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## Public Law for the Public's Lawyers Fall 2021 Civil Law Update

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## Before we get started!

I want to take a moment to thank our colleagues at the Legislative Analysis Division and Legislative Drafting Division whose contributions in the form of bill summaries were used exclusively to prepare the content found in each slide.

THANK YOU!

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## S.L. 2021-18 Modify Termination of Parental Rights Appeals.

- Modifies a direct right of appeal from an order granting or denying a termination of parental rights, or an order eliminating reunification as a permanent plan, from the North Carolina Supreme Court to the Court of Appeals.
- Reverts appeals to pre-2017 process.
- Requires AOC to prepare an annual report about the amount of time it takes to resolve appeals related to an order granting or denying a termination of parental rights, or an order eliminating reunification as a permanent plan.

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### S.L. 2021-70 Physician Asst/Nurse Practit./Stop Act Clar.

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- Amends the conditions under which a physician assistant or a nurse practitioner is required to consult with a supervising physician prior to prescribing a targeted controlled substance.
- Removes the requirement that a physician assistant or nurse practitioner first consult with a supervising physician prior to prescribing a targeted controlled substance when/if the patient is being treated by a facility that advertises in any medium for any type of pain management services.

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### S.L. 2021-71 Landlord/Tenant Changes.

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- Reaffirms that landlords may only recover certain out-of-pocket expenses and litigation costs in summary ejectment proceedings that are specifically authorized under G.S. 42-46(j).
- These expenses include complaint filing fees, court-appearance fees, and second trial fees. Presumes other expenses do not qualify.

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### S.L. 2021-71 Landlord/Tenant Changes.

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- Provides that a tenant's criminal record does not affect the foreseeability of any future injury or damage caused by a tenant, and that a landlord has no duty to screen (although no impact on voluntary screening) a potential renter's criminal history nor refuse to rent to a person because of their criminal record.
- Allows authorized persons to direct the removal or disposal of certain personal property of a decedent located in leased premises.

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## S.L. 2021-85 GSC Trusts & Estates Amendments.

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- ▶ Makes changes recommended by the General Statutes Commission that include:
  - ▶ Removes the location requirement (including witness testimony) for holographic wills to be probated, to align with all other states recognizing holographic wills.
  - ▶ Includes removing existing requirement that a will be found in a certain location to be a holographic will but does not affect factors a court may continue to consider in determining whether a testator intended for a document to be a will.

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## S.L. 2021-85 GSC Trusts & Estates Amendments.

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- ▶ Updates the definitions of "terms of a trust" and "trust instrument" in the N.C. Uniform Trust Code and revises the article on power holders of trusts.
- ▶ Specifically, it adds to the definition of "terms of a trust" a list of all the ways a trust's provisions may be established, determined, or amended, and shortens and simplifies the definition of "trust instrument."
- ▶ Clarifies the trust exclusion to the rule against perpetuities and makes technical changes.

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## S.L. 2021-95 Teledentistry/RDH Admin. Local Anesthetic.

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- ▶ Creates a new section in the Dental Practice Act (Article 2 of Chapter 90) establishing standards for the practice of teledentistry.
- ▶ Allows teledentistry services to be offered by a licensed dentist or a dental hygienist under the supervision of a licensed dentist, defines the location where services are provided, permits transmission of data related to dental care, and requires licensees to provide all teledentistry services in accordance with the normal dental standards of care.

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### S.L. 2021-95 Teledentistry/RDH Admin. Local Anesthetic.

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- ▶ Allows dental hygienists to administer local anesthetics while under the direct supervision of a licensed dentist.
- ▶ Allows certain dental hygienists to practice without a licensed dentist physically present in limited situations with appropriate training and education.
- ▶ Allows the Board of Dental Examiners to grant licensure by credentials to dental instructors from other states who have graduated from an accredited dental school and who meet the existing practice and exam requirements.

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### S.L. 2021-106 Modify Business Corporation Act.

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- ▶ Makes several clarifications and updates to the Business Corporation Act:
  - ▶ Extends existing provisions relating to voting of shares held by a subsidiary, to situations in which the subsidiary entity is not a corporation.
  - ▶ Clarifies the authority of the board of directors to fix the compensation of directors for services in any capacity as director.
  - ▶ Provides that, except as otherwise fixed in the articles of incorporation or bylaws, a majority of a board of directors constitutes a quorum.
  - ▶ Permits the board of directors of a corporation with a single class of shares outstanding to change the corporate name without shareholder approval.

