

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2007**

**SESSION LAW 2008-194
HOUSE BILL 545**

AN ACT TO: (1) PROVIDE THE HOUSING FINANCE AGENCY TWO ADDITIONAL POWERS CONCERNING REAL PROPERTY AND SERVICES RETAINED FOR ISSUANCE OF BONDS; (2) AUTHORIZE A ONETIME BULK UPDATE OF REGISTERED AGENT INFORMATION; (3) AMEND THE LIST OF ENTITIES INCLUDED AS "ESTABLISHED LEGAL SERVICES PROGRAMS" TO WHICH THE NORTH CAROLINA STATE BAR MAY ALLOCATE FUNDS UNDER THE ACCESS TO CIVIL JUSTICE ACT AND THE DOMESTIC VIOLENCE ASSISTANCE ACT; (4) VALIDATE CERTAIN NOTARIAL ACTS FILED IN THE MECKLENBURG COUNTY REGISTER OF DEEDS OFFICE; (5) VALIDATE CERTAIN NOTARIAL ACTS PERFORMED ON OR BEFORE MAY 1, 2008; (6) MAKE A TECHNICAL CHANGE TO THE NAME OF THE NORTH CAROLINA STATE ART SOCIETY; (7) MAKE VARIOUS CHANGES RELATED TO THE VERIFICATION, RECORDATION, AND INDEXING OF DOCUMENTS PRESENTED TO REGISTERS OF DEEDS; (8) CLARIFY SCOPE OF AUTHORITY TO IMPOSE SANCTIONS IN MEDIATED SETTLEMENT CONFERENCES; (9) PROVIDE AN EXTENSION OF TIME FOR THE REALIGNMENT OF BUDGETS WITHIN THE DEPARTMENT OF PUBLIC INSTRUCTION; (10) AUTHORIZE INCREASED DORMITORY CAPACITY IN CERTAIN COUNTY DETENTION FACILITIES; AND (11) AUTHORIZE THE STATE TREASURER TO DISCLOSE THE NAMES AND ADDRESSES OF RETIRED STATE AND LOCAL EMPLOYEES TO CERTAIN ORGANIZATIONS.

The General Assembly of North Carolina enacts:

HOUSING FINANCE AGENCY CHANGES

SECTION 1.(a) G.S. 122A-5 reads as rewritten:

"§ 122A-5. General powers.

The Agency shall have all of the powers necessary or convenient to carry out and effectuate the purposes and provisions of this Chapter, including, but without limiting the generality of the foregoing, the power:

- (25) To participate in and administer federal housing programs, including housing rehabilitation, construction of new housing, assistance to the homeless, and home ownership ~~assistance~~; ~~assistance~~;
- (26) To acquire, hold, rent, encumber, transfer, convey, and otherwise deal with real property and utilities in the same manner as a private person or corporation, subject only to the approval of the Governor and Council of State. The Board of Directors may pledge or encumber income and assets of the Agency to secure financing for real property; and
- (27) To select and retain, subject to the approval of the Local Government Commission, the financial consultants, underwriters, and bond attorneys to be associated with the issuance of any bonds and to pay for services rendered by underwriters, financial consultants, or bond

attorneys out of the proceeds of any such issue with regard to which the services were performed."

SECTION 1.(b) G.S. 122A-8.1 is repealed.

BULK UPDATE OF REGISTERED AGENT INFORMATION

SECTION 2.(a) The following definitions apply in this section:

- (1) Department. – The Department of the Secretary of State.
- (2) Filer. – An individual, entity, or corporation that files a single notice pursuant to this section for more than 20,000 entities on file with the Department.
- (3) Notice. – A bulk filing which includes the information required in G.S. 55D-31(a)(2) through (6) and a certification that the filer has complied with the entity notification requirements of G.S. 55D-31(b). For a notice intended to update information for unincorporated nonprofit associations, "notice" shall also mean a filing which includes the information required by G.S. 59B-11(b)(4). Any notice filed must be in an electronic form acceptable to the Department and include a written statement that the notice is filed pursuant to this section.

SECTION 2.(b) Upon receipt and filing by the Department, a notice pursuant to this section shall be sufficient as a matter of law under G.S. 55D-31 and G.S. 59B-11 to update registered office and registered agent information for each entity on file with the Department for which the filer is listed on the records of the Department as the registered office, the registered agent, or both.

