

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1989

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SENATE BILL 1337
House Committee Substitute Favorable 6/6/90
Third Edition Engrossed 7/17/90

Short Title: Technical Corrections.

(Public)

Sponsors:

Referred to:

August 12, 1989

A BILL TO BE ENTITLED

AN ACT TO MAKE VARIOUS TECHNICAL AMENDMENTS TO THE GENERAL STATUTES AND TO THE SESSION LAWS AND FOR OTHER PURPOSES.

The General Assembly of North Carolina enacts:

Section 1. Section 5, subsection (a) of Chapter 426 of the 1989 Session Laws, reads as rewritten:

"(a) The Environmental Management Commission shall adopt water supply watershed classifications and applicable management requirements as required by ~~G.S. 143-214.4(b)~~ G.S. 143-214.5(b) no later than 1 January 1991."

Sec. 2. Section 22(n) of Chapter 752 of the 1989 Session Laws is amended by deleting the phrase "G.S. 40.8(b)" and inserting in lieu thereof "G.S. 135-40.8(b)".

Sec. 3. Effective July 1, 1990, G.S. 7A-249, G.S. 53-67, G.S. 54-142, G.S. 54B-7, and Chapter 55B of the General Statutes are amended by deleting the phrase "Business Corporation Act" wherever it appears and substituting in lieu thereof the phrase "North Carolina Business Corporation Act". Effective July 1, 1990, G.S. 53-135 is amended by deleting the word "Corporations," and inserting in lieu thereof the words "North Carolina Business Corporation Act,".

Sec. 4. (a) G.S. 17C-2(b) reads as rewritten:

"(b) 'Criminal justice agencies' means the State and local law-enforcement agencies, the State correctional agencies, other correctional agencies maintained by local governments, and the juvenile justice agencies, but shall not include deputy sheriffs,

1 special deputy sheriffs, sheriffs' jailers, or other sheriffs' department personnel governed
2 by the provisions of Chapter 17E of these General Statutes;"

3 (b) G.S. 17C-6(13) reads as rewritten:

4 "(13) In conjunction with the Secretary of Crime Control and Public
5 Safety, approve use of specific models and types of radio
6 microwave and other speed-measuring instruments and
7 establish the procedures for operation of each approved
8 instrument and standards for calibration and testing for
9 accuracy of each approved ~~instrument~~ instrument;"

10 Sec. 5. G.S. 18B-101(13a)(3)(a) reads as rewritten:

11 "(a) Contains more than ~~a~~1000 acres and is made up of privately-owned
12 land and land owned by an association or club having more than 200
13 members and created for municipal and recreational purposes;"

14 ♦ Sec. 6. G.S. 20-28.2(a)(1) is amended by deleting the phrase "20-16.4,"

15 Sec. 7. G.S. 20-64.1 reads as rewritten:

16 **"§ 20-64.1. Revocation of license plates by Utilities Commission.**

17 The license plates of any carrier of persons or property by motor vehicle for
18 compensation may be revoked and removed from the vehicles of any such carrier for
19 willful violation of any provision of either the North Carolina Truck Act of 1947 or the
20 Bus Act of 1949, or for the willful violation of any lawful rule or regulation made and
21 promulgated by the North Carolina Utilities Commission under said acts. To that end
22 said Commission shall have power upon complaint or upon its own motion, after notice
23 and hearing under the rules of evidence prescribed in ~~G.S. 62-18~~, G.S. 62-65, to order the
24 license plates of any such offending carrier revoked and removed from the vehicles of
25 such carrier for a period not exceeding 30 days, and it shall be the duty of the Division
26 of Motor Vehicles to execute such orders made by the North Carolina Utilities
27 Commission upon receipt of a certified copy of the same.

28 This section shall be in addition to and independent of other provisions of law for
29 the enforcement of the motor carrier laws of this State."

30 Sec. 8. (a) G.S. 25-1-201(5) reads as rewritten:

31 "(5) 'Bearer' means the person in possession of an instrument, document of
32 title, or certificated security payable to bearer or indorsed in blank."

33 (b) G.S. 25-1-201(14) reads as rewritten:

34 "(14) 'Delivery' with respect to instruments, documents of title, chattel
35 ~~paper~~ paper, or certificated securities means voluntary transfer of
36 possession."

37 (c) G.S. 25-1-201(20) reads as rewritten:

38 "(20) 'Holder' means a person who is in possession of a document of title
39 or an instrument or ~~an~~ a certificated investment security drawn,
40 ~~issued~~ issued, or indorsed to him or to his order or to bearer or in
41 blank."

42 (d) G.S. 25-5-114(2) is amended by inserting the word "certificated" before the
43 word "security" wherever the word "security" appears in the subsection.

1 (e) G.S. 25-9-103(3)(a) is amended by adding the phrase "(other than
2 uncertificated securities)" after the words "general intangibles".

3 (f) G.S. 25-9-103 is amended by adding a new subsection to read:

4 "(6) Uncertificated Securities.—The law (including the conflict of laws
5 rules) of the jurisdiction of organization of the issuer governs the
6 perfection and the effect of perfection or nonperfection of a security
7 interest in uncertificated securities."

8 (g) G.S. 25-9-105(1)(i) is amended by inserting the word "certificated" before
9 the word "security" in the phrase "security (defined in G.S. 25-8-102)".

10 (h) G.S. 25-9-203 is amended by inserting the phrase ", G.S. 25-8-321 on
11 security interests in securities" after the words "collecting bank" in the introductory
12 language of the section.

13 (i) G.S. 25-9-302(1)(f) is amended by inserting the phrase "or in securities
14 (G.S. 25-8-321)" after "(G.S. 25-4-208)".

15 (j) G.S. 25-9-304(1) is amended in the second sentence by inserting the words
16 "certificated securities or" before the word "instruments" in the phrase "(other than
17 instruments which constitute part of chattel paper)".

18 (k) G.S. 25-9-304(4) and G.S. 25-9-305 are amended by inserting the phrase
19 "(other than certificated securities)" after the word "instruments".

20 (l) G.S. 25-9-304(5) is amended by inserting the phrase "(other than a
21 certificated security)" after the word "instrument" in the introductory language of the
22 subsection.

