

**GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2009**

S

2

**SENATE BILL 509\*  
Finance Committee Substitute Adopted 6/10/09**

Short Title: Rev Laws Tech, Clarifying, & Admin. Changes.

(Public)

Sponsors:

Referred to:

March 11, 2009

A BILL TO BE ENTITLED  
AN ACT TO MAKE TECHNICAL, CLARIFYING, AND ADMINISTRATIVE CHANGES  
TO THE TAX AND RELATED LAWS.

The General Assembly of North Carolina enacts:

**PRIVILEGE LICENSE, INCOME, EXCISE, AND INSURANCE TAX CHANGES**

**SECTION 1.** G.S. 105-41(a) reads as rewritten:

"(a) Every individual in this State who practices a profession or engages in a business and is included in the list below must obtain from the Secretary a statewide license for the privilege of practicing the profession or engaging in the business. A license required by this section is not transferable to another person. The tax for each license is fifty dollars (\$50.00).

...

(12) ~~A home inspector~~ An individual licensed under Article 9F of Chapter 143 of the General Statutes-Statutes, the Home Inspector Licensure Act."

**SECTION 2.** G.S. 105-122(b) reads as rewritten:

"(b) Determination of Capital Base. – A corporation taxed under this section shall determine the total amount of its issued and outstanding capital stock, surplus, and undivided profits. No reservation or allocation from surplus or undivided profits is allowed except as provided below:

- (1) Definite and accrued legal liabilities.
- (2) Taxes accrued, dividends declared, and reserves for depreciation of tangible assets as permitted for income tax purposes.
- (3) When including deferred tax liabilities, a corporation may reduce the amount included in its base by netting against that amount deferred tax assets. The reduction may not decrease deferred tax liabilities below zero (0).
- (4) Reserves for the cost of any air-cleaning device or sewage or waste treatment plant, including waste lagoons, and pollution abatement equipment purchased or constructed and installed which reduces the amount of air or water pollution resulting from the emission of air contaminants or the discharge of sewage and industrial wastes or other polluting materials or substances into the outdoor atmosphere or streams, lakes, or rivers, upon condition that the corporation claiming such deductible liability shall furnish to the Secretary a certificate from the Department of Environment and Natural Resources or from a local air pollution control program for air-cleaning devices located in an area where the Environmental Management Commission has certified a local air pollution control program pursuant to G.S. 143-215.112 certifying that the Environmental Management



1 Commission or local air pollution control program has found as a fact that  
2 the air-cleaning device, waste treatment plant or pollution abatement  
3 equipment purchased or constructed and installed as above described has  
4 actually been constructed and installed and that such plant or equipment  
5 complies with the requirements of the Environmental Management  
6 Commission or local air pollution control program with respect to such  
7 devices, plants or equipment, that such device, plant or equipment is being  
8 effectively operated in accordance with the terms and conditions set forth in  
9 the permit, certificate of approval, or other document of approval issued by  
10 the Environmental Management Commission or local air pollution control  
11 program and that the primary purpose thereof is to reduce air or water  
12 pollution resulting from the emission of air contaminants or the discharge of  
13 sewage and waste and not merely incidental to other purposes and functions.

14 (5) Reserves for the cost of purchasing and installing equipment or constructing  
15 facilities for the purpose of recycling or resource recovering of or from solid  
16 waste or for the purpose of reducing the volume of hazardous waste  
17 generated shall be treated as deductible for the purposes of this section upon  
18 condition that the corporation claiming such deductible liability shall furnish  
19 to the Secretary a certificate from the Department of Environment and  
20 Natural Resources certifying that the Department of Environment and  
21 Natural Resources has found as a fact that the equipment or facility has  
22 actually been purchased, installed or constructed, that it is in conformance  
23 with all rules and regulations of the Department of Environment and Natural  
24 Resources, and the recycling or resource recovering is the primary purpose  
25 of the facility or equipment.

26 (6) Reserves for the cost of constructing facilities of any private or public utility  
27 built for the purpose of providing sewer service to residential and outlying  
28 areas shall be treated as deductible for the purposes of this section; the  
29 deductible liability allowed by this section shall apply only with respect to  
30 such pollution abatement plants or equipment constructed or installed on or  
31 after January 1, 1955.

32 (7) The cost of treasury stock.

33 (8) In the case of an international banking facility, the capital base shall be  
34 reduced by the excess of the amount as of the end of the taxable year of all  
35 assets of an international banking facility which are employed outside the  
36 United States over liabilities of the international banking facility owed to  
37 foreign persons. For purposes of such reduction, foreign persons shall have  
38 the same meaning as defined in G.S. 105-130.5(b)(13)d.

39 Every corporation doing business in this State which is a parent, subsidiary, or affiliate of  
40 another corporation shall add to its capital stock, surplus, and undivided profits all indebtedness  
41 owed to a parent, subsidiary, or affiliated corporation as a part of its capital used in its business  
42 and as a part of the base for franchise tax under this section. If any part of the capital of the  
43 creditor corporation is capital borrowed from a source other than a parent, subsidiary, or  
44 affiliate, the debtor corporation, which is required under this subsection to include in its tax  
45 base the amount of debt by reason of being a parent, subsidiary, or affiliate of the creditor  
46 corporation, may deduct from the debt included a proportionate part determined on the basis of  
47 the ratio of the borrowed capital of the creditor corporation to the total assets of the creditor  
48 corporation. If the creditor corporation is also taxable under the provisions of this section, the  
49 creditor corporation is allowed to deduct from the total of its capital, surplus, and undivided  
50 profits the amount of any debt owed to it by a parent, subsidiary or affiliated corporation to the

1 extent that the debt has been included in the tax base of the parent, subsidiary, or affiliated  
2 debtor corporation reporting for taxation under the provisions of this section.

3 (b1) Definitions. – The following definitions apply in ~~this subsection~~; subsection (b) of  
4 this section:

5 (1) Affiliate. – The same meaning as specified in G.S. 105-130.6.

6 (2) Indebtedness. – All loans, credits, goods, supplies, or other capital of  
7 whatsoever nature furnished by a parent, subsidiary, or affiliated  
8 corporation, other than indebtedness endorsed, guaranteed, or otherwise  
9 supported by one of these corporations.

10 (3) Parent. – The same meaning as specified in G.S. 105-130.6.

11 (4) Subsidiary. – The same meaning as specified in G.S. 105-130.6."

12 **SECTION 3.(a)** G.S. 105-129.27(f) reads as rewritten:

13 "(f) No Double Credit. – A recycling facility that is eligible for the credit allowed in this  
14 section is not allowed the credit for investing in machinery and equipment provided in  
15 ~~G.S. 105-129.9~~; G.S. 105-129.9 or G.S. 105-129.88."

16 **SECTION 3.(b)** This section is effective for taxable years beginning on or after  
17 January 1, 2007.

18 **SECTION 4.** G.S. 105-130.4(h) reads as rewritten:

19 "(h) The income less related expenses from any other ~~nonbusiness~~ activities producing  
20 nonapportionable income or investments not otherwise specified in this section is allocable to  
21 this State if the business situs of the activities or investments ~~are~~ is located in this State."

22 **SECTION 5.** G.S. 105-130.4(t1) reads as rewritten:

23 "(t1) Alternative Apportionment Method. – A corporation that believes the statutory  
24 apportionment method that otherwise applies to it under this section subjects a greater portion  
25 of its income to tax than is attributable to its business in this State may make a written request  
26 to the Secretary for permission to use an alternative method. The request must set out the  
27 reasons for the corporation's belief and propose an alternative method.

28 The statutory apportionment method that otherwise applies to a corporation under this  
29 section is presumed to be the best method of determining the portion of the corporation's  
30 income that is attributable to its business in this State. A corporation has the burden of  
31 establishing by clear, cogent, and convincing proof that the proposed alternative method is a  
32 better method of determining the amount of the corporation's income attributable to the  
33 corporation's business in this State.

34 The Secretary must issue a written decision on a corporation's request for an alternative  
35 apportionment method. If the decision grants the request, it must describe the alternative  
36 method the corporation is authorized to use and state the tax years to which the alternative  
37 method applies. A decision may apply to no more than three tax years. A corporation may  
38 renew a request to use an alternative apportionment method by following the procedure in this  
39 subsection. A decision of the Secretary on a request for an alternative apportionment method is  
40 final and is not subject to administrative or judicial review. A corporation authorized to use an  
41 alternative method may apportion its income in accordance with the alternative method or the  
42 statutory method. A corporation may not use an alternative apportionment method unless it  
43 receives a written decision from the Secretary authorizing it to do so."