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### SL 2021-110 Allow Pharmacists to Admin. Injectable Drugs.

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- ▶ Amends G.S. 90-85.15B to allow immunizing pharmacists to dispense and administer a greater range of medications and immunizations than is permitted under existing law.
- ▶ This includes administering COVID-19 vaccines to individuals over the age of 6 pursuant to a written prescription, and over the age of 10 without a written prescription.



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### SL 2021-110 Allow Pharmacists to Admin. Injectable Drugs,

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- ▶ Prevents minors from consenting on their own authority to the administration of vaccines approved under an Emergency Use Authorization (EUA).
- ▶ Healthcare providers would first need to obtain written consent from a parent or guardian before administering a vaccine approved under an EUA.

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### S.L. 2021-112 State Auditor Clarifying Amendments.

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- ▶ Makes various clarifying and technical changes to the laws that relate to the North Carolina State Auditor, including:
  - ▶ Clarifies that the definition of State agency includes political subdivisions for the purposes of the laws that relate to the State Auditor.
  - ▶ Clarifies the State Auditor's authority to conduct audits and investigate allegations of improper governmental activity under the policy guidance of the State Auditor and laws that relate to the Auditor.
  - ▶ Defines the term "investigation" for the purposes of the State Auditor's office as an independent review or examination of an allegation of an improper governmental activity regarding a State agency organization, program, activity, or function.

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### S.L. 2021-129 CON/Threshold Amds. & Certificate Expirations.

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- ▶ Increases the dollar threshold that diagnostic center equipment, major medical equipment, and capital expenditures for new institutional health services must exceed before they are subject to certificate of need review.
  - ▶ For diagnostic centers, the aggregate dollar value of equipment with an individual value over \$10,000 is increased to \$1,500,000. The prior threshold was \$500,000.
  - ▶ For major medical equipment, the threshold is increased to \$2,000,000. The prior threshold was \$750,000.
  - ▶ For capital expenditures for new institutional health services, the threshold is increased to \$4,000,000. The prior threshold was \$2,000,000.

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## S.L. 2021-129 CON/Threshold Amds. & Certificate Expirations.

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- ▶ Requires projects subject to a certificate of need to initiate construction within a specified timeframe. Under prior law, no specified timeframe for projects to initiate construction existed.
- ▶ Projects costing over \$50,000,000 are required to initiate construction within 4 years of the certificate of need becoming final.
- ▶ Projects costing \$50,000,000 are required to initiate construction within 4 years of the certificate of need becoming final.
- ▶ Projects that already have a certificate and a deadline for completion are required to be completed by that deadline.

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## S.L. 2021-134 Omnibus DMV Bill.

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- ▶ Makes clarifying changes to motor vehicle sales representative licensing provisions and modifying how and when civil penalties apply for violations of the dealer licensing law.
- ▶ Modifies the grounds for denying and revoking licenses under the dealer licensing law, provides affirmative defenses for certain grounds, and limiting the ability to deny or revoke the license of a business entity under certain circumstances.

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## S.L. 2021-134 Omnibus DMV Bill.

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- ▶ Directs the Division of Motor Vehicles to study the feasibility of transferring licensing hearings under the dealer licensing law and hearings related to safety and emissions inspection licensing and violations from the Division to the Office of Administrative Hearings.
- ▶ Provides an exemption from the prohibition on making color copies of drivers' licenses for licensed lenders and motor vehicle dealers regarding loan applications. Requiring replacement of dealer registration plates every three years.
- ▶ Requires the Division to send a temporary license to a dealer for display during the time a license continues to be valid while an application for renewal is being reviewed.

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## S.L. 2021-134 Omnibus DMV Bill.