SECTION 2.(c) The requirements of G.S. 55D-13(a) and (b), 55D-10(b)(8), 55-1-22(a), 55A-1-22(a), 57C-1-22(a), 59-35.2(a), 59-1106(a), and 59B-11(f) shall not apply to notices filed pursuant to this section.

SECTION 2.(d) This section shall only apply to one notice for each filer.

SECTION 2.(e) Unless otherwise specified, the change of address shall become effective on the 45th day following the Department's receipt of a notice filed pursuant to this section. A filer may specify in the notice a later effective date for the change of address, but not an earlier effective date.

SECTION 2.(f) A notice filed pursuant to this section shall be delivered to the Department no later than one year after the effective date of this section.

UPDATE ENTITIES RECEIVING FUNDS FROM STATE BAR

SECTION 3.(a) G.S. 7A-474.2 reads as rewritten:

"§ 7A-474.2. Definitions.

The following definitions shall apply throughout this Article, unless the context otherwise requires:

- ...
(1a) "Established legal services programs" means the following not-for-profit corporations using State funds to serve the counties listed: Legal Services of the Southern Piedmont, serving Cabarrus, Gaston, Mecklenburg, Stanly, and Union Counties; ~~Legal Aid Society of Northwest North Carolina, serving Davie, Forsyth, Iredell, Stokes, Surry, and Yadkin Counties;~~ Pisgah Legal Services, serving Buncombe, Henderson, Madison, Polk, Rutherford, and Transylvania Counties; and Legal Aid of North Carolina, a statewide program; or any successor entity or entities of the named organizations, or, should any of the named organizations dissolve, the entity or entities providing substantially the same services in substantially the same service area.
"

....
SECTION 3.(b) G.S. 7A-474.4 reads as rewritten:

"§ 7A-474.4. Funds.

Funds to provide representation pursuant to this Article shall be provided to the North Carolina State Bar for provision of direct services by and support of the

established legal services programs. The North Carolina State Bar shall allocate these funds directly to each of the established legal services programs based upon the eligible client population in each area, with Pisgah Legal Services receiving the allocation for Buncombe, Henderson, Madison, Polk, Rutherford, and Transylvania Counties; ~~Legal Aid Society of Northwest North Carolina receiving half of the allocation for Davie, Forsyth, Iredell, Stokes, Surry, and Yadkin Counties;~~ and Legal Services of Southern Piedmont receiving half of the allocation for Cabarrus, Gaston, Mecklenburg, Stanly, and Union Counties. The North Carolina State Bar shall not use any of these funds for its administrative costs."

SECTION 3.(c) G.S. 7A-474.17 reads as rewritten:

"§ 7A-474.17. Definitions.

The following definitions shall apply throughout this Article, unless the context otherwise requires:

- (3) "Established legal services program" means the following not-for-profit corporations using State funds to serve the counties listed: ~~Legal Aid Society of Northwest North Carolina, serving Davie, Forsyth, Iredell, Stokes, Surry, and Yadkin Counties;~~ Pisgah Legal Services, serving Buncombe, Henderson, Madison, Polk, Rutherford, and Transylvania Counties; and Legal Aid of North Carolina; or any successor entity or entities of the named organizations, or, should any of the named organizations dissolve, the entity or entities providing substantially the same services in substantially the same service area."

SECTION 3.(d) G.S. 7A-474.19 reads as rewritten:

"§ 7A-474.19. Funds.

Funds to provide representation pursuant to this Article shall be provided to the North Carolina State Bar for provision of direct services by and support of the established legal services programs. The North Carolina State Bar shall allocate these funds directly to each of the established legal services programs with Pisgah Legal Services receiving the allocation for Buncombe, Henderson, Madison, Polk, Rutherford, and Transylvania Counties, ~~and Legal Aid Society of Northwest North Carolina receiving the allocation for Davie, Forsyth, Iredell, Stokes, Surry, and Yadkin Counties.~~ Funds shall be allocated to each program based on the counties served by that program using the following formula:

- (1) Twenty percent (20%) based on a fixed equal dollar amount for each county.
- (2) Eighty percent (80%) based on the rate of civil actions filed pursuant to Chapter 50B of the General Statutes in that county.

The North Carolina State Bar shall not use any of these funds for its administrative costs."

VALIDATION OF CERTAIN NOTARIAL ACTS

SECTION 4. G.S. 10B-70 reads as rewritten:

"§ 10B-70. Certain notarial acts for local government agencies validated.