44 **SECTION 6.** Section 4(b) of S.L. 2008-134 reads as rewritten:

45 "**SECTION 4.(b)** This section is effective for taxable years beginning on or after January  
46 1, ~~2009~~ 2008."

47 **SECTION 7.** G.S. 105-130.18 and G.S. 105-156 are repealed.

48 **SECTION 8.(a)** G.S. 105-130.47(h) reads as rewritten:

49 "(h) Report. – The Department of Revenue must publish by May 1 of each year the  
50 following information, itemized by taxpayer for the 12-month period ending the preceding  
51 December 31:

- 1 (1) The location of sites used in a production for which a credit was  
 2 ~~claimed-taken.~~  
 3 (2) The qualifying expenses for which a credit was ~~claimed-taken~~, classified by  
 4 whether the expenses were for goods, services, or compensation paid by the  
 5 production company.  
 6 (3) The number of people employed in the State with respect to credits  
 7 ~~claimed-taken.~~  
 8 (4) The total cost to the General Fund of the credits ~~claimed-taken.~~"

9 **SECTION 8.(b)** G.S. 105-151.29(h) reads as rewritten:

10 "(h) Report. – The Department of Revenue must publish by May 1 of each year the  
 11 following information, itemized by taxpayer for the 12-month period ending the preceding  
 12 December 31:

- 13 (1) The location of sites used in a production for which a credit was  
 14 ~~claimed-taken.~~  
 15 (2) The qualifying expenses for which a credit was ~~claimed-taken~~, classified by  
 16 whether the expenses were for goods, services, or compensation paid by the  
 17 production company.  
 18 (3) The number of people employed in the State with respect to credits  
 19 ~~claimed-taken.~~  
 20 (4) The total cost to the General Fund of the credits ~~claimed-taken.~~"

21 **SECTION 9.** G.S. 105-228.5B reads as rewritten:

22 "**§ 105-228.5B. Proceeds credited to High Risk Pool.**

23 ~~Within 75 days after the end of each fiscal year, By November 1 of each year,~~ the State  
 24 Treasurer must transfer from the General Fund to the North Carolina Health Insurance Risk  
 25 Pool Fund established in G.S. 58-50-225 an amount equal to the growth in net revenue from the  
 26 tax applied to gross premiums under G.S. 105-228.5(d)(2). The growth in revenue from this tax  
 27 is the difference between the amount of revenue collected during the preceding fiscal year on  
 28 premiums taxed under that subdivision less \$475,545,413, which is the amount of revenue  
 29 collected during fiscal year 2006-2007 on premiums taxed under that subdivision. The  
 30 Treasurer must draw the amount required under this section from revenue collected on  
 31 premiums taxed under that subdivision."  
 32

### 33 SALES AND USE TAX AND HIGHWAY USE TAX CHANGES

34 **SECTION 10.** G.S. 105-164.3(45a) reads as rewritten:

35 "(45a) Streamlined Agreement. – The Streamlined Sales and Use Tax Agreement as  
 36 amended as of ~~June 23, 2007.~~ May 12, 2009."

37 **SECTION 11.** G.S. 105-164.4B(d) reads as rewritten:

38 "(d) Exceptions. – This section does not apply to the following:

- 39 (1) Telecommunications services. – Telecommunications services are sourced in  
 40 accordance with G.S. 105-164.4C.  
 41 (2) Direct mail. – Direct mail that meets one of the ~~conditions of this~~  
 42 ~~subdivision following descriptions~~ is sourced to the location where the  
 43 property is delivered. ~~In all other cases, direct mail is sourced in accordance~~  
 44 ~~with the principles principle set out in subdivision (a)(3) of this~~  
 45 ~~section.~~ delivered, and direct mail that does not meet one of these  
 46 descriptions is sourced to the location from which the direct mail was  
 47 shipped:  
 48 a. Direct mail purchased pursuant to a direct pay permit.  
 49 b. When the purchaser provides the seller with information to show the  
 50 jurisdictions to which the direct mail is to be delivered.

1           (3) Florist wire sale. – A florist wire sale is sourced to the business location of  
2           the florist that takes an order for the sale. A 'florist wire sale' is a sale in  
3           which a retail florist takes a customer's order and transmits the order to  
4           another retail florist to be filled and delivered."

5           **SECTION 12.** G.S. 105-164.13(40) is repealed.

6           **SECTION 13.(a)** G.S. 105-164.14(j)(2)n. reads as rewritten:

7           "n. Solar electricity generating materials manufacturing. Solar ~~energy~~  
8           electricity generating materials manufacturing means the  
9           development and production of one or more of the following:

- 10           1. Photovoltaic materials or modules used in producing  
11           electricity.
- 12           2. Polymers or polymer films primarily intended for  
13           incorporation into photovoltaic materials or modules used in  
14           producing electricity."

15           **SECTION 13.(b)** This section is effective July 1, 2008, and applies to purchases  
16           made on or after that date.

17           **SECTION 14.(a)** G.S. 105-164.44G reads as rewritten:

18           "**§ 105-164.44G. Distribution of part of tax on modular homes.**

19           The Secretary must distribute to counties twenty percent (20%) of the taxes collected under  
20           G.S. 105-164.4(a)(8) on modular homes. The Secretary must make the distribution on a  
21           monthly basis in accordance with the distribution formula in ~~G.S. 105-520~~ by including the  
22           ~~taxes on modular homes with local tax revenue that is not attributable to a particular~~  
23           ~~county.~~ G.S. 105-486."

24           **SECTION 14.(b)** This section becomes effective October 1, 2009, and applies to  
25           distributions made on or after that date.

26           **SECTION 15.** G.S. 105-187.6(a)(7) is repealed.

27           **SECTION 16.** G.S. 105-187.51C(c) reads as rewritten:

28           "(c) Forfeiture. – If the required level of investment to qualify as an eligible datacenter is  
29           not timely made, then the rate provided under this section is forfeited. If the required level of  
30           investment is timely made but any eligible machinery and equipment is not located and used at  
31           an eligible datacenter, then the rate provided for that machinery and equipment under this  
32           ~~subdivision-section~~ is forfeited. A taxpayer that forfeits a rate under this ~~subdivision-section~~  
33           is liable for all past sales and use taxes avoided as a result of the forfeiture, computed at the  
34           combined general rate from the date the taxes would otherwise have been due, plus interest at  
35           the rate established under ~~G.S. 105-241.1(i).~~ G.S. 105-241.21. If the forfeiture is triggered due  
36           to the lack of a timely investment required by this section, then interest is computed from the  
37           date the sales or use tax would otherwise have been due. For all other forfeitures, interest is  
38           computed at the combined general rate from the time as of which the machinery or equipment  
39           was put to a disqualifying use. A credit is allowed against the sales or use tax owed as a result  
40           of the forfeiture provisions of this subsection for privilege taxes paid pursuant to this section.  
41           For purposes of applying this credit, the fact that payment of the privilege tax occurred in a  
42           period outside the statute of limitations provided under ~~G.S. 105-266~~ shall not be  
43           G.S. 105-241.6 is not considered. ~~Interest shall not be computed against the amount of taxes~~  
44           ~~offset by this credit.~~ The credit reduces the amount forfeited and interest applies only to the  
45           reduced amount. The past taxes and interest are due 30 days after the date of forfeiture. A  
46           taxpayer that fails to pay the past taxes and interest by the due date is subject to the provisions  
47           of G.S. 105-236."

48           **SECTION 17.** G.S. 105-538 reads as rewritten:

49           "**§ 105-538. Administration of taxes.**

50           Except as provided in this Article, the adoption, levy, collection, administration, and repeal  
51           of these additional taxes must be in accordance with Article 39 of this Chapter. G.S. 105-468.1

1 is an administrative provision that applies to this Article. A tax levied under this Article does  
2 not apply to the sales price of food that is exempt from tax pursuant to ~~G.S. 105-164.13B.~~  
3 G.S. 105-164.13B or to the sales price of a bundled transaction taxable pursuant to  
4 G.S. 105-467(a)(5a). The Secretary shall not divide the amount allocated to a county between  
5 the county and the municipalities within the county. ~~Notwithstanding the provisions of~~  
6 ~~G.S. 105-466(e), during the 2008 calendar year a tax levied under this Article may become~~  
7 ~~effective on the first day of any calendar quarter so long as the county gives the Secretary at~~  
8 ~~least 60 days' advance notice of the new tax levy."~~

## 10 PROPERTY TAX CHANGES

11 **SECTION 18.** G.S. 105-273(6) reads as rewritten:

12 "(6) Corporation. – An organization having capital stock represented by shares or  
13 an incorporated, nonprofit organization."

