for the owner, if
20 the salaried ~~employee~~ employee's employment is limited ~~in his~~
21 ~~employment~~ to: exhibiting units on the real estate to prospective
22 tenants; providing the prospective tenants with information about the
23 lease of the units; accepting applications for lease of the units;
24 completing and executing preprinted form leases; and accepting
25 security deposits and rental payments for the units only when the
26 deposits and rental payments are made payable to the owner or the
27 broker employed by the owner. The salaried employee shall not
28 negotiate the amount of security deposits or rental payments and shall
29 not negotiate leases or any rental agreements on behalf of the owner or
30 broker.
- 31 (7) Any owner who personally leases or sells ~~his~~ the owner's own
32 property.
- 33 (8) Any housing authority organized in accordance with the provisions of
34 Chapter 157 of the General Statutes and any regular salaried
35 employees of the housing authority when performing acts authorized
36 in this Chapter as to any property owned or leased by the housing
37 authority. This exception shall not apply to any person, partnership,
38 corporation, limited liability company, association, or other business
39 entity that contracts with a housing authority to sell or manage
40 property owned or leased by the housing authority."

41 **SECTION 37.(b)** G.S. 93A-6 reads as rewritten:

42 "**§ 93A-6. Disciplinary action by Commission.**

1 (a) The Commission ~~shall have~~ has power to take disciplinary action. Upon its
2 own initiative, or on the complaint of any person, the Commission may investigate the
3 actions of any person or entity licensed under this Chapter, or any other person or entity
4 who shall assume to act in such capacity. If the Commission finds probable cause that a
5 licensee has violated any of the provisions of this Chapter, the Commission may hold a
6 hearing on the allegations of misconduct.

7 The Commission ~~shall have~~ has power to suspend or revoke at any time a license
8 issued under the provisions of this Chapter, or to reprimand or censure any licensee, if,
9 following a hearing, the Commission adjudges the licensee to be guilty of:

- 10 (1) Making any willful or negligent misrepresentation or any willful or
11 negligent omission of material fact.
- 12 (2) Making any false promises of a character likely to influence, persuade,
13 or induce.
- 14 (3) Pursuing a course of misrepresentation or making of false promises
15 through agents, salespersons, advertising or otherwise.
- 16 (4) Acting for more than one party in a transaction without the knowledge
17 of all parties for whom he or she acts.
- 18 (5) Accepting a commission or valuable consideration as a real estate
19 salesperson for the performance of any of the acts specified in this
20 Article or Article 4 of this Chapter, from any person except his or her
21 broker-in-charge or licensed broker by whom he or she is employed.
- 22 (6) Representing or attempting to represent a real estate broker other than
23 the broker by whom he or she is engaged or associated, without the
24 express knowledge and consent of the broker with whom he or she is
25 associated.
- 26 (7) Failing, within a reasonable time, to account for or to remit any
27 ~~moneys~~ monies coming into his or her possession which belong to
28 others.
- 29 (8) Being unworthy or incompetent to act as a real estate broker or
30 salesperson in a manner as to endanger the interest of the public.
- 31 (9) Paying a commission or valuable consideration to any person for acts
32 or services performed in violation of this Chapter.
- 33 (10) Any other conduct which constitutes improper, fraudulent or dishonest
34 dealing.
- 35 (11) Performing or undertaking to perform any legal service, as set forth in
36 G.S. 84-2.1, or any other acts constituting the practice of law.
- 37 (12) Commingling the money or other property of his or her principals with
38 his or her own or failure to maintain and deposit in a trust or escrow
39 account in an insured bank or savings and loan association in North
40 Carolina all money received by him or her as a real estate licensee
41 acting in that capacity, or an escrow agent, or the temporary custodian
42 of the funds of others, in a real estate transaction; provided, these
43 accounts shall not bear interest unless the principals authorize in

1 writing the deposit be made in an interest bearing account and also
2 provide for the disbursement of the interest accrued.