19

- ▶ Clarifies laws related to satisfaction, release, and renewal of security interests in manufactured homes.
- ▶ Modifies requirements for applications for notations of security interests submitted by regulated lenders – makes permanent the same modifications that were put into place temporarily last year.
- ▶ Requires electronic lien system contractors to have specific experience.
- ▶ Changes effective dates for certain license revocations by the Division from the tenth day after mailing of the order to the thirtieth day after mailing.
- ▶ Clarifies that used vehicles sold by an auctioneer pursuant to court proceedings are not required to be inspected prior to sale, as is required for used vehicles being sold at retail by a dealer.

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## S.L. 2021-144 Foster Parents' Bill of Rights.

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- ▶ Creates a Foster Parent's Bill of Rights by recognizing the following rights of foster parents:
  - ▶ To serve as a respected member of the child welfare team.
  - ▶ To receive specified information about the responsibilities of foster parents and access to support services.
  - ▶ To be notified of any expenses eligible for reimbursement and to have timely allocation of resources.
  - ▶ To receive notice of hearings and to be heard in court for review and permanency planning hearings.
  - ▶ To receive timely information pertinent to the day-to-day care of the child.

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## S.L. 2021-144 Foster Parents' Bill of Rights.

21

- ▶ Creates a Foster Parent's Bill of Rights by recognizing the following rights of foster parents:
  - ▶ To provide input in court and during periodic reviews of any information that may be relevant to the child's best interests.
  - ▶ To provide input to and seek support from the supervising agency without fear of reprisal.
  - ▶ To have reasonable opportunities for consultation and consideration in the scheduling of meetings related to the child the foster parent is allowed or required to attend.
  - ▶ To request a change in licensed workers and to be considered as prospective adoptive parents.
  - ▶ To utilize the reasonable and prudent parent standard in determining whether a foster parent can allow a child to participate in extracurricular activities.
  - ▶ To request a shared parenting agreement and that contact information be kept confidential when safety concerns are present.
- ▶ A violation of the Bill of Rights does not create a cause of action against any State agency or an entity providing foster care.

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## S.L. 2021-146 In-Service Training/Magistrates.

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- ▶ Changes the continuing education requirement (no impact on mandatory annual requirement) to require every magistrate to complete an annual course, either in person or online, that meets the following criteria:
  - ▶ Consists of at least 12 hours in the civil and criminal duties of a magistrate.
- ▶ Includes, but is not limited to, the following subjects:
  - ▶ Setting conditions of pretrial release.
  - ▶ Impaired driving laws.
  - ▶ Issuing criminal processes.
  - ▶ Issuing search warrants.
  - ▶ Technology.
  - ▶ Orders of protection.
- ▶ Authorizes the AOC to coordinate with the UNC School of Government or other educational organization to conduct the training.

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## S.L. 2021-150 ABC Omnibus Legislation.

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- ▶ Makes various changes to the laws concerning ABC stores, distilleries, and other alcohol-related statutes

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## S.L. 2021-150 ABC Omnibus Legislation.

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- ▶ Allows ABC stores to accept online orders, including payment, for alcoholic beverages sold in the store. These orders must be picked up in person at the ABC store by the individual who placed the order, who must be an individual who is at least 21 years old and otherwise lawfully entitled to purchase alcoholic beverages.
- ▶ An employee of the ABC store is required to confirm that the order is picked up in person by the individual who placed the order by verifying that the individual's identification matches identifying information in the online order.

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## S.L. 2021-150 ABC Omnibus Legislation.

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- ▶ Allows bottles of spirituous liquor on the special item list approved by the ABC Commission sold at an ABC store, or bottles of spirituous liquor sold at a distillery, to be affixed with personalized labeling that is approved by the ABC Commission and complies with any other labeling requirements set by law.
- ▶ Clarifies that the sale of spirituous liquor in closed containers at distilleries may occur between the hours of 9:00 A.M. and 9:00 P.M. on Monday through Saturday of each week, from 12:00 Noon to 9:00 P.M. on Sundays, and from 9:00 A.M. to 9:00 P.M. on each of the following holidays that do not fall on a Sunday: New Year's Day, Fourth of July, Labor Day, and Thanksgiving Day.

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## S.L. 2021-150 ABC Omnibus Legislation.

26

- ▶ Establishes an optional nonresident spirituous liquor vendor permit with a one-time fee of \$100. This permit may be issued to a distiller, a brokerage, or a liquor importer/bottler outside North Carolina who desires to sell, deliver, and ship spirituous liquor into this State. A nonresident spirituous liquor vendor permit would allow the holder to sell, deliver, and ship spirituous liquor to the State warehouse.
- ▶ The permit also allows the holder to ship or deliver spirituous liquor to the permittee's permitted vendor representative in an amount necessary for any consumer tasting events scheduled within one calendar month of the shipment or delivery.

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## S.L. 2021-150 ABC Omnibus Legislation.

27

- ▶ Modifies limitations on spirituous liquor tasting events conducted under a spirituous liquor special event permit and allows the sale of mixed beverages and provision of 50 mill bottles of spirituous liquor in conjunction with certain tasting events. One mini-bottle per consumer per distillery may be provided at a consumer tasting event.

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## S.L. 2021-150 ABC Omnibus Legislation.

28

- ▶ Directs the ABC Commission to adopt a rule changing the maximum allowable size of a growler from two liters to four liters.
- ▶ Allows distillery permittees to possess spirituous liquor not distilled or produced at the distillery to be used for the production of spirituous liquor.
- ▶ Repeals the prohibition on delivering two drinks at a time to a patron at an athletic facility, or arena on the campus or property of a stadium, a public college or university or during a sports event sponsored by a public college or university.
- ▶ Amends the mixed beverage election statute to provide that if a jurisdiction has voted to allow the sale of mixed beverages, then qualifying establishments in the jurisdiction may also obtain on-premises malt beverage and on-premises unfortified wine permits.

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## S.L. 2021-150 ABC Omnibus Legislation.

29

- ▶ Allows ABC stores to sell alcoholic beverages authorized for sale in the ABC store in a refrigerated unit.
- ▶ Allows a distillery located on a property used for bona fide farm purposes to sell mixed beverages containing only spirituous liquor produced at the distillery for consumption on the premises, regardless of the results of any local mixed beverage election.
- ▶ Allows local governments to adopt an ordinance designating a "social district," which would be a defined outdoor area in which a person may consume alcoholic beverages sold by a permittee, the social district must be clearly defined with conspicuously posted signs.

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## S.L. 2021-150 ABC Omnibus Legislation.

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- ▶ Permanently allows local governments to adopt an ordinance authorizing ABC permittees to utilize an area that is not part of the permittee's licensed premises for the outdoor possession and consumption of alcoholic beverages sold by the permittee under certain requirements.
- ▶ Authorizes the trade or exchange of lawfully purchased spirituous liquor between individuals, for personal use and not for resale.
- ▶ Regulates alcohol in certain manufactured food products in the same manner as the type of alcohol contained in the product.

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## S.L. 2021-150 ABC Omnibus Legislation.

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- ▶ Directs local ABC boards to offer delivery service to mixed beverage permittees. In providing delivery to mixed beverage permittees, the local board could either use its employees or contract with one or more independent contractors.
- ▶ Allows tax-exempt organizations that operate a specialized community residential center for individuals with developmental disabilities to conduct game nights at a location other than a qualified facility if the organization meets certain conditions.

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## S.L. 2021-151 Allow Employers to Offer EPO Benefit Plans.

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- ▶ Allows insurers to offer exclusive provider benefit plans where out-of-network services would not be covered unless they were emergency services or medically necessary services provided when an in-network provider was not reasonably available.
- ▶ Creates definitions for "exclusive provider benefit plan," "exclusive provider organization," "insurer," and "participating provider."
- ▶ Providers who were members of one insurer's exclusive network are permitted to participate in networks with other insurers. Insurers offering exclusive provider benefit plans must make annual reports to the Department of Insurance on the terms of their agreements with providers in the exclusive network. The existing insurance rules for preferred provider organizations also apply to exclusive provider organizations.
- ▶ Establishes continuity of care provisions for exclusive provider organizations (EPO). This transitional coverage would be available to individuals who are newly insured by the EPO and to individuals whose healthcare providers left the EPO's network.

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## S.L. 2021-145 Clifford's Law.

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- ▶ Requires the Secretary of DHHS to establish visitation protocols in effect during declared disasters and emergencies and when a facility suspends or restricts normal visitation.
- ▶ The protocols must provide visitation rights for patients in nursing homes, combination homes, and adult care homes, including family care homes, and allow each resident to receive a visit at least twice per month from one preapproved visitor or preapproved alternate visitor.
- ▶ When developing the visitation protocols, the Secretary must consult with licensed operators of the impacted facilities and other stakeholders deemed relevant. The Secretary must implement the visitation protocols by June 15, 2022.
- ▶ The Secretary is required to submit a report summarizing the visitation protocols to the Chairs of the Joint Legislative Oversight Committee on Health and Human Services at least 30 days prior to implementation.

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### S.L. 2021-171 The No Patient Left Alone Act.

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- ▶ Creates mandatory visitation rights for patients in hospitals, nursing homes, combination homes, hospice care facilities, adult care homes, special care units, and residential treatment facilities. Patients and residents in hospitals, nursing homes, combination homes, and hospice care facilities would be permitted to receive visitors to the fullest extent permitted by federal law.
- ▶ The facilities must provide notice of the patient visitation rights to patients, and family members when possible. Residents of adult care homes, special care units, and residential treatment facilities must permit visitation to the greatest extent permitted by the infection control protocols under federal, state, or local law.
- ▶ All facilities must also allow compassionate care visits (1) in end-of-life situations, (2) when patients who had previously been living with family struggle with the change in environment, (3) when patients are grieving the loss of friends or family, (4) when patients need caring and encouragement with eating and drinking, and (5) when patients experience emotional distress.

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### S.L. 2021-156 The Jeff Rieg Law/Patients Religious Rights.

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- ▶ Requires a hospital to allow clergy members to visit admitted patients who wish to be visited by a clergy member, despite any disaster declarations or the use of the hospital as a temporary emergency shelter.
- ▶ Clergy members would be subject to health screenings and adherence to infection control procedures that do not interfere with the religious beliefs of the patient or clergy member.
- ▶ Hospitals cannot restrict visitation by clergy members who did not pass the health screening.

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### S.L. 2021-162 Modernize Remote Business Access.

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- ▶ Authorizes remote meetings (including annual or special shareholder meetings) of corporation shareholders, nonprofit corporation members, and mutual insurance company policy holders to be conducted solely by remote communication if certain conditions are met.
- ▶ Authorizes nonprofit corporations to conduct all business electronically unless expressly prohibited by articles of incorporation, bylaws, or by the board, if certain conditions are met.
- ▶ Exempts certain corporations not-for-profit formed prior to the enactment of the Business Corporation Act from being required to have at least one class of shares with unlimited voting rights.

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## S.L. 2021-163 Timeshare Changes.

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- ▶ Under prior law, sales of timeshares for timeshare projects are regulated by the Commission pursuant to the North Carolina Time Share Act ("Act"), Article 4 of Chapter 93A of the General Statutes. The State did not previously regulate timeshare resale services and timeshare transfer services.
- ▶ The new law modifies existing sections of the Act, adds new sections to the Act, and makes conforming and technical changes to related statutory provisions in the following manner:
  - ▶ Renames the Act as the "North Carolina Timeshare Act."
  - ▶ Expands additional activities from the Act's requirements.
  - ▶ Defines new terms used in the Act, including "timeshare estate" and "timeshare use."
  - ▶ Provides that a timeshare estate is subject to the laws governing real property and that a timeshare use is subject to the laws governing personal property.
  - ▶ Requires developers to:
    - ▶ Close and record an instrument conveying title to a timeshare estate within 180 days after contract execution if the instrument does not provide otherwise.
    - ▶ Deliver to the purchaser of a timeshare use at closing an instrument evidencing transfer of legal title.
  - ▶ Prohibit developers from selling a timeshare if the sale would, for any given calendar year, cause the total number of timeshare owners eligible to use units in a program to exceed the total number of units available for use.

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## S.L. 2021-163 Timeshare Changes.

38

- ▶ Requires disclosure of additional information in sale contracts and public offering statements.
- ▶ Permits purchasers to cancel a sale for five days after the later of:
  - ▶ The execution of the sale contract of sale.
  - ▶ The receipt of all documents required to be provided to the purchaser.
- ▶ Prohibits closing before this cancellation period expires.
- ▶ Requires all escrowed funds to be returned to the purchaser within 20 days of the later of:
  - ▶ The purchaser's demand for return of the funds.
  - ▶ Receipt of cleared funds.
- ▶ Requires the developer to submit an affidavit attesting to its entitlement to release of escrowed funds, and require the escrow agent to retain the affidavit for five years.
- ▶ Makes intentional violation of escrow requirements a Class E felony.
- ▶ Gives purchasers the right to void a transfer and recover all funds paid plus 10% of the sales price, not to exceed \$3,000, if the developer did not provide the notice of right to cancel.
- ▶ Requires additional documentation in applications to register a timeshare project and give the NC Real Estate Commission (Commission) more time to act on applications.
- ▶ Clarifies the Commission's investigative and disciplinary authority.
- ▶ Requires the developer to record a release or subordination of all liens against the unit being purchased prior to closing.

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## S.L. 2021-163 Timeshare Changes.

39

- ▶ Provides that nonmaterial errors or omissions on the part of the developer or managing entity are not a basis for a purchaser's claim or defense if the developer or managing entity proves that it has otherwise substantially complied with the Act's requirements.
- ▶ Requires the developer to designate a managing entity for each timeshare program.
- ▶ Establishes the duties and obligations of the managing entity.
- ▶ Provides that delinquent timeshare assessments bear interest at the highest rate permitted by law or any lesser rate established by the managing entity.
- ▶ Imposes a lien in favor of the managing entity to secure the cost of collecting delinquent assessments, including reasonable collection agency and attorneys' fees, which would arise on the date the delinquent assessment was due for timeshare estates located in this state.
- ▶ Defines the managing entity's authority to deny a delinquent owner the use of timeshare units or facilities and to rent the delinquent owner's timeshare.
- ▶ Imposes a lien in favor of the managing agent to secure collection of the cost of maintenance, repairs, or replacement resulting from damage to the timeshare property caused by an act of the owner or the owner's guest or lessee.
- ▶ Provides that certain successors in interest in a timeshare are jointly and severally liable with the predecessor in interest for all unpaid assessments against the predecessor in interest prior to transfer of the timeshare.
- ▶ Excuses the developer from paying assessments that otherwise would be assessed against developer-owner timeshares during any period for which the developer guarantees that timeshare owner assessments will not increase over the amount stated in the program's adopted budget during that period.

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## S.L. 2021-163 Timeshare Changes.

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- ▶ Establishes the authority and obligations of reservation system operators.
- ▶ Specifies disclosures that must be included in a timeshare declaration concerning additions, subtractions and deletions of timeshare units, amenities or projects in a multiple timeshare program.
- ▶ Requires a timeshare resale contract to disclose the amount of the unit's current year's assessment and any delinquent assessments, the right to cancel within five days, and the year in which the purchaser will first be entitled to use the unit.
- ▶ Makes a timeshare resale voidable at the purchaser's option for one year for failure to make the required disclosures in the timeshare resale contract.
- ▶ Prohibits resale brokers from collecting any advance fee for listing a timeshare.
- ▶ Requires resale service providers, transfer service providers, and lead dealers to maintain certain records for at least three years after obtaining personal contact information from a lead dealer.
- ▶ Regulates the operations of providers of timeshare resale and transfer services and makes any violation an unfair or deceptive act or practice prohibited by G.S. 75-1.1.
- ▶ Establishes procedures for the extension and termination of a timeshare program.

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## S.L. 2021-165 Energy Solutions for North Carolina.

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- ▶ Requires the Utilities Commission (Commission) to take all reasonable steps to achieve a 70% reduction in emissions of carbon dioxide from electric public utilities from 2005 levels by the year 2030, and carbon neutrality by the year 2050.

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## S.L. 2021-165 Energy Solutions for North Carolina.

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- ▶ Must develop a plan no later than December 31, 2022, with the electric public utilities, including stakeholder input, for the utilities to achieve the authorized reduction goals, which must be reviewed every two years thereafter and may be adjusted as necessary in the determination of the Commission and the electric public utilities.
- ▶ Must comply with current laws and practice with respect to the least cost planning for generation, as required by statute, in achieving the authorized carbon reduction goals and determining generation and resource mix for the future.

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## S.L. 2021-165 Energy Solutions for North Carolina.

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- ▶ Authorizes the Commission to use "performance-based regulation" for the electric public utilities operating in the State, meaning an alternative ratemaking approach that includes decoupling revenue from electricity consumption, utilization of one or more performance incentive mechanisms, and a multi-year rate plan, including an earnings sharing mechanism, or such other alternative regulatory mechanisms as may be proposed by an electric public utility.
- ▶ In reviewing any such PBR application, the Commission must consider whether the PBR application:
  - ▶ Assures that no customer or class of customers is unreasonably harmed and that the rates are fair both to the electric public utility and to the customer.
  - ▶ Reasonably assures the continuation of safe and reliable electric service.
  - ▶ Will not unreasonably prejudice any class of electric customers and result in sudden substantial rate increases or "rate shock" to customers.

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## S.L. 2021-165 Energy Solutions for North Carolina.

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- ▶ The Commission may also consider whether the PBR application:
  - ▶ Encourages peak load reduction or efficient use of the system.
  - ▶ Encourages utility-scale renewable energy and storage.
  - ▶ Encourages distributed energy resources.
  - ▶ Reduces low-income energy burdens.
  - ▶ Encourages energy efficiency.
  - ▶ Encourages carbon reductions.
  - ▶ Encourages beneficial electrification, including electric vehicles.
  - ▶ Supports equity in contracting.
  - ▶ Promotes resilience and security of the electric grid.
  - ▶ Maintains adequate levels of reliability and customer service.
  - ▶ Promotes rate designs that yield peak load reduction or beneficial load-shaping.

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## S.L. 2021-165 Energy Solutions for North Carolina.

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- ▶ Requires the Commission to adopt rules on various matters, including to require an electric public utility to use bond financing (securitization) of costs associated with early retirement of subcritical coal fired electric generating facilities, with such costs to be securitized at 50% of the remaining net book value of all subcritical coal fired electric generating facilities to be retired to achieve the authorized carbon reduction goals set forth in the bill.
- ▶ Authorizes the Commission to allow potential modification of certain existing power purchase agreements with eligible small power producers.

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### S.L. 2021-166 North Carolina Regulatory Sandbox Act.

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- ▶ Creates a "regulatory sandbox program" under which an applicable State agency (either the Office of the Commissioner of Banks or the Department of Insurance) would be authorized to waive statutory or regulatory requirements to permit a program participant to offer an innovative financial, insurance, or emerging technology product or service to consumers for a limited time under the agency's supervision, with disclosures to the consumers that the product or service is authorized to be offered for a temporary testing period and is not endorsed or recommended by the State or the supervising agency.

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### S.L. 2021-166 North Carolina Regulatory Sandbox Act.

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- ▶ Creates a new Chapter 169 of the General Statutes. The new chapter establishes the North Carolina Innovation Council ("Council") with 11 members designated/appointed using different criteria.
- ▶ The Council is charged with selecting persons or entities to offer an innovative product or service for participation in a 24-month program under the oversight of either the Office of the Commissioner of Banks or the Department of Insurance, depending on the product or service being offered.
- ▶ A participant and the applicable State agency may agree to extend the initial 24-month period or to alter the parameters of the product or service being offered under the program.

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### S.L. 2021-166 North Carolina Regulatory Sandbox Act.

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- ▶ In determining admission to the program, the Council is required to consider:
  - ▶ The nature of the innovation product or service and the potential risk to consumers.
  - ▶ The methods for protecting consumers and resolving complaints during the sandbox period.
  - ▶ The applicant's business plan.
  - ▶ Whether the entity's management has sufficient expertise to conduct a pilot of the proposed product or service.
  - ▶ Whether any person substantially involved in the development, operation or management of the innovative product or service has been convicted of or under investigation for fraud or a violation of State or federal securities law.
  - ▶ Any other factor the Council or the applicable State agency deems relevant.
- ▶ Applicants must have a physical presence in the State, pay prescribed fees, and submit a final report at the conclusion of the sandbox period.

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► Additional information and summaries on any of these Session Laws can be found at:

- <https://www.ncleg.gov/legislation> or;
- <https://www.lrs.sog.unc.edu>

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Again, a most sincere thank you to the staff of the Legislative Analysis Division and Legislative Drafting Division whose work product is featured in this presentation.

Thank you!

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