14 **SECTION 19.** G.S. 105-275 reads as rewritten:

### 15 "§ 105-275. Property classified and excluded from the tax base.

16 The following classes of property are ~~hereby~~ designated special classes under ~~authority of~~  
17 Article V, Sec. 2(2), of the North Carolina Constitution and ~~shall not be listed, appraised,~~  
18 ~~assessed, or taxed~~ are excluded from tax:"

19 **SECTION 20.(a)** G.S. 105-277.1(d) reads as rewritten:

20 "(d) Ownership by Spouses. – A permanent residence owned and occupied by husband  
21 and wife ~~as tenants by the entirety~~ is entitled to the full benefit of this exclusion  
22 notwithstanding that only one of them meets the age or disability requirements of this section."

23 **SECTION 20.(b)** G.S. 105-277.1B reads as rewritten:

### 24 "§ 105-277.1B. Property tax homestead circuit breaker.

25 (a) Classification. – A permanent residence owned and occupied by a qualifying owner  
26 is designated a special class of property under Article V, Section 2(2) of the North Carolina  
27 Constitution and is taxable in accordance with this section.

28 (b) Definitions. – The definitions provided in G.S. 105-277.1 apply to this section.

29 (c) Income Eligibility Limit. – The income eligibility limit provided in  
30 G.S. 105-277.1(a2) applies to this section.

31 (d) Qualifying Owner. – For the purpose of qualifying for the property tax homestead  
32 circuit breaker under this section, a qualifying owner is an owner who meets all of the  
33 following requirements as of January 1 preceding the taxable year for which the benefit is  
34 claimed:

35 (1) The owner has an income for the preceding calendar year of not more than  
36 one hundred fifty percent (150%) of the income eligibility limit specified in  
37 subsection (c) of this section.

38 (2) The owner has owned ~~and occupied~~ the property as a permanent residence  
39 for at least five ~~years~~ consecutive years and has occupied the property as a  
40 permanent residence for at least five years.

41 (3) The owner is at least 65 years of age or totally and permanently disabled.

42 (4) The owner is a North Carolina resident.

43 (e) Multiple Owners. – A permanent residence owned and occupied by husband and  
44 wife ~~as tenants by the entirety~~ is entitled to the full benefit of the property tax homestead circuit  
45 breaker notwithstanding that only one of them meets the ~~occupation requirement~~ length of  
46 occupancy and ownership requirements and the age or disability requirement of this section.  
47 When a permanent residence is owned and occupied by two or more persons other than  
48 husband and wife, no property tax homestead circuit breaker is allowed unless all of the owners  
49 qualify and elect to defer taxes under this section.

50 (f) Tax Limitation. – A qualifying owner may defer the portion of tax imposed on his  
51 or her permanent residence if it exceeds the percentage of the qualifying owner's income set out

1 in the table in this subsection. If a permanent residence is subject to tax by more than one  
 2 taxing unit and the total tax liability exceeds the tax limit imposed by this section, then both the  
 3 taxes due under this section and the taxes deferred under this section must be apportioned  
 4 among the taxing units based upon the ratio each taxing unit's tax rate bears to the total tax rate  
 5 of all units.

6 <b>Income Over</b>	<b>Income Up To</b>	<b>Percentage</b>
7 -0-	Income Eligibility Limit	4.0%
8 Income Eligibility Limit	150% of Income Eligibility Limit	5.0%

9 (g) Temporary Absence. – An otherwise qualifying owner does not lose the benefit of  
 10 this circuit breaker because of a temporary absence from his or her permanent residence for  
 11 reasons of health, or because of an extended absence while confined to a rest home or nursing  
 12 home, so long as the residence is unoccupied or occupied by the owner's spouse or other  
 13 dependent.

14 (h) Deferred Taxes. – The difference between the taxes due under this section and the  
 15 taxes that would have been payable in the absence of this section are a lien on the real property  
 16 of the taxpayer as provided in G.S. 105-355(a). The difference in taxes ~~for the three fiscal years~~  
 17 ~~preceding the current tax year shall~~ must be carried forward in the records of ~~the each~~ each taxing  
 18 unit ~~or units~~ as deferred taxes. The deferred taxes for the preceding three fiscal years are due  
 19 and payable in accordance with G.S. 105-277.1F when the property loses its eligibility for  
 20 deferral ~~because of the occurrence as a result of a disqualifying event as provided described in~~  
 21 subsection (i) of this section. On or before September 1 of each year, the collector ~~shall notify~~  
 22 ~~each residence owner to whom a tax deferral has previously been granted of the accumulated~~  
 23 ~~sum of deferred taxes and interest.~~ must send to the mailing address of a residence on which  
 24 taxes have been deferred a notice stating the amount of deferred taxes and interest that would  
 25 be due and payable upon the occurrence of a disqualifying event.

26 (i) Disqualifying Events. – Each of the following constitutes a disqualifying event:

- 27 (1) The owner transfers the residence. Transfer of the residence is not a  
 28 disqualifying event if (i) the owner transfers the residence to a co-owner of  
 29 the residence or, as part of a divorce proceeding, to his or her spouse and (ii)  
 30 that individual occupies or continues to occupy the property as his or her  
 31 permanent residence.
- 32 (2) The owner dies. Death of the owner is not a disqualifying event if (i) the  
 33 owner's share passes to a co-owner of the residence or to his or her spouse  
 34 ~~residence~~ and (ii) that individual occupies or continues to occupy the  
 35 property as his or her permanent residence.
- 36 (3) The owner ceases to use the property as a permanent residence.

37 (j) Gap in Deferral. – If an owner of a residence on which taxes have been deferred  
 38 under this section is not eligible for continued deferral for a tax year, the deferred taxes  
 39 ~~deferred from the prior tax years~~ are carried forward and are not due and payable ~~but are carried~~  
 40 ~~forward~~ until a disqualifying event occurs. If the owner of the residence qualifies for deferral  
 41 after one or more years in which he or she did not qualify for ~~deferral,~~ deferral and a  
 42 disqualifying event occurs, the years in which the owner did not qualify are disregarded in  
 43 determining the preceding three years for which the deferred taxes are ~~carried forward,~~ due and  
 44 payable.

45 (k) Repealed by Session Laws 2008-35, s. 1.2, effective July 1, 2008.

46 (l) Creditor Limitations. – A mortgagee or trustee that elects to pay any tax deferred by  
 47 the owner of a residence subject to a mortgage or deed of trust does not acquire a right to  
 48 foreclose as a result of the election. Except for requirements dictated by federal law or  
 49 regulation, any provision in a mortgage, deed of trust, or other agreement that prohibits the  
 50 owner from deferring taxes on property under this section is void.

1 (m) Construction. – This section does not affect the attachment of a lien for personal  
2 property taxes against a tax-deferred residence.

3 (n) Application. – An application for property tax relief provided by this section should  
4 be filed during the regular listing period, but may be filed and must be accepted at any time up  
5 to and through June 1 preceding the tax year for which the relief is claimed. Persons may apply  
6 for this property tax relief by entering the appropriate information on a form made available by  
7 the assessor under G.S. 105-282.1."

8 **SECTION 20.(c)** G.S. 105-277.1C reads as rewritten:

9 **"§ 105-277.1C. Disabled veteran property tax homestead exclusion.**

10 (a) ~~Exclusion Classification.~~ – A permanent residence owned and occupied by ~~an a~~  
11 ~~qualifying owner who is a North Carolina resident and who is an honorably discharged disabled~~  
12 ~~veteran or the unmarried surviving spouse of an honorably discharged disabled veteran~~ is  
13 designated a special class of property under Article V, Section 2(2) of the North Carolina  
14 Constitution and is taxable in accordance with this section. The first forty-five thousand dollars  
15 (\$45,000) of appraised value of the residence is excluded from taxation. ~~An~~ A qualifying owner  
16 who receives an exclusion under this section may not receive other property tax relief.