23 (m) The catch line of G.S. 25-9-309 reads as rewritten:

24 "**§ 25-9-309. Protection of purchasers of ~~instruments and~~ instruments, documents,
25 documents and securities."**

26 (n) G.S. 25-9-309 is amended by deleting the phrase "G.S. 25-8-301" and
27 substituting in lieu thereof "G.S. 25-8-302".

28 (o) G.S. 25-9-312(7) reads as rewritten:

29 "(7) If future advances are made while a security interest is perfected by
30 ~~filing or~~ filing, the taking of possession, or under G.S. 25-8-321 on
31 securities, the security interest has the same priority for the purposes of
32 subsection (5) with respect to the future advances as it does with
33 respect to the first advance. If a commitment is made before or while
34 the security interest is so perfected, the security interest has the same
35 priority with respect to advances made pursuant thereto. In other cases
36 a perfected security interest has priority from the date the advance is
37 made."

38 (p) The Revisor of Statutes shall cause to be printed along with the
39 amendments set forth in this section all relevant portions of the Official Comments to
40 the 1977 amendments to Articles 1, 5, and 9 of the Uniform Commercial Code as
41 prepared by the Commissioners on Uniform State Laws and such other explanatory
42 comments as the Revisor may deem appropriate.

43 Sec. 9. (a) G.S. 25-8-102, as amended by Chapter 588 of the 1989 Session
44 Laws, is amended in subdivision (1)(b) by deleting the word "and" at the end of clause

1 (ii) and by deleting the period at the end of clause (iii) and inserting in lieu thereof a
2 comma followed by the word "and".

3 (b) G.S. 25-8-201(1)(a1), as enacted by Chapter 588 of the 1989 Session
4 Laws, is amended by deleting the word "Create" and substituting in lieu thereof the word
5 "Creates".

6 (c) G.S. 25-8-308(7)(b), as enacted by Chapter 588 of the 1989 Session Laws,
7 is amended by deleting the word "registering" and substituting in lieu thereof the word
8 "registered".

9 (d) G.S. 25-8-403(6), as enacted by Chapter 588 of the 1989 Session Laws, is
10 amended by deleting "G.S. 25-8-4" and substituting in lieu thereof "G.S. 25-8-408".

11 Sec. 10. (a) G.S. 25-9-203(4) reads as rewritten:

12 "(4) A transaction, although subject to this article, is also subject to the
13 North Carolina Consumer Finance Act (being G.S. 53-164 through 53-
14 191), G.S. 24-1 and 24-2, and ~~G.S. 91-1 through 91-8, the Pawnbrokers~~
15 Modernization Act of 1989 (being Chapter 91A of the General
16 Statutes), the Retail Installment Sales Act (being Chapter 25A of the
17 North Carolina General Statutes), and in the case of conflict between
18 the provisions of this article and any such statute, the provisions of
19 such statute control. Failure to comply with any applicable statute has
20 only the effect which is specified therein."

21 (b) G.S. 66-164(1) reads as rewritten:

22 "(1) 'Dealer' means a person who engages in the business of purchasing
23 precious metals from the public in the form of jewelry, flatware, silver
24 services or other forms and holds himself out to the public by signs,
25 advertising or other methods as engaging in such purchases including
26 any independent contractor purchasing precious metals under any
27 arrangement in any department store; provided, however, that
28 permanently located retail merchants shall be exempted insofar as they
29 make purchases directly from manufacturers or wholesalers of
30 precious metals for their inventories. Provided further, a permanently
31 located retail merchant who is primarily engaged in the business of
32 purchasing or acquiring jewelry, secondhand furniture, antique
33 furniture, objects of art, artifacts, nonprecious metal collector items,
34 antiques and other used household furnishings or fixtures for resale
35 to the public, and who purchases precious metals, articles or items
36 from the public only incidentally to his main business, may be
37 exempted as provided in G.S. 66-166 if his total purchases or
38 acquisitions of precious metals from the public constituted ten percent
39 (10%) or less in dollar volume of the total purchases or acquisitions in
40 dollar volume made by such merchant for all such secondhand items or
41 articles in the 12-month period next preceding the date of application
42 for an exemption under G.S. 66-166. Provided further that
43 pawnbrokers as defined in ~~G.S. 91-1~~ G.S. 91A-3 shall be exempted
44 insofar as they accept pawns or pledges of items made of precious

1 metals under the provisions of Chapter ~~91~~91A of the General
2 Statutes."

3 Sec. 11. G.S. 31B-7 reads as rewritten:

4 "**§ 31B-7. Short title.**

5 This Chapter may be cited as the Renunciation of ~~Transfers by Will, Intestacy,~~
6 ~~Appointment or Insurance Contract~~ Property and Renunciation of Fiduciary Powers Act."

7 Sec. 11.1. G.S. 45-21.44 reads as rewritten:

8 "**§ 45-21.44. Validation of foreclosure sales when provisions of G.S. 45-21.17(c)(2)**
9 **or G.S. 45-21.17(2) not complied with.**

10 In all cases prior to ~~March 1, 1974,~~ May 1, 1990, where mortgages or deeds of trust
11 on real estate with power of sale have been foreclosed pursuant to said power by proper
12 advertisement except that the date of the last publication was from seven to 20 days
13 preceding the date of sale, all such sales are fully validated, ratified, and confirmed and
14 shall be as effective to pass title to the real estate described therein as fully and to the
15 same extent as if the provisions of G.S. 45-21.17(c)(2) or G.S. 45-21.17(2) had been
16 fully complied with."

17 Sec. 12.1. (a) G.S. 55-1-20(i) reads as rewritten:

18 "(i) The document must be delivered to the office of the Secretary of State for
19 filing and must be accompanied by one exact or conformed copy (except as provided in
20 G.S. 55-5-03 and G.S. 55-15-09), and all fees ~~and taxes~~ required by this Chapter."