(a) Any acknowledgment taken and any instrument notarized for a local government agency by a person prior to qualification as a notary public but after commissioning or recommissioning as a notary public, by a person whose notary commission has expired, or by a person who failed to qualify within 45 days of commissioning as required by G.S. 10B-10, is hereby validated. The acknowledgment and instrument shall have the same legal effect as if the person qualified as a notary public at the time the person performed the act. This section shall apply to notarial acts performed for a local government agency on or after October 31, 2006, and before June 30, 2007.

(b) Any electronic document filed in the Mecklenburg County Register of Deeds office that purports to be notarized in the Commonwealth of Virginia and that contains

the typed name of a Virginia notary together with the notary's expiration date shall be given the same legal effect as if the person performed a lawful notarization in Virginia."

SECTION 5. G.S. 10B-65 reads as rewritten:

"§ 10B-65. Acts of notaries public in certain instances validated.

...
(e) This section applies to notarial acts performed on or before ~~February 1, 2004~~ May 1, 2008."

NORTH CAROLINA STATE ART SOCIETY NAME CHANGE

SECTION 6.(a) G.S. 135-27(d) reads as rewritten:

"(d) The governing board of any association or organization listed in subsection (a), in its discretion, may elect on or before July 1, 1983, by an appropriate resolution of said board, to cause the employees of such association or organization so employed prior to July 1, 1983, to become members of the Teachers' and State Employees' Retirement System. Such Retirement System coverage shall be conditioned on such association's or organization's paying all of the employer's contributions or matching funds from funds of the association or organization and on such board's collecting from its employees the employees' contributions at such rates as may be fixed by law and by the regulations of the Board of Trustees of the Retirement System, all of such funds to be paid to the Retirement System and placed in the appropriate funds. Retroactive coverage of the employees of any such association or organization may also be effected to the extent that such board requests; provided, the association or organization shall pay all of the employer's contributions or matching funds necessary for such purposes; and, provided further, such association or organization shall collect from its employees all employees' contributions necessary for such purpose, computed at such rates and in such amount as the Board of Trustees of the Retirement System shall determine, all of such funds to be paid to the Retirement System, together with such interest as may be due, and placed in the appropriate funds. The provisions of this subsection shall be fully applicable to the North Carolina Symphony Society, Inc. and the North Carolina State Art Society, Inc."

SECTION 6.(b) G.S. 135-40.2(f) reads as rewritten:

"(f) For the support of the benefits made available to any member vested at the time of retirement, their spouses or surviving spouses, and the surviving spouses of employees who are receiving a survivor's alternate benefit under G.S. 135-5(m) of those associations listed in G.S. 135-27(a), licensing and examining boards under G.S. 135-1.1, the North Carolina State Art Society, Inc., and the North Carolina Symphony Society, Inc., each association, organization or board shall pay to the Plan the full cost of providing these benefits under this section as determined by the Board of Trustees of the Teachers' and State Employees' Comprehensive Major Medical Plan. In addition, each association, organization or board shall pay to the Plan an amount equal to the cost of the benefits provided under this section to presently retired members of each association, organization or board since such benefits became available at no cost to the retired member."

SECTION 6.(c) The title of Article 3 of Chapter 140 of the General Statutes reads as rewritten:

"Article 3.

North Carolina State Art Society."

SECTION 6.(d) G.S. 140-5.13(d)(2) and (5) read as rewritten:

"(d) All initial appointments and elections to the Board of Trustees shall be made on July 1, 1980, or as soon as feasible thereafter except as provided in this subsection, and the terms of all except the legislative appointees shall expire on June 30, 1983, or June 30, 1986, as the case may be. In order to establish regularly overlapping terms, initial appointments and elections to the Board of Trustees shall be made as follows:

...

- (2) One member shall be elected by the North Carolina State Art Society, Incorporated, for an initial term of three years and two members shall be elected by that Society for initial terms of six years.
- ...
- (5) Three members shall be elected by the State Art Museum Building Commission to serve until the termination of that Commission or until June 30, 1983, whichever shall first occur. Upon the termination of the terms of those three members, should such termination occur prior to June 30, 1983, their successors shall be elected as follows: one by the North Carolina State Art Society, Incorporated, one by the North Carolina Museum of Art Foundation, Incorporated, and one by the Board of Trustees of the North Carolina Museum of Art; the terms of the successor members so elected shall expire on June 30, 1983. On July 1, 1983, or as soon as feasible thereafter, the successors of these three members shall be elected for terms of six years, as follows: one by the North Carolina State Art Society, Incorporated, one by the North Carolina Museum of Art Foundation, Incorporated, and one by the Board of Trustees of the North Carolina Museum of Art.

