

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

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HOUSE BILL 1406*

Short Title: 1998 Technical Corrections.

(Public)

Sponsors: Representative Culpepper.

Referred to: Judiciary II.

May 21, 1998

A BILL TO BE ENTITLED

AN ACT TO MAKE VARIOUS TECHNICAL AMENDMENTS TO THE GENERAL STATUTES AS RECOMMENDED BY THE GENERAL STATUTES COMMISSION.

The General Assembly of North Carolina enacts:

Section 1. (a) G.S. 14-408 reads as rewritten:

"§ 14-408. Violation of § 14-406 or 14. Any person, firm, or corporation violating any of the provisions of G.S. 14-406 or 14-407 shall be guilty of a Class 2 misdemeanor."

(b) This section becomes effective December 1, 1998. Prosecutions for offenses committed before the effective date of this section are not abated or affected by this section and the statutes that would be applicable but for this section remain applicable to those prosecutions.

Section 2. (a) G.S. 14-74 reads as rewritten:

"§ 14-74. Larceny by servants and other employees.

If any servant or other employee, to whom any money, goods or other chattels, or any of the articles, securities or choses in action mentioned in the following section, G.S. 14-75, by his master shall be delivered safely to be kept to the use of his master, shall withdraw himself from his master and go away with such money, goods or other chattels, or any of the articles, securities or choses in action mentioned as aforesaid, or any part

1 thereof, with intent to steal the same and defraud his master thereof, contrary to the trust
2 and confidence in him reposed by his said master; or if any servant, being in the service
3 of his master, without the assent of his master, shall embezzle such money, goods or
4 other chattels, or any of the articles, securities or choses in action mentioned as aforesaid,
5 or any part thereof, or otherwise convert the same to his own use, with like purpose to
6 steal them, or to defraud his master thereof, the servant so offending shall be guilty of a
7 felony: Provided, that nothing contained in this section shall extend to apprentices or
8 servants within the age of 16 years. If the value of the money, goods, or other chattels, or
9 any of the articles, securities, or choses in action mentioned in G.S. 14-75, is one hundred
10 thousand dollars (\$100,000) or more, the person is guilty of a Class C felony. If the value
11 of the money, goods, or other chattels, or any of the articles, securities, or choses in
12 action mentioned in G.S. 14-75, is less than one hundred thousand dollars (\$100,000), the
13 person is guilty of a Class H felony."

14 (b) G.S. 25-7-502 reads as rewritten:

15 **"§ 25-7-502. Rights acquired by due negotiation.**

16 (1) Subject to ~~the following section~~ G.S. 25-7-503 and to the provisions of G.S. 25-
17 7-205 on fungible goods, a holder to whom a negotiable document of title has been duly
18 negotiated acquires thereby:

- 19 (a) title to the document;
20 (b) title to the goods;
21 (c) all rights accruing under the law of agency or estoppel, including rights
22 to goods delivered to the bailee after the document was issued; and
23 (d) the direct obligation of the issuer to hold or deliver the goods according
24 to the terms of the document free of any defense or claim by him except
25 those arising under the terms of the document or under this article. In
26 the case of a delivery order the bailee's obligation accrues only upon
27 acceptance and the obligation acquired by the holder is that the issuer
28 and any indorser will procure the acceptance of the bailee.

29 (2) Subject to ~~the following section~~, G.S. 25-7-503, title and rights so acquired are
30 not defeated by any stoppage of the goods represented by the document or by surrender
31 of such goods by the bailee, and are not impaired even though the negotiation or any
32 prior negotiation constituted a breach of duty or even though any person has been
33 deprived of possession of the document by misrepresentation, fraud, accident, mistake,
34 duress, loss, theft or conversion, or even though a previous sale or other transfer of the
35 goods or document has been made to a third person."

36 (c) G.S. 25-7-507 reads as rewritten:

37 **"§ 25-7-507. Warranties on negotiation or transfer of receipt or bill.**

38 Where a person negotiates or transfers a document of title for value otherwise than as
39 a mere intermediary under ~~the next following section~~, G.S. 25-7-508, then unless otherwise
40 agreed he warrants to his immediate purchaser only in addition to any warranty made in
41 selling the goods

- 42 (a) that the document is genuine; and

1 (b) that he has no knowledge of any fact which would impair its validity or
2 worth; and

3 (c) that his negotiation or transfer is rightful and fully effective with respect
4 to the title to the document and the goods it represents."

5 (d) G.S. 44A-21 reads as rewritten:

6 **"§ 44A-21. Pro rata payments.**

7 In the event that the funds in the hands of the obligor and the obligor's personal
8 liability, if any, under ~~the previous section~~ G.S. 44A-20 are less than the amount of valid
9 lien claims that have been filed with the obligor under this Article the parties entitled to
10 liens shall share the funds on a pro rata basis."

11 Section 3. G.S. 39-23.3(b) reads as rewritten:

12 "(b) For the purposes of G.S. 39-23.4(a)(2) and G.S. 39-23.5, a person gives a
13 reasonably equivalent value if the person acquires an interest of the debtor in an asset
14 pursuant to a regularly conducted, ~~nonexclusive-noncollusive~~ foreclosure sale or execution
15 of a power of sale for the acquisition or disposition of the interest of the debtor upon
16 default under a mortgage, deed of trust, or security agreement."

17 Section 4. G.S. 62-268 reads as rewritten:

18 **"§ 62-268. Security for protection of public; liability insurance.**

19 No certificate or broker's license shall be issued or remain in force until the applicant
20 shall have procured and filed with the Division of Motor Vehicles such security bond,
21 insurance or self-insurance for the protection of the public as the Commission shall by
22 regulation require. The Commission shall require that every motor carrier for which a
23 certificate or license is required by the ~~provision~~ provisions of this Chapter, shall maintain
24 liability insurance or satisfactory surety of at least fifty thousand dollars (\$50,000)
25 because of bodily injury to or death of one person in any one accident and, subject to said
26 limit for one person, one hundred thousand dollars (\$100,000) because of bodily injury to
27 or death of two or more persons in any one accident, and fifty thousand dollars (\$50,000)
28 because of injury to or destruction of property of others in any one accident; and the
29 Commission may require any greater amount of insurance as may be necessary for the
30 protection of the public. Notwithstanding any rule or regulation to the contrary, the
31 Commission shall not require that any insurance procured and filed be provided in any
32 single policy of insurance or through a single insurer, if the insurers involved are
33 otherwise qualified. A motor carrier may satisfy the requirements of the Commission by
34 procuring insurance with coverage and limits of liability required by the Commission in
35 one or more policies of insurance issued by one or more insurers.

36 Notwithstanding any other provisions of this section or Chapter, bus companies shall
37 file with the Commission proof of financial responsibility in the form of bonds, policies
38 of insurance, or shall qualify as a self insurer, with minimum levels of financial
39 responsibility as prescribed for motor carriers of passengers pursuant to the provisions of
40 49 U.S.C. § ~~10927(a)(1)~~ 31138. Provided, further, that no bus company operating solely
41 within the State of North Carolina and which is exempt from regulation under the
42 provisions of G.S. 62-260(a)(7) shall be required to file with the Commission proof of the

1 financial responsibility in excess of one million five hundred thousand dollars
2 (\$1,500,000)."

3 Section 5. G.S. 115C-404(a) reads as rewritten:

4 "(a) Written notifications received in accordance with ~~G.S. 7A-675.1~~ G.S. 7A-675.2
5 are confidential records, are not public records as defined under G.S.132-1, and shall not
6 be made part of the student's official record under G.S. 115C-402. Immediately upon
7 receipt, the principal shall maintain these documents in a safe, locked record storage that
8 is separate from the student's other school records. The principal shall maintain these
9 documents until the principal receives notification that the judge dismissed the petition
10 under G.S. 7A-637, the judge transferred jurisdiction over the student to superior court
11 under G.S. 7A-608, or the judge granted the student's petition for expunction of the
12 records. At that time, the principal shall shred, burn, or otherwise destroy the documents
13 to protect the confidentiality of this information. In no case shall the principal make a
14 copy of these documents."

15 Section 6. (a) G.S. 139-3.1 is repealed.

16 (b) The repeal of this section shall not be construed to affect any language
17 currently in the General Statutes.

18 Section 7. G.S. 157-35 reads as rewritten:

19 "**§ 157-35. Creation of regional housing authority.**

20 If the board of county commissioners of each of two or more contiguous counties
21 having an aggregate population of more than 60,000 by resolution declares that there is a
22 need for one housing authority to be created for all of such counties to exercise powers
23 and other functions herein prescribed for a housing authority in such counties, a public
24 body corporate and politic to be known as a regional housing authority for all of such
25 counties ~~to exercise powers and other functions herein prescribed for a housing authority in such~~
26 ~~counties, a public body corporate and politic to be known as a regional housing authority for all~~
27 ~~of such counties~~ shall (after the commissioners thereof file an application with the
28 Secretary of State as hereinafter provided) thereupon exist for and exercise its powers and
29 other functions in such counties; and thereupon any housing authority created for any of
30 such counties shall cease to exist except for the purpose of winding up its affairs and
31 executing a deed to the regional housing authority as hereinafter provided: Provided, that
32 the board of county commissioners shall not adopt a resolution as aforesaid if there is a
33 county housing authority created for such county which has any bonds or notes
34 outstanding unless first, all holders of such bonds and notes consent in writing to the
35 substitution of such regional housing authority in lieu of such county housing authority
36 on all such bonds and notes; and second, the commissioners of such county housing
37 authority adopt a resolution consenting to the transfer of all the rights, contracts,
38 obligations, and property, real and personal, of such county housing authority to such
39 regional housing authority as hereinafter provided: Provided, further, that when the above
40 conditions are complied with and such regional housing authority is created and
41 authorized to exercise its powers and other functions, all rights, contracts, agreements,
42 obligations, and property, real and personal, of such county housing authority shall be in
43 the name of and vest in such regional housing authority, and all obligations of such

1 county housing authority shall be the obligations of such regional housing authority and
2 all rights and remedies of any person against such county housing authority may be
3 asserted, enforced, and prosecuted against such regional housing authority to the same
4 extent as they might have been asserted, enforced, and prosecuted against such county
5 housing authority. When any real property of a county housing authority vests in a
6 regional housing authority as provided above, the county housing authority shall execute
7 a deed of such property to the regional housing authority which thereupon shall file such
8 deed in the office provided for the filing of deeds: Provided, that nothing contained in this
9 sentence shall affect the vesting of property in the regional housing authority as provided
10 above.

11 The board of county commissioners of each of two or more said contiguous counties
12 shall by resolution declare that there is a need for one regional housing authority to be
13 created for all of such counties to exercise powers and other functions herein prescribed
14 in such counties, if such board of county commissioners finds (and only if it finds)

15 (1) Insanitary or unsafe dwelling accommodations exist in the area of its
16 respective county and/or there is a lack of safe or sanitary dwelling
17 accommodations in the county available for all the inhabitants thereof
18 and

19 (2) That a regional housing authority for the proposed region would be a
20 more efficient or economical administrative unit than a housing
21 authority for an area having a smaller population to carry out the
22 purposes of the housing authorities law and any amendments thereto, in
23 such county.

24 In determining whether dwelling accommodations are unsafe or insanitary, the board of
25 county commissioners shall take into consideration the following: the physical condition
26 and age of the buildings; the degree of overcrowding; the percentage of land coverage;
27 the light and air available to the inhabitants of such dwelling accommodations; the size
28 and arrangement of the rooms; the sanitary facilities; and the extent to which conditions
29 exist in such buildings which endanger life or property by fire or other causes.

30 If it shall determine that both (1) and (2) of the above enumerated conditions exist, the
31 board of county commissioners shall adopt a resolution so finding (which need not go
32 into any detail other than the mere finding). After the appointment, as hereinafter
33 provided, of the commissioners to act as the regional housing authority, said authority
34 shall be a public body and a body corporate and politic upon the completion of the taking
35 of the following proceedings:

36 The commissioners shall present to the Secretary of State an application signed by
37 them, which shall set forth (without any detail other than the mere recital)

38 (1) That the boards of county commissioners made the aforesaid
39 determination and that they have been appointed as commissioners;

40 (2) The name, and official residence of each of the commissioners, together
41 with a certified copy of the appointment evidencing their right to office,
42 the date and place of induction into and taking oath of office, and that

1 they desire the housing authority to become a public body and a body
2 corporate and politic under this Article;

3 (3) The term of office of each of the commissioners;

4 (4) The name which is proposed for the corporation; and

5 (5) The location of the principal office of the proposed corporation.

6 The application shall be subscribed and sworn to by each of said commissioners before
7 an officer authorized by the laws of the State to take and certify oaths, who shall certify
8 upon the application that he personally knows the commissioners and knows them to be
9 the officers as asserted in the application, and that each subscribed and swore thereto in
10 the officer's presence. The Secretary of State shall examine the application and if he finds
11 that the name proposed for the corporation is not identical with that of a person or of any
12 other corporation of this State or so nearly similar as to lead to confusion and uncertainty
13 he shall receive and file it and shall record it in an appropriate book of record in his
14 office.

15 When the application has been made, filed and recorded, as herein provided, the
16 authority shall constitute a public body and a body corporate and politic under the name
17 proposed in the application; the Secretary of State shall make and issue to the said
18 commissioners, a certificate of incorporation pursuant to this Article, under the seal of the
19 State, and shall record the same with the application.

20 In any suit, action or proceeding involving the validity or enforcement of, or relating
21 to any contract of the regional housing authority, the regional housing authority shall be
22 conclusively deemed to have been established in accordance with the provisions of this
23 Article upon proof of the issuance of the aforesaid certificate by the Secretary of State. A
24 copy of such certificate, duly certified by the Secretary of State, shall be admissible in
25 evidence in any such suit, action or proceeding, and shall be conclusive proof of the
26 filing and contents thereof."

27 Section 8. This act is effective when it becomes law.