

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005

S

1

SENATE BILL 1550

Short Title: Taxpayer and Citizen Protection Act. (Public)

Sponsors: Senators Webster; Allran, Apodaca, Berger of Rockingham, Blake, Brock, Brown, East, Forrester, Goodall, Hunt, Jacumin, Pittenger, Presnell, and Tillman.

Referred to: Finance.

May 18, 2006

A BILL TO BE ENTITLED

1 AN ACT TO ENACT THE NORTH CAROLINA TAXPAYER AND CITIZEN
2 PROTECTION ACT, TO REQUIRE PROOF OF CITIZENSHIP TO REGISTER
3 TO VOTE, AND TO PROVIDE THAT TO RECEIVE CERTAIN PUBLIC
4 BENEFITS, AN APPLICANT FOR PUBLIC ASSISTANCE PROGRAM
5 BENEFITS MUST PROVIDE PROOF THAT THE APPLICANT IS A UNITED
6 STATES CITIZEN OR, IF NOT A UNITED STATES CITIZEN, IS LAWFULLY
7 PRESENT IN THE UNITED STATES UNDER FEDERAL LAW; TO PROVIDE
8 FOR TEMPORARY BENEFITS TO BE PAID IN CASES WHERE THE
9 APPLICANT CANNOT PROVIDE PROOF AT THE TIME OF APPLICATION;
10 TO REQUIRE CERTAIN STATE AGENCIES TO COOPERATE WITH LOCAL
11 GOVERNMENTS AND THE UNITED STATES DEPARTMENT OF
12 HOMELAND SECURITY TO DEVELOP A SYSTEM FOR VERIFYING
13 LAWFUL PRESENCE IN THE UNITED STATES; TO PROVIDE THAT A
14 PERSON WHO WILLFULLY EMPLOYS AN INDIVIDUAL WHO IS INDIGENT
15 AND IS NOT LAWFULLY PRESENT IN THE UNITED STATES SHALL BE
16 RESPONSIBLE FOR THE COST OF MEDICALLY NECESSARY SERVICES
17 TO THE INDIVIDUAL EMPLOYED; AND TO AUTHORIZE ANY
18 INDIVIDUAL TO FILE A COMPLAINT WITH THE AFFECTED STATE
19 AGENCY FOR ITS FAILURE TO COMPLY WITH THIS ACT.
20

21 The General Assembly of North Carolina enacts:

22 **SECTION 1.** Short title. This act may be cited as the "North Carolina
23 Taxpayer and Citizen Protection Act".

24 **SECTION 2.** Findings and declaration. This State finds that illegal
25 immigration is causing economic hardship and lawlessness in this State and that illegal
26 immigration is encouraged by public agencies within this State that provide public
27 benefits without verifying immigration status. This State further finds that illegal

1 immigrants have been harbored and sheltered in this State and encouraged and induced
2 to reside in this State through the issuance of identification cards that are issued without
3 verifying immigration status, and that these practices impede and obstruct federal
4 immigration law, undermine the security of our borders, and impermissibly restrict the
5 privileges and immunities of the citizens of North Carolina. Therefore, the people of
6 this State declare that it is a compelling public interest of this State to discourage illegal
7 immigration by requiring all public agencies within this State to cooperate with federal
8 immigration authorities.

9 **SECTION 3.** G.S. 163-82.4(a) is amended by adding a new subdivision to
10 read:

11 "(11) A statement that the applicant shall submit evidence of United States
12 citizenship with the application and that the application shall be
13 rejected if no evidence of citizenship is attached."

14 **SECTION 4.** Article 7A of Chapter 163 of the General Statutes is amended
15 by adding a new section to read:

16 **"§ 163-82.6A. Proof of citizenship.**

17 (a) A county board of elections shall reject any application for registration that is
18 not accompanied by satisfactory evidence of United States citizenship.

19 (b) A county board of elections shall, within 180 days of the effective date of this
20 section, compile and publish a list of approved documents, or a combination of
21 approved documents, that establish satisfactory evidence of United States citizenship.

22 (1) The board of elections may, at least 180 days prior to the date of a
23 general election, amend the list of approved documents.

24 (2) In compiling or amending the list of approved documents, the board of
25 elections shall give due consideration to facilitating voter registration
26 by all citizens as well as the deterrence and prevention of fraudulent
27 registration by unauthorized persons, and shall provide an opportunity
28 for submission of public comments by interested citizens.

