

# Commercial Law and Consumer Protection

See full summary documents for additional detail

## **Hotel Safety Issues.**

SL 2023-5 (S53)

S.L. 2023-5 provides that rental of an accommodation by an inn, hotel, motel, recreational vehicle park, campground, or similar lodging to the same person for fewer than 90 consecutive days does not create a tenancy or a residential tenancy subject to Chapter 42 of the General Statutes.

The act became effective March 19, 2023, and applies to a person renting an accommodation in an inn, hotel, motel, recreational vehicle park, campground, or similar lodging facility. The rental period is calculated from the first day of consecutive occupation or right of occupation in the lodging facility, regardless of whether that day is before the effective date of this act.

## **Reorganization and Economic Development Act.**

SL 2023-33 (H346)

S.L. 2023-33 allows hospital service corporations to reorganize so that they can be controlled by a non-profit holding corporation. The act provides that a non-profit holding company is not subject to the provisions of Article 65 (Hospital Service Corporations) and Article 66 (Hospital Service Corporation Readable Insurance Certificates Act) of Chapter 58 (Insurance), but that most of those provisions continue to apply to the underlying hospital service corporation.

This act became effective June 9, 2023.

## **Sports Wagering/Horse Racing Wagering.**

SL 2023-42 (H347)

S.L. 2023-42, effective January 8, 2024, does the following:

- Authorizes, regulates, and taxes sports wagering in North Carolina. The Lottery Commission is responsible for issuing licenses to involved parties and regulating sports wagering in North Carolina. Section 11.18 of S.L. 2023-134 amended these provisions.
- Authorizes and regulates pari-mutuel wagering on horse racing in North Carolina. The Lottery Commission is responsible for issuing licenses to involved parties and regulating pari-mutuel wagering in North Carolina.
- Authorizes live horse racing in North Carolina. The Lottery Commission is responsible for regulation of horse racing.
- Creates and provides funding for the North Carolina Major Events, Games, and Attractions Fund, which is administered by the Department of Commerce to provide grants for local governments or nonprofit entities working with local governments to attract major entertainment, musical, political, sporting, and theatrical events to the State to stimulate

economic activity and create jobs. Section 11.18 of S.L. 2023-134 amended these provisions.

### **Retail Installment Sales Act Amendments.**

SL 2023-60 (S329)

S.L. 2023-60 modifies the maximum finance charge rates that can be applied to consumer credit installment sale contracts and increases from \$15 to \$18 the default charge for past due installment payments.

This bill was vetoed by the Governor on June 19, 2023, and that veto was overridden by the General Assembly on June 27, 2023. This act became effective October 1, 2023, and applies to contracts entered into, modified, or renewed on or after that date.

### **Consumer Finance Act Amendments.**

SL 2023-61 (S331)

S.L. 2023-61 makes various changes to the Consumer Finance Act.

This bill was vetoed by the Governor on June 19, 2023, and that veto was overridden by the General Assembly on June 27, 2023. This act became effective October 1, 2023, and applies to contracts entered into, modified, or renewed on or after that date.

### **Umstead Act Exemption for Lodging Facilities at State Parks – Department of Natural and Cultural Resources Agency Bill.**

SL 2023-70 (H168), Sec. 6

Section 6 of S.L. 2023-70 exempts certain lodging facilities at State Parks from the Umstead Act prohibition on State agencies competing with the private commercial activities of North Carolina citizens.

This section became effective June 30, 2023.

### **Amend Business Corporation Act/Business Opportunity Act Disclosures.**

SL 2023-130 (S477)

S.L. 2023-130 does the following:

- Amends the Business Corporation Act to:
  - Update requirements for sending notices and other communications to shareholders electronically.

- Provide that for newly incorporated non-public corporations, unless otherwise provided in the articles of incorporation, action can be taken without meeting by written consent of shareholders having the number of votes necessary to take the action at a meeting at which all shareholders entitled to vote were present and voted.
- Dispense with the requirement that written consents to action to be taken without meeting bear the date of signature of the shareholder.
- Provide that a written consent to action to be taken without meeting expires if the corporation has not, within 60 days after the first date on which a written consent to the action is received by the corporation, received unrevoked written consents sufficient to take the action without meeting.
- Permit articles of incorporation to be amended without a shareholder vote to delete a class or series of shares created by the board and having no outstanding shares.
- Permit a corporation to restrict, in whole or in part, the right of the holders of outstanding shares of an existing class or series of a class to vote as a separate voting group on a proposed amendment to the articles of incorporation that would create a new class of shares that have rights with respect to distributions or to dissolution substantially equal or superior to the existing class.
- Modify statutory provisions governing the right of shareholders in a corporation to inspect the records of a subsidiary of that corporation.
- Amends the Business Opportunity Act to permit franchisors to meet their disclosure and filing obligations using a document that complies with Federal Trade Commission disclosure requirements.
- Standardizes the evidence required to prove a debt in actions brought by collection agencies.

This act has various effective dates. Please see the full summary for more detail.

### **NCInnovation – 2023 Appropriations Act.**

SL 2023-134 (H259), Sec. 11.9

Section 11.9 of S.L. 2023-134 enacts G.S. 143-728, permitting the receipt and retention of funds by NCInnovation, a nonprofit corporation to be used for certain authorized purposes.