17 (b) Definitions. – The following definitions apply in this section:

18 (1) ~~Disabled veteran.~~ – ~~A veteran who, as of January 1 preceding the taxable~~  
19 ~~year for which the exclusion allowed by this section is claimed, receives~~  
20 ~~benefits under 38 U.S.C. § 2101 or has a veteran's disability certification of~~  
21 ~~any branch of the Armed Forces of the United States whose character of~~  
22 ~~service at separation was honorable or under honorable conditions and who~~  
23 ~~satisfies one of the following requirements:~~

24 a. As of January 1 preceding the taxable year for which the exclusion  
25 allowed by this section is claimed, the veteran had received benefits  
26 under 38 U.S.C. § 2101.

27 b. The veteran has received a certification by the United States  
28 Department of Veterans Affairs or another federal agency indicating  
29 that, as of January 1 preceding the taxable year for which the  
30 exclusion allowed by this section is claimed, he or she has a  
31 service-connected, permanent, and total disability. If the veteran is  
32 deceased, the certificate must indicate that he or she had the  
33 disability prior to the date of death or that the death was the result of  
34 a service-connected condition.

35 (2) ~~Owner.~~ – ~~Defined in G.S. 105-277.1.~~

36 (3) ~~Permanent residence.~~ – ~~Defined in G.S. 105-277.1.~~

37 (4) ~~Property tax relief.~~ – ~~Defined in G.S. 105-277.1.~~

38 (4a) Qualifying owner. – An owner, as defined in G.S. 105-277.1, who is a North  
39 Carolina resident and one of the following:

40 a. A disabled veteran.

41 b. The surviving spouse of a disabled veteran who has not remarried.

42 (5) ~~Veteran.~~ – ~~A veteran of any branch of the Armed Forces of the United~~  
43 ~~States.~~

44 (6) ~~Veteran's disability certification.~~ – ~~A certification by the United States~~  
45 ~~Department of Veterans Affairs or another federal agency that a veteran has~~  
46 ~~a permanent total disability that is service-connected.~~

47 (c) Temporary Absence. – An owner does not lose the benefit of this exclusion because  
48 of a temporary absence from his or her permanent residence for reasons of health or because of  
49 an extended absence while confined to a rest home or nursing home, so long as the residence is  
50 unoccupied or occupied by the owner's spouse or other dependent.



1 (d) Ownership by Spouses – A permanent residence owned and occupied by husband  
2 and wife ~~as tenants by the entirety~~ is entitled to the full benefit of this exclusion  
3 notwithstanding that only one of them meets the requirements of this section.

4 (e) Other Multiple Owners. – This subsection applies to co-owners who are not  
5 husband and wife. Each co-owner of a permanent residence must apply separately for the  
6 exclusion allowed under this section.

7 When one or more co-owners of a permanent residence qualify for the exclusion allowed  
8 under this section and none of the co-owners qualifies for the exclusion allowed under  
9 G.S. 105-277.1, each co-owner is entitled to the full amount of the exclusion allowed under this  
10 section. The exclusion allowed to one co-owner may not exceed the co-owner's proportionate  
11 share of the valuation of the property, and the amount of the exclusion allowed to all the  
12 co-owners may not exceed the exclusion allowed under this section.

13 When one or more co-owners of a permanent residence qualify for the exclusion allowed  
14 under this section and one or more of the co-owners qualify for the exclusion allowed under  
15 G.S. 105-277.1, each co-owner who qualifies for the exclusion allowed under this section is  
16 entitled to the full amount of the exclusion. The exclusion allowed to one co-owner may not  
17 exceed the co-owner's proportionate share of the valuation of the property, and the amount of  
18 the exclusion allowed to all the co-owners may not exceed the greater of the exclusion allowed  
19 under this section and the exclusion allowed under G.S. 105-277.1.

20 (f) Application. – An application for the exclusion allowed under this section should be  
21 filed during the regular listing period, but may be filed and must be accepted at any time up to  
22 and through June 1 preceding the tax year for which the exclusion is claimed. An applicant for  
23 an exclusion under this section must establish eligibility for the exclusion by providing a copy  
24 of the veteran's disability certification or evidence of benefits received under 38 U.S.C. §  
25 2101."

26 **SECTION 20.(d)** This section is effective for taxes imposed for taxable years  
27 beginning on or after January 1, 2009.

28 **SECTION 21.(a)** Section 3 of S.L. 2008-171 is repealed.

29 **SECTION 21.(b)** G.S. 105-277.14(d) is repealed.

30 **SECTION 21.(c)** G.S. 105-282.1(a) reads as rewritten:

31 "(a) Application. – Every owner of property claiming exemption or exclusion from  
32 property taxes under the provisions of this Subchapter has the burden of establishing that the  
33 property is entitled to it. If the property for which the exemption or exclusion is claimed is  
34 appraised by the Department of Revenue, the application shall be filed with the Department.  
35 Otherwise, the application shall be filed with the assessor of the county in which the property is  
36 situated. An application must contain a complete and accurate statement of the facts that entitle  
37 the property to the exemption or exclusion and must indicate the municipality, if any, in which  
38 the property is located. Each application filed with the Department of Revenue or an assessor  
39 shall be submitted on a form approved by the Department. Application forms shall be made  
40 available by the assessor and the Department, as appropriate.

41 Except as provided below, an owner claiming an exemption or exclusion from property  
42 taxes must file an application for the exemption or exclusion annually during the listing period.

43 (1) No application required. – Owners of the following exempt or excluded  
44 property do not need to file an application for the exemption or exclusion to  
45 be entitled to receive it:

46 a. Property exempt from taxation under G.S. 105-278.1 or  
47 G.S. 105-278.2.

48 b. Special classes of property excluded from taxation under  
49 G.S. 105-275(15), (16), (26), (31), (32a), (33), (34), (37), (40), ~~or~~  
50 ~~(42)-(42)~~, or (44).

- 1 c. Property classified for taxation at a reduced valuation under  
2 G.S. 105-277(g) or G.S. 105-277.9.
- 3 (2) Single application required. – An owner of one or more of the following  
4 properties eligible to be exempted or excluded from taxation must file an  
5 application for exemption or exclusion to receive it. Once the application has  
6 been approved, the owner does not need to file an application in subsequent  
7 years unless new or additional property is acquired or improvements are  
8 added or removed, necessitating a change in the valuation of the property, or  
9 there is a change in the use of the property or the qualifications or eligibility  
10 of the taxpayer necessitating a review of the exemption or exclusion:
- 11 a. Property exempted from taxation under G.S. 105-278.3, 105-278.4,  
12 105-278.5, 105- 278.6, 105-278.7, or 105-278.8.
- 13 b. Special classes of property excluded from taxation under  
14 G.S. 105-275(3), (7), (8), (12), (17), (18), (19), (20), (21), (31e), (35),  
15 (36), (38), (39), ~~or (41)(41), or (45)~~ or under G.S. 131A-21.
- 16 c. Special classes of property classified for taxation at a reduced  
17 valuation under G.S. 105-277(h), 105-277.1, 105-277.10,  
18 105-277.13, or 105-278.
- 19 d. Property owned by a nonprofit homeowners' association but where  
20 the value of the property is included in the appraisals of property  
21 owned by members of the association under G.S. 105-277.8."

22 **SECTION 21.(d)** G.S. 105-282.1(a)(2), as amended by subsection (c) of this  
23 section, reads as rewritten:

- 24 "(2) Single application required. – An owner of one or more of the following  
25 properties eligible for a property tax benefit must file an application for the  
26 benefit to receive it. Once the application has been approved, the owner does  
27 not need to file an application in subsequent years unless new or additional  
28 property is acquired or improvements are added or removed, necessitating a  
29 change in the valuation of the property, or there is a change in the use of the  
30 property or the qualifications or eligibility of the taxpayer necessitating a  
31 review of the benefit.
- 32 a. Property exempted from taxation under G.S. 105-278.3, 105-278.4,  
33 105-278.5, 105-278.6, 105-278.7, or 105-278.8.
- 34 b. Special classes of property excluded from taxation under  
35 G.S. 105-275(3), (7), (8), (12), (17), (18), (19), (20), (21), (31e), (35),  
36 (36), (38), (39), (41), or (45) or under G.S. 131A-21.
- 37 c. Special classes of property classified for taxation at a reduced  
38 valuation under G.S. 105-277(h), 105-277.1, 105-277.1C,  
39 105-277.10, 105-277.13, 105-277.14, or 105-278.
- 40 d. Property owned by a nonprofit homeowners' association but where  
41 the value of the property is included in the appraisals of property  
42 owned by members of the association under G.S. 105-277.8.
- 43 e. Repealed by Session Laws 2008-35, s. 1.2, effective for taxes  
44 imposed for taxable years beginning on or after July 1, 2008."