3 (13) Failing to deliver, within a reasonable time, a completed copy of any
4 purchase agreement or offer to buy and sell real estate to the buyer and
5 to the seller.

6 (14) Failing, at the time the transaction is consummated, to deliver to the
7 seller in every real estate transaction, a complete detailed closing
8 statement showing all of the receipts and disbursements handled by
9 him or her for the seller or failing to deliver to the buyer a complete
10 statement showing all money received in the transaction from the
11 buyer and how and for what it was disbursed.

12 (15) Violating any rule or regulation promulgated by the Commission.

13 The Executive Director shall transmit a certified copy of all final orders of the
14 Commission suspending or revoking licenses issued under this Chapter to the clerk of
15 superior court of the county in which the licensee maintains his or her principal place of
16 business. The clerk shall enter these orders upon the judgment docket of the county.

17 (b) Following a hearing, the Commission shall also have power to suspend or
18 revoke any license issued under the provisions of this Chapter or to reprimand or
19 censure any licensee when:

20 (1) The licensee has obtained a license by false or fraudulent
21 representation;

22 (2) The licensee has been convicted or has entered a plea of guilty or no
23 contest upon which final judgment is entered by a court of competent
24 jurisdiction in this State, or any other state, of the criminal offenses of:
25 embezzlement, obtaining money under false pretense, fraud, forgery,
26 conspiracy to defraud, or any other offense involving moral turpitude
27 which would reasonably affect the licensee's performance in the real
28 estate business;

29 (3) The licensee has violated any of the provisions of G.S. 93A-6(a) when
30 selling, leasing, or buying ~~his~~the licensee's own property;

31 (4) The broker's unlicensed employee, who is exempt from the provisions
32 of this Chapter under G.S. 93A-2(c)(6), has committed, in the regular
33 course of business, any act which, if committed by the broker, would
34 constitute a violation of G.S. 93A-6(a) for which the broker could be
35 disciplined; or

36 (5) The licensee, who is also a State-licensed or State-certified real estate
37 appraiser pursuant to Chapter 93E of the General Statutes, has violated
38 any provisions of Chapter 93E of the General Statutes and has been
39 reprimanded or has had ~~his~~an appraiser license or certificate
40 suspended or revoked by the Appraisal Board.

41 (c) The Commission may appear in its own name in superior court in actions for
42 injunctive relief to prevent any person from violating the provisions of this Chapter or
43 rules promulgated by the Commission. The superior court shall have the power to grant

1 these injunctions even if criminal prosecution has been or may be instituted as a result
2 of the violations, or whether the person is a licensee of the Commission.

3 (d) Each broker shall maintain complete records showing the deposit,
4 maintenance, and withdrawal of money or other property owned by ~~his~~the broker's
5 principals or held in escrow or in trust for ~~his~~the broker's principals. The Commission
6 may inspect these records periodically, without prior notice and may also inspect these
7 records whenever the Commission determines that they are pertinent to an investigation
8 of any specific complaint against a licensee.

9 (e) When a person or entity licensed under this Chapter is accused of any act,
10 omission, or misconduct which would subject the licensee to disciplinary action, the
11 licensee, with the consent and approval of the Commission, may surrender ~~his or its~~the
12 license and all the rights and privileges pertaining to it for a period of time established
13 by the Commission. A person or entity who surrenders ~~his or its~~a license shall not
14 thereafter be eligible for or submit any application for licensure as a real estate broker or
15 salesperson during the period of license surrender."

16 **SECTION 37.(c)** G.S. 93A-16 reads as rewritten:

17 "**§ 93A-16. Real Estate Recovery Fund created; payment to fund; management.**

18 (a) There is hereby created a special fund to be known as the "Real Estate
19 Recovery Fund" which shall be set aside and maintained by the North Carolina Real
20 Estate Commission. ~~Said~~The fund shall be used in the manner provided under this
21 Article for the payment of unsatisfied judgments where the aggrieved person has
22 suffered a direct monetary loss by reason of certain acts committed by any real estate
23 broker or salesperson licensed under this Chapter.