...."

REGISTER OF DEEDS CHANGES

SECTION 7.(a) G.S. 47-14 reads as rewritten:

"§ 47-14. **Register of deeds to verify the presence of proof or acknowledgement and register instruments; instruments and electronic documents; order by judge; instruments to which register of deeds is a party.**

(a) Verification of Instruments. – The register of deeds shall not accept for registration any instrument that requires proof or acknowledgement unless the execution of the instrument by one or more signers appears to have been proved or acknowledged before an officer with the apparent authority to take proofs or acknowledgements, and the ~~said~~ proof or acknowledgement includes the officer's signature, commission expiration date, and official seal, if required. The register of deeds shall accept an instrument for registration that does not require proof or acknowledgement if the instrument otherwise satisfies the requirements of G.S. 161-14. Any ~~document instrument~~ previously recorded or any certified copy of any ~~document instrument~~ previously recorded may be rerecorded, regardless of whether it has been changed or altered, or it is being rerecorded pursuant to G.S. 47-36.1. rerecorded provided the instrument is conspicuously marked on the first page as a rerecording. The register of deeds may rely on the marking and the appearance of the original recording office's recording information to determine that an instrument is being presented as it was previously recorded. The register of deeds is not required to further verify the proof or acknowledgement of or determine whether any changes or alterations have been made after the original recording to an instrument presented for rerecording. The register of deeds shall not be is not required to verify or make inquiry concerning any of the following:

- (1) ~~(i) the~~ The legal sufficiency of any proof or ~~acknowledgement, acknowledgement.~~
- (2) ~~(ii) the~~ The authority of any officer who took a proof or ~~acknowledgement, acknowledgement.~~
- (3) ~~(iii) the~~ The legal sufficiency of any document presented for ~~registration, registration, or (iv) upon presentation of the original document for re-recording, whether the original document has been changed or altered."~~

(a1) Verification of Electronic Documents. – The requirements of subsection (a) of this section for verification of the execution of an instrument are satisfied with respect to an electronic document if all of the conditions in this subsection are met. For

purposes of this subsection, the term "electronic document" is as defined in G.S. 47-16.2(3). The conditions are:

- (1) The register of deeds has authorized the submitter to electronically register the electronic document.
- (2) The document is submitted by a United States federal or state governmental unit or instrumentality or a trusted submitter. For purposes of this subsection, "a trusted submitter" means a person or entity that has entered into a memorandum of understanding regarding electronic recording with the register of deeds in the county in which the electronic document is to be submitted.
- (3) The execution of the instrument by one or more signers appears to have been proved or acknowledged before an officer with the apparent authority to take proofs or acknowledgements, and the proof or acknowledgment includes the officer's signature, commission expiration date, and official seal, if required, based on the appearance of these elements on the digitized image of the document as it will appear on the public record.
- (4) Evidence of other required governmental certification or annotation appears on the digitized image of the document as it will appear on the public record.
- (5) With respect to a document submitted by a trusted submitter, the digitized image of the document as it will appear on the public record contains the submitter's name in the following completed statement on the first page of the document image: "Submitted electronically by _____ (submitter's name) in compliance with North Carolina statutes governing recordable documents and the terms of the submitter agreement with the _____ (insert county name) County Register of Deeds."
- (6) Except as otherwise provided in this subsection, the digitized image of the electronic document conforms to all other applicable laws and rules that prescribe recordation.

(a2) Verification of Officer's Signature. – Submission to a register of deeds of an electronic document requiring proof or acknowledgement is a representation by the submitter that, prior to submission, the submitter verified the officer's signature required under subdivision (a1)(3) of this section to be one of the types of signatures listed in this subsection. The register of deeds may rely on this representation for purposes of determining compliance with the signature requirements of this section. The electronic registration of a document with a register of deeds prior to the effective date of this statute is not invalid based on whether the register verified the officer's signature in accordance with this subsection. The types of signatures are:

- (1) A signature in ink by hand.
- (2) An electronic signature as defined in G.S. 10B-101(7).

(b) Order by Judge. – If a register of deeds denies registration pursuant to subsection (a), the person offering the instrument for registration may ~~present the instrument~~ apply to any judge of the district court in the district, including the county in which the instrument is to be registered, for an order for registration. ~~a judge, as provided in subsection (c), and the~~ Upon finding all of the requirements in this subsection, the judge shall ~~determine that if~~ order the instrument to be registered, together with the certificates, and the register of deeds shall register them accordingly. The requirements are:

- (1) If the instrument requires proof or acknowledgement ~~and if~~ acknowledgement, that the signature of one or more signers has been proved or acknowledged before an officer authorized to take proofs and acknowledgements, ~~and if said~~ acknowledgements.

(2) ~~That the proof or acknowledgement includes the officer's signature and commission expiration date and official seal, if required, the judge shall so adjudge, and shall order the instrument to be registered, together with the certificates, and the register of deeds shall register them accordingly.~~

~~(c) Application for an order for registration pursuant to subsection (b) of this section shall be made to any judge of the district court in the district including the county in which the instrument is to be registered.~~

(d) Scope. – Registration of an instrument pursuant to this section is not effective with regard to parties who have not executed the instrument or whose execution thereof has not been duly proved or acknowledged.

(e) Register of Deeds as Party. – Any instrument required or permitted by law to be registered in which the register of deeds of the county of registration is a party may be proved or acknowledged before any magistrate or any notary public. ~~Any such~~ The clerk of superior court of the county of registration shall examine any instrument presented for registration. ~~registration shall be examined by the clerk of superior court of the county of registration and if~~ If it appears that the execution and acknowledgment are in due form he ~~form, the clerk shall so certify and the instrument shall then be recorded in the office of the register of deeds.~~

(f) Presumption of Notarial Seal. – The acceptance of a record for registration by the register of deeds shall give rise to a presumption that, at the time the record was presented for registration, a clear and legible image of the notary's official seal was affixed or embossed on the record near the notary's official signature. This presumption ~~shall apply~~ applies regardless of whether the image is legible or photographically reproduced in the records maintained by the register of deeds. A register of deeds may not refuse to accept a record for registration because a notarial seal does not satisfy the requirements of G.S. 10B-37."

SECTION 7.(b) G.S. 47-31(a) reads as rewritten:

"(a) A duly certified copy of any deed or writing required or allowed to be registered may be registered in any county. ~~county without further certification pursuant to G.S. 47-14; and the~~ The register of deeds may rely on the record keeper's certification on a presented document that the document is a certified copy and is not required to further verify the proof or acknowledgement otherwise required by G.S. 47-14 or to determine whether the document has been changed or altered after it was certified. The registered or duly certified copy of any deed or writing that has been registered in the county where the land is situate may be given in evidence in any court of the State."

SECTION 7.(c) G.S. 47-36.1 reads as rewritten:

"§ 47-36.1. Correction of errors in recorded instruments.

Notwithstanding G.S. 47-14 and G.S. 47-17, ~~an obvious notice of typographical or other minor error in a deed or other instrument recorded with the register of deeds may be given by recording an affidavit. If an affidavit is conspicuously identified as a corrective or scrivener's affidavit in its title, the register of deeds shall index the name of the affiant, the names of the original parties in the instrument, the recording information of the instrument being corrected, and the original parties as they are named in the affidavit. A copy of the previously recorded instrument to which the affidavit applies may be attached to the affidavit and need not be a certified copy. Notice of the corrective information as provided by the affiant is deemed to have been given as of the time the corrective affidavit is registered. Nothing in this section invalidates or otherwise alters the legal effect of any instrument of correction authorized by statute in effect on the date the instrument was registered.~~ corrected by rerecording the original instrument with the correction clearly set out on the face of the instrument and with a statement of explanation attached. The parties who signed the original instrument or the attorney who drafted the original instrument shall initial the correction and sign the statement of explanation. If the statement of explanation is not signed by the parties

~~who signed the original instrument, it shall state that the person signing the statement is the attorney who drafted the original instrument. The statement of explanation need not be acknowledged. Notice of the correction made pursuant to this section shall be effective from the time the instrument is rerecorded."~~

SECTION 7.(d) G.S. 161-21 reads as rewritten:

"§ 161-21. General index kept.

~~The board of county commissioners, commissioners shall, at the expense of the county, shall cause to be made and maintain a consolidated into one book a general index of all the deeds and other documents affecting real property in the register's office. The board of county commissioners shall also have the authority to install the modern "Family" index system and wherever the "Family" index system is in use, no instruments shall be lawfully recorded until indexed and cross indexed under the appropriate family name and the appropriate alphabetical subdivision of said family name, according to the particular system in use."~~

SECTION 7.(e) G.S. 161-22 reads as rewritten:

"§ 161-22. Index of registered instruments.

(a) ~~The~~ Except as otherwise provided by statute, the register of deeds shall provide and keep in ~~her or his~~ the register's office full and complete alphabetical indexes of the names of the parties to all liens, grants, deeds, mortgages, bonds, and other instruments required or authorized to be registered, and ~~such~~ the indexes shall state in full the names of all parties, whether grantors, grantees, vendors, vendees, obligors, or obligees. The full names of parties shall be entered in the indexes in accordance with the minimum indexing standards adopted pursuant to G.S. 147-54.3(b) and (b1). Reference shall be made, opposite each name, to the book and page or other location where the instrument is registered. All instruments shall be indexed on either the temporary or permanent index within 24 hours of registration. The register of deeds ~~shall~~ is not be required to index an instrument that is part of a document containing multiple instruments, as defined in G.S. 161-10(a)(1), unless the title of that instrument is shown on the first page of the document and the additional registration fee is paid as required by G.S. 161-10(a)(1).

(b) ~~In offices using the "Family" index system, the index entry shall show the name of each party under the appropriate family name and the initials of the party under the appropriate alphabetical arrangement of the index. In offices using indexing systems having subdivisions of the letters of the alphabet, a registered instrument shall be deemed properly registered only when it has been indexed under the correct subdivision of the appropriate letter of the alphabet.~~

(c) ~~Instruments affecting real property shall be indexed in the appropriate real property indexes, and instruments affecting personal property shall be indexed in the appropriate personal property indexes. Instruments affecting both real and personal property shall be indexed in both the real and personal property indexes.~~

(d) Deeds of trust may be indexed in the names of the grantor and beneficiary only.

(e) Certificates filed for recording pursuant to G.S. 59-2, the Uniform Limited Partnership Act, shall be indexed only under the names of the partnership and each of the general partners. The register of deeds shall cause a statement to be affixed or printed on the index page of the book or books in which limited partnership agreements are filed that ~~such~~ the documents are indexed only in the names of the partnership and of each of the general partners.

(f) The alphabetical indexes required by this section may be maintained in index books, on index cards, on film, or in computers or other automated data-processing machines. If the index is maintained in a computer or other automated data processing machine, the register of deeds shall, at least once each month, obtain from the computer or other automated data-processing machine a printed copy on paper or film, or a tape or disk, of all index entries made since the previous printed or filmed copy, or tape or disk, was obtained. These printed or filmed copies, tapes or disks, shall be retained as

security copies and may not be altered or destroyed until a subsequent security copy is made containing the index entries from all previous security copies.

(g) The register of deeds may adopt rules establishing indexing procedures and the format of the indexes. The rules shall ~~be in conformity~~ conform with the requirements of this section and of other applicable statutes. The rules may address such subjects, by way of example and not limitation, as the indexing of business firms, the indexing of names containing numerals, and the indexing of government agencies. The rules shall be posted in at least two prominent places in the office of register of deeds' ~~office deeds~~ and shall also be placed near the index books or in user manuals in offices using automated indexing systems. ~~From and after the effective date of such rules, a registered instrument shall be deemed properly registered only when it has been indexed according to the rules.~~

(h) No instrument shall be deemed registered until it has been indexed as ~~provided in this section~~ in a manner to put a reasonably careful and prudent examiner on notice upon inquiry, and, if upon inquiry, the instrument would have been found.

(i) ~~A violation of this section shall constitute a Class 1 misdemeanor."~~

MEDIATED SETTLEMENT CONFERENCE CHANGES

SECTION 8.(a) G.S. 7A-38.1(g) reads as rewritten:

"(g) Sanctions. – Any person required to attend a mediated settlement conference or other settlement procedure under this section who, without good cause, fails to attend or fails to pay any or all of the mediator's or other neutral's fee in compliance with this section and the rules adopted under this section, shall be promulgated by the Supreme Court to implement this section is subject to the contempt powers of the court and any appropriate monetary sanction sanctions imposed by a resident or presiding superior court judge, including the payment of attorneys' fees, mediator fees, and expenses incurred in attending the conference. The monetary sanctions may include the payment of fines, attorneys' fees, mediator and neutral fees, and the expenses and loss of earnings incurred by persons attending the procedure. A party seeking sanctions against another party or person shall do so in a written motion stating the grounds for the motion and the relief sought. The motion shall be served upon all parties and upon any person against whom the sanctions are being sought. The court may initiate sanction proceedings upon its own motion by the entry of a show cause order. If the court imposes sanctions, it shall do so, after notice and a hearing, in a written order, making findings of fact and conclusions of law. An order imposing sanctions shall be reviewable upon appeal where the entire record as submitted shall be reviewed to determine whether the order is supported by substantial evidence."

SECTION 8.(b) G.S. 7A-38.3B(j) reads as rewritten:

"(j) Sanctions. —~~The clerk may sanction any~~ Any person ordered to attend a mediation conducted pursuant to this section and rules of the Supreme Court who, without good cause, fails to attend the mediation, ~~by imposing an appropriate monetary sanction, including the payment of attorneys' fees, mediator fees, and expenses incurred in attending the conference.~~ mediation or fails to pay any or all of the mediator's fee in compliance with this section and the rules promulgated by the Supreme Court to implement this section, is subject to the contempt powers of the clerk and monetary sanctions. The monetary sanctions may include the payment of fines, attorneys' fees, mediator fees, and the expenses and loss of earnings incurred by persons attending the mediation. If the clerk imposes sanctions, the clerk shall do so, after notice and a hearing, in a written order, making findings of fact and conclusions of law. An order imposing sanctions is reviewable by the superior court in accordance with G.S. 1-301.2 and G.S. 1-301.3, as applicable, and thereafter by the appellate courts in accordance with G.S. 7A-38.1(g)."

SECTION 8.(c) G.S. 7A-38.4A(e) reads as rewritten:

"(e) Any person required to attend a mediated settlement conference or other settlement procedure under this section who, without good cause fails to ~~attend~~ attend or fails to pay any or all of the mediator or other neutral's fee in compliance with this

section is subject to the contempt powers of the court and any appropriate monetary sanction-sanctions imposed by a district court judge, including the payment of attorneys' fees, mediator fees, and expenses incurred in attending the settlement procedure. If the court imposes sanctions, it shall do so, after notice and hearing, in a written order, making findings of fact and conclusions of law. An order imposing sanctions shall be reviewable upon appeal, and the entire record shall be reviewed to determine whether the order is supported by substantial evidence. A party seeking sanctions against another party or person shall do so in a written motion stating the grounds for the motion and the relief sought. The motion shall be served upon all parties and upon any person against whom sanctions are being sought. The court may initiate sanction proceedings upon its own motion by the entry of a show cause order. If the court imposes sanctions, it shall do so, after notice and hearing, in a written order making findings of fact and conclusions of law. An order imposing sanctions is reviewable upon appeal, and the entire record shall be reviewed to determine whether the order is supported by substantial evidence."

EXTENSION FOR DPI REALIGNMENT OF BUDGETS

SECTION 9.(a) The heading of Section 7.29 of S.L. 2007-323 reads as rewritten:

"REORGANIZATION OF THE DEPARTMENT OF PUBLIC INSTRUCTION REALIGNMENT OF BUDGETS TO ORGANIZATIONAL STRUCTURE"

SECTION 9.(b) Section 7.29(b) of S.L. 2007-323 reads as rewritten:

"SECTION 7.29.(b) This section expires June 30, ~~2008~~-2009."

MODIFY DORMITORY REQUIREMENTS IN CERTAIN COUNTY DETENTION FACILITIES

SECTION 10.(a) Notwithstanding any law or rule to the contrary, each dormitory in a county detention facility may house up to 56 inmates as long as the dormitory provides all of the following:

- (1) A minimum floor space of 70 square feet per inmate, including both the sleeping and dayroom areas.
- (2) One shower per eight inmates, one toilet per eight inmates, one sink with a security mirror per eight inmates, and one water fountain.
- (3) A telephone jack or other telephone arrangement provided within the dormitory.
- (4) Space designed to allow a variety of activities.
- (5) Sufficient seating and tables for all inmates.
- (6) A way for officers to observe the entire area from the entrance.

SECTION 10.(b) This act applies only to those counties that have a population in excess of 600,000, according to the most recent decennial federal census.

DISCLOSURE OF RETIRED STATE AND LOCAL EMPLOYEE INFORMATION TO CERTAIN ORGANIZATIONS

SECTION 11.(a) G.S. 126-22 is amended by adding a new subsection to read:

"(d) Notwithstanding any provision of this section to the contrary, the Retirement Systems Division of the Department of State Treasurer may disclose the name and mailing address of former State employees to domiciled, nonprofit organizations representing 10,000 or more retired State government, local government, or public school employees."

SECTION 11.(b) G.S. 115C-321 is amended by adding a new subsection to read:

"(b1) Notwithstanding any provision of this section to the contrary, the Retirement Systems Division of the Department of State Treasurer may disclose the name and mailing address of former public school employees to domiciled, nonprofit organizations representing 10,000 or more retired State government, local government, or public school employees."

SECTION 11.(c) G.S. 115D-29 reads as rewritten:

"§ 115D-29. Confidential information in personnel files; access to information.

(a) All information contained in a personnel file, except as otherwise provided in this Article, is confidential and shall not be open for inspection and examination except to the following persons:

- (1) The employee, applicant for employment, former employee, or his properly authorized agent, who may examine his own personnel file at all reasonable times in its entirety except for letters of reference solicited prior to employment;
- (2) The president and other supervisory personnel;
- (3) Members of the board of trustees and the board's attorney;
- (4) A party by authority of a subpoena or proper court order may inspect and examine a particular confidential portion of an employee's personnel file; and
- (5) An official of an agency of the federal government, State government or any political subdivision thereof. Such an official may inspect any personnel records when such [an] inspection is deemed by the college of the employee, applicant, or former employee whose record is to be inspected as necessary and essential to the pursuance of a proper function of said agency; provided, however, that such information shall not be divulged for purposes of assisting in a criminal prosecution, nor for purposes of assisting in a tax investigation.

(b) Notwithstanding any other provision of this Article, any president may, in his discretion, or shall at the direction of the board of trustees, inform any person or corporation of any promotion, demotion, suspension, reinstatement, transfer, separation, dismissal, employment or nonemployment of any applicant, employee or former employee employed by or assigned to the board of trustees or whose personnel file is maintained by the board and the reasons therefor and may allow the personnel file of the person or any portion to be inspected and examined by any person or corporation provided that the board has determined that the release of the information or the inspection and examination of the file or any portion is essential to maintaining the integrity of the board or to maintaining the level or quality of services provided by the board; provided, that prior to releasing the information or making the file or any portion available as provided herein, the president shall prepare a memorandum setting forth the circumstances which he and the board deem to require the disclosure and the information to be disclosed. The memorandum shall be retained in the files of the president and shall be a public record.

(c) Notwithstanding any provision of this section to the contrary, the Retirement Systems Division of the Department of State Treasurer may disclose the name and mailing address of former community college employees to domiciled, nonprofit organizations representing 2,000 or more active or retired State government, local government, or public school employees."

SECTION 11.(d) G.S. 153A-98 is amended by adding a new subsection to read:

"(c3) Notwithstanding any provision of this section to the contrary, the Retirement Systems Division of the Department of State Treasurer may disclose the name and mailing address of former local governmental employees to domiciled, nonprofit organizations representing 2,000 or more active or retired State government, local government, or public school employees."

SECTION 11.(e) G.S. 160A-168 is amended by adding a new subsection to read:

"(c3) Notwithstanding any provision of this section to the contrary, the Retirement Systems Division of the Department of State Treasurer may disclose the name and mailing address of former local governmental employees to domiciled, nonprofit

organizations representing 2,000 or more active or retired State government, local government, or public school employees."

EFFECTIVE DATE

SECTION 12. Subsections (a) and (c) of Section 7 of this act become effective October 1, 2008. The repeal of subsection (c) of G.S. 161-22 in Section 7(e) of this act becomes effective July 1, 2008. Section 8 of this act becomes effective January 1, 2009. Section 9 of this act becomes effective June 30, 2008. The remainder of this act is effective when it becomes law.

In the General Assembly read three times and ratified this the 14th day of July, 2008.

s/ Beverly E. Perdue
President of the Senate

s/ Joe Hackney
Speaker of the House of Representatives

s/ Michael F. Easley
Governor

Approved 8:33 a.m. this 8th day of August, 2008