



# HOUSE BILL 911: Regulatory Reform Act of 2022.

2021-2022 General Assembly

<b>Committee:</b>		<b>Date:</b>	June 30, 2022
<b>Introduced by:</b>	Reps. Riddell, Bradford, Moffitt, Yarborough	<b>Prepared by:</b>	Kyle Evans
<b>Analysis of:</b>	Conference Committee Substitute (H911-CCSBR-5)		Staff Attorney

**OVERVIEW:** *The Conference Committee Substitute for House Bill 911 would amend various State laws related to State and local government, utilities, education, occupational licenses, and other regulations, as well as make budget technical corrections.*

## CURRENT LAW & BILL ANALYSIS:

### CLARIFY REQUESTING BOARD FOR RESIDENCY LICENSE

[G.S. 115C-270.20](#) establishes the residency license for teachers – a one-year license, renewable twice for certain qualified teachers. The residency license must be requested by a local board of education and accompanied by a certification of supervision from a recognized educator preparation program in which the individual is enrolled.

**Section 1** would clarify that charter school boards can request that an individual be issued a residency license.

### TOLLING THE TERMS OF CHARTERS TO ALLOW TIME TO OBTAIN LAND USE APPROVALS

Under current law, the State Board of Education may grant the initial charter to a charter school for a period not to exceed 10 years. The State Board of Education may place a charter school on governance non-compliance if it fails to maintain the minimum student enrollment stated in the charter application.

**Section 2** would provide an automatic extension to the deadline to begin operations at a charter school if it notifies the State Board of Education that it is seeking land use or development approvals for its selected site or facilities, or if it is challenging the denial of any requested land use or development approvals. The term of the charter would be tolled during the extension period issued under this section.

### AUTHORIZE SANITARY DISTRICTS TO CREATE, MAINTAIN, AND OPERATE PARKS AND RECREATION PROGRAMS AND FACILITIES

Sanitary districts are special purpose governments with taxing power and may also apply service charges and rates based upon the benefits derived. [G.S. 130A-55](#) authorizes sanitary districts to acquire, construct, maintain, and operate sewage collection, treatment, and disposal systems, as well as a broad variety of other utilities necessary for the preservation and promotion of public health and sanitary welfare. Sanitary districts are authorized to acquire (either through purchase, condemnation, or otherwise) interests in real

Jeffrey Hudson  
Director



Legislative Analysis  
Division  
919-733-2578

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property for the purposes of constructing or maintaining the works of the district. In addition, sanitary districts are authorized to acquire real property for the purposes of constructing medical clinics and operating non-profit cemeteries.

**Section 3** would authorize sanitary districts to provide for the creation, maintenance, and operation of parks and recreation programs and facilities. However, sanitary districts would be prohibited from using the power of eminent domain to acquire real property for parks and recreation programs or facilities.

## **CLARIFY NC VETERINARY MEDICAL BOARD AUTHORITY TO ISSUE CERTAIN CIVIL PENALTIES**

[G.S. 90-187.8](#) provides the NC Veterinary Medical Board (Board) with authority to impose and collect from "licensees" a civil penalty of up to \$5,000 for each violation of the veterinary licensing Article. [S.L. 2019-170](#) provided that in addition to the required veterinary license to practice veterinary medicine, no person may own a veterinary facility without having obtained a veterinary facility permit from the board.

**Section 4** would provide that the Board may impose and collect from licensees and veterinary facility permittees a civil penalty of up to \$5,000 for each violation of the veterinary licensing Article.

## **STATE AUDITOR TECHNICAL CHANGE**

[G.S. 143C-6-23](#) directs the Office of State Budget Management (OSBM) to adopt rules to ensure the uniform administration of State grants by all grantor State agencies. As a part of the uniform administration of State grants, State agencies are required to register each State assistance program under the agency, as well as program grantees and subgrantees, with the State. While the State Auditor used to receive those reports, OSBM's rules adopted in 2005, and readopted in 2016, direct State agencies to submit those reports to OSBM directly.

**Section 5** would eliminate outdated statutory language in the State Budget Act directing State agencies to register grant programs and recipients with the State Auditor's office.

## **CONFORMING CHANGE TO LEAD DUST STANDARDS**

In December 2020, EPA announced it was undertaking rulemaking to lower the clearance levels for lead that can remain in dust on floors and windowsills after lead removal activities. This final rule became effective March 8, 2021, and can be found at 40 CFR Part 745 and the final rule appeared in the Federal Register at [86 FR 983](#).

**Section 6** would conform the State standards for post-remediation lead dust clearance levels to the new federal standards. This section would become effective December 1, 2022.

## **SENSITIVE PUBLIC SECURITY INFORMATION PUBLIC RECORD CHANGES**

[G.S. 132-1](#) broadly defines "public records" as "all documents, papers, letters, maps, books, photographs, films, sound records, magnetic or other tapes, electronic data-processing records, artifacts, or other documentary material, regardless of physical form or characteristics, made or received pursuant to law or ordinance in connection with the transaction of public business by any agency of North Carolina government or its subdivisions."

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The North Carolina Public Records Law provides that since public records and information compiled by the agencies of North Carolina government are the property of the people, it is therefore the policy of the State that people may obtain copies of these records unless the records are subject to a statutory exception that prevents their public disclosure.

[G.S. 132-1.7](#) excludes detailed plans and drawings of public buildings and infrastructure facilities from the definition of "public records."

**Section 7** would broaden the exclusion from public records disclosure for detailed plans and drawings of public buildings and infrastructure facilities to include detailed plans and drawings contained in information storage systems or geographic information system (GIS) databases. Furthermore, it would exclude from disclosure as a public record the specific engineering, vulnerability, or detailed design information about proposed or existing critical infrastructure (both physical and virtual) for energy utilities. This section would also make technical and formatting changes to the existing exemptions in the statute, as well as conforming changes to applicable statutes. This section would also expand the public records exclusion for "prison operations" to "prison or local confinement facilities operations."

## **EXEMPT OFF-FRAME MODULAR HOMES FROM CERTAIN DESIGN ELEMENTS REQUIRED BY THE NORTH CAROLINA BUILDING CODE**

A modular home is statutorily defined as a factory-built structure that is designed to be used as a dwelling, is manufactured in accordance with State Residential Building Code specifications for modular homes, and bears a seal or label issued by the Department of Insurance pursuant to [G.S. 143-139.1](#).

To qualify for a label or seal signifying manufacture in compliance with the State Building Code, a modular home intended for single-family use must comply with certain requirements for roof pitch, eave projection, minimum height of the first-story exterior wall, siding and roofing materials, and foundations, as set forth in G.S. 143-139.1(a).

**Section 9** would amend G.S. 143-139.1(a) by making it applicable only to single-family modular homes that are built on a frame. Modular homes that are not built on a frame would not have to meet the requirements set forth in this subsection to be certified as having been manufactured in compliance with the State Residential Building Code.

## **EXTEND DEADLINE FOR SMALL MUNICIPALITIES TO ADOPT COMPREHENSIVE LAND-USE PLANS**

[S.L. 2019-111](#) made various changes to the land-use regulatory laws of the State, including reorganizing and consolidating existing statutes governing local government regulation of land planning and development into a new [Chapter 160D](#). Section 2.9(c) of S.L. 2019-111 provided that any local government that has adopted zoning regulations but had not yet adopted a comprehensive plan must adopt such a plan no later than July 1, 2022.

**Section 10** would extend the deadline to adopt a comprehensive plan to July 1, 2023 for municipalities with a population of 1,500 or less.

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## **PERMIT A CONSUMER FINANCE LICENSEE TO TAKE A CONFESSION OF JUDGMENT FROM A BORROWER FOLLOWING THE BORROWER'S FAILURE TO MAKE A PAYMENT AS REQUIRED UNDER THE LOAN CONTRACT**

Generally, a person licensed to conduct consumer finance business in this State is not permitted to take any confession of judgment from a borrower.

**Section 11** would provide that this prohibition does not apply to a licensee taking a confession of judgment from a borrower following the borrower's failure to make a payment as required under the loan contract.

## **CLARIFY SCOPE OF LICENSED WATER HEATER INSTALLATION AND REPAIR**

Article 2 of Chapter 87 of the General Statutes establishes the State Board of Examiners of Plumbing, Heating, and Fire Sprinkler Contractors and sets out the general requirements for the licensing of plumbing, heating, and fire sprinkler contractor work. This Article does not apply to a retailer that sells a water heater to a buyer for installation in a one- or two-family home where the retailer contracts with a licensee under the Article where the sales and installation contract is signed by the retailer, the buyer, and the licensee and includes the licensee's license number and telephone number.

**Section 12** would clarify that the installation or replacement of condensing units, air handlers, gas furnaces, package units, boilers, water heaters, heat exchangers, whole-house water purification or treatment systems, as well as the connection, repair, or alteration to the plumbing drainage, water or venting systems or the potable water system are included under the umbrella of plumbing, heating, and fire sprinkler contracting work and persons engaged in those practices must be licensed under this Article. This section would also:

- clarify that the Article does not apply to those who clean plumbing drains, and
- require that a sales and installation contract for a water heater only needs to be signed by the retailer and the buyer, and identify the licensee, including the licensee's license number and telephone number.

## **WATERSLIDE DISPATCHER CHANGE**

The Amusement Device Safety Act of North Carolina defines "operator" to mean a person having direct control of the operation of an amusement device and requires that an operator of a device subject to the Act's provision be at least 18 years of age.

**Section 13** would define "waterslide dispatcher" as an employee stationed at the top of a waterslide for the purpose of managing the ride queue and dispatching waterslide users and provide that waterslide dispatchers must be at least 16 years of age.

## **ALLOW LOCAL GOVERNMENTS TO ENTER INTERGOVERNMENTAL SUPPORT AGREEMENTS WITH THE MILITARY TO PROVIDE INSTALLATION-SUPPORT SERVICES**

10 U.S.C. §2679 authorizes the Secretaries of the Army, Navy, Air Force, or Homeland Security to enter into intergovernmental support agreements with State or local governments.

**Sections 14(a) and 14(b)** would allow counties and cities, respectively, to enter into agreements to provide installation-support with military installations.

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## AMEND LICENSURE REQUIREMENTS FOR COSMETIC ARTS

The North Carolina Board of Cosmetic Arts Examiners licenses teachers of the following cosmetic arts: cosmetology, esthetics, manicuring, and natural hair care. To be licensed as a teacher an applicant must possess a high school diploma or high school graduation equivalency certificate, must also be licensed and in good standing as a practitioner, and must meet certain experience requirements ranging from 2 years for natural hair care to 5 years for cosmetology. For licensure to teach cosmetology, esthetics, or manicuring, the applicant must pass an examination conducted by the Board. No examination is currently required for applicants seeking licensure as natural hair care teachers.

**Section 15** would reduce the existing experience requirements to one year for all applicants and would require applicants for licensure as a natural hair care teacher to pass a Board-conducted examination.

This section would become effective October 1, 2022, and apply to applications for licensure on or after that date.

## ADD APPROVED FIREARM SAFETY AND TRAINING COURSE

To receive a permit to carry a concealed handgun in the State, an applicant must, among other requirements, successfully complete an approved firearms safety and training course. The North Carolina Criminal Justice Education and Training Standards Commission (Commission) prepares and publishes general guidelines for firearms safety and training courses. In addition to meeting those guidelines, a firearms safety and training course must be certified or sponsored by either (i) the Commission, (ii) the National Rifle Association (NRA), or (iii) a law enforcement agency, college, private or public institution or organization, or firearms training school, taught by instructors certified by the Commission or the NRA.

**Section 16** would add the United States Concealed Carry Association (CCA) to the list of organizations that may certify or sponsor firearms safety and training courses, and adds CCA-certified instructors to the list of instructors permitted for firearms safety and training courses offered by law enforcement agencies, colleges, private or public institutions or organizations, or firearms training schools.

This section would become effective on July 1, 2022, and apply to permit applications submitted on or after that date.

## AMEND NORTH CAROLINA TIMESHARE ACT TRANSFER PROVISIONS

S.L. 2021-163 made various changes to the North Carolina Timeshare Act, including creating new definitions and regulations for the provision of "timeshare transfer services."

**Section 17** would narrow the definition of "timeshare transfer services" to exclude services "offered" in the State or "offered or provided anywhere in connection with a timeshare program containing timeshare units or a timeshare property located in this State." This section would also remove language that could be interpreted to subject out-of-state companies acting out-of-state to personal jurisdiction in a North Carolina court. It would narrow this to any business providing such services "in this State."

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## **CHANGE PERTAINING TO THE REORGANIZATION OF CHILD AND FAMILY WELL-BEING PROGRAMS AND SERVICES WITHIN THE DEPARTMENT OF HEALTH AND HUMAN SERVICES**

Section 9B.1(c) of House Bill 103 would prohibit the Department of Health and Human Services from reorganizing its child and family well-being programs and services and associated funding without express authorization from the General Assembly.

**Section 18** would, if House Bill 103 becomes law, repeal that section of House Bill 103.

## **AMEND PARAMETERS FOR ECONOMIC DEVELOPMENT HIGH-YIELD PROJECT FUNDS**

Section 11.10.(a) of House Bill 103 sets out criteria for the award of a Job Development Investment Grant for a qualifying project in Chatham County where the business receiving the grant manufactures computer chips at the project site.

**Section 19** would, if House Bill 103 becomes law, amend Section 11.10 of that act to provide that the business receiving the grant must engage in manufacturing, but not specifically require the manufacture of computer chips.

This section would become effective July 1, 2022.

## **AMEND PARAMETERS FOR QUALIFYING PROJECT FUNDING IN RANDOLPH COUNTY**

Section 11.13 of House Bill 103 sets out criteria for an appropriation for a qualifying project in Randolph County.

**Section 20** would, if House Bill 103 becomes law, amend that criteria to reduce the number of required eligible and expansion positions that must be created from 5,000 to 4,500, and clarify the subset of funds incentivizing job creation and maintenance apply to the next 1,125 positions created after the grantee first creates 3,875 positions.

## **REPEAL ALTERNATE GRANT DISBURSEMENT PROCEDURE FOR CERTAIN WATER AND WASTEWATER INFRASTRUCTURE FUNDS**

Section 12.9(f) of House Bill 103 sets out alternative criteria for the disbursement of grant funds for certain water and wastewater infrastructure funds.

**Section 21** would, if House Bill 103 becomes law, repeal that section of House Bill 103.

## **PROVIDE ADDITIONAL GUIDELINES FOR DEVELOPMENT OF THE FLOOD RESILIENCY BLUEPRINT**

S.L. 2021-180 directed DEQ to contract with an organization to develop and implement a Flood Resiliency Blueprint (Blueprint) for major watersheds impacted by flooding.

**Section 22** would require the organization contracted by DEQ to develop the Blueprint to follow certain guidelines when developing the plan, including creating a standardized method to create requirements and guidelines for major flood risk modeling; develop consistent guidelines to ensure common standard hydrology models; and create and maintain a publicly accessible data and modeling repository. This section would also require DEQ to include in its required report, due on July 1, 2023, recommendations

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on how data can be incorporated into decision making and decision support tools and an implementation plan to reduce the cost and complexity for local governments to develop flood risk reduction projects.

**EFFECTIVE DATE:** Except as otherwise provided, this act is effective when it becomes law.