21 (b) G.S. 55-15-03(c) reads as rewritten:

22 "(c) If the Secretary of State finds that the application conforms to law he shall,
23 when all ~~taxes and~~ fees have been tendered as prescribed in this Chapter:

- 24 (1) Endorse on the application and an exact or conformed copy thereof the
25 word 'filed' and the hour, day, month, and year of the filing thereof;
- 26 (2) File in his office the application and the certificate of existence (or
27 document of similar import as described in subsection (b) of this
28 section);
- 29 (3) Issue a certificate of authority to transact business in this State to
30 which he shall affix the exact or conformed copy of the application;
31 and
- 32 (4) Send to the foreign corporation or its representative the certificate of
33 authority, together with the exact or conformed copy of the application
34 affixed thereto."

35 Sec. 12.2. G.S. 55-1-25(b) reads as rewritten:

36 "(b) The Secretary of State files a document by stamping or otherwise endorsing
37 'Filed', together with his name and official title and the date and time of filing, on both
38 the original and the document copy. After filing a document, except as provided in G.S.
39 55-5-03 and ~~G.S. 55-15-10,~~ G.S. 55-15-09, the Secretary of State shall deliver the
40 document copy to the domestic or foreign corporation or its representative."

41 Sec. 12.3. G.S. 55-1-26(a) reads as rewritten:

42 "(a) If the Secretary of State refuses to file a document delivered to his office for
43 filing, the ~~domestic or foreign corporation~~ person tendering the document for filing may,
44 within 30 days after such refusal, appeal the refusal to the Superior Court of Wake

1 County. The appeal is commenced by filing a petition with the court and with the
2 Secretary of State requesting the court to compel the Secretary of State to file the
3 document. The petition shall have attached to it the document to be filed and the
4 Secretary of State's explanation for his refusal to file. The appeal to the superior court is
5 not governed by the Administrative Procedure Act and shall be determined upon such
6 further notice and opportunity to be heard, if any, as the court may deem appropriate
7 under the circumstances."

8 Sec. 12.4. G.S. 55-1-40(10) reads as rewritten:

9 "(10) 'Foreign corporation' means a corporation for profit ~~or a~~
10 ~~corporation having capital stock~~ incorporated under a law other
11 than the law of this State."

12 Sec. 12.5. G.S. 55-4-01(c) reads as rewritten:

13 "(c) A ~~corporation~~ person may apply to the Secretary of State for
14 authorization to use a name that is not distinguishable upon his records from one or
15 more of the names described in subsection (b). The Secretary of State shall authorize
16 use of the name applied for if:

- 17 (1) The other corporation consents to the use in writing and submits an
18 undertaking in form satisfactory to the Secretary of State to change its
19 name to a name that is distinguishable upon the records of the
20 Secretary of State from the name of the ~~applying corporation;~~ applicant;
21 or
22 (2) The applicant delivers to the Secretary of State a certified copy of the
23 final judgment of a court of competent jurisdiction establishing the
24 applicant's right to use the name applied for in this State."

25 Sec. 12.6. G.S. 55-5-03(a) reads as rewritten:

26 "(a) A registered agent may resign his agency appointment by signing
27 and filing with the Secretary of State the signed original and two exact or conformed
28 copies of a statement of resignation which may include a statement that the registered
29 office is also discontinued. The statement must include or be accompanied by a
30 certification from the registered agent that he has mailed or delivered to the corporation
31 at its last known address written notice of this resignation. Such certification shall
32 include the name and title of the officer notified, if any, and the address to which the
33 notice was mailed or delivered."

34 Sec. 12.7. G.S. 55-6-21(e) reads as rewritten:

35 "(e) The corporation may place in escrow shares issued for a contract for future
36 services or benefits or ~~to~~ for a promissory note, or make other arrangements to restrict
37 the transfer of the shares, and may credit distributions in respect of the shares against
38 their purchase price, until the services are performed, the note is paid, or the benefit
39 received. If the services are not performed, the note is not paid, or the benefits are not
40 received, the shares escrowed or restricted and the distributions credited may be
41 cancelled in whole or part."

42 Sec. 12.8. G.S. 55-6-23(b)(3) reads as rewritten:

43 "(3) A majority of the votes entitled to be cast by the class or series to be
44 issued approve the issuance of not more than a stated number of shares

1 within a period of not more than one year after such ~~authorization~~
 2 approval."

3 Sec. 12.9. G.S. 55-6-40(f) reads as rewritten:

4 ♦ " (f) A corporation's indebtedness to a shareholder incurred by reason of a
 5 distribution made in accordance with this section is at parity with the corporation's
 6 indebtedness to its general, unsecured creditors except to the extent ~~subordinated~~
 7 otherwise provided by agreement."

8 Sec. 12.10. G.S. 55-7-21.1 reads as rewritten:

9 "**§ 55-7-21.1. Rights of holders of debt securities.**

10 In addition to any rights otherwise lawfully conferred, the articles of incorporation
 11 of the corporation may confer upon the holders of any bonds, debentures or other debt
 12 obligations issued or to be issued by the corporation any one or more of the following
 13 powers and rights upon such terms and conditions as may be prescribed in the articles of
 14 incorporation:

- 15 (1) The power to vote on any matter either in conjunction with or to the
 16 full or partial exclusion of its ~~shareholders;~~—shareholders,
 17 notwithstanding G.S. 55-6-01(c)(1);
- 18 (2) The right to inspect the corporate books and records;
- 19 (3) Any other rights concerning the corporation which its shareholders
 20 have or may have. ~~Any such power or right shall not be diminished, as~~
 21 ~~to bonds, debentures or other obligations then outstanding, except by~~
 22 ~~an amendment of the articles of incorporation approved by the vote or~~
 23 ~~written consent of the holders of a majority in principal amount thereof~~
 24 ~~or such larger percentage as may be specified in the articles of~~
 25 ~~incorporation.~~

26 Any such power or right shall not be diminished, as to bonds, debentures or other
 27 obligations then outstanding, except by an amendment of the articles of incorporation
 28 approved by the vote or written consent of the holders of a majority in principal amount
 29 thereof or such larger percentage as may be specified in the articles of incorporation."