29 (3) The board of elections shall ensure that the list of approved documents
30 conforms to all relevant federal and State laws protecting the voting
31 rights of United States citizens.

32 (c) Notwithstanding subsection (a) of this section, any person who is registered
33 in this State on the effective date of this section is deemed to have provided satisfactory
34 evidence of citizenship and shall not be required to resubmit evidence of citizenship
35 unless the person is registering in another county.

36 (d) For the purposes of this section, proof of voter registration from another state
37 or county is not satisfactory evidence of citizenship.

38 (e) After a person has submitted satisfactory evidence of citizenship, the board of
39 elections shall indicate this information in the person's permanent voter file. After two
40 years, the board of elections may destroy all documents that were submitted as evidence
41 of citizenship."

42 **SECTION 5.** Article 2 of Chapter 108A of the General Statutes is amended
43 by adding the following new section to read:

1 **§ 108A-25.4. Proof of lawful presence required for State and local programs of**
2 **public assistance; temporary assistance; system for verifying lawful**
3 **presence; exceptions to application of this section; employer liable for**
4 **medical services to indigent employees not lawfully present.**

5 (a) At the time of application for public assistance program benefits or for an
6 identification document issued by the State or political subdivision of the State, an
7 applicant shall provide affirmative proof that the applicant is a citizen of the United
8 States or is lawfully present in the United States under federal immigration law. The
9 affirmative proof shall consist of any valid document or combination of valid
10 documents recognized by the Division of Motor Vehicles under G.S. 20-7(b3). The
11 State or local government agency responsible for administering a program of public
12 assistance shall not provide public assistance program benefits to an applicant unless or
13 until the applicant has met the requirements of this section. A State or local government
14 agency administering public assistance benefits shall not accept an identification card
15 issued by a State or local government agency, including a drivers license, to establish
16 identity or determine eligibility of public assistance benefits unless the State or local
17 government agency that issued the card has verified the immigration status of the
18 applicant.

19 (1) An applicant who cannot provide the proof required under this
20 subsection at the time of application may alternatively sign an affidavit
21 under oath, attesting to either United States citizenship or to
22 classification by the United States as an alien lawfully admitted for
23 permanent residence, in order to receive temporary benefits or a
24 temporary identification document as provided in this section. The
25 affidavit shall be on or consistent with forms prepared by the State or
26 local government agency administering the public assistance benefits
27 program, and shall include the applicant's social security number and
28 an explanation of the penalties under State law for fraudulently
29 obtaining public assistance benefits. An applicant that knowingly
30 provides false information on the affidavit or application for public
31 assistance benefits is subject to criminal penalties applicable in this
32 State for fraudulently obtaining public assistance program benefits. An
33 applicant who has provided the sworn affidavit required by this
34 subdivision is eligible to receive temporary public assistance program
35 benefits as follows:

36 a. For 90 days or until such time that it is determined that the
37 applicant is not lawfully present in the United States, whichever
38 is earlier;

39 b. Indefinitely if the applicant provides a copy of a completed
40 application for a North Carolina birth certificate that is pending
41 in accordance with Article 4 of Chapter 130A of the General
42 Statutes, or a substantially similar law of another state. An
43 extension granted under this sub-subdivision shall terminate
44 upon the applicant's receipt of a birth certificate or a

1 determination that a birth certificate does not exist because the
2 applicant is not a United States citizen;

3 c. An applicant who has provided the sworn affidavit in
4 accordance with this section is eligible to receive a temporary
5 identification document for either 30 days or until such time
6 that it is determined that the applicant is not lawfully present in
7 the United States, whichever is earlier; or

8 d. A State or local government agency shall report in writing to
9 the Attorney General of this State, and to a federal immigration
10 law enforcement office designated by the Attorney General of
11 this State, an applicant or beneficiary described in this section
12 that fails to verify the applicant's or beneficiary's own legal
13 presence in the United States. An employee of a State or local
14 government agency who knowingly and willfully fails to report
15 violations of federal immigration law is guilty of a Class 2
16 misdemeanor. A supervisor of an employee who knows of the
17 employee's failure to report and fails to direct the employee to
18 make the report is guilty of a Class 2 misdemeanor.

19 (b) This section does not apply to State or local public assistance program
20 benefits that are excepted from verification of eligibility under federal law.

21 (c) The definition of "State or local public benefit" under 8 U.S.C. § 1621(c)
22 shall apply to programs of public assistance under G.S. 108A-25. The definition shall
23 exclude any State and local public benefit excepted from verification of eligibility under
24 8 U.S.C. § 1621(b), including services necessary for the treatment of an emergency
25 medical condition.

26 (d) This section shall be enforced without regard to race, religion, gender,
27 ethnicity, or national origin.

28 (e) Any person who believes that a State or local government agency has failed
29 to comply with this section in the administration of public assistance program benefits
30 may file a complaint in writing with the State or local government agency charged with
31 administering the program.

32 (1) The State or local government agency shall provide a written response
33 within 60 days of receipt of the complaint, or within 30 days if the
34 complaint alleges erroneous determination that the person is not
35 lawfully present in the United States.

36 (2) A person with reasonable cause to believe that a State or local
37 government agency has failed to cease an act or practice in violation of
38 this section may, within 75 days after receipt of the agency's written
39 response to the person's complaint made pursuant to subdivision (1) of
40 this subsection, institute a proceeding for injunction or mandamus to
41 remedy the violation giving rise to the complaint."

42 **SECTION 6.** G.S. 108A-70 reads as rewritten:

43 **"§ 108A-70. Recoupment of amounts spent on medical care.**

1 (a) The Department may garnish the wages, salary, or other employment income
2 of, and the Secretary of Revenue shall withhold amounts from State tax refunds to, any
3 person who:

4 (1) Is required by court or administrative order to provide health benefit
5 plan coverage for the cost of health care services to a child eligible for
6 medical assistance under Medicaid; and

7 (2) Has received payment from a third party for the costs of such services;
8 but

9 (3) Has not used such payments to reimburse, as appropriate, either the
10 other parent or guardian of the child or the provider of the services;

11 to the extent necessary to reimburse the Department for expenditures for such costs
12 under this Part; provided, however, claims for current and past due child support shall
13 take priority over any such claims for the costs of such services.

14 (a1) Any person who knowingly and willfully employs a non-United States citizen
15 who otherwise is not a resident of the State shall be responsible for the cost of providing
16 medically necessary services for those persons or members of the household who are
17 medically indigent, if the medical condition leading to medically necessary services
18 arises during the course of employment. A cause of action for reimbursement plus costs
19 and attorneys' fees shall accrue against an employer of the medically indigent person to
20 the State for services provided under the State Medical Assistance Plan, and to any
21 county or health care provider that provides health care services to the indigent person.
22 A person who, in good faith, relies on documentation establishing employment
23 authorization in the United States, where the document appears to be authentic on its
24 face, is not subject to this subsection.

25 (b) To the extent that payment for covered services has been made under
26 G.S. 108A-55 for health care items or services furnished to an individual, in any case
27 where a third party has a legal liability to make payments, the Department of Health and
28 Human Services is considered to have acquired the rights of the individual to payment
29 by any other party for those health care items or services."

30 **SECTION 7.** G.S. 108A-24(6) reads as rewritten:

31 **"§ 108A-24. Definitions.**

32 As used in Chapter 108A:

33 ...

34 (6) "Resident," unless otherwise defined by federal regulation, is a person
35 who is living in North Carolina at the time of application with the
36 intent to remain permanently or for an indefinite period; or who is a
37 person who enters North Carolina seeking employment or with a job
38 commitment. For purposes of G.S. 108A-25.4 and G.S. 108A-70, a
39 person is not a resident of this State if the person is determined
40 ineligible for public assistance benefits under G.S. 108A-25.4."

41 **SECTION 8.** All State agencies administering programs of public assistance
42 in this State shall cooperate with local governments and the United States Department
43 of Homeland Security to develop a system to facilitate verification of an individual's
44 lawful presence in the United States in furtherance of this act. The system developed

1 may include all or part of the Systematic Alien Verification Entitlements Program
2 operated by the United States Department of Homeland Security.

3 **SECTION 9.** Section 3 of this act is effective with respect to voters
4 registering on or after September 1, 2006. The remainder of this act becomes effective
5 January 1, 2007, and applies to applications for public assistance programs submitted on
6 and after that date.