45 **SECTION 21.(e)** G.S. 105-282.1(a)(2), as amended by subsections (c) and (d) of  
46 this section, reads as rewritten:

- 47 "(2) Single application required. – An owner of one or more of the following  
48 properties eligible for a property tax benefit must file an application for the  
49 benefit to receive it. Once the application has been approved, the owner does  
50 not need to file an application in subsequent years unless new or additional  
51 property is acquired or improvements are added or removed, necessitating a

1 change in the valuation of the property, or there is a change in the use of the  
2 property or the qualifications or eligibility of the taxpayer necessitating a  
3 review of the benefit.

- 4 a. Property exempted from taxation under G.S. 105-278.3, 105-278.4,  
5 105-278.5, 105-278.6, 105-278.7, or 105-278.8.
- 6 b. Special classes of property excluded from taxation under  
7 G.S. 105-275(3), (7), (8), (12), (17), (18), (19), (20), (21), (31e), (35),  
8 (36), (38), (39), (41), or (45) or under G.S. 131A-21.
- 9 c. Special classes of property classified for taxation at a reduced  
10 valuation under G.S. 105-277(h), 105-277.1, 105-277.1C,  
11 105-277.10, 105-277.13, 105-277.14, 105-277.15, or 105-278.
- 12 d. Property owned by a nonprofit homeowners' association but where  
13 the value of the property is included in the appraisals of property  
14 owned by members of the association under G.S. 105-277.8.
- 15 e. Repealed by Session Laws 2008-35, s. 1.2, effective for taxes  
16 imposed for taxable years beginning on or after July 1, 2008."

17 **SECTION 21.(f)** Subsection (c) of this section is effective for taxes imposed for  
18 taxable years beginning on or after July 1, 2008. Subsection (d) of this section is effective for  
19 taxes imposed for taxable years beginning on or after July 1, 2009. Subsection (e) of this  
20 section is effective for taxes imposed for taxable years beginning on or after July 1, 2010. The  
21 remainder of this section is effective when it becomes law.

22 **SECTION 22.(a)** Article 22A of Chapter 105 of the General Statutes, as rewritten  
23 by S.L. 2005-294, S.L. 2006-30, S.L. 2007-471, Section 22 of S.L. 2007-527, and Sections 61  
24 through 66 of S.L. 2008-134, reads as rewritten:

25 "Article 22A.

26 "Motor Vehicles.

27 **"§ 105-330. Definitions.**

28 The following definitions apply in this Article:

- 29 (1) Classified motor vehicle. – A motor vehicle classified under this Article.
- 30 (1a) Collecting authority. – The Division of Motor Vehicles or an agent  
31 contracting with the Division of Motor Vehicles.
- 32 (2) Motor vehicle. – Defined in G.S. 20-4.01(23).
- 33 (2a) Municipal corporation. – Defined in G.S. 105-273(11).
- 34 (3) Public service company. – Defined in G.S. 105-333(14).
- 35 (4) Registered classified motor vehicle. – Any of the following:
- 36 a. A classified motor vehicle that has a registration plate issued under  
37 Article 3 of Chapter 20 of the General Statutes and whose  
38 registration is current.
- 39 b. A classified motor vehicle transferred to an owner who has applied  
40 for a registration plate for the motor vehicle.
- 41 (5) Registration fees. – Fees set out in G.S. 20-87 and G.S. 20-88.
- 42 (6) Unregistered classified motor vehicle. – A classified motor vehicle that is  
43 not a registered classified motor vehicle.

44 **"§ 105-330.1. Classification of motor vehicles.**

45 (a) Classification. – All motor vehicles other than the motor vehicles listed in  
46 subsection (b) of this section are designated a special class of property under ~~authority of~~  
47 Article V, Sec. 2(2) of the North Carolina ~~Constitution.~~ Constitution and are considered  
48 classified motor vehicles. Classified motor vehicles ~~shall~~ must be listed and assessed as  
49 provided in this Article and taxes on classified motor vehicles ~~shall~~ must be collected as  
50 provided in this Article.

1 (b) Exceptions. – The following motor vehicles are not classified under subsection (a)  
2 of this section:

- 3 (1) Motor vehicles exempt from registration pursuant to G.S. 20-51.
- 4 (2) Manufactured homes, mobile classrooms, and mobile offices.
- 5 (3) Semitrailers or trailers registered on a multiyear basis.
- 6 (4) Motor vehicles owned or leased by a public service company and appraised  
7 under G.S. 105-335.
- 8 (5) Repealed by Session Laws 2000, c. 140, s. 75(a), effective July 1, 2000.
- 9 (6) Motor vehicles registered under the International Registration Plan.
- 10 (7) Motor vehicles issued permanent registration plates under G.S. 20-84.
- 11 (8) Self-propelled property-carrying vehicles issued three-month registration  
12 plates at the farmer rate under G.S. 20-88.

13 **"§ 105-330.2. Appraisal, ownership, and situs.**

14 (a) ~~Date Determined.~~ Determination Date for Registered Vehicle. – The ownership,  
15 situs, and taxability of a registered classified motor vehicle is determined annually as of the  
16 date on which the vehicle's current registration is renewed, regardless of whether the  
17 registration is renewed after it has expired, or on the date an application for a new registration  
18 is submitted. The situs of a registered classified motor vehicle may not be changed until the  
19 next registration date. The value of a registered classified motor vehicle listed pursuant to  
20 G.S. 105-330.3(a)(1) (registered vehicles) shall be is determined as of January 1 of the year the  
21 taxes are due follows:

- 22 (1) For a registration expiring or an application for a new registration during the  
23 period January 1 through August 31, the value is determined as of January 1  
24 of the current year.
- 25 (2) For a registration expiring or an application for a new registration during the  
26 period September 1 through December 31, the value is determined as of  
27 January 1 of the following year.
- 28 (3) For a new motor vehicle whose value cannot be determined as of January 1  
29 of the year specified in subdivision (1) or (2) of this subsection, the value is  
30 determined as of the date that model of motor~~If the value of a new motor~~  
31 ~~vehicle cannot be determined as of that date, the value of that vehicle shall~~  
32 ~~be determined for that year as of the date that model vehicle is first offered~~  
33 ~~for sale at retail in this State.~~
- 34 (4) For a motor vehicle whose value cannot be determined as of the date set  
35 under any other subdivision in this subsection, the value is determined using  
36 the most currently available January 1 retail value of the vehicle.

37 ~~The ownership, situs, and taxability of a classified motor vehicle listed pursuant to~~  
38 ~~G.S. 105-330.3(a)(1) (registered vehicles) shall be determined annually as of the day on which~~  
39 ~~a new registration is applied for or the day on which the current vehicle registration is renewed,~~  
40 ~~regardless of whether the registration is renewed after it has expired.~~

41 (a1) Determination Date for Unregistered Vehicle. – The value of a classified motor  
42 vehicle listed pursuant to G.S. 105-330.3(a)(2) (unregistered vehicles) shall be determined as of  
43 January 1 of the year in which the motor vehicle is required to be listed pursuant to  
44 G.S. 105-330.3(a)(2). ~~The ownership, situs, and taxability of a-an unregistered classified motor~~  
45 ~~vehicle listed or discovered pursuant to G.S. 105-330.3(a)(2) (unregistered vehicles) shall be is~~  
46 ~~determined as of January 1 of the year in which the registration of the motor vehicle is required~~  
47 ~~to be listed. expires and is not renewed or the motor vehicle is acquired and the owner does not~~  
48 ~~submit an application for registration. The value of an unregistered classified motor vehicle is~~  
49 ~~determined as of January 1 of the year the vehicle is required to be listed.~~

50 (b) ~~Value; Appeal Value.~~ – ~~A-An assessor must appraise a classified motor vehicle shall~~  
51 ~~be appraised by the assessor at its true value in money as prescribed by G.S. 105-283. The sales~~

1 price of a classified motor vehicle purchased from a dealer, including all accessories attached to  
2 the vehicle when it is delivered to the purchaser, is considered the true value of the vehicle, and  
3 the assessor must appraise the vehicle at this value. The sales price excludes the tax imposed  
4 under Article 5A of this Chapter. If the assessor considers the sales price of the motor vehicle  
5 in determining the true value of the motor vehicle, the assessor must not include any amount  
6 for which the taxpayer is liable under Article 5A of this Chapter. The Property Tax Division of  
7 the Department of Revenue ~~shall~~must annually adopt a schedule of values, standards, and rules  
8 to be used in the valuation of all other classified motor vehicles to ensure equitable statewide  
9 valuations, taking into account local market conditions and allowing adjustments for mileage  
10 and the condition of the vehicles.

11 (b1) Appeal. – The owner of a classified motor vehicle may appeal the appraised value  
12 or taxability of the vehicle ~~in the manner provided by G.S. 105-312(d) for appeals in the case of~~  
13 ~~discovered property and may appeal the situs or taxability of the vehicle in the manner~~  
14 ~~provided by G.S. 105-381. The owner of a classified motor vehicle must file an appeal of~~  
15 ~~appraised value by filing a request for appeal with the assessor before the taxes become~~  
16 ~~delinquent pursuant to G.S. 105-330.4. within 30 days of the date taxes are due on the vehicle~~  
17 under G.S. 105-330.4. Notwithstanding G.S. 105-312(d), an An owner who appeals the  
18 appraised value or taxability of a classified motor vehicle ~~shall~~must pay the tax on the vehicle  
19 when due, subject to a full or partial refund if the appeal is decided in the owner's favor.

20 The combined tax and registration notice or tax receipt for a classified motor vehicle must  
21 explain the right to appeal the appraised value and taxability of the vehicle. A lessee of a  
22 vehicle that is required by the terms of the lease to pay the tax on the vehicle is considered the  
23 owner of the vehicle for purposes of filing an appeal under this subsection.

24 (c) Repealed by Session Laws 2008-134, s. 61, effective July 28, 2008.

25 "**§ 105-330.3. Assessor's duty to list Listing requirements for classified motor vehicles;**  
26 **application for exempt status.**

27 (a)(1) Registered Vehicles. – ~~The assessor shall list, appraise, and assess all taxable~~  
28 ~~classified motor vehicles for county, municipal, and special district taxes must list a registered~~  
29 classified motor vehicle each year for each taxing unit in the name of the record owner as of the  
30 day on which the current vehicle registration is renewed or the day on which an owner to whom  
31 the vehicle is transferred applies for a new registration is applied for. registration. The owner of  
32 a classified motor vehicle listed pursuant to this ~~subdivision~~subsection need not list the vehicle  
33 as provided in G.S. ~~105-306; 105-306.~~ G.S. 105-312 does not apply to a classified motor  
34 vehicles-vehicle listed pursuant to this subdivision. subsection.

35 (a1)(2) Unregistered Vehicles. – ~~The owner of a-an unregistered classified motor vehicle~~  
36 ~~who does not register the vehicle or does not renew the registration of the vehicle on or before~~  
37 ~~the expiration date of the current registration shall~~must list the vehicle for taxes by filing an  
38 abstract with the assessor of the county in which the vehicle is located on or before January 31  
39 following the date the owner acquired the unregistered vehicle is-acquired or, in the case of a  
40 registration that is not renewed, January 31 following the date the registration expires, and on  
41 or before January 31 of each succeeding year that the vehicle is unregistered. If a classified  
42 motor vehicle listed pursuant to this ~~section~~subsection is registered during the calendar year in  
43 which it was listed, ~~it shall be the vehicle is~~ taxed for the fiscal year that opens in the calendar  
44 year of listing as an unregistered vehicle. A vehicle required to be listed pursuant to this  
45 ~~subdivision~~subsection that is not listed by January 31 ~~shall be~~is subject to discovery pursuant  
46 to G.S. 105-312, unless the vehicle has been taxed as a registered vehicle for the current year.

47 (b) Exemption or Exclusion. – The owner of a classified motor vehicle who claims an  
48 exemption or exclusion from tax under this Subchapter has the burden of establishing that the  
49 vehicle is entitled to the exemption or exclusion. The owner may establish prima facie  
50 entitlement to exemption or exclusion of the classified motor vehicle by filing an application  
51 for exempt status with the assessor. When an approved application is on file, the assessor ~~shall~~

1 must omit from the tax records the classified motor vehicles described in the application. An  
2 application is not required for vehicles qualifying for the exemptions or exclusions listed in  
3 G.S. 105-282.1(a)(1). The remaining provisions of G.S. 105-282.1 do not apply to classified  
4 motor vehicles.

5 (c) Duty to Report Changes. – The owner of a classified motor vehicle that has been  
6 omitted from the tax records as provided in subsection (b) ~~shall of this section must~~ report to  
7 the assessor any classified motor vehicle registered in the owner's name or owned by ~~him that~~  
8 person but not registered in the person's name that does not qualify for exemption or exclusion  
9 for the current year. This report shall must be made within 30 days after the renewal of  
10 registration or initial registration of the vehicle or, for an unregistered vehicle, on or before  
11 January 31 of the year in which the vehicle is required to be listed by subdivision (a)(2)-  
12 subsection (a1) of this section. A classified motor vehicle that does not qualify for exemption or  
13 exclusion but has been omitted from the tax records as provided in subsection (b) is subject to  
14 discovery under the provisions of G.S. 105-312, except that in lieu of the penalties prescribed  
15 by G.S. 105-312(h) ~~there shall be assessed a penalty of one hundred dollars (\$100.00) is~~  
16 assessed for each registration period that elapsed before the disqualification was discovered.

17 (d) ~~The provisions of G.S. 105-282.1 do not apply to classified motor vehicles.~~  
18 Criminal Sanction. – A person who willfully attempts, or who willfully aids or abets another  
19 person to attempt, in any manner to evade or defeat the taxes subject to this Article, whether by  
20 removal or concealment of property or otherwise, is guilty of a Class 2 misdemeanor.

21 "**§ 105-330.4. Due date, interest, and enforcement remedies.**

22 (a) Due Date. – The registration of a classified motor vehicle may not be renewed  
23 unless the taxes that are due have been paid. Taxes on a classified motor vehicle are due as  
24 follows:

- 25 (1) For an unregistered classified motor vehicle listed pursuant to  
26 G.S. 105-330.3(a)(2) vehicle, the taxes are due on September 1 following the  
27 date by which the vehicle was required to be listed. Taxes on a
- 28 (2) For a registered classified motor vehicle listed pursuant to  
29 G.S. 105-330.3(a)(1) that is registered under the staggered system, the taxes  
30 are due each year on the date the owner applies for a new registration is  
31 applied for or the fifteenth day of the month following the month in which  
32 the registration renewal sticker expired expires pursuant to G.S. 20-66(g).
- 33 (3) For a registered classified motor vehicle that is registered under the annual  
34 system, taxes are due on the date the owner applies for a new registration or  
35 45 days after the registration expires.
- 36 (4) For a registered classified motor vehicle that has a temporary registration  
37 plate issued under G.S. 20-79.1 or a limited registration plate issued under  
38 G.S. 20-79.1A, the taxes are due on the last day of the second month  
39 following the date the owner applied for the plate.

40 (a1) ~~Notwithstanding subsection (a) of this section, taxes on a classified motor vehicle~~  
41 ~~for which the registration fees have been paid pursuant to G.S. 20-79.1 or subsection (a) of~~  
42 ~~G.S. 20-79.1A, are due on the last day of the second month following the date on which the~~  
43 ~~limited registration is applied for.~~

44 (b) Interest. – ~~Subject to the provisions of G.S. 105-395.1, interest~~ Interest accrues on  
45 unpaid taxes and unpaid registration fees on for registered classified motor vehicles listed  
46 pursuant to G.S. 105-330.3(a)(1) accrues at the rate of five percent (5%) for the remainder of  
47 the month following the month in which the registration renewal sticker expired pursuant to  
48 G.S. 20-66(g). month the taxes are due under subsection (a) of this section. Interest accrues at  
49 the rate of three-fourths percent (¾ %) for each following month thereafter until the taxes and  
50 fees are paid, unless the notice required by G.S. 105-330.5 is prepared after the date the taxes  
51 and fees are due. In that circumstance, the interest accrues beginning the second month

1 following the date of the notice until the taxes and fees are paid. Subject to the provisions of  
 2 G.S. 105-395.1, interest accrues on delinquent taxes on unregistered classified motor vehicles  
 3 ~~listed pursuant to G.S. 105-330.3(a)(2) accrues~~ as provided in G.S. 105-360(a) and the  
 4 ~~discounts shall be allowed as provided in G.S. 105-360(e).~~ allowed in G.S. 105-360(a) apply to  
 5 the payment of the taxes.

6 (c) Remedies. ~~Unpaid taxes on classified motor vehicles may be collected by levying~~  
 7 ~~on the motor vehicle taxed or on any other personal property of the taxpayer pursuant to~~  
 8 ~~G.S. 105-366 and G.S. 105-367, or by garnishment of the taxpayer's property pursuant to~~  
 9 ~~G.S. 105-368. Notwithstanding the provisions of G.S. 105-366(b), the enforcement measures of~~  
 10 ~~levy, attachment, and garnishment may be used to collect unpaid taxes on classified motor~~  
 11 ~~vehicles listed pursuant to G.S. 105-330.3(a)(1) at any time after interest accrues.~~  
 12 ~~Notwithstanding the provisions of G.S. 105-355, taxes on classified motor vehicles listed~~  
 13 ~~pursuant to G.S. 105-330.3(a)(1) do not become a lien on real property owned by the taxpayer.~~  
 14 The enforcement remedies in this Subchapter apply to unpaid taxes on an unregistered  
 15 classified motor vehicle. The enforcement remedies in this Subchapter do not apply to unpaid  
 16 taxes on a registered classified motor vehicle.

17 "**§ 105-330.5. Listing and collecting procedures. Notice required; distribution and**  
 18 **collection fees.**

19 (a) Notice for Registered Vehicle. ~~For classified motor vehicles listed pursuant to~~  
 20 ~~G.S. 105-330.3(a)(1), upon receiving the registration lists from the Division of Motor Vehicles~~  
 21 ~~each month, the The Property Tax Division of the Department of Revenue or a third-party~~  
 22 ~~contractor selected by the Property Tax Division shall must prepare a combined tax and~~  
 23 ~~registration notice for each registered classified motor vehicle. The combined tax and~~  
 24 ~~registration notice shall must contain all county and municipal corporation taxes and fees due~~  
 25 ~~on the motor vehicle as computed by the assessor in the county of registration. If the motor~~  
 26 ~~vehicle has a temporary or limited registration plate issued under G.S. 20-79.1 or~~  
 27 ~~G.S. 20-79.1A, the combined tax and registration notice must state that the vehicle registration~~  
 28 ~~fees for the plate have been paid and that the vehicle's registration becomes valid for the~~  
 29 ~~remainder of the year upon payment of the county and municipal corporation taxes and fees~~  
 30 ~~that are due. A combined tax and registration notice that sets out the required information on a~~  
 31 ~~vehicle issued a limited registration plate constitutes the registration certificate for that vehicle.~~

32 ~~In~~

33 In computing the taxes, the assessor ~~shall must~~ appraise the motor vehicle in accordance  
 34 with G.S. 105-330.2 and ~~shall must~~ use the tax rates and any additional motor vehicle taxes of  
 35 the various taxing units in effect ~~on the first day of the month in which the current vehicle~~  
 36 ~~registration expires or the new registration is applied for on the date the taxes are computed.~~  
 37 The tax on the motor vehicle is the product of a fraction and the number of months in the motor  
 38 vehicle tax year. The numerator of the fraction is the product of the appraised value of the  
 39 motor vehicle and the tax rate of the various taxing units. The denominator of the fraction is 12.  
 40 This procedure ~~shall constitute~~ constitutes the listing and assessment of each classified motor  
 41 vehicle for taxation. ~~The~~

42 The combined tax and registration notice shall contain must contain the following:

- 43 (1) ~~The date of the combined tax and registration notice.~~
- 44 (2) The appraised value of the motor vehicle.
- 45 (3)(2) ~~The tax rate of the taxing units, each taxing unit.~~
- 46 (4)(3) A statement that the appraised value and the taxability of the motor vehicle  
 47 may be appealed to the assessor ~~before the taxes and fees become~~  
 48 ~~delinquent in writing within 30 days of the due date.~~
- 49 (5)(4) The registration fee imposed by the Division of Motor Vehicles and any  
 50 other information required by the Division of Motor Vehicles to comply  
 51 with the provisions of Chapter 20 of the General Statutes.

1           (5)    Instructions for payment.

2           (a1)   Proration. – ~~When a new registration is obtained for a registered classified motor~~  
3 ~~vehicle that is registered under the annual system in a month other than December, system, the~~  
4 ~~taxes shall be~~ are prorated for the remainder of the calendar year. The amount of prorated taxes  
5 due is the product of the proration fraction and the taxes computed according to subsection (a).  
6 (a) of this section. The numerator of the proration fraction is the number of full months  
7 remaining in the calendar year following the registration application date ~~the registration is~~  
8 ~~applied for~~ and the denominator of the fraction is 12.

9           (a2)   ~~For classified motor vehicles where the registration fees have been paid pursuant to~~  
10 ~~G.S. 20-79.1 or subsection (a) of G.S. 20-79.1A, the Property Tax notice shall contain a~~  
11 ~~statement that registration fees have been paid pursuant to G.S. 20-79.1 or G.S. 20-79.1A and~~  
12 ~~that the registration becomes valid for the remainder of the year upon payment of county and~~  
13 ~~municipal taxes and fees due in the current year.~~

14           (b)    Distribution and Collection Fees. – ~~When the combined tax and registration notice~~  
15 ~~required by subsection (a) or (a2) of this section is prepared, the~~ The Property Tax Division of  
16 the Department of Revenue or a third-party contractor selected by the Property Tax Division  
17 shall mail ~~must send~~ a copy of the ~~notice, with appropriate instructions for payment, combined~~  
18 ~~tax and registration notice for a registered classified motor vehicle to the motor vehicle~~  
19 ~~owner-owner, as defined in G.S. 20-4.01.~~ The Department ~~shall~~ must establish a fee equal to  
20 the actual cost of ~~printing-preparing, printing,~~ and sending the notice. The Department may  
21 receive a fee for each notice generated for a vehicle registered in a county or municipal  
22 corporation from the taxes and fees remitted to the county or municipal corporation in which  
23 the vehicle is registered. The collecting authority is responsible for collecting county and  
24 municipal taxes and fees assessed under this Article and may ~~retain~~ receive a fee for collecting  
25 these taxes and fees. The amount of this fee ~~retained by the collecting authority shall be an~~  
26 ~~amount~~ must equal ~~to~~ at least one-third of the compensation paid for registration renewals  
27 conducted by contract agents under G.S. 20-63(h). The Property Tax Division ~~shall~~ must  
28 establish procedures to ensure that tax payments and fees received pursuant to this Article and  
29 Chapter 20 of the General Statutes are properly accounted for and taxes and fees due other  
30 taxing units and the Division of Motor Vehicles are remitted at least once each month. ~~Each~~  
31 ~~collecting authority shall provide a weekly financial report containing information required by~~  
32 ~~the Property Tax Division to the taxing units and Division of Motor Vehicles to enable them to~~  
33 ~~account for payments received.~~

34           (b1)   Repealed by Session Laws 1995, c. 329, s. 2.

35           (c)    Notice for Unregistered Vehicle. – ~~For classified motor vehicles listed pursuant to~~  
36 ~~G.S. 105-330.3(a)(2), the assessor shall appraise each vehicle in accordance with~~  
37 ~~G.S. 105-330.2.~~ The assessor ~~shall~~ must prepare and send a tax notice for each unregistered  
38 classified motor vehicle before September 1 following the January 31 listing ~~date; the tax~~  
39 ~~notice shall~~ date. The notice must include all county and special district taxes due on the motor  
40 vehicle. In computing the taxes, the assessor ~~shall~~ must use the tax rates of the taxing units in  
41 effect for the fiscal year that begins on July 1 following the January 31 listing date.  
42 Municipalities ~~shall~~ must list, assess, and tax unregistered classified motor vehicles listed  
43 ~~pursuant to G.S. 105-330.3(a)(2)~~ as provided in G.S. 105-326, 105-327, and ~~105-328~~ and shall  
44 ~~send tax notices as provided in this section.~~ 105-328.

45           (d)    Scope of Levy. – ~~The A county shall~~ must include taxes on registered classified  
46 motor vehicles listed pursuant to ~~G.S. 105-330.3(a)(1)~~ in the tax levy for the fiscal year in  
47 which the taxes become due and shall charge the taxes to the tax collector for that year, unless  
48 the tax notice required by subsection (a) is prepared after the date the taxes are due. If that  
49 occurs, the county shall include the taxes from that notice in the tax levy for the current fiscal  
50 year and shall charge the taxes to the tax collector for that year. are collected.



1       (e) Small Underpayment or Overpayment. – Notwithstanding G.S. 105-357(c), the  
2 collecting authority must treat a small underpayment of taxes and fees as fully paid and not  
3 refund a small overpayment of taxes and fees unless the vehicle owner requests a refund before  
4 the end of the fiscal year in which the small overpayment is made. A "small underpayment" is a  
5 payment made, other than in person, that is no more than one dollar (\$1.00) less than the taxes  
6 and fees due on the vehicle. A "small overpayment" is a payment made, other than in person,  
7 that is no more than four dollars and ninety-nine cents (\$4.99) greater than the taxes and fees  
8 due on the vehicle.

9       ....

10 **"§ 105-330.8. Deadlines not extended.**

11       Except as otherwise provided in this Article, the following provisionssections of  
12 G.S. 105-395.1 and G.S. 103-5 do not apply to deadlines established in this Article. the General  
13 Statutes do not apply:

14           (1) G.S. 105-395.1 and G.S. 103-5.

15           (2) G.S. 105-321(f).

16           (3) G.S. 105-360.

17 **"§ 105-330.9. Antique automobiles.**

18       (a) Definition. – For the purpose of this section, the term "antique automobile" means a  
19 motor vehicle that meets all of the following conditions:

20           (1) It is registered with the Division of Motor Vehicles and has an historic  
21 vehicle special license plate under G.S. 20-79.4.

22           (2) It is maintained primarily for use in exhibitions, club activities, parades, and  
23 other public interest functions.

24           (3) It is used only occasionally for other purposes.

25           (4) It is owned by an individual.

26           (5) It is used by the owner for a purpose other than the production of income  
27 and is not used in connection with a business.

28       (b) Classification. – Antique automobiles are designated a special class of property  
29 under Article V, Sec. 2(2) of the North Carolina Constitution and ~~shall~~ must be assessed for  
30 taxation in accordance with this section. An antique automobile ~~shall~~ must be assessed at the  
31 lower of its true value or five hundred dollars (\$500.00).

32       ....

33 **"§ 105-330.11. Memorandum of understanding.**

34       The Department of Revenue, acting through the Property Tax Division, and the Department  
35 of Transportation, acting through the Division of Motor Vehicles are directed to enter into a  
36 memorandum of understanding concerning the administration of this Article. The  
37 memorandum of understanding must include the following:

38           (1) A procedure for the administration of the listing, appraisal, and assessment  
39 of classified motor vehicles.

40           (2) Information concerning vehicle identification, ~~identification of a vehicle~~  
41 ~~owner by~~ the name and address of a vehicle's owner, and other information  
42 that will be required on a motor vehicle registration form to implement the  
43 tax listing and collection provisions of this Article.

44           (3) A procedure for the business practices, accounting, and costs of carrying out  
45 the integrated computer system for registration renewal and property tax  
46 collection for motor vehicles once the system has been certified to be in  
47 operation by the Department of Revenue and the Department of  
48 Transportation. The Departments must consult with the North Carolina  
49 Association of County Commissioners, acting on behalf of the counties, and  
50 the North Carolina League of Municipalities, acting on behalf of the  
51 municipalities, in developing the procedures under this subdivision and

1 obtain their signed endorsements before any part of this procedure is  
2 implemented."

3 **SECTION 22.(b)** G.S. 20-79.1A reads as rewritten:

4 "**§ 20-79.1A. Use of limited ~~Limited~~ registration plates on motor vehicles. plates.**

5 (a) ~~The Division or its authorized agent shall must limited registration plate upon~~  
6 ~~receipt of an application for title and registration fees from a dealer, who is authorized to issue~~  
7 ~~temporary registration plates or markers to owners of vehicles pursuant to G.S. 20-79.1, or~~  
8 ~~from any other person. A limited registration plate is issuable to a person who applies, either~~  
9 ~~directly or through a dealer licensed under Article 12 of this Chapter, for a title to a motor~~  
10 ~~vehicle and a registration plate for the vehicle and who submits payment for the applicable title~~  
11 ~~and registration fees but does not submit payment for any municipal corporation property taxes~~  
12 ~~on the vehicle. A person who submits payment for municipal corporation property taxes~~  
13 ~~receives an annual registration plate. The~~

14 A limited registration plate must be clearly and visibly designated as "temporary" and shall  
15 expire "temporary." The plate expires on the last day of the second month following the date of  
16 application of the limited registration plate. The plate may be used only on the vehicle for  
17 which it is issued and may not be transferred, loaned, or assigned to another. If the plate is lost  
18 or stolen, the vehicle for which the plate was issued may not be operated on a highway until a  
19 replacement limited registration plate or a regular license plate is received and attached to the  
20 vehicle.

21 The Division is not required to issue a registration certificate for a limited registration plate.  
22 A combined tax and registration notice issued under G.S. 105-330.5 serves as the registration  
23 certificate for the plate.

24 ~~(b) Notwithstanding subsection (a) of this section, the Division or its authorized agent~~  
25 ~~shall issue an annual registration plate upon receipt of an application for title, registration fees,~~  
26 ~~and property taxes from the dealer or any other person."~~

27 **SECTION 22.(c)** G.S. 105-330.9 and G.S. 105-330.11, as amended in subsection  
28 (a) of this section, are effective when this act becomes law. Subsection (b) of this section and  
29 the remainder of subsection (a) of this section become effective July 1, 2011, and apply to  
30 combined tax and registration notices issued on or after July 1, 2011. The remainder of this  
31 section is effective when it becomes law.

32 **SECTION 23.(a)** Section 8 of S.L. 2007-471 reads as rewritten:

33 "**SECTION 8.** ~~Unless otherwise stated, this act becomes effective July 1, 2010, July 1,~~  
34 2011, and applies to combined tax and registration notices issued on or after that date, or when  
35 the Division of Motor Vehicles and the Department of Revenue certify that the integrated  
36 computer system for registration renewal and property tax collection for motor vehicles is in  
37 operation, whichever occurs first."

38 **SECTION 23.(b)** Section 79 of S.L. 2008-134 reads as rewritten:

39 "**SECTION 79.** Sections 16 through 60 of this act become effective January 1, 2009.  
40 Except as otherwise provided, the remainder of this act is effective when it becomes law.  
41 Section 63 of this act is repealed July 1, 2011."

42 **SECTION 24.** G.S. 105-361(a) reads as rewritten:

43 "(a) ~~Duty to Furnish a Certificate. – On the request of any of the persons prescribed a~~  
44 person who is listed in subdivision (a)(1), below, (1) of this subsection and upon the condition  
45 prescribed by subdivision (a)(2), below, who complies with subdivision (2) of this subsection,  
46 the tax collector shall furnish must give the person a written certificate stating the amount of  
47 any taxes and special assessments owed for the current year and for any prior years in his hands  
48 for collection (together with any penalties, interest, and costs accrued thereon) including the  
49 amount due under G.S. 105-277.4(e) if the property should lose its eligibility for the benefit of  
50 classification under G.S. 105-277.2 et seq. that are a lien on a parcel of real property in the

1 taxing unit year and the amount of any deferred taxes and interest that would become due if a  
2 disqualifying event occurred.

- 3 (1) ~~Who May Make Request.~~ may make request. – Any of the following persons  
4 ~~shall be entitled to~~ may request the certificate:  
5 a. An owner of the real ~~property;~~ property.  
6 b. An occupant of the real ~~property;~~ property.  
7 c. A person having a lien on the real ~~property;~~ property.  
8 d. A person having a legal interest or estate in the real  
9 ~~property;~~ property.  
10 e. A person or firm having a contract to purchase or lease the property  
11 or a person or firm having contracted to make a loan secured by the  
12 ~~property;~~ property.  
13 f. The authorized agent or attorney of any person described in  
14 ~~subdivisions (a)(1)a through e above.~~ this subdivision.
- 15 (2) ~~Duty of Person Making Request.~~ Identification of property. – A person  
16 requesting a certificate ~~With with~~ respect to taxes, the tax collector shall not  
17 be required to furnish a certificate unless the person making the request  
18 specifies in whose taxes must specