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# *The* NORTH CAROLINA *REGISTER*

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**ISSUE DATE: JANUARY 2, 1989**

**Volume 3 • Issue 19 • Pages 854-872**



# INFORMATION ABOUT THE NORTH CAROLINA REGISTER AND ADMINISTRATIVE CODE

## NORTH CAROLINA REGISTER

The *North Carolina Register* is published bi-monthly and contains information relating to agency, executive, legislative and judicial actions required by or affecting Chapter 150B of the General Statutes. All proposed, administrative rules and amendments filed under Chapter 150B must be published in the Register. The Register will typically comprise approximately fifty pages per issue of legal text.

State law requires that a copy of each issue be provided free of charge to each county in the state and to various state officials and institutions. The *North Carolina Register* is available by yearly subscription at a cost of ninety-five dollars (\$95.00) for 24 issues.

Requests for subscriptions to the *North Carolina Register* should be directed to the Office of Administrative Hearings, P. O. Drawer 11666, Raleigh, N. C. 27604, Attn: *Subscriptions*.

## ADOPTION, AMENDMENT, AND REPEAL OF RULES

An agency intending to adopt, amend, or repeal a rule must first publish notice of the proposed action in the *North Carolina Register*. The notice must include the time and place of the public hearing; a statement of how public comments may be submitted to the agency either at the hearing or otherwise; the text of the proposed rule or amendment; a reference to the Statutory Authority for the action and the proposed effective date.

The Director of the Office of Administrative Hearings has authority to publish a summary, rather than the full text, of any **amendment** which is considered to be too lengthy. In such case, the full text of the rule containing the proposed amendment will be available for public inspection at the Rules Division of the Office of Administrative Hearings and at the office of the promulgating agency.

Unless a specific statute provides otherwise, at least 30 days must elapse following publication of the proposal in the *North Carolina Register* before the agency may conduct the required public hearing and take action on the proposed adoption, amendment or repeal.

When final action is taken, the promulgating agency must file any adopted or amended rule for approval by the Administrative Rules Review Commission. Upon approval of ARRC, the adopted or amended rule must be filed with the Office of Administrative Hearings. If it differs substantially from the proposed form published as part of the public notice, upon request by the agency, the adopted version will again be published in the *North Carolina Register*.

A rule, or amended rule cannot become effective earlier than the first day of the second calendar month after the adoption is filed with the Office of Administrative Hearings for publication in the NCAC.

Proposed action on rules may be withdrawn by the promulgating agency at any time before final action is taken by the agency.

## TEMPORARY RULES

Under certain conditions of an emergency nature, some agencies may issue temporary rules. A temporary rule becomes effective when adopted and remains in

effect for the period specified in the rule or 180 days whichever is less. An agency adopting a temporary rule must begin normal rule-making procedures on the permanent rule at the same time the temporary rule is adopted.

## NORTH CAROLINA ADMINISTRATIVE CODE

The North Carolina Administrative Code (NCAC) is a compilation and index of the administrative rules of 25 state agencies and 38 occupational licensing boards. The NCAC comprises approximately 15,000 letter size single spaced pages of material of which approximately 35% is changed annually. Compilation and publication of the NCAC is mandated by G.S. 150B-63(b).

The Code is divided into Titles and Chapters. Each state agency is assigned a separate title which is further broken down by chapters. Title 21 is designated for occupational licensing boards.

The NCAC is available in two formats.

- (1) Single pages may be obtained at a minimum cost of two dollars and 50 cents (\$2.50) for 1 pages or less, plus fifteen cents (\$0.15) per each additional page.
- (2) The full publication consists of 52 volume totaling in excess of 15,000 pages. It is supplemented monthly with replacement pages. One year subscription to the full publication including supplements can be purchased for seven hundred and fifty dollars (\$750.00). Individual volumes may also be purchased with supplement service. Renewal subscriptions for supplements to the initial publication available.

Requests for pages of rules or volumes of the NCAC should be directed to the Office of Administrative Hearings.

## NOTE

The foregoing is a generalized statement of the procedures to be followed. For specific statutory language it is suggested that Articles 2 and 5 of Chapter 150B of the General Statutes be examined carefully.

## CITATION TO THE NORTH CAROLINA REGISTER

The *North Carolina Register* is cited by volume, issue page number and date. **1:1 NCR 101-201, April 1, 1986** refers to Volume 1, Issue 1, pages 101 through 201 of the *North Carolina Register* issued on April 1, 1986.

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# **NORTH CAROLINA REGISTER**



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*Publication Deadlines and Schedules*  
*(September 1988 - March 1989)*

Issue Date	Last Day for Filing	Last Day for Electronic Filing	Earliest Date for Public Hearing & Adoption by Agency	* Earliest Effective Date
*****	*****	*****	*****	*****
09/01/88	08/11/88	08/18/88	10/01/88	01/01/89
09/15/88	08/26/88	09/02/88	10/15/88	01/01/89
10/03/88	09/12/88	09/19/88	11/02/88	02/01/89
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11/01/88	10/11/88	10/18/88	12/01/88	03/01/89
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12/15/88	11/23/88	12/02/88	01/14/89	04/01/89
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02/01/89	01/10/89	01/17/89	03/03/89	06/01/89
02/15/89	01/26/89	02/02/89	03/17/89	06/01/89
03/01/89	02/08/89	02/15/89	03/31/89	07/01/89
03/15/89	02/21/89	03/02/89	04/14/89	07/01/89

\* The "Earliest Effective Date" is computed assuming that the public hearing and adoption occur in the calendar month immediately following the "Issue Date", that the agency files the rule with The Administrative Rules Review Commission by the 20th of the same calendar month and that ARRC approves the rule at the next calendar month meeting.

*[G.S. 120-30.9H, effective July 16, 1986, requires that all letters and other documents issued by the Attorney General of the United States in which a final decision is made concerning a "change affecting voting" under Section 5 of the Voting Rights Act of 1965 be published in the North Carolina Register.]*

U.S. Department of Justice  
Civil Rights Division

WBR:LLT:ST:rac  
DJ 166-012-3  
W8396  
Y0329-0330

Voting Section  
P.O. Box 66128  
Washington, D.C. 20035-6128

December 2, 1988

Richard J. Rose, Esq.  
Poyner & Spruill  
P. O. Box 353  
Rocky Mount, North Carolina 27802-0353

Dear Mr. Rose:

This refers to the two annexations [Ordinance Nos. 171 and 176 (1988)] and the designation of the annexed areas to single-member districts for the City of Rocky Mount in Edgecombe and Nash Counties, North Carolina, submitted to the Attorney General pursuant to Section 5 of the Voting Rights Act of 1965, as amended, 42 U.S.C. 1973c. We received your submission on October 3, 1988.

The Attorney General does not interpose any objections to the changes in question. However, we feel a responsibility to point out that Section 5 of the Voting Rights Act expressly provides that the failure of the Attorney General to object does not bar any subsequent judicial action to enjoin the enforcement of such changes. See the Procedures for the Administration of Section 5 (28 C.F.R. 51.41).

Sincerely,

Wm. Bradford Reynolds  
Assistant Attorney General  
Civil Rights Division

By:

Gerald W. Jones  
Chief, Voting Section

U.S. Department of Justice  
Civil Rights Division

WBR:LLT:TGL:rac  
DJ 166-012-3  
W9186  
Y0539-0541

Voting Section  
P.O. Box 66128  
Washington, D.C. 20035-6128

December 8, 1988

Michael Crowell, Esq.  
Tharrington, Smith & Hargrove  
P. O. Box 1151  
Raleigh, North Carolina 27602

Dear Mr. Crowell:

This refers to the increase in the number of board members from five to seven, the interim appointment of two additional members for terms of less than four years, a change in the pattern of staggered terms from 3-2 to 4-3, and the implementation schedule for the county board of education in Lenoir County, North Carolina, submitted to the Attorney General pursuant to Section 5 of the Voting Rights Act of 1965, as amended, 42 U.S.C. 1973c. We received your submission on October 14, 1988.

The Attorney General does not interpose any objections to the changes in question. However, we feel a responsibility to point out that Section 5 of the Voting Rights Act expressly provides that the failure of the Attorney General to object does not bar any subsequent judicial action to enjoin the enforcement of such changes. See the Procedures for the Administration of Section 5 (28 C.F.R. 51.41).

Sincerely,

Wm. Bradford Reynolds  
Assistant Attorney General  
Civil Rights Division

By:

Gerald W. Jones  
Chief, Voting Section

**TITLE 11 - DEPARTMENT OF INSURANCE**

*Notice is hereby given in accordance with G.S. 150B-12 that the Department of Insurance intends to repeal rule cited as 11 NCAC 2 .0101; amend rules 11 NCAC 13 .0301, .0303, .0305 - .0306, .0308 - .0310, .0313, .0316 - .0318, .0323 - .0324, .0501, .0504, .0514; adopt rules 11 NCAC 13 .0325, .0517.*

*The proposed effective date of this action is May 1, 1989.*

*The public hearing will be conducted at 10:00 a.m. on February 1, 1989 at Third Floor Hearing Room, Dobbs Building, 430 N. Salisbury Street, Raleigh, NC 27611.*

*Comment Procedures: Written comments may be sent to Linda Stott at P.O. Box 26387, Raleigh, N.C. 27611. Oral presentations may be made at the public hearing. Anyone having questions should call Linda Stott at (919) 733-4700.*

**CHAPTER 2 - SUPPORT SERVICES DIVISION**

**SECTION .0100 - GENERAL PROVISIONS**

**.0101 PURPOSE OF DIVISION (REPEALED)**

*Statutory Authority G.S. 58-9; 143-1 to 143-34.4; 128-1 to 128-4; 105-59.*

**CHAPTER 13 - SPECIAL SERVICES DIVISION**

**SECTION .0300 - INSURANCE PREMIUM FINANCE COMPANIES**

**.0301 FORMS**

The following forms are provided by the division and are used by insurance premium finance companies for purposes as specified herein:

(1) Application for Insurance Premium Finance License. The form entitled "Application for Insurance Premium Finance License" shall include general interrogatories concerning the company's structure, employees' past business experience, address and proposed method of operation of the applicant as well as all other pertinent information.

(2) Premium Finance License Renewal Form. A "Premium Finance Renewal Application" shall include the name and address of the premium finance company, date of cancellation of the license if the application is not received by the division, the

amount of the proper license fee, a statement of any changes in the structure of the applicant since its last application, a computation of the bond amount specified in General Statute 58-56.2 and 11 NCAC 13 .0302, instructions for the completion and return of the application and other pertinent information.

(3) Premium Finance Surety Bond Form. The surety bond described in General Statute 58-56.2 shall be executed on a form supplied by the commissioner and shall be executed in accordance with the laws of North Carolina governing surety bonds. The surety bond form shall include the name of the premium finance company [corporation -- use corporate name exactly as shown on the articles of incorporation; unincorporated -- use name(s), trading as (T/A) the name of the premium finance company], name of the surety, amount of the bond, terms of cancellation of the bond and other pertinent information.

(4) Premium Finance Company Personnel Form. Each stockholder owning 10 percent or more of the applicant's outstanding stock and each partner, director, officer, office manager or field representative employed by the applicant shall complete form DOI-5PF entitled "Personal Questionnaire." Form DOI-5PF will be furnished by the commissioner and shall contain the name of the premium finance company, the name and address of the individual completing the form, the position(s) held by the individual, past business experience of the individual, the name and address of three people not related to the individual who can attest to the individual's reputation for honesty and fair dealings and other pertinent information. All "Personal Questionnaires" shall be attached to the applicant's "Application for Insurance Premium Finance License."

(5) Request by Insured for Separate Contracts Form. Each insured who expressly requests separate premium finance contracts authorized by 11 NCAC 13 .0325 shall complete form DOI-6PF entitled "Request by Insured for Separate Contracts."

*Statutory Authority G.S. 58-9; 58-56(b); 58-56.2(a).*

**.0303 PREMIUM FINANCE LICENSING PROCEDURES**

(a) Applicants must meet minimum qualifications as stated in Chapter 58, Article 4, of the North Carolina General Statutes.

(b) Applicants must submit a properly completed "Application for Insurance Premium Finance License" to the division. The following items, where applicable, shall be attached to and made a part of the application:

- (1) A certified copy of the board of directors resolution that authorized the application to be made;
- (2) A duly authenticated copy of the applicant's articles of incorporation, together with all amendments and supplements thereto;
- (3) A duly authenticated copy of the applicant's ~~constitution and~~ by-laws;
- (4) If the applicant is a foreign corporation, a copy of the certificate of authority to transact business in this state issued by the North Carolina Secretary of State;
- (5) Certified copy of the current partnership agreement;
- (6) If a trade name is used, a certificate showing that the trade name has been filed as required in ~~North Carolina~~ General Statute 66-68;
- (7) A surety bond as specified in General Statute 58-56.2(a) and 11 NCAC 13 .0302;
- (8) Form number DO1-5PF completed on each individual specified in 11 NCAC 13 .0301 (4);
- (9) A ~~statement~~ sworn statement to by a corporate officer, partner or individual proprietor giving a detailed description of the premium financing procedures to be employed in North Carolina. The detailed description should include procedures outlining the execution of a premium finance agreement, procedures for payment in full before the maturity of the agreement, and cancellation procedures. The cancellation procedures should indicate the dates of all notices, and the method of refund to the insured when applicable.
- (10) Two copies each of a proposed Insurance Premium Finance Agreement, rate chart, ten-day notice, cancellation notice and all related forms to be mailed or given to North Carolina citizens;
- (11) A current audited financial statement of the premium finance company, ~~prepared~~ prepared by a certified public accountant or by a qualified independent accountant who is engaged in the public practice of accounting;
- (12) Check in the amount of the permit fee as specified in General Statute 58-56

(made payable to the North Carolina Department of Insurance);

- (13) Such ~~all~~ other data and information as the commissioner may deem reasonably necessary to assist him in determining whether ~~or not~~ the applicant is entitled to the license sought;
- (14) If the applicant is a foreign company it shall appoint and maintain the commissioner ~~of Insurance~~ as an agent for the service of process on a form prescribed by the commissioner.

*Statutory Authority G.S. 58-9; 58-56(b); 58-56.2; 58-58.*

#### **.0305 CANCELLATION OF SURETY BOND**

If the surety bond as specified in General Statute 58-56.2(a) is cancelled for any reason during the period a premium finance company holds a valid license from the department, the licensee shall be notified in writing by the commissioner that ~~the licensee's~~ its license is void until such time as a proper surety bond is received by the department.

*Statutory Authority G.S. 58-9; 58-56.2(a).*

#### **.0306 FORMS TO BE APPROVED**

All ten-day notices of intent to cancel forms, cancellation notices, additional premium notices, premium finance agreement revision notices, or all other notices or forms mailed or given to North Carolina insureds shall be filed with the commissioner ~~of Insurance~~ for approval. Such ~~filings~~ forms shall not be used in this state until written approval has been given by the commissioner.

*Statutory Authority G.S. 58-9; 58-58.*

#### **.0308 ANNUAL STATEMENT**

Each licensee shall file a special report entitled "Annual Statement" with the commissioner on or before March 1 of each year. The annual statement shall be a record of the premium finance company's business for the calendar year (January- December) immediately preceding the filing date. The annual statement form will be supplied by the commissioner and shall include the name and address of the licensee, a list of the officers and directors of the licensee, instructions for filing the report, a statement of income, a ~~statement of~~ expenses, a ~~statement of~~ assets, a ~~statement of~~ and liabilities, a reconciliation of the licensee's net worth, schedules of pertinent balance sheet items, general interrogatories concerning the licensee's operation in North

Carolina, an analysis of premium finance contracts written in North Carolina and all other pertinent information.

*Statutory Authority G.S. 58-9; 58-57.1(a).*

**.0309 QUARTERLY REPORT**

Each licensee ~~each year~~ shall file a special report entitled "Analysis of Contracts and Operation" with the commissioner on or before the 15th day of January, April, July and October ~~of each year~~. The report shall be a record of the business financed during the three months immediately preceding the month in which it is filed (example: January 15 report will include October, November and December). The quarterly report form will be supplied by the commissioner and shall include the name and address of the licensee, instructions for filing the report, and all the following information separated by month:

- (1) number of contracts written,
- (2) total premiums financed on those contracts,
- (3) down payments collected ~~of~~ on those contracts,
- (4) principal balance on those contracts,
- (5) service charges on those contracts,
- (6) number of contracts cancelled by power of attorney.

*Statutory Authority G.S. 58-9; 58-57.1.*

**.0310 BOOKS AND RECORDS**

Each licensee shall keep and maintain the following records, separate and apart from any other business, so as to be readily available for inspection by the commissioner, or an employee designated by the commissioner: ~~for the purpose~~

- (1) a copy of each premium finance agreement entered into by the licensee and all original documents relating thereto; All such records shall have a common identifying number (agreement or contract number);
- (2) an account card, ledger, register, or combination of records containing a summary of each premium finance agreement which shall contain:
  - (a) the date of the agreement;
  - (b) the name of the insured;
  - (c) the identifying number;
  - (d) the principal balance;
  - (e) the amount of service charge;
  - (f) the time balance;
  - (g) number and amount of payments due from the insured;
  - (h) date and amount of payments received from the insured;

- (i) date and amount of return premium received from an insurance company;
- (j) date, amount and check number of any refund returned to an insured; ~~and~~
- (k) date the ten-day written notice of intent to cancel, required under ~~North Carolina~~ General Statute 58-60(1), was mailed to the ~~sured, insured; and~~
- (l) copy of form number DOI-6PF, if applicable.
- (3) a copy of any additional balance notice mailed to the insured;
- (4) a copy of any notice of cancellation mailed under ~~North Carolina~~ General Statute 58-60(2);
- (5) such journals, ledgers, check registers, receipt books and all other records as may be necessary to accurately and completely record all financial transactions of the licensee; Such books and records shall be posted up to date at least once each month and shall be used by the licensee in completing the annual statement;
- (6) such other records, books, or accounts as will enable the commissioner to determine whether the licensee is complying with all the provisions of Chapter 58, Article 4, and these rules.

*Statutory Authority G.S. 58-57.1.*

**.0313 ADDITIONAL BALANCES ADDED TO FINANCE AGREEMENTS**

Any additional balances may ~~not~~ be added to a premium finance agreement unless the original or subsequent agreement specifically authorizes ~~does not authorize~~ such additions.

*Statutory Authority G.S. 58-9; 58-58.1(a).*

**.0316 ADDITIONAL BALANCE NOTICE TO INSURED**

When a premium finance agreement provides for the financing of additional balances and such additional balances are added to the agreement by the licensee, a notice of the additional balance shall be mailed to the insured, at his last known address as shown on the agreement, by the licensee. The notice shall be mailed ~~at least 10 days~~ prior to the next payment due date and include an explanation of the amount added, the service charge added, the new balance payable by the insured, the number of payments required, the amount of each payment, the date each payment is due and all other pertinent information.

*Statutory Authority G.S. 58-9.*

**.0317 TEN-DAY NOTICE**

The ~~40~~ days ten-day written notice of intent to cancel as described in General Statute 58-60(1) shall include the name and address of the premium finance company, the premium finance agreement number, the date the notice is mailed, the amount of the installment in default and all other pertinent information. A copy of the ten-day notice, or a listing of delinquent insureds showing the same general information, shall be mailed to the insurance agent shown on the premium finance agreement at the same time notice is given to the insured.

*Statutory Authority G.S. 58-9; 58-60(1).*

**.0318 NOTICE OF CANCELLATION**

The notice of cancellation as described in General Statute 58-60(2) shall be signed by the owner or an officer of the premium finance company (the owner or ~~officers~~ officer's facsimile signature may be used), shall have in bold print at its top the wording "Notice of Cancellation" and shall include the name and address of the insured; the name and address of the insurance company; the name and address of the premium finance company; the insurance company policy number; a certification that the ten-days notice of intent to cancel has been furnished to the insured; the authority under which the policy is to be cancelled; the date the notice is mailed to the insured; the date the notice is mailed to the insurance company (if different from the insured mailing date); the effective date of cancellation; a notice stating, "If automobile liability insurance is included, you are cautioned that financial responsibility is required to be maintained continuously throughout the registration period and that operation of a motor vehicle without maintaining such financial responsibility is a misdemeanor, the penalty for which is loss of registration plate, and fine or imprisonment, in accordance with the motor vehicle laws of the State of North Carolina as they may be amended from time to time"; and all other pertinent information.

*Statutory Authority G.S. 58-9; 58-60(2).*

**.0323 COMPUTATION OF SERVICE CHARGES**

The service charges as provided in General Statute 58-59(c) shall be computed:

- (1) from the inception date of the insurance contract, the premiums for which are advanced or to be advanced under the agreement, to and including the date when the final installment of the premium finance agreement is payable; If the premium finance agreement is executed later than 30

days after such inception date, there shall be deducted from the amount of the service charge an amount which bears the same proportion to the service charge, as the number of days from the 30th day after the policy inception date until the day of execution of the premium finance agreement bears to the number of days from the policy inception to the date when the final installment of the premium finance agreement is payable. No deduction shall be required under this Paragraph, however, if the amount thereof is less than one dollar (\$1.00); ~~or if the service charge is the minimum service charge permitted by General Statute 58-59(c);~~

- (2) from the date the premium finance agreement is executed or any date after the premium finance agreement is executed, to and including the date when the final installment of the premium finance agreement is payable; provided the service charge does not begin prior to the inception date of the insurance contract, the premiums for which are advanced or to be advanced under the agreement.

*Statutory Authority G.S. 58-9; 58-59.*

**.0324 RETURN OF PREMIUM**

Upon a cancellation when the insurer has received notice that the return premium has been assigned to a premium finance company, the insurer shall within 60 days of such notice, forward to the premium finance company any gross unearned premium. When the gross unearned premium is in excess of that amount due to the premium finance company, the premium finance company shall, ~~promptly no later than ten business days,~~ forward such excess amount to the insured by mailing it to the last known address of the insured. ~~In the event that the insurance agent holds a bad check given by the insured as downpayment on the contract in question, certification to the licensee, including a copy of the bad check, by the agent that he holds a bad check and that the agent agrees to hold the licensee harmless shall entitle the licensee to make any remittance due the insured to the agent and not to the insured, provided that no remittance of return premium due the insured shall be made to the agent in any amount in excess of the amount of the bad check.~~

*Statutory Authority G.S. 58-60(5).*

**.0325 MULTIPLE CONTRACTS**

When a contract or series of contracts is written by more than one agent, or when the contracts are written and dated 60 days or more apart, or when the insured expressly requests, in writing, separate contracts, there is a presumption that the insurance agent or insurance premium finance company did not induce an insured to become obligated under more than one insurance premium finance agreement to earn additional fees.

*Statutory Authority G.S. 58-57.1(a); 58-59(e); 58-61.*

**SECTION .0500 - BAIL BONDSMEN AND RUNNERS**

**.0501 APPLICATION FOR BAIL BONDSMAN OR RUNNER LICENSE**

A form entitled "Bail Bondsman Application" shall include general interrogatories relating to applicant's qualifications, residence, prospective place of business, past business experience, ~~proposed method of operation~~ and all other pertinent information.

*Statutory Authority G.S. 85C-9.*

**.0504 BAIL BOND CERTIFICATION SEAL**

(a) The division will mail to each licensee a "Bail Bondsman Renewal Application" annually.

(b) The bail bondsman or runner shall complete the application and return it to the division on or before May 31 15 of each year. The application shall have attached to it a check made payable to the North Carolina Department of Insurance for the proper fee specified in General Statute 85C-16.

(c) Renewal applications not received by May 15 will not be considered for a renewal license; the applicant will be required to file a new application and apply for a new license.

*Statutory Authority G.S. 85C-16; 85C-2(a).*

**.0514 COLLATERAL SECURITY RETURNED ON TERMINATION OF LIABILITY**

Any collateral security accepted by a bail bondsman from a principal or anyone on his behalf shall be returned immediately upon final termination of liability on the bond.

*Statutory Authority G.S. 85C-2(a).*

**.0517 TERMINATION OF RUNNER BY SURETY**

A bail bondsman terminating the appointment of a runner shall file, within five days from the

date of termination, a written notice thereof with the commissioner. In addition to the notice requirements set forth in N.C.G.S. 85C-26, the notice shall also include a revocation of the power of attorney.

*Statutory Authority G.S. 85C-23; 85C-26.*

**TITLE 15 - DEPARTMENT OF NATURAL RESOURCES AND COMMUNITY DEVELOPMENT**

*Notice is hereby given in accordance with G.S. 150B-12 that the Wildlife Resources Commission intends to amend rule(s) cited as 15 NCAC 10B .0115(c).*

*The proposed effective date of this action is May 1, 1989.*

*The public hearing will be conducted at 7:00 p.m. on February 1, 1989 at Commissioner's Room, 6th Floor, Durham County Judicial Building, 201 East Main Street, Durham, N.C.*

**Comment Procedures:** Interested persons may present their views either orally or in writing at the hearing. In addition, the record of hearing will be open for receipt of written comments from January 18, 1989, to February 17, 1989. Such written comments must be delivered to or mailed to the Wildlife Resources Commission, 512 N. Salisbury St., Raleigh, N.C. 27611.

**CHAPTER 10 - WILDLIFE RESOURCES AND WATER SAFETY**

**SUBCHAPTER 10B - HUNTING AND TRAPPING**

**SECTION .0100 - GENERAL REGULATIONS**

**.0115 SHINING LIGHTS IN DEER AREAS**

(b) No person shall, between the hours of 11:00 p.m. and one-half hour before sunrise, intentionally shine a light upon a deer or intentionally sweep a light in search of deer in the indicated portions of the following counties:

- (1) Beaufort -- entire county;
- (2) Bladen -- entire county;
- (3) Brunswick -- entire county;
- (4) Camden -- entire county;
- (5) Chowan -- entire county;
- (6) Currituck -- entire county;
- (7) Duplin -- entire county;
- (8) Edgecombe -- entire county;
- (9) Franklin -- entire county;
- (10) Gates -- entire county;

- (11) Granville -- entire county;
- (12) Greene -- entire county;
- (13) Hertford -- entire county;
- (14) Hoke -- entire county;
- (15) Hyde -- entire county, except that part of the county described in Paragraph (c) of this Rule;
- (16) Jones -- entire county;
- (17) Lenoir -- entire county;
- (18) Martin -- entire county;
- (19) Montgomery -- entire county;
- (20) Nash -- entire county;
- (21) Orange -- entire county;
- (22) Pamlico -- entire county;
- (23) Pasquotank -- entire county;
- (24) Pender -- entire county;
- (25) Perquimans -- entire county;
- (26) Pitt -- entire county;
- (27) Richmond -- entire county;
- (28) Robeson -- entire county;
- (29) Sampson -- entire county;
- (30) Tyrrell -- entire county;
- (31) Vance -- entire county;
- (32) Wake -- entire county;
- (33) Warren -- entire county;
- (34) Washington -- entire county;
- (35) Wayne -- entire county.

(c) No person shall, between the hours of one-half hour after sunset and one-half hour before sunrise, intentionally shine a light upon a deer or intentionally sweep a light in search of deer in the indicated portions of the following counties:

- (1) Alamance -- entire county;
- (2) Alexander -- entire county;
- (3) Alleghany -- entire county;
- (4) Anson -- entire county;
- (5) Ashe -- entire county;
- (6) Avery -- that portion south and east of Highway 221;
- (7) Burke -- entire county;
- (8) Caldwell -- entire county;
- (9) Caswell -- entire county;
- (10) Catawba -- entire county;
- (11) Chatham -- entire county;
- (12) Clay -- entire county;
- (13) Cleveland -- entire county;
- (14) Cumberland -- entire county;
- (15) Davidson -- entire county;
- (16) Davie -- entire county;
- (17) Durham -- entire county;
- (17)(18) Gaston -- entire county;
- (18)(19) Guilford -- entire county;
- (19)(20) Halifax -- entire county;
- (20)(21) Henderson -- entire county;
- (21)(22) Hyde -- that part bounded on the north by a line running parallel with and 1000 yards in a northward direction from

that part of SR 1304 that leads from Hodges' Fork to Rose Bay, on the east by the Mattamuskeet National Wildlife Refuge boundary, on the southeast by US 264, and on the west and southwest by a line running parallel with and 1000 yards in a west or southwest direction from the centerline of SR 1304;

- (22)(23) Iredell -- entire county;
- (23)(24) Johnston -- entire county;
- (24)(25) Lee -- entire county;
- (25)(26) Lincoln -- entire county;
- (26)(27) McDowell -- entire county;
- (27)(28) Mecklenburg -- entire county;
- (28)(29) Mitchell -- entire county;
- (29)(30) Northampton -- entire county;
- (30)(31) Person -- entire county;
- (31)(32) Polk -- entire county;
- (32)(33) Randolph -- entire county;
- (33)(34) Rockingham -- entire county;
- (34)(35) Rowan -- entire county;
- (35)(36) Rutherford -- entire county;
- (36)(37) Scotland -- that part lying west of US 401 north of Laurinburg and north of US 74 west of Laurinburg;
- (37)(38) Stanly -- entire county;
- (38)(39) Stokes -- entire county;
- (39)(40) Surry -- entire county;
- (40)(41) Transylvania -- entire county;
- (41)(42) Union -- entire county;
- (42)(43) Watauga -- entire county;
- (43)(44) Wilkes -- entire county;
- (44)(45) Yadkin -- entire county;
- (45)(46) Yancey -- entire county.

Statutory Authority G.S. 113-134; 113-291.1.

\* \* \* \* \*

*Notice is hereby given in accordance with G.S. 150B-12 that the North Carolina Wildlife Resources Commission intends to amend rule(s) cited as 15 NCAC 10C .0407.*

*The proposed effective date of this action is June 1, 1989.*

*The public hearing will be conducted at 10:00 a.m. on February 1, 1989 at Room 386, Archdale Building, 512 N. Salisbury Street, Raleigh, North Carolina.*

*Comment Procedures: Interested persons may present their views either orally or in writing at the hearing. In addition, the record of hearing will be open for receipt of written comments from*

## **PROPOSED RULES**

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January 17, 1989, to February 16, 1989. Such written comments must be delivered or mailed to the North Carolina Wildlife Resources Commission, 512 N. Salisbury St., Raleigh, N.C. 27611.

### **SUBCHAPTER 10C - INLAND FISHING REGULATIONS**

#### **SECTION .0400 - NONGAME FISH**

##### **.0407 PERMITTED SPECIAL DEVICES AND OPEN SEASONS**

Except in designated public mountain trout waters, and in impounded waters located on the Sandhills Game Land, there is a year-round open season for the licensed taking of nongame fishes by bow and arrow. Seasons and waters in which the use of other special devices is authorized are indicated by counties below:

(71) Person:

- (a) July 1 to August 31 with seines in Hyco Creek and Maho Creek,
- (b) July 1 to June 30 with gigs in all public waters.
- (e) ~~July 1 to June 30 with traps in Hyco Reservoir;~~

*Statutory Authority G.S. 113-134; 113-276; 113-292.*

\* \* \* \* \*

*Notice is hereby given in accordance with G.S. 150B-12 that the Wildlife Resources Commission intends to amend rule(s) cited as 15 NCAC 10F .0320.*

*The proposed effective date of this action is May 1, 1989.*

*The public hearing will be conducted at 9:00 a.m. on February 2, 1989 at Room 386, Archdale Building, 512 N. Salisbury Street, Raleigh, North Carolina.*

*Comment Procedures: Interested persons may present their views either orally or in writing at the hearing. In addition, the record of hearing will be open for receipt of written comments from January 18, 1989, to February 17, 1989. Such written comments must be delivered or mailed to the Wildlife Commission, 512 N. Salisbury St., Raleigh, N.C. 27611.*

### **SUBCHAPTER 10F - MOTORBOATS AND WATER SAFETY**

## **SECTION .0300 - LOCAL WATER SAFETY REGULATIONS**

### **.0320 ONSLOW COUNTY**

(a) Regulated Areas. This Rule applies to the following waters and portions of waters:

(2) New River: those waters of New River, near Jacksonville, between a point 100 yards upstream, and 300 yards downstream, of the Seaboard Coast Line Railroad trestle; and those waters of the New River between the Old Bridge Street and US 17 (Riverview Street) bridges and upstream from the US 17 bridge along the south shore to a point 50 yards beyond the Jacksonville Marina;

*Statutory Authority G.S. 75A-3; 75A-15.*

## **TITLE 16 - DEPARTMENT OF EDUCATION**

*Notice is hereby given in accordance with G.S. 150B-12 that the State Board of Education intends to amend rule(s) cited as 16 NCAC 6C .0101 and .0401.*

*The proposed effective date of this action is May 1, 1989.*

*The public hearing will be conducted at 2:00 p.m. on February 7, 1989 at Third Floor Conference Room, Education Building, 116 West Edenton Street, Raleigh, N. C.*

*Comment Procedures: Any interested person may present views and comments either in writing prior to or at the hearing or orally at the hearing.*

## **CHAPTER 6 - ELEMENTARY AND SECONDARY EDUCATION**

### **SUBCHAPTER 6C - PERSONNEL**

#### **SECTION .0100 - GENERAL PROVISIONS**

##### **.0101 - DEFINITIONS**

As used in this Subchapter:

(5) "Part-time employee" means a person employed for half time or more at least 20 hours per week.

*Authority N.C. Constitution, Article IX, Sec. 5.*

### **SECTION .0400 - LEAVE**

#### **.0401 VACATION LEAVE**

(j) Instructional personnel and school bus drivers may not take vacation leave on days when students are scheduled to be in attendance. These persons may take vacation leave instead of sick leave on days when students are not scheduled to attend. LEAs may designate specific scheduled workdays for required attendance as long as employees have an opportunity to take annual leave earned during the school year.

Employees may charge leave taken only to scheduled teacher workdays and the 10 vacation leave days scheduled in the school calendar.

(~~4~~) ~~Bus drivers are not eligible for vacation leave.~~

*Statutory Authority G.S. 115C-272; 115C-285; 115C-302; 115C-316.*

*Upon request from the adopting agency, the text of rules will be published in this section.*

*When the text of any adopted rule is identical to the text of that as proposed, adoption of the rule will be noted in the "List of Rules Affected" and the text of the adopted rule will not be republished.*

*Adopted rules filed by the Departments of Correction, Revenue and Transportation are published in this section. These departments are not subject to the provisions of G.S. 150B, Article 2 requiring publication of proposed rules.*

## **TITLE 17 - DEPARTMENT OF REVENUE**

### **CHAPTER 1 - DEPARTMENTAL RULES**

#### **SUBCHAPTER 1C - GENERAL ADMINISTRATION**

##### **SECTION .0400 - INTEREST REQUIREMENTS**

###### **.0402 ESTABLISHED INTEREST RATES**

(a) For the calendar years 1978 and 1979, the Secretary of Revenue under authority of Subsection (i) of G.S. 105-241.1 has established an interest rate of six percent per annum in conformance with the adjusted rate established under Section 6621 of the United States Internal Revenue Code. The computation shall be at the rate of one-half percent per month or fraction thereof.

(b) For the calendar years 1980 and 1981, the Secretary of Revenue under authority of Subsection (i) of G.S. 105-241.1 has established an interest rate of twelve percent per annum in conformance with the adjusted rate established under Section 6621 of the United States Internal Revenue Code. The computation shall be at the rate of one percent per month or fraction thereof.

(c) For the calendar year 1983, the Secretary of Revenue under the authority of Subsection (i) of G.S. 105-241.1 has established on November 29, 1982 an interest rate of nine percent per annum. The computation shall be at the rate of three-fourths percent per month or fraction thereof.

(d) For the calendar year 1984, the Secretary of Revenue under the authority of Subsection (i) of G.S. 105-241.1 has established on November 29, 1983 and interest rate of nine percent per annum. The computation shall be at the rate of

three-fourths percent per month or fraction thereof.

(e) For the calendar year 1985, the Secretary of Revenue under the authority of Subsection (i) of G.S. 105-241.1 has established on November 19, 1984 an interest rate of 9 percent per annum. The computation shall be at the rate of three-fourths percent per month or fraction thereof.

(f) For the calendar year 1986, the Secretary of Revenue under the authority of Subsection (i) of G.S. 105-241.1 has established on October 25, 1985 an interest rate of nine percent per annum. The computation shall be at the rate of three-fourths percent per month or fraction thereof.

(g) For the calendar year 1987, the Secretary of Revenue under the authority of Subsection (i) of G.S. 105-241.1 has established on November 18, 1986 an interest rate of nine percent per annum. The computation shall be at the rate of three-fourths percent per month or fraction thereof.

(h) For the calendar year 1988, the Secretary of Revenue under the authority of subsection (i) of G.S. 105-241.1 has established on November 30, 1987 an interest rate of nine percent per annum. The computation shall be at the rate of three-fourths percent per month or fraction thereof.

(i) For the calendar year 1989, the Secretary of Revenue under the authority of subsection (i) of G.S. 105-241.1 has established on November 18, 1988, an interest rate of nine percent per annum. The computation shall be at the rate of three-fourths percent per month or fraction thereof.

*History Note: Statutory Authority G.S. 105-241.1; 105-262; Eff. November 9, 1977; Amended Eff. January 1, 1989; February 1, 1988; January 1, 1987; January 1, 1986.*

### **CHAPTER 6 - INDIVIDUAL INCOME TAX DIVISION**

#### **SUBCHAPTER 6C - WITHHOLDING**

##### **SECTION .0100 - WITHHOLDING INCOME TAXES**

###### **.0104 EXEMPTION CERTIFICATES**

(a) Each new employee, before beginning employment, must furnish his employer with a signed North Carolina Employee's Withholding Exemption Certificate, Form NC-4, showing the amount of North Carolina personal exemption which he claims. A certificate filed by a new employee is effective upon the first payment of wages thereafter and remains in effect until a new one is furnished. North Carolina and federal

laws concerning exemptions differ, and federal exemption certificates are not acceptable. If an employee fails to furnish an exemption certificate, Form NC-4, the employer must withhold tax on the basis of the personal exemption allowable for a single individual.

(b) If an employee's exemption should decrease, requiring more tax to be withheld, the employee is required to furnish his employer with an amended exemption certificate within 10 days after the change. Should the exemption increase, requiring less tax to be withheld, the employee may furnish his employer with an amended exemption certificate at any time after the change occurs.

(c) If a resident expects to have considerably more itemized deductions than the standard deduction or tax credits such as energy expenditures or child and dependent care expenses which are allowable on his income tax return, he may reduce the amount withheld by claiming additional allowances as provided on the withholding exemption certificate. An additional allowance may be claimed for each eight hundred dollars (\$800.00) that itemized deductions are expected to exceed the standard deduction. An additional eight hundred dollars (\$800.00) exemption allowance may be claimed for each fifty dollars (\$50.00) that estimated tax credits are expected to reduce the tax due. Each additional allowance has the same effect as another dependent. Records must be maintained by the employee to support the additional allowances claimed.

(d) To increase withholding an employee may claim less than his allowable exemption or may enter into an agreement with his employer and request that an additional amount be withheld by entering the desired amount on the Form NC-4.

An employee working for two or more employers should claim his allowable exemption with only one employer and claim zero exemption with the other employers.

If an employee furnishes his employer with a completed Employee's Statement of No Income Tax Liability, Form NC-4A, his wages will be exempt from withholding of North Carolina income tax for the remainder of the calendar year or until the employee withdraws the statement.

If the employer has reason to believe that the employee will have income greater than his annual personal exemption, the employer should refer to Paragraph (f) of this Rule for instructions.

Form NC-4A is effective for one calendar year only. The employee must complete another Form NC-4A if he qualifies for a later year. Withhold on the basis of the personal exemption allowable for a single individual if the employee

does not furnish another exemption certificate after expiration of Form NC-4A.

(e) You are not required to ascertain whether or not the total amount of exemptions claimed is greater than the total amount to which the employee is entitled. If, however, you have reason to believe that the amount of exemptions claimed by an employee is greater than the amount to which such employee is entitled, you are required to notify the Department of Revenue immediately.

(f) An employer shall submit, in accordance with the paragraphs below, a copy of any withholding exemption certificate, together with a copy of any written statement received from the employee in support of the claims made on the certificate, which is received from the employee during the reporting period (without regard to the date it is effective) if the employee is employed by that employer on the last day of the reporting period, and if the total number of dependents within the meaning of G.S. 105-149(5) and allowances for itemized deductions and tax credits exceeds 14. The employer shall also submit a copy of any certificate on which an employee claims a status exempting the employee from withholding and the employer reasonably expects, at the time the certificate is received, that the employee's wages as defined under G.S. 105-163.1(6) will exceed his basic personal exemption not including exemptions for dependents.

Copies required to be furnished shall be submitted at the time of filing Form NC-5 for the reporting period, the calendar quarter, or Form NC-5M for the last month of the calendar quarter. At the choice of the employer, copies may be submitted earlier and for shorter reporting periods.

The employer shall submit the copies to the Department of Revenue along with a statement showing the employer's name, address, withholding identification number, and the number of copies of withholding exemption certificates submitted.

Upon request of the Department of Revenue, an employer shall also submit a copy of any currently effective withholding exemption certificate (or make the original certificate available for inspection), together with a copy of any written statement received from the employee in support of the claims made on the certificate. This request of the Department may relate either to one or more named employees or to one or more named groups of employees. In this regard, the Department may, by written notice, advise the employer that a copy of each new withholding exemption certificate received from one or more named employees, or from one or more named

groups of employees, is to be submitted to the Department. The employer shall then submit to the Department a copy of each such new certificate of each such employee immediately after the employer receives the new certificate from the named employee.

The amount of income tax to be withheld shall be determined as follows:

- (1) Until receipt of written notice from the Department of Revenue that a certificate, a copy of which was submitted under this Rule, is defective, that certificate is effective and the employer shall withhold on the basis of the statements made in that certificate, unless that certificate must be disregarded under the provisions of Subparagraph (f)(4) of this Rule. If the Department of Revenue finds that a copy of a withholding exemption certificate submitted contains any materially incorrect statements or if, after written request to the employee for verification of the statements on the certificate, the Department of Revenue determines that it lacks sufficient information to determine if the certificate is correct, and in either event so notifies the employer in writing, the employer shall then consider the certificate to be defective for purposes of computing amounts of withholding.
- (2) The Department of Revenue may, as a part of the written notice to the employer, advise the employer of the reasons why it has determined that a certificate is defective. In this regard, the Department may, based upon its findings, advise the employer that the employee is not entitled to claim a status exempting the employee from withholding and is not entitled to claim an amount of withholding exemptions in excess of the amount specified by the Department in the notice.
- (3) The employer shall promptly furnish the employee who filed the defective certificate, if still in his employ, with a copy of the written notice of the Department of Revenue with respect to the certificate and may request another withholding exemption certificate from the employee. The employer shall withhold amounts from the employee on the basis of the maximum amount specified in the written notice received from the Department.

(4) If and when the employee does file any new certificate (after an earlier certificate was considered to be defective), the employer shall withhold on the basis of that new certificate (whenever filed) as currently effective only if the new certificate does not make a claim of exempt status or of an amount of withholding exemptions which claim is inconsistent with the advice earlier furnished by the Department of Revenue in its written notice to the employer, then the employer shall disregard the new certificate, shall not submit that new certificate to the Department, and shall continue to withhold amounts from the employee on the basis of the maximum amount specified in the written notice received from the Department. If, however, the employee specifies on such new certificate, or by a written statement attached to that certificate, any circumstances of the employee which have changed since the date of the Department's earlier written notice, or any other circumstances or reasons, as justification or support for the claims made by the employee on the new certificate, the employer must submit a copy of that new certificate and the employee's written statement (if any) to the Department. The employer shall continue to disregard that new certificate and shall continue to withhold amounts from the employee on the basis of the maximum amount specified in the written notice received from the Department unless and until the Department of Revenue by written notice (under Subparagraph (f)(2) of this Rule) advises the employer to withhold on the basis of that new certificate and revokes its earlier written notice.

For purposes of Paragraph (f) of this Rule, the term "employer" shall be the same as defined in G.S. 105-163.1(5) and shall include any individual authorized by the employer to receive withholding exemption certificates, to make withholding computations, or to make payroll distributions.

*History Note: Filed as a Temporary Amendment (d) and (f) Eff. November 16, 1981, for a Period of 46 Days to Expire on January 1, 1982; Statutory Authority G.S. 105-163.3; 105-163.5; 105-163.18; 105-262; Eff. February 1, 1976; Amended Eff. January 1, 1989; June 1, 1982; January 1, 1982; April 12, 1981.*

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