This section became effective July 1, 2023.

### **North Carolina Innovation Council – 2023 Appropriations Act.**

SL 2023-134 (H259), Sec. 11.14

Section 11.14 of S.L. 2023-134 administratively houses the North Carolina Innovation Council (Council) in the Department of Commerce, authorizes the Council to adopt rules to implement Chapter 169 of the General Statutes, authorizes the Council to appoint a paid Executive Director, and makes technical changes to Chapter 169.

This section of the act became effective July 1, 2023.

### **Sports Wagering Technical Corrections – 2023 Appropriations Act.**

SL 2023-134 (H259), Sec. 11.18

Section 11.18 of S.L. 2023-134 makes changes to S.L. 2023-42 (Sports Wagering/Horse Racing Wagering), most notably, the following:

- Requires a prospective interactive sports wagering operator applicant to have a written designation agreement with a professional sports team, a motorsports facility, a facility that hosts a professional golf tournament annually, or certain sports governing bodies to be eligible for licensure.
- Authorizes an indoor venue that does not meet the definition of "sports facility" but hosts sporting events and is designed to host 22,000 or more live spectators to be an eligible location for grant funding from the North Carolina Major Events, Games, and Attractions Fund.

This act has various effective dates. Please see the full summary for more details.

### **Require Report/Protection and Advocacy Agency.**

SL 2023-135 (H361)

S.L. 2023-135 requires the designated Protection and Advocacy Agency (Agency) for the State to submit a report twice a year on the actions the Agency has taken to advocate for persons with disabilities to the Joint Legislative Oversight Committee on Health and Human Services and the Joint Legislative Education Oversight Committee during the interim, and the chairs of the House and Senate Appropriations Committees on Health and Human Services during session.

The Agency is required to submit a report by December 1, 2023, to the Joint Legislative Committee on Health and Human Services and the Joint Legislative Education Oversight Committee with specific examples of how the Agency has reduced barriers to employment, enabled independent living, and increased postsecondary educational opportunities for persons with disabilities.

The Agency is also encouraged to annually hold six meetings with the public throughout the State to share the reports.

This act became effective October 3, 2023.

## **Prohibit Counties and Cities from Regulating Certain Online Marketplaces – Regulatory Reform Act of 2023.**

SL 2023-137 (H600), Sec. 27

Section 27 of S.L. 2023-137 prohibits counties or cities from regulating the operation of an online marketplace; or requiring an online marketplace to provide personally identifiable information of users, unless pursuant to a subpoena or court order.

This bill was vetoed by the Governor on October 2, 2023, and that veto was overridden by the General Assembly on October 10, 2023. This section became effective on October 10, 2023.

## **Exempt from Public Contract Bidding Requirement Heating and Cooling System Repair Work Made Through a Competitive Bidding Group Purchasing Program – Regulatory Reform Act of 2023.**

SL 2023-137 (H600), Sec. 43

Section 43 of S.L. 2023-137 expands the competitive bidding group purchasing exemption to repair work of heating and cooling systems, including both installation labor and equipment acquisition, if the contract for the work meets certain requirements.

This bill was vetoed by the Governor on October 2, 2023, and that veto was overridden by the General Assembly on October 10, 2023. This section became effective on October 10, 2023, and applies to repair work procured on or after that date.

## **Stop Addiction Fraud Ethics Act of 2023.**

SL 2023-141 (H415)

S.L. 2023-141 creates the Stop Addition Fraud Ethics Act of 2023 (SAFE Act of 2023 - Article 5H of Chapter 90), which provides new laws for substance use disorder treatment providers and facilities related to truth in marketing and patient brokering and kickbacks. The new law would not apply to a hospital or a hospital authority.

The act defines the following terms: patient, referral, recovery residence, treatment facility, and treatment provider. It establishes laws for advertising and marketing materials; the operation of a recovery residence or treatment facility while also providing outpatient services; and prohibited actions and consequences for violation. A violation of the prohibited acts outlined above constitutes an unfair or deceptive trade practice (under G.S. 75-1.1) and a person or entity in violation will be guilty of a Class G felony and each violation will be a separate offense.

The act makes it unlawful for a person, entity, treatment provider, treatment facility, recovery residence, or third party providing service, to knowingly offer to pay anything of value or engage in a split-fee arrangement: (i) to induce the referral of a patient or patronage to or from a treatment provider or laboratory; (ii) in return for referring a patient or patronage to or from a

treatment provider or laboratory; (iii) in return for the acceptance or acknowledgement of treatment from a health care provider or any health care facility, or aiding or abetting conduct that violates these items. This section would not apply to a discount; payment; waiver of payment practice authorized by, or regulation adopted in accordance with federal law, (42 USC § 1320-7b(b)(3)); or a reasonable contingency management technique or motivational incentive that is part of a treatment provided by a treatment provider. A person who violates this section is guilty of a Class G felony.

The act also amends the law regarding ear wax removal by audiologists. This change is reflected in the audiology updates section of the summary of S.L. 2023-129.

The act became effective January 1, 2024, and applies to offenses committed on or after that date.