30 Sec. 12.11. G.S. 55-7-28(e) reads as rewritten:

31 "(e) Shareholders of a corporation incorporated in this State shall have the right to
 32 cumulate their votes for directors if (i)

33 (1) The corporation was in existence prior to July 1, 1957, under a charter
 34 which does not grant the right of cumulative voting and at the time of
 35 the election the stock transfer book of such corporation discloses, or it
 36 otherwise appears, that there is at least one stockholder who owns or
 37 controls more than one-fourth of the voting stock of such corporation.
 38 (Shares represented at a meeting by revocable proxy relating to that
 39 meeting or adjourned meetings thereof shall not be deemed shares
 40 'controlled' within the meaning of this subsection), or if (ii)

41 (2) The corporation was incorporated on or after July 1, 1957, and before
 42 July 1, 1990,

43 unless, when the stock transfer books are closed or at the record date fixed to determine
 44 the shareholders entitled to receive notice of and to vote at the meeting of shareholders,

1 shares of any class or series are listed on a national securities exchange or are held of
2 record by more than 2,000 shareholders. This right to vote cumulatively may be denied
3 or limited by amendment to the articles of incorporation, but no such amendment shall
4 be made when the number of shares voting against the amendment would be sufficient
5 to elect a director by cumulative voting if such shares are entitled to be voted
6 cumulatively for the election of directors."

7 Sec. 12.12. G.S. 55-8-10(c) reads as rewritten:

8 "(c) A vacancy that will occur ~~at~~upon a specific later date or subsequent event (by
9 reason of a resignation effective ~~at~~upon a later date or subsequent event under G.S. 55-
10 8-07(b) or otherwise) may be filled before the vacancy occurs but the new director may
11 not take office until the vacancy occurs."

12 Sec. 12.13. G.S. 55-8-40(e) reads as rewritten:

13 "(e) Whenever a specific office is referred to in this Chapter, it shall be deemed to
14 include any ~~person~~individual who, ~~individually~~alone or collectively with one or more
15 other ~~persons~~individuals, holds or occupies such office."

16 Sec. 12.14. G.S. 55-8-57(b) is amended by deleting the words "on or" as they
17 appear in the phrase "on or prior to July 1, 1990".

18 Sec. 12.15. G.S. 55-9-05 is amended in clause (iv) by inserting the word
19 "a" between "of" and "corporation".

20 Sec. 12.16. G.S. 55-9A-01(b)(3)f reads as rewritten:

21 "f. Pursuant to the sale of such shares by the covered corporation
22 or its parent or subsidiary ~~corporation~~, ~~provided that in such~~
23 ~~case a written agreement relating to such sale to which the~~
24 ~~covered corporation is a party may permit the purchasers of~~
25 ~~such shares as a group also to purchase in any other manner~~
26 ~~within 90 days before or after such sale up to the same~~
27 ~~aggregate number of shares as were sold by the covered~~
28 ~~corporation or its parent or subsidiary corporation without any~~
29 ~~such purchases being a 'control share acquisition'.~~corporation."

30 Sec. 12.17. G.S. 55-11-03(f)(2) reads as rewritten:

31 "(2) On a plan of share exchange by each class or series of shares ~~included~~
32 to be acquired in the exchange, with each class or series constituting a
33 separate voting group."

34 Sec. 12.18. G.S. 55-13-02(a)(1) reads as rewritten:

35 "(1) Consummation of a plan of merger to which the corporation (other
36 than a parent corporation in a merger under G.S. 55-11-04) is a party
37 unless (i) approval by the shareholders of that corporation is not
38 required under G.S. 55-11-03(g) or (ii) such shares are then
39 redeemable by the corporation at a price not greater than the cash to be
40 received in exchange for such shares;"

41 Sec. 12.19. G.S. 55-14-01 reads as rewritten:

42 "**§ 55-14-01. Dissolution by incorporators or ~~initial~~ directors.**

1 (a) The board of directors or, if the corporation has no directors, a majority of the
2 incorporators of a corporation that has not issued shares may dissolve the corporation by
3 delivering to the Secretary of State for filing articles of dissolution that set forth:

4 (1) The name of the corporation;

5 (1a) The names and addresses of its officers, if any;

6 (1b) The names and addresses of its directors, if any, or if none, the names
7 and addresses of its incorporators;

8 (2) The date of its incorporation;

9 (3) That none of the corporation's shares has been issued;

10 (4) That no debt of the corporation remains unpaid;

11 (5) Reserved for future codification purposes; and

12 (6) That a majority of the incorporators or ~~initial~~the board of directors
13 authorized the dissolution.

14 (b) A corporation is dissolved upon the effective date of its articles of
15 dissolution."

16 Sec. 12.20. G.S. 55-15-01(a) reads as rewritten:

17 "(a) A foreign corporation may not transact business in this State until it
18 obtains a certificate of authority from the Secretary of ~~State~~State under this Chapter or
19 under Chapter 55A of the General Statutes."

20 ♦ Sec. 12.21. G.S. 55-15-03(a)(5) reads as rewritten:

21 "(5) The street address, and the mailing address if different from the street
22 address, of its registered office in this ~~State~~State, the county in which
23 the registered office is located, and the name of its registered agent at
24 that office; and".

25 Sec. 12.22. G.S. 55-15-04(b) reads as rewritten:

26 "(b) A foreign corporation may apply for an amended certificate of
27 authority by delivering an application to the Secretary of State for filing that sets forth:

28 (1) The name of the foreign corporation and the name in which the
29 corporation is authorized to transact business in North Carolina if
30 different;

31 (2) The name of the state or country under whose law it is incorporated;

32 (3) The date it was originally authorized to transact business in this State;

33 (4) A statement of the change or changes being made.

34 Except for the content of the application, the ~~The~~ requirements of G.S. 55-15-03 for
35 obtaining an original certificate of authority apply to obtaining an amended certificate
36 under this section."

37 Sec. 12.23. G.S. 55-15-20(b1) reads as rewritten:

38 "(b1) If the Secretary of State finds that such application conforms to law, he shall:

39 (1) Endorse on the application and an exact or conformed copy thereof the
40 word 'filed', and the hour, day, month and year of the filing thereof;

41 (2) File the application in his office; ~~and~~

42 (3) Issue a certificate of withdrawal to which he shall affix the exact or
43 conformed copy of the ~~application~~application; and

1 (4) Send to the foreign corporation or its representative the certificate of
2 withdrawal together with the exact or conformed copy of the
3 application affixed thereto."

4 Sec. 12.24. G.S. 55-15-31(b) reads as rewritten:

5 "(b) If the foreign corporation does not correct each ground for
6 revocation or demonstrate to the reasonable satisfaction of the Secretary of State that
7 each ground determined by the Secretary of State does not exist ~~with~~within 60 days
8 after notice is mailed, the Secretary of State may revoke the foreign corporation's
9 certificate of authority by signing a certificate of revocation that recites the ground or
10 grounds for revocation and its effective date. The Secretary of State shall file the
11 original of the certificate and mail a copy to the foreign corporation."

12 Sec. 12.25. G.S. 55-15-32(a) reads as rewritten:

13 "(a) A foreign corporation may appeal the Secretary of State's
14 revocation of its certificate of authority to the superior court of Wake County within 30
15 days after ~~service of the certificate of revocation is mailed.~~mailed to the foreign
16 corporation by the Secretary of State. The appeal is commenced by filing a petition
17 with the court and with the Secretary of State requesting the court to set aside the
18 revocation. The petition shall have attached to it copies of the corporation's certificate
19 of authority and the Secretary of State's certificate of revocation. The appeal to the
20 superior court shall be determined upon such further evidence, notice and opportunity to
21 be heard, if any, as the court may deem appropriate under the circumstances. The
22 foreign corporation shall have the burden of establishing that it is entitled to have the
23 revocation set aside."

24 Sec. 12.26. G.S. 55-16-02(b)(1) reads as rewritten:

25 "(1) Records of any final action taken with or without a meeting by the
26 board of directors, or by a committee of the board of directors while
27 acting in place of the board of directors on behalf of the corporation,
28 minutes of any meeting of the ~~shareholders,~~shareholders and records of
29 action taken by the shareholders ~~or board of directors~~ without a meeting,
30 to the extent not subject to inspection under G.S. 55-16-02 (a);".

31 Sec. 13. G.S. 62-15(h) reads as rewritten:

32 "(h) The executive director is authorized to employ, subject to approval by the State
33 Budget Officer, expert witnesses and such other professional expertise as the executive
34 director may deem necessary from time to time to assist the public staff in its
35 participation in Commission proceedings, and the compensation and expenses therefor
36 shall be paid by the utility or utilities participating in said proceedings. Such
37 compensation and expenses shall be treated by the Commission, for rate-making
38 purposes, in a manner generally consistent with its treatment of similar expenditures
39 incurred by utilities in the presentation of their cases before the Commission. An
40 accounting of such compensation and expenses shall be reported annually to the Joint
41 Legislative Utility Review Committee and to the Speaker of the House of
42 Representatives and the President Pro Tempore of the Senate."

43 Sec. 14. G.S. 62-110.2(e) reads as rewritten:

1 "(e) The furnishing of electric service in any area which becomes a part of any
2 municipality after April 20, 1965, either by annexation or incorporation, (whether or not
3 such area, or any portion thereof, shall have been assigned pursuant to subsection (c) of
4 this section) shall be subject to the provisions of ~~Article 41 of Subchapter X of Chapter 160~~
5 Part 2, Article 16 of Chapter 160A of the General Statutes, and any provisions of this
6 section inconsistent with said Article shall not be applicable within such area after the
7 effective date of such annexation or incorporation."

8 Sec. 15. G.S. 62-118(a) and G.S. 62-262.2(e) are amended by deleting "G.S.
9 62-262(h)" and substituting in lieu thereof "G.S. 62-262(k)".

10 Sec. 16. G.S. 74-64(a)(3) reads as rewritten:

11 "(3) If payment of any civil penalty assessed pursuant to this section is not
12 received by the Department or equitable settlement reached within 30
13 days following notice to the operator of the assessment of the civil
14 penalty, or within 30 days following the denial of any appeal by the
15 operator pursuant to ~~G.S. 74-61 and 74-62, G.S. 74-61,~~ the Department
16 shall refer the matter to the Attorney General for the institution of a
17 civil action in the name of the State in the superior court of the county
18 in which the violation is alleged to have occurred to recover the
19 amount of the penalty."

20 Sec. 17. G.S. 90-95(d)(2), as amended by Section 1, Chapter 641 of the 1989
21 Session Laws, is amended by deleting "phencyclidine" and substituting in lieu thereof
22 the correct spelling, "phencyclidine".

23 Sec. 18. G.S. 90A-30(c)(2) reads as rewritten:

24 "(2) Who has requested an administrative hearing fails to pay the penalty
25 within 60 days after service of a written copy of the decision as
26 provided in ~~G.S. 150-36, G.S. 150B-36.~~"

27 Sec. 19. (a) G.S. 105-230 reads as rewritten: ♦

28 **"§ 105-230. Charter suspended for failure to report.**

29 If a corporation required by the provisions of this Subchapter to file any report or
30 return or to pay any tax or fee, either as a public utility (not as an agency of interstate
31 commerce) or as a corporation incorporated under the laws of this State, or as a foreign
32 corporation domesticated in or doing business in this State, or owning and using a part
33 or all of its capital or plant in this State, fails or neglects to make any such report or
34 return or to pay any such tax or fee for 90 days after the time prescribed in this
35 Subchapter for making such report or return, or for paying such tax or fee, the Secretary
36 of Revenue shall certify such fact to the Secretary of State. The Secretary of State shall
37 thereupon suspend the articles of incorporation of any such corporation which is
38 incorporated under the laws of this State by appropriate entry upon the records of his
39 office, or suspend the certificate of authority of any such foreign corporation to do
40 business in this State by proper entry. Thereupon all the powers, privileges, and
41 franchises conferred upon such corporation by such articles of incorporation or by such
42 certificate of authority shall cease and determine. The Secretary of State shall
43 immediately notify by mail every such domestic or foreign corporation of the action
44 taken by him, and also shall immediately certify such suspension to the register of deeds of the

1 county in which the principal office or registered office of such corporation is located in this
2 State with instructions to the register of deeds, and it shall be the register's duty to record and
3 index the suspension in the Record of Incorporations. After the recordations, the register may
4 destroy the certificate. him."

5 (b) G.S. 105-232 reads as rewritten:

6 "**§ 105-232. Corporate rights restored; receivership and liquidation.**

7 Any corporation whose articles of incorporation or certificate of authority to do
8 business in this State has been suspended by the Secretary of State, as provided in G.S.
9 105-230, which complies within five years after such suspension, with all the
10 requirements of this Subchapter and pays all State taxes, fees, or penalties due from it
11 (which total amount due may be computed, for years prior and subsequent to said
12 suspension, in the same manner as if such suspension had not taken place), and upon
13 payment to the Secretary of Revenue of a fee of twenty-five dollars (\$25.00) to cover
14 the cost of reinstatement, shall be entitled to exercise again its rights, privileges, and
15 franchises in this State. The Secretary of Revenue shall notify the Secretary of State of
16 such compliance and the Secretary of State shall reinstate the corporation by appropriate
17 entry upon the records of his office. The Secretary of State shall immediately notify the
18 corporation of the reinstatement and certify such reinstatement to the register of deeds of the
19 county in which the suspension was recorded. It shall thereupon be the register's duty, upon
20 receipt of the fee specified in G.S. 161-10 from the corporation, to record and index the
21 reinstatement in the Records of Corporations. The Register of Deeds shall note the fact of
22 recordation on the certificate and forward it to the corporation or its representative.
23 reinstatement.

24 When the certificate or articles of incorporation in this State have been suspended by
25 the Secretary of State, as provided in G.S. 105-230, or similar provisions of prior or
26 subsequent Revenue Acts, and there remains property held in the name of the
27 corporation, or undisposed of at the time of such suspension, or there remain
28 possibilities of reverters, reversionary interests, rights of reentry or other future interests
29 that may accrue to the corporation or its successors or stockholders, and the time within
30 which the corporate rights might be restored as provided by this section has expired, any
31 stockholder or any bona fide creditor or other interested party may apply to the superior
32 court for the appointment of a receiver. Application for such receiver may be made in a
33 civil action to which all stockholders or their representatives or next of kin shall be
34 made parties. Stockholders whose whereabouts are unknown and unknown
35 stockholders and unknown heirs and next of kin of deceased stockholders may be
36 served by publication, as well as creditors, dealers and other interested persons, and a
37 guardian **ad litem** may be appointed for any stockholders or their representatives who
38 may be an infant or incompetent. The receiver shall enter into such bond with such
39 sureties as may be set by the court and shall give such notice to creditors by publication
40 or otherwise as the court may prescribe. Any creditor who shall fail to file his claim
41 with the receiver within the time set shall be barred of the right to participate in the
42 distribution of the assets. Such receiver shall have authority to sell such property or
43 possibilities of reverters, reversionary interests, rights of reentry, or other future
44 interests, upon such terms and in such manner as shall be ordered by the court, apply the
45 proceeds to the payment of any debts of such corporation, and distribute the remainder

1 among the stockholders or their representatives in proportion to their interests therein.
2 Shares due to any stockholder who is unknown or whose whereabouts are unknown
3 shall be paid into the office of the clerk of the superior court, by him to be disbursed
4 according to law, in the event the stock books of the corporation shall be lost or shall
5 not reflect the latest stock transfers, the court shall determine the respective interests of
6 the stockholders from the best evidence available, and the receiver shall be protected in
7 acting in accordance with such finding. Such proceeding is authorized for the sole
8 purpose of providing a procedure for disposing of the corporate assets by the payment
9 of corporate debts, including franchise taxes which had accrued prior to the suspension
10 of the corporate charter and any other taxes the assessment or collection of which is not
11 barred by a statute of limitations, and by the transfer to the stockholders or their
12 representatives their proportionate shares of the assets owned by the corporation."

13 (c) This section shall become effective July 1, 1990.

14 Sec. 20. G.S. 106-140.1(a) reads as rewritten:

15 "(a) On or before December 31 of each year, every person doing
16 business in North Carolina and operating as a ~~wholesaler as defined in G.S. 106-~~
17 ~~121(14f) or manufacturer as defined in G.S. 106-121(11a) or repackager as defined in~~
18 G.S. 106-121(14e) wholesaler, manufacturer, or repackager, as those terms are defined
19 in subsection (j) of this section, shall register with the Commissioner his name and
20 business location(s) in North Carolina. If said person has no business locations in North
21 Carolina, he shall register his name and location of his corporate offices."

22 Sec. 21. G.S. 110-92 reads as rewritten:

23 "**§ 110-92. Duties of State and local agencies.**

24 When requested by an operator of a day-care facility or by the Secretary of Human
25 Resources, it shall be the duty of local and district health departments to visit and
26 inspect a day-care facility to determine whether the facility complies with the health and
27 sanitation standards required by this Article and with the minimum health and sanitation
28 standards adopted as rules by the Commission for Health Services as authorized by G.S.
29 110-91(1), and to submit written reports on such visits or inspections to the Department
30 of Human Resources on forms approved and provided by the Department of
31 Environment, Health, and Natural Resources.

32 When requested by an operator of a day-care facility or by the Secretary, it shall be
33 the duty of the local and district health departments, and any building inspector, fire
34 prevention inspector, or fireman employed by local government, or any fireman having
35 jurisdiction, or other officials or personnel of local government to visit and inspect a
36 day-care facility for the purposes specified in this Article, including plans for
37 evacuation of the premises and protection of children in case of fire, and to report on
38 such visits or inspections in writing to the Secretary of Human Resources on forms
39 provided by the Department so that such reports may serve as the basis for action or
40 decisions by the Secretary or Department as authorized by this Article."

41 Sec. 22. G.S. 113-202.1(c), as enacted by Chapter 423 of the 1989 Session
42 Laws, is amended by deleting "G.S. 113A-202(d)" and inserting in lieu thereof "G.S.
43 113-202(d)".

44 Sec. 23. (a) G.S. 120-123(20) is repealed.

1 (b) G.S. 120-123(34a) is repealed.

2 (c) G.S. 120-123(44) is amended by deleting "G.S. 143B-168.1" and inserting
3 in lieu thereof "G.S. 143B-168.3".

4 (d) G.S. 120-123(52) is amended by deleting "G.S. 115C-489.3" and
5 substituting in lieu thereof "G.S. 115C-489.4".

6 Sec. 24. G.S. 120-70.71(11), as enacted by Section 10.1 of Chapter 802 of
7 the 1989 Session Laws, is amended by deleting the word "and" following the semicolon.

8 Sec. 25. G.S. 120-166(b)(4) is amended by deleting "G.S. 160-31" and
9 substituting in lieu thereof "G.S. 160A-31".

10 Sec. 26. (a) G.S. 122C-3(15) reads as rewritten:

11 "(15) 'Guardian' means a person appointed as a guardian of the person or
12 general guardian by the court under Chapters ~~7A, 33, or 35A-7A~~ or
13 35A or former Chapters 33 or 35 of the General Statutes."

14 (b) G.S. 122C-203 is amended by deleting the phrase "Chapters 33 or
15 35A" and substituting in lieu thereof "Chapter 35A or former Chapters 33 or 35".

16 (c) G.S. 122C-242(b) is amended by deleting the phrase "Chapters 33 or
17 35" and substituting in lieu thereof "Chapter 35A".

18 (d) G.S. 122C-53 and G.S. 122C-241 are amended by deleting the phrase
19 "Chapters 33 or 35" wherever it occurs and inserting in lieu thereof the phrase "Chapter
20 35A or former Chapters 33 or 35".

21 Sec. 27. G.S. 122C-55(a1) is amended by deleting "North Carolina Memorial
22 Hospital" and inserting in lieu thereof "the University of North Carolina Hospitals at
23 Chapel Hill" throughout the subsection.

24 Sec. 27.1. Section 1 of Chapter 823, Session Laws of 1989 is amended by
25 deleting "G.S. 122C-161(a)", and substituting "G.S. 122C-261(a)".

26 Sec. 28. G.S. 128-26(r)(5) reads as rewritten:

27 "(5) The member makes a lump sum payment into the Annuity Saving
28 Fund equal to the full liability of the service credits calculated on the
29 basis of the assumptions used for purposes of the actuarial valuation of
30 the retirement system's liabilities, and the calculation of the amount
31 payable shall take into account the retirement allowance arising on
32 account of the additional service credit commencing at the earliest age
33 at which the member could retire on an unreduced retirement
34 allowance, as determined by the Board of Trustees upon the ~~advise~~
35 advice of the actuary, plus an administrative fee to be determined by
36 the Board of Trustees."

37 Sec. 29. G.S. 130A-33.30 reads as rewritten:

38 **"§ 130A-33.30. Commission of Anatomy – creation; powers and duties.**

39 There is hereby created the Commission of Anatomy of the Department of
40 Environment, Health, and Natural Resources with the power and duty to adopt rules for
41 the distribution of dead human bodies and parts thereof for the purpose of promoting the
42 study of anatomy in the State of North Carolina. The Commission is authorized to
43 receive dead bodies pursuant to ~~G.S. 90-216.6~~ G.S. 130A-415 and to be a donee of a
44 body or parts thereof pursuant to ~~Article 15A of Chapter 90~~ Part 3, Article 16 of Chapter

1 130A of the General Statutes known as the Uniform Anatomical Gift Act and to
2 distribute such bodies or parts thereof pursuant to the rules adopted by the
3 Commission."

4 Sec. 30. (a) G.S. 130A-310.5(c), as amended by Section 4 of Chapter 286 of
5 the 1989 Session Laws, is amended by deleting the phrase "Emergency Hazardous
6 Waste Site Remedial Fund" and substituting in lieu thereof "Emergency Response
7 Fund".

8 (b) G.S. 130A-310.7(a), as amended by Section 6 of Chapter 286 of the 1989
9 Session Laws, is amended by deleting the semicolon following the word "substance" and
10 substituting a comma in lieu thereof.

11 (c) G.S. 130A-310.22, as enacted by Section 10 of Chapter 286 of the 1989
12 Session Laws, is amended by deleting the phrase "42 U.S.C. § 9604(b)(9)" and inserting
13 in lieu thereof "42 U.S.C. § 9604(c)(9)".

14 Sec. 31. G.S. 130B-15(e), as enacted by Chapter 168 of the 1989 Session
15 Laws, reads as rewritten:

16 "(e) The Commission shall provide through its own personnel, private contractors,
17 cooperative agreement with other governmental agencies, or any combination thereof,
18 any active maintenance or remedial actions that may be required. Payment for the cost
19 thereof shall be made from the Long-Term Care Fund established pursuant to ~~G.S. 130B-~~
20 ~~16-~~G.S. 130B-17."

21 Sec. 32. G.S. 143-166.2(d) is amended by deleting "Article 26 of Chapter
22 130" and substituting in lieu thereof "Article 7 of Chapter 131E".

23 Sec. 33. G.S. 143-215.1(b1)(4), as enacted by Section 2 of Chapter 453 of
24 the 1989 Session Laws, reads as rewritten:

25 "(4) Requirements of subsection (a) of this section that the Department
26 review and ~~approval~~approve of each individual facility."

27 Sec. 34. G.S. 143-350 is amended by deleting "G.S. 143-214" and
28 substituting in lieu thereof "G.S. 143B-282".

29 Sec. 35. (a) G.S. 143B-138(b)(9) is amended by deleting "Mental
30 Retardation" in the phrase "Division of Mental Health, Mental Retardation, and
31 Substance Abuse Services" and substituting in lieu thereof "Developmental Disabilities".

32 (b) G.S. 143B-138(b)(10) is amended by deleting "Mental Retardation" in the
33 phrase "Commission for Mental Health, Mental Retardation, and Substance Abuse
34 Services" and substituting in lieu thereof "Developmental Disabilities".

35 Sec. 36. G.S. 143B-426.40 is amended by deleting "G.S. 147-58" and
36 substituting in lieu thereof "G.S. 147-64.6, G.S. 147-64.7,".

37 Sec. 37. G.S. 143B-426.39(14), as enacted by Section 4 of Chapter 239 of
38 the 1989 Session Laws, is amended by deleting the word "to" following the word
39 "thereof" in the first sentence of the subdivision.

40 Sec. 38. (a) G.S. 159I-15(d) is amended in the second sentence by deleting
41 the phrase "place or place" and substituting in lieu thereof the phrase "place or places".

42 (b) G.S. 159I-15(e) is amended in the third paragraph by deleting the word
43 "at" as it appears in the phrase "such price or prices at the Local Government
44 Commission shall determine" and substituting in lieu thereof the word "as".

1 (c) G.S. 159I-16(c) is amended in the second sentence by deleting the word
2 "noticed" as it appears in the phrase "irrespective of whether such parties have noticed
3 thereof" and substituting in lieu thereof the word "notice".

4 (d) G.S. 159I-16(d) is amended by inserting a comma after the word
5 "Agency" as it appears in the phrase "costs of operation of the Agency".

6 (e) G.S. 159I-30(h) is amended:

7 (1) In the first sentence by deleting the word "form" as it appears in the
8 phrase "40 years form their date" and substituting in lieu thereof the
9 word "from"; and

10 (2) In the second sentence by deleting the phrase "place or place" and
11 substituting in lieu thereof the phrase "place or places".

12 Sec. 39. G.S. 160A-372, as amended by Chapter 747 of the 1987 Session
13 Laws, is amended by deleting "G.S. 136-10 or G.S. 136-11" and inserting in lieu thereof
14 "G.S. 136-66.10 or G.S. 136-66.11".

15 Sec. 40. G.S. 160A-400.2, as enacted by Chapter 706 of the 1989 Session
16 Laws, is amended by deleting "160A-400.15" and inserting in lieu thereof "160A-
17 400.14".

18 Sec. 41. G.S. 160A-617, as enacted by Chapter 740 of the 1989 Session
19 Laws, is amended by deleting the word "of" in the phrase "In addition of the powers
20 granted by this Article" and inserting in lieu thereof the word "to".

21 Sec. 42. G.S. 163-125(f), as enacted by Chapter 325 of the 1989 Session
22 Laws, is amended by deleting "G.S. 163-124(c)" as it occurs in the phrase "in the case of
23 a write-in candidate, the last day for filing petitions under G.S. 163-124(c)", and
24 substituting in lieu thereof "G.S. 163-123(c)".

25 Sec. 43. G.S. 163-132.2(c) reads as rewritten:

26 ♦ (c) If the Executive Secretary-Director of the State Board does not find
27 that the filed precinct boundaries are coterminous with the current township boundaries,
28 current municipal boundaries, census block boundaries, or a combination of those
29 boundaries, he shall not approve those precinct boundaries but shall alter the precinct
30 boundaries to be coterminous with the census block boundaries, municipal boundaries
31 or township boundaries nearest to those existing precinct boundaries and these altered
32 precincts shall then be the official precincts. If the Executive Secretary-Director of the
33 State Board finds that a precinct does not consist solely of contiguous territory, he shall
34 alter the precinct boundary so that it consists solely of contiguous territory, except
35 where the non-contiguity is caused by the operation of ~~G.S. 160A-132.5A~~. G.S. 163-
36 132.5A."

37 Sec. 44. Section 42 of Chapter 770, Session Laws of 1989, is amended by
38 deleting "Chapter 187, Session Laws of 1987", and substituting "Chapter 187, Session
39 Laws of 1989".

40 Sec. 45. Section 5 of Chapter 758, Session Laws of 1989, reads as rewritten:

41 "Sec. 5. Nothing in this ~~Article~~ act shall be construed to affect the authority of the
42 Department of Human Resources otherwise provided by law to license or regulate any
43 health service facility ~~of~~ or domiciliary service facility."

1 Sec. 46. (a) G.S. 136-176(a)(2), as enacted by Section 1.1 of Chapter 692,
2 Session Laws of 1989, reads as rewritten:

3 "(2) Motor vehicle use tax deposited in the fund under ~~G.S. 105-171~~ G.S.
4 105-173."

5 (b) Section 68.2 of Chapter 770, Session Laws of 1989, is repealed.

6 Sec. 47. The provisions of Sections 7, 8, and 9 of Chapter 751, Session Laws
7 of 1989, do not apply to references to the United States Department of Commerce.

8 Sec. 48. G.S. 159I-3(a)(6) as enacted by Chapter 756 of the 1989 Session
9 Laws reads as rewritten:

10 "(6) 'Division' means the ~~Division of Health Services~~ Division of Solid
11 Waste Management of the Department of Environment, Health, and
12 Natural Resources and any successor of said Division."

13 Sec. 49. G.S. 159I-7(b) as enacted by Chapter 756 of the 1989 Session Laws
14 reads as rewritten:

15 "(b) Moneys in the Solid Waste Management Loan Fund may be invested in the
16 same manner as permitted for investments of funds belonging to the State or held in the
17 State treasury. Interest earnings derived from such investments shall be credited to the
18 Fund, credited to such other use as may be provided in a trust agreement or resolution
19 securing any bonds or notes issued under the provisions of this Chapter, or credited to
20 such other use, including the payment of administrative expenses of the Agency, the
21 costs of research for solid waste management programs and the making of grants for
22 such research, as may be directed by the Board.

23 **(b1)** In connection with solid waste research to be contracted for by the ~~Solid~~
24 ~~Waste Branch, Division,~~ the Secretary of the ~~Department to which that Branch is assigned,~~
25 ~~statutorially,~~ Environment, Health, and Natural Resources shall negotiate, with the Board
26 of the Agency, a memorandum of agreement which shall contain necessary rules and
27 provisions for certifying that proper competitive bid procedures, and when appropriate,
28 proper sole source bid procedures, for contracts have been executed in connection with
29 a Request for Proposals (RFP); and, which shall state that a previously determined one-
30 to-one match requirement from private sector sources has been met in accordance with
31 rules and provisions set out in the memorandum of agreement, and that the Secretary is
32 ready to award a contract for a specified amount. The Treasurer, at the direction of the
33 board, shall certify that funds are available and that the purpose of the contract is
34 consistent with provisions for the use of solid waste loan program proceeds."

35 Sec. 50. This act is effective upon ratification, except as otherwise provided
36 herein, but Sections 12.1 through 12.26 of this act shall become effective July 1, 1990.