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Senior Citizens

In 2007 the General Assembly enacted legislation providing additional property tax relief for elderly or disabled homeowners; establishing a new “silver alert” program to locate missing persons with dementia or other cognitive impairments; re-enacting an expired income tax credit for payment of premiums for long-term care insurance; revising state laws regarding advance medical directives; and making additional changes of interest to senior citizens. This legislation is summarized below or in other chapters.

Government Assistance and Services for Senior Citizens

Funding for Aging Programs and Services

The Current Operations and Capital Improvements Appropriations Act of 2007, S.L. 2007-323 (H 1473), appropriates:

- an additional \$536,000 per year in recurring funding for aging programs and services funded through the Home and Community Care Block Grant;
- \$300,000 per year in recurring funding for the seventeen area agencies on aging for aging services and planning;
- \$250,000 in nonrecurring funding for the Seniors Health Insurance Information Program to provide grants to community organizations to assist senior citizens in enrolling in the NC Rx and Medicare Part D prescription drug programs; and
- \$200,000 in nonrecurring funding for senior centers.

Property Tax Relief for Elderly or Disabled Homeowners

S.L. 2007-497 (H 1499) provides expanded property tax relief for elderly or disabled homeowners.

G.S. 105-277.1 provides a property tax exclusion for a permanent residence that is owned and occupied by a North Carolina resident whose income is less than the income eligibility limit (\$20,500 in 2007) and who is aged at least sixty-five years or is totally and permanently disabled. The amount of the exclusion in 2007 is \$20,000 or half the appraised value of the residence,

whichever is greater. Effective for taxes imposed for taxable years beginning on or after July 1, 2008, S.L. 2007-497 amends G.S. 105-277.1 to increase the income eligibility limit to \$25,000 and to increase the exclusion amount to the greater of \$25,000 or half the appraised value of the residence (income eligibility limit under G.S. 105-277.1 will continue to be increased annually based on the cost-of-living adjustment for Social Security benefits). The General Assembly's Fiscal Research Division estimates that these changes will result in local governments losing approximately \$16.5 million in property tax revenues during fiscal year 2008–09. S.L. 2007-497 also authorizes the Revenue Laws Study Committee to study whether the exclusion amount should be indexed and, if so, which index should be used.

S.L. 2007-497 also enacts a new statute, G.S. 105-277.1B, creating a new property tax “circuit breaker” benefit for elderly or disabled homeowners for taxes imposed for taxable years beginning on or after July 1, 2009. This new benefit will be available with respect to a permanent residence that is owned and occupied for at least five years by a North Carolina resident whose income is less than 150 percent of the income eligibility limit under G.S. 105-277.1 and who is aged at least sixty-five years or is totally and permanently disabled.

A qualifying owner who elects this benefit in lieu of the homestead exclusion under G.S. 105-277.1 may defer the portion of the tax imposed on his or her residence that exceeds 5 percent of his or her income (or the portion that exceeds 4 percent of his or her income if the owner's income is less than the income eligibility limit under G.S. 105-277.1). Taxes that are deferred under G.S. 105-277.1B for the three fiscal years preceding the current tax year are carried forward as deferred taxes, accrue interest, constitute a lien on the property, and, except under certain circumstances, must be paid within nine months of the date the qualifying owner dies, transfers the residence, or ceases to use the property as a permanent residence. The provisions of new G.S. 105-277.1B are discussed in greater detail in Chapter 18, “Local Taxes and Tax Collection.”

State-County Special Assistance

Increase in maximum payment. S.L. 2007-323, the 2007 appropriations act, increases the maximum amount of State-County Special Assistance payments for most eligible residents of adult care homes from \$1,148 to \$1,173 per month effective October 1, 2007. (North Carolina counties pay half of the cost of assistance payments to adult care home residents and therefore will be required to spend an additional \$2.5 million per year to pay the cost of increasing assistance to adult care home residents under S.L. 2007-323.)

In-home payments. S.L. 2007-323 also enacts a new statute, G.S. 108A-47.1, codifying the State-County Special Assistance in-home payment program for individuals who (1) reside in in-home living arrangements, (2) would be eligible for State-County Special Assistance if they were residents of an adult care home, and, (3) but for the in-home payment program, would need and seek placement in an adult care home. An individual who is eligible for the in-home payment program will receive a State-County Special Assistance payment that is 75 percent of the amount he or she would receive if he or she resided in an adult care home or an appropriate amount of assistance as determined by the local case manager, whichever is less. The Department of Health and Human Services (DHHS) must make the in-home payment option available to all counties on a voluntary basis. The number of individuals receiving in-home payments may not exceed 15 percent of the total number of individuals receiving State-County Special Assistance.

Medicaid

S.L. 2007-323 directs DHHS to continue its efforts to expand the scope of the Community Care of NC care management model to elderly or disabled Medicaid recipients with a chronic condition and long-term care needs.

S.L. 2007-442 (H 1537), which revises the statutes governing the state's Medicaid estate recovery plan and the Medicaid transfer-of-assets penalty, is summarized in Chapter 27, “Social Services.”

Respite Care Services

S.L. 2007-39 (H 424) directs the DHHS Division of Health Service Regulation, Division of Medical Assistance, and Division of Aging and Adult Services to study the availability and delivery of respite care services for family members and others who provide care for the elderly or persons with disabilities, chronic or terminal illnesses, or dementia and to present its findings and recommendations to the North Carolina Study Commission on Aging by March 1, 2008.

Programs and Services for Older Adults

S.L. 2007-355 (S 448) directs DHHS to study programs and services for older adults in Brunswick, Buncombe, Gaston, Henderson, Moore, and New Hanover counties, to make an interim report of its findings and recommendations to the North Carolina Study Commission on Aging by November 1, 2007, and to submit a final report by April 1, 2008, to the General Assembly, the Study Commission on Aging, and the board of county commissioners of each county studied.

Adult Care Homes and Long-Term Care

Adult Care Home Licensure

S.L. 2007-444 (H 772) amends G.S. 131D-2(b)(1) to prohibit the issuance of a new license for a change of ownership of an adult care home if outstanding fees, fines, or penalties imposed by the state against the home have not been paid.¹

Adult Care Home Residents' Bill of Rights

S.L. 2007-444 amends G.S. 131D-26(a1) to increase from thirty to sixty days the time within which a county social services department must complete its investigation of a complaint alleging a violation of the rights of an adult care home resident pertaining to patient care or safety.

Adult Care Home Penalty Review Committee

Effective October 1, 2007, S.L. 2007-544 (S 56) revises the procedures for reviewing recommended administrative penalties against adult care homes [G.S. 131D-34(h)]. The act (1) requires the DHHS penalty review committee to meet at least quarterly; (2) requires DHHS to give public notice of committee meetings via the DHHS website; (3) requires an adult care home that is the subject of a penalty review meeting to post notice of the meeting in a conspicuous place available to residents, family members, and the public; (4) requires that notice of penalty review meetings be given to any individual who is authorized to make health care decisions for an affected resident (currently, the family or guardian of an affected resident) as well as to the affected resident, the county social services department that is responsible for oversight of the facility, and the facility; and (5) eliminates statutory provisions regarding the committee's responsibility to provide a forum for residents, the families and guardians of residents, facilities, and social services departments and to make recommendations or reports to DHHS regarding policy, training, and rules.

Adult Care Home Rated Certificates

S.L. 2007-544 enacts a new statute, G.S. 131D-10, requiring the Medical Care Commission to adopt rules for the issuance of rated certificates for adult care homes that are based, at a minimum,

1. Additional legislation regarding long-term care is discussed in Chapter 14, "Health."

on (1) inspections and substantiated complaint investigations by DHHS to determine compliance with licensing statutes and rules and (2) reviews of a facility's admission and discharge procedures, medication management, physical plant, resident care and services, residents' rights, sanitation grade, special care unit operations, and use of physical restraints and alternatives. Rated certificates will be issued beginning January 1, 2009. S.L. 2007-323 appropriates \$500,000 in nonrecurring funding to assist adult care homes with implementation of the new rated certification program.

S.L. 2007-544 requires DHHS to make an interim report on its implementation of the rated certificate system to the North Carolina Study Commission on Aging by October 1, 2009, and to make a final report by October 1, 2010. S.L. 2007-544 also requires the DHHS Division of Health Service Regulation, Division of Aging and Adult Services, and Division of Medical Assistance to study the structure and cost of a system to reward adult care homes that receive high ratings and to report their findings and recommendation to the North Carolina Study Commission on Aging by March 1, 2008.

Training of Adult Care Home Employees

S.L. 2007-156 (S 164) requires the DHHS Division of Health Service Regulation, Division of Aging and Adult Services, and Division of Mental Health, Developmental Disabilities, and Substance Abuse Services to study the need to provide training to adult care home employees with respect to the care of mentally ill residents and to report their findings and recommendations regarding appropriate training and its fiscal impact on adult care homes by March 1, 2008, to the North Carolina Study Commission on Aging and the Joint Legislative Oversight Committee on Mental Health, Developmental Disabilities, and Substance Abuse Services.

Adult Care Home Quality Improvement Program

S.L. 2007-323 directs the DHHS Division of Aging and Adult Services to develop a Quality Improvement Consultation Program for Adult Care Homes to promote better care of and improve the quality of life for residents of adult care homes and appropriates \$264,000 per year in nonrecurring funding for the pilot program. County social services departments will be responsible for implementing the program. The program will be piloted in no more than four counties. At the conclusion of the pilot program, the Division of Aging and Adult Services must make recommendations to the DHHS Secretary, the North Carolina Study Commission on Aging, the Senate Appropriations Committee on Health and Human Services, and the House Appropriations Subcommittee on Health and Human Services regarding the effectiveness of the program and expansion of the pilot program or statewide implementation of the program.

Mental Health Screening of Long-Term Care Patients

S.L. 2007-323 requires DHHS, by January 1, 2008, to complete the development of a uniform screening tool to determine the mental health of any individual who is admitted to a long-term care facility.

Criminal Abuse of Adult Care Home Residents or Health-style Care Facility Patients

Effective December 1, 2007, S.L. 2007-188 (H 554) amends G.S. 14-32.2 to provide that the physical abuse of an adult care home resident or patient in a health care facility is a Class H felony (rather than a Class A1 misdemeanor) when the defendant's pattern of conduct is willful or culpably negligent and proximately results in bodily injury to the resident or patient.

Smoking in Long-Term Care Facilities

S.L. 2007-459 (H 1294), which prohibits smoking in adult care homes and other long-term care facilities, is discussed in Chapter 14, "Health."

Licensure of Home Care Agencies

S.L. 2007-125 (S 748) amends S.L. 2006-194 to extend until January 1, 2009, the prohibition against issuing licenses for new home care agencies that intend to offer in-home aide services (other than certified home health agencies or agencies that need a new license for an existing home care agency that is being acquired). The purpose of the extension is to allow DHHS more time to work with existing home care agencies to assure compliance with newly adopted home care rules.

State and Local Government Employee Retirement

Application for Retirement Benefits

S.L. 2007-431 (H 777) allows a state or local government employee who is covered under the Teachers' and State Employees' Retirement System (TSERS), the Local Governmental Employees' Retirement System (LGERS), the Consolidated Judicial Retirement System (CJRS), and the Legislative Retirement System (LRS) to apply for retirement benefits 120 days before the date of his or her retirement.

Cost-of-Living Allowance for Retired Government Employees

S.L. 2007-323 provides a 2.2 percent cost-of-living increase for retired state employees.

Contributory Death Benefit

S.L. 2007-388 (S 720) directs the State Treasurer to allow an open period, beginning February 1, 2008, and ending May 31, 2008, for enrollment for the contributory death benefit by retired government employees who receive benefits under TSERS, LGERS, CJRS, or LRS. Retirees who elect coverage during the open enrollment period will be charged a contribution rate that is 11.1 percent more than the rate established for persons who elected coverage at the time they retired.

Payment of Accumulated Contributions

S.L. 2007-431 amends G.S. 135-5(g1) and G.S. 128-27(g1) to provide that the payment of "accumulated contributions" upon the death of a retired employee covered under TSERS or LGERS includes the amount of voluntary employee contributions from a law enforcement officer's 401(k) plan that have been transferred to TSERS or LGERS.

Re-employment Earnings Cap

S.L. 2007-431 also amends G.S. 135-3(8)c. and G.S. 128-24(5)c. to provide that the retirement allowance of a retired employee covered under TSERS or LGERS will not be suspended due to re-employment earnings if his or her earnings from re-employment exceed the earnings "cap" in the month of December.

TSERS Purchase of Creditable Service

S.L. 2007-431 further allows employees covered by TSERS to purchase creditable service for approved leaves of absence under the workers' compensation act even if they do not return to state employment following that leave of absence and becoming long-term disability beneficiaries.

TSERS Death Benefit Plan

S.L. 2007-431 amends G.S. 135-5 to provide group life insurance benefits for employees who (1) are covered by the TSERS; (2) receive workers' compensation benefits during a period in which they otherwise would have been eligible for short-term disability benefits; and (3) die within 181 days of their last date of service but before their short-term disability benefits have ended.

TSERS Survivor's Alternate Benefit

S.L. 2007-431 also amends G.S. 135-5 to allow the principal beneficiary of an employee who is covered by TSERS to receive a survivor's alternate benefit if the employee receives workers' compensation benefits during a period in which he or she otherwise would have been eligible for short-term disability benefits and dies within 181 days of his or her last date of service but before his or her short-term disability benefits have ended.

Retirement Benefits for Retired Teachers Who Return to the Classroom

S.L. 2007-326 (H 956), which allows a retired public school teacher to continue receiving retirement benefits under certain circumstances if he or she is re-employed as a classroom teacher, is discussed in Chapter 10, "Elementary and Secondary Education."

Other Legislation of Interest to Senior Citizens

Tax Credit for Long-Term Care Insurance Premiums

Effective for taxable years beginning on or after January 1, 2007, and before January 1, 2013, S.L. 2007-323 allows a nonrefundable state income tax credit for the payment of premiums for qualified long-term care insurance policies for a taxpayer, the taxpayer's spouse, or a taxpayer's dependent. The amount of the credit is equal to 15 percent of the premium cost up to \$350 per policy. The credit is not available to married taxpayers who file jointly and have adjusted gross incomes of more than \$100,000 (\$60,000 for single taxpayers who are not heads of households).

"Silver Alert" System

S.L. 2007-469 (H 38) requires the North Carolina Center for Missing Persons to establish a new "silver alert" system to ensure the rapid dissemination of information regarding a missing person who is believed to be suffering from dementia or other cognitive impairment and is at risk of abuse or other physical harm, neglect, or exploitation.

S.L. 2007-469 further authorizes any person who is responsible for the supervision of a missing person (as well as the parent, spouse, guardian, or legal custodian of a missing person) to submit a missing person report to a law enforcement agency or the Center for Missing Persons and prohibits law enforcement agencies from requiring any waiting period before accepting a missing person report.

S.L. 2007-469 also exempts credentialed emergency medical services personnel from the provisions of the Private Protective Services Act when they are engaged in search and rescue activities with respect to a missing person at the request of the state, a county or other political

subdivision of the state, a licensed adult care home, a licensed health care facility or agency, or a licensed facility that offers mental health, developmental disabilities, or substance abuse services.

Health Care Powers of Attorney and Advance Directives

S.L. 2007-502 (H 634), which amends North Carolina's statutes regarding health care powers of attorney, advance directives for a natural death ("living wills"), consent to medical treatment, advance health care directives, and natural death in the absence of an advance directive, is summarized in Chapter 14, "Health."

John L. Saxon