24 (b) On September 1, 1979, the Commission shall transfer the sum of one hundred
25 thousand dollars (\$100,000) from its expense reserve fund to the Real Estate Recovery
26 Fund. Thereafter, the Commission may transfer to the Real Estate Recovery Fund
27 additional sums of money from whatever funds the Commission may have, provided
28 that, if on December 31 of any year the amount remaining in the fund is less than fifty
29 thousand dollars (\$50,000), the Commission may determine that each person or entity
30 licensed under this Chapter, when renewing ~~his or its~~a license, shall pay in addition to
31 ~~his~~the license renewal fee, a fee not to exceed ten dollars (\$10.00) per broker and five
32 dollars (\$5.00) per salesperson as shall be determined by the Commission for the
33 purpose of replenishing the fund.

34 (c) The Commission shall invest and reinvest the ~~moneys~~monies in the Real
35 Estate Recovery Fund in the same manner as provided by law for the investment of
36 funds by the clerk of superior court. The proceeds from such investments shall be
37 deposited to the credit of the fund.

38 (d) The Commission shall have the authority to adopt reasonable rules and
39 procedures not inconsistent with the provisions of this Article, to provide for the
40 orderly, fair and efficient administration and payment of monies held in the Real Estate
41 Recovery Fund."

42 **SECTION 37.(d)** G.S. 93A-18 reads as rewritten:

43 "**§ 93A-18. Hearing; required showing.**

1 Upon ~~such~~ application by an aggrieved person, the Commission shall conduct a
2 hearing and the aggrieved person shall be required to ~~show~~show that the aggrieved
3 person:

- 4 (1) ~~He is~~Is not a spouse of the judgment debtor or a person representing
5 ~~such the~~ spouse; ~~and~~
- 6 (2) ~~He is~~Is making application not more than one year after termination of
7 all judicial proceedings, including appeals, in connection with the
8 judgment;
- 9 (3) ~~He has~~Has complied with all requirements of this Article;
- 10 (4) ~~He has~~Has obtained a judgment as described in G.S. 93A-17, stating
11 the amount owing thereon at the date of application;
- 12 (5) ~~He has~~Has made all reasonable searches and inquiries to ascertain
13 whether the judgment debtor is possessed of real or personal property
14 or other assets liable to be sold or applied in satisfaction of the
15 judgment;
- 16 (6) ~~That by such search he~~ After searching as described in subdivision (5)
17 of this section, has discovered no real or personal property or other
18 assets liable to be sold or applied, or that he has discovered certain of
19 them, describing them, but that the amount so realized was insufficient
20 to satisfy the judgment, stating the amount realized and the balance
21 remaining due on the judgment after application of the amount
22 realized; and
- 23 (7) ~~He has~~Has diligently pursued ~~his remedies including attempted the~~
24 aggrieved person's remedies, which include attempting execution on
25 the judgment against all the judgment debtors—debtors, which
26 execution has been returned unsatisfied. In addition to that, he knows
27 Knows of no assets of the judgment debtor and ~~that he has attempted~~
28 collection from all other persons who may be liable to him in for the
29 transaction for which he the aggrieved person seeks payment from the
30 Real Estate Recovery Fund if there be any such other persons."

31 **SECTION 37.(e)** G.S. 93A-19 reads as rewritten:

32 "**§ 93A-19. Response and defense by Commission and judgment debtor; proof of**
33 **conversion.**

34 (a) Whenever the Commission proceeds upon an application as set forth in this
35 Article, counsel for the Commission may defend such action on behalf of the fund and
36 shall have recourse to all appropriate means of defense, including the examination of
37 witnesses. The judgment debtor may defend such action on his or her own behalf and
38 shall have recourse to all appropriate means of defense, including the examination of
39 witnesses. Counsel for the Commission and the judgment debtor may file responses to
40 the application, setting forth answers and defenses. Responses shall be filed with the
41 Commission and copies shall be served upon every party by the filing party. If at any
42 time it appears there are no triable issues of fact and the application for payment from
43 the fund is without merit, the Commission shall dismiss the application. A motion to

1 dismiss may be supported by affidavit of any person or persons having knowledge of
2 the facts and may be made on the basis that the application or the judgment referred to
3 therein do not form a basis for meritorious recovery within the purview of G.S. 93A-17,
4 that the applicant has not complied with the provisions of this Article, or that the
5 liability of the fund with regard to the particular licensee or transaction has been
6 exhausted; provided, however, notice of ~~such~~the motion shall be given at least 10 days
7 prior to the time fixed for hearing. If the applicant or judgment debtor fails to appear at
8 the hearing after receiving notice of the hearing, the applicant or judgment debtor ~~shall~~
9 ~~waive his or her rights~~waives the person's rights unless the absence is excused by the
10 Commission.

11 (b) Whenever the judgment obtained by an applicant is by default, stipulation, or
12 consent, or whenever the action against the licensee was defended by a trustee in
13 bankruptcy, the applicant, for purposes of this Article, shall have the burden of proving
14 ~~his~~the cause of action for conversion of trust funds. Otherwise, the judgment shall
15 create a rebuttable presumption of the conversion of trust funds. This presumption is a
16 presumption affecting the burden of producing evidence."

17 **SECTION 37.(f)** G.S. 93A-22 reads as rewritten:

18 "**§ 93A-22. Repayment to fund; automatic suspension of license.**

19 Should the Commission pay from the Real Estate Recovery Fund any amount in
20 settlement of a claim or toward satisfaction of a judgment against a licensed real estate
21 broker or salesperson, the license of the broker or salesperson shall be automatically
22 suspended upon the effective date of the order authorizing payment from the fund. No
23 such broker or salesperson shall be granted a reinstatement until ~~he has~~the fund has
24 been repaid in full, plus including interest at the legal rate as provided for in ~~G.S. 24-1,~~
25 ~~the amount paid from the Real Estate Recovery Fund.~~G.S. 24-1."

26 **SECTION 37.(g)** G.S. 93A-23 reads as rewritten:

27 "**§ 93A-23. Subrogation of rights.**

28 When the Commission has paid from the Real Estate Recovery Fund any sum to the
29 judgment creditor, the Commission shall be subrogated to all of the rights of the
30 judgment creditor to the extent of the amount so paid and the judgment creditor shall
31 assign all ~~his~~right, title, and interest in the judgment to the extent of the amount so paid
32 to the Commission and any amount and interest so recovered by the Commission on the
33 judgment shall be deposited in the Real Estate Recovery Fund."

34 **SECTION 37.(h)** G.S. 93A-25 reads as rewritten:

35 "**§ 93A-25. Persons ineligible to recover from fund.**

36 No real estate broker or real estate salesperson who suffers the loss of any
37 commission from any transaction in which he or she was acting in the capacity of a real
38 estate broker or real estate salesperson shall be entitled to make application for payment
39 from the Real Estate Recovery Fund for ~~such~~the loss."

40 **SECTION 37.(i)** G.S. 93A-42 reads as rewritten:

41 "**§ 93A-42. Time shares deemed real estate.**

42 (a) A time share is deemed to be an interest in real estate, and shall be governed
43 by the law of this State relating to real estate.

1 (b) A purchaser of a time share may in accordance with G.S. 47-18 register the
2 time share instrument by which ~~he~~the purchaser acquired ~~his~~the interest and upon such
3 registration shall be entitled to the protection provided by Chapter 47 of the General
4 Statutes for the recordation of other real property instruments. A time share instrument
5 transferring or encumbering a time share shall not be rejected for recordation because of
6 the nature or duration of that estate, provided all other requirements necessary to make
7 an instrument recordable are complied with.

8 (c) The developer shall record or cause to be recorded a time share instrument:

9 (1) Not less than six days nor more than 45 days following the execution
10 of the contract of sale by the purchaser; or

11 (2) Not later than 180 days following the execution of the contract of sale
12 by the purchaser, provided that all payments made by the purchaser
13 shall be placed by the developer with an independent escrow agent
14 upon the expiration of the 10-day escrow period provided by G.S.
15 93A-45(c).

16 (d) The independent escrow agent provided by G.S. 93A-42(c)(2) shall deposit
17 and maintain the purchaser's payments in an insured trust or escrow account in a bank or
18 savings and loan association located in this State. The trust or escrow account may be
19 interest-bearing and the interest earned shall belong to the developer, if agreed upon in
20 writing by the purchaser; Provided, however, if the time share instrument is not
21 recorded within the time periods specified in this section, then the interest earned shall
22 belong to the purchaser. The independent escrow agent shall return all payments to the
23 purchaser at the expiration of 180 days following the execution of the contract of sale
24 by the purchaser, unless prior to that time the time share instrument has been recorded.
25 However, if prior to the expiration of 180 days following the execution of the contract
26 of sale, the developer and the purchaser provide their written consent to the independent
27 escrow agent, the developer's obligation to record the time share instrument and the
28 escrow period may be extended for an additional period of 120 days. Upon recordation
29 of the time share instrument, the independent escrow agent shall pay the purchaser's
30 funds to the developer. Upon request by the Commission, the independent escrow agent
31 shall promptly make available to the Commission inspection of records of money held
32 by ~~him~~the independent escrow agent.

33 (e) In no event shall the developer be required to record a time share instrument
34 if the purchaser is in default of ~~his~~the purchaser's obligations.

35 (f) Recordation under the provisions of this section of the time share instrument
36 shall constitute delivery of that instrument from the developer to the purchaser."

37 **SECTION 37.(j)** G.S. 93A-45(d) reads as rewritten:

38 "(d) If a developer fails to provide a purchaser to whom a time share is transferred
39 with the statement as required by subsection (a), the purchaser, in addition to any rights
40 to damages or other relief, is entitled to receive from the developer an amount equal to
41 ten percent (10%) of the sales price of the time share not to exceed three thousand
42 dollars (\$3,000). A receipt signed by the purchaser stating that ~~he~~the purchaser has

1 received the statement required by subsection (a) is prima facie evidence of delivery of
2 ~~such the~~ statement."

3 **SECTION 37.(k)** G.S. 93A-48 reads as rewritten:

4 "**§ 93A-48. Exchange programs.**

5 (a) If a purchaser is offered the opportunity to subscribe to any exchange
6 program, the developer shall, except as provided in subsection (b), deliver to the
7 purchaser, prior to the execution of (i) any contract between the purchaser and the
8 exchange company, and (ii) the sales contract, at least the following information
9 regarding ~~such the~~ exchange program:

- 10 (1) The name and address of the exchange company;
- 11 (2) The names of all officers, directors, and shareholders owning five
12 percent (5%) or more of the outstanding stock of the exchange
13 company;
- 14 (3) Whether the exchange company or any of its officers or directors has
15 any legal or beneficial interest in any developer or managing agent for
16 any time share project participating in the exchange program and, if so,
17 the name and location of the time share project and the nature of the
18 interest;
- 19 (4) Unless the exchange company is also the developer a statement that
20 the purchaser's contract with the exchange company is a contract
21 separate and distinct from the sales contract;
- 22 (5) Whether the purchaser's participation in the exchange program is
23 dependent upon the continued affiliation of the time share project with
24 the exchange program;
- 25 (6) Whether the purchaser's membership or participation, or both, in the
26 exchange program is voluntary or mandatory;
- 27 (7) A complete and accurate description of the terms and conditions of the
28 purchaser's contractual relationship with the exchange company and
29 the procedure by which changes thereto may be made;
- 30 (8) A complete and accurate description of the procedure to qualify for
31 and effectuate exchanges;
- 32 (9) A complete and accurate description of all limitations, restrictions, or
33 priorities employed in the operation of the exchange program,
34 including, but not limited to, limitations on exchanges based on
35 seasonality, unit size, or levels of occupancy, expressed in boldfaced
36 type, and, in the event that such limitations, restrictions, or priorities
37 are not uniformly applied by the exchange program, a clear description
38 of the manner in which they are applied;
- 39 (10) Whether exchanges are arranged on a space available basis and
40 whether any guarantees of fulfillment of specific requests for
41 exchanges are made by the exchange program;
- 42 (11) Whether and under what circumstances an owner, in dealing with the
43 exchange company, may lose the use and occupancy of ~~his the~~ owner's

- 1 time share in any properly applied for exchange without ~~his~~ being
2 provided with substitute accommodations by the exchange company;
- 3 (12) The expenses, fees or range of fees for participation by owners in the
4 exchange program, a statement whether any such fees may be altered
5 by the exchange company, and the circumstances under which
6 alterations may be made;
- 7 (13) The name and address of the site of each time share project or other
8 property which is participating in the exchange program;
- 9 (14) The number of units in each project or other property participating in
10 the exchange program which are available for occupancy and which
11 qualify for participation in the exchange program, expressed within the
12 following numerical groupings, 1-5, 6-10, 11-20, 21-50 and 51, and
13 over;
- 14 (15) The number of owners with respect to each time share project or other
15 property which are eligible to participate in the exchange program
16 expressed within the following numerical groupings, 1-100, 101-249,
17 250-499, 500-999, and 1,000 and over, and a statement of the criteria
18 used to determine those owners who are currently eligible to
19 participate in the exchange program;
- 20 (16) The disposition made by the exchange company of time shares
21 deposited with the exchange program by owners eligible to participate
22 in the exchange program and not used by the exchange company in
23 effecting exchanges;
- 24 (17) The following information which, except as provided in subsection (b)
25 below, shall be independently audited by a certified public accountant
26 in accordance with the standards of the Accounting Standards Board of
27 the American Institute of Certified Public Accountants and reported
28 for each year no later than July 1, of the succeeding year:
- 29 a. The number of owners enrolled in the exchange program and
30 such numbers shall disclose the relationship between the
31 exchange company and owners as being either fee paying or
32 gratuitous in nature;
- 33 b. The number of time share projects or other properties eligible to
34 participate in the exchange program categorized by those
35 having a contractual relationship between the developer or the
36 association and the exchange company and those having solely
37 a contractual relationship between the exchange company and
38 owners directly;
- 39 c. The percentage of confirmed exchanges, which shall be the
40 number of exchanges confirmed by the exchange company
41 divided by the number of exchanges properly applied for,
42 together with a complete and accurate statement of the criteria

1 used to determine whether an exchange requested was properly
2 applied for;

3 d. The number of time shares or other intervals for which the
4 exchange company has an outstanding obligation to provide an
5 exchange to an owner who relinquished a time share or interval
6 during the year in exchange for a time share or interval in any
7 future year; and

8 e. The number of exchanges confirmed by the exchange company
9 during the year; and

10 (18) A statement in boldfaced type to the effect that the percentage
11 described in ~~subparagraph (17)c. of subsection (a)~~sub-subdivision c. of
12 subdivision (17) of this subsection is a summary of the exchange
13 requests entered with the exchange company in the period reported and
14 that the percentage does not indicate a purchaser's/owner's
15 probabilities of being confirmed to any specific choice or range of
16 choices, since availability at individual locations may vary.

17 The purchaser shall certify in writing to the receipt of the information required by
18 this subsection and any other information which the ~~Commissioners~~Commission may
19 by rule require.

20 (b) The information required by subdivisions (a), (2), (3), (13), (14), (15), and
21 (17) shall be accurate as of December 31 of the year preceding the year in which the
22 information is delivered, except for information delivered within the first 180 days of
23 any calendar year which shall be accurate as of December 31 of the year two years
24 preceding the year in which the information is delivered to the purchaser. The remaining
25 information required by subsection (a) shall be accurate as of a date which is no more
26 than 30 days prior to the date on which the information is delivered to the purchaser.

27 (c) In the event an exchange company offers an exchange program directly to the
28 purchaser or owner, the exchange company shall deliver to each purchaser or owner,
29 concurrently with the offering and prior to the execution of any contract between the
30 purchaser or owner and the exchange company the information set forth in subsection
31 (a) above. The requirements of this paragraph shall not apply to any renewal of a
32 contract between an owner and an exchange company.

33 (d) All promotional brochures, pamphlets, advertisements, or other materials
34 disseminated by the exchange company to purchasers in this State which contain the
35 percentage of confirmed exchanges described in (a)(17)c. must include the statement set
36 forth in (a)(18)."

37 **SECTION 37.(I)** G.S. 93A-54 reads as rewritten:

38 "**§ 93A-54. Disciplinary action by Commission.**

39 (a) The Commission ~~shall have~~has power to take disciplinary action. Upon its
40 own motion, or on the verified complaint of any person, the Commission may
41 investigate the actions of any time share salesperson, developer, or project broker of a
42 time share project registered under this Article, or any other person or entity who shall
43 assume to act in such capacity. If the Commission finds probable cause that a time share

1 salesperson, developer, or project broker has violated any of the provisions of this
2 Article, the Commission may hold a hearing on the allegations of misconduct.

3 The Commission ~~shall have~~has the power to suspend or revoke at any time a real
4 estate license issued to a time share salesperson or project broker, or a certificate of
5 registration of a time share project issued to a developer; or to reprimand or censure
6 such salesperson, developer, or project broker; or to fine such developer in the amount
7 of five hundred dollars (\$500.00) for each violation of this Article, if, after a hearing,
8 the Commission adjudges either the salesperson, developer, or project broker to be
9 guilty of:

- 10 (1) Making any willful or negligent misrepresentation or any willful or
11 negligent omission of material fact about any time share or time share
12 project;
- 13 (2) Making any false promises of a character likely to influence, persuade,
14 or induce;
- 15 (3) Pursuing a course of misrepresentation or making of false promises
16 through agents, salesperson, advertising or otherwise;
- 17 (4) Failing, within a reasonable time, to account for all money received
18 from others in a time share transaction, and failing to remit such
19 monies as may be required in G.S. 93A-45 of this Article;
- 20 (5) Acting as a time share salesperson or time share developer in a manner
21 as to endanger the interest of the public;
- 22 (6) Paying a commission, salary, or other valuable consideration to any
23 person for acts or services performed in violation of this Article;
- 24 (7) Any other conduct which constitutes improper, fraudulent, or
25 dishonest dealing;
- 26 (8) Performing or undertaking to perform any legal service as set forth in
27 G.S. 84-2.1, or any other acts not specifically set forth in that section;
- 28 (9) Failing to deposit and maintain in a trust or escrow account in an
29 insured bank or savings and loan association in North Carolina all
30 money received from others in a time share transaction as may be
31 required in G.S. 93A-45 of this Article or failing to place with an
32 independent escrow agent the funds of a time share purchaser when
33 required by G.S. 93A-42(c);
- 34 (10) Failing to deliver to a purchaser a public offering statement containing
35 the information required by G.S. 93A-44 and any other disclosures that
36 the Commission may by regulation require;
- 37 (11) Failing to comply with the provisions of Chapter 75 of the General
38 Statutes in the advertising or promotion of time shares for sale, or
39 failing to assure such compliance by persons engaged on behalf of a
40 developer;
- 41 (12) Failing to comply with the provisions of G.S. 93A-48 in furnishing
42 complete and accurate information to purchasers concerning any
43 exchange program which may be offered to such purchaser;

- 1 (13) Making any false or fraudulent representation on an application for
2 registration;
- 3 (14) Violating any rule or regulation promulgated by the Commission;
- 4 (15) Failing to record or cause to be recorded a time share instrument as
5 required by G.S. 93A-42(c), or failing to provide a purchaser the
6 protection against liens required by G.S. 93A-57(a); or
- 7 (16) Failing as a time share project broker to exercise reasonable and
8 adequate supervision of the conduct of sales at ~~his~~a project or location
9 by the brokers and salespersons under ~~his~~the time share project
10 broker's control.

11 (a1) The clear proceeds of fines collected pursuant to subsection (a) of this section
12 shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S.
13 115C-457.2.

14 (b) Following a hearing, the Commission shall also have power to suspend or
15 revoke any certificate of registration issued under the provisions of this Article or to
16 reprimand or censure any developer when the registrant has been convicted or has
17 entered a plea of guilty or no contest upon which final judgment is entered by a court of
18 competent jurisdiction in this State, or any other state, of the criminal offenses of:
19 embezzlement, obtaining money under false pretense, fraud, forgery, conspiracy to
20 defraud, or any other offense involving moral turpitude which would reasonably affect
21 the developer's performance in the time share business.

22 (c) The Commission may appear in its own name in superior court in actions for
23 injunctive relief to prevent any person or entity from violating the provisions of this
24 Article or rules promulgated by the Commission. The superior court shall have the
25 power to grant these injunctions even if criminal prosecution has been or may be
26 instituted as a result of the violations, or regardless of whether the person or entity has
27 been registered by the Commission.

28 (d) Each developer shall maintain or cause to be maintained complete records of
29 every time share transaction including records pertaining to the deposit, maintenance,
30 and withdrawal of money required to be held in a trust or escrow account, or as
31 otherwise required by the Commission, under G.S. 93A-45 of this Article. The
32 Commission may inspect these records periodically without prior notice and may also
33 inspect these records whenever the Commission determines that they are pertinent to an
34 investigation of any specific complaint against a registrant.

35 (e) When a licensee is accused of any act, omission, or misconduct under this
36 Article which would subject the licensee to disciplinary action, the licensee may, with
37 the consent and approval of the Commission, surrender ~~his or its~~the licensee's license
38 and all the rights and privileges pertaining to it for a period of time to be established by
39 the Commission. A licensee who surrenders ~~his or its~~a license shall not be eligible for,
40 or submit any application for, licensure as a real estate broker or salesperson or
41 registration of a time share project during the period of license surrender. For the
42 purposes of this section, the term licensee shall include a time share developer."

43 **SECTION 37.(m)** G.S. 93A-58 reads as rewritten:

1 "§ 93A-58. Registrar required; criminal penalties; project broker.

2 (a) Every developer of a registered project shall, by affidavit filed with the
3 Commission, designate a natural person to serve as time share registrar for its registered
4 projects. The registrar shall be responsible for the recordation of time share instruments
5 and the release of liens required by G.S. 93A-42(c) and G.S. 93A-57(a). A developer
6 may, from time to time, change the designated time share registrar by proper filing with
7 the Commission and by otherwise complying with this subsection. No sales or offers to
8 sell shall be made until the registrar is designated for a time share project.

9 The registrar has the duty to ensure that the provisions of this Article are complied
10 with in a time share project for which ~~he~~ the person is registrar. No registrar shall record
11 a time share instrument except as provided by this Article.

12 (b) A time share registrar ~~shall be~~ is guilty of a Class I felony if he or she
13 knowingly or recklessly fails to record or cause to be recorded a time share instrument
14 as required by this Article.

15 A person responsible as general partner, corporate officer, joint venturer or sole
16 proprietor of the developer of a time share project ~~shall be~~ is guilty of a Class I felony if
17 ~~he~~ the person intentionally allows the offering for sale or the sale of time share to
18 purchasers without first designating a time share registrar.

19 (c) The developer shall designate for each project and other locations where time
20 shares are sold or offered for sale a project broker. The project broker shall act as
21 supervising broker for all persons licensed as salespersons at the project or other
22 location and shall directly, personally, and actively supervise all persons licensed as
23 brokers or salespersons at the project or other location in a manner to reasonably ensure
24 that the sale of time shares will be conducted in accordance with the provisions of this
25 Chapter.

26 **SECTION 38.** This act is effective when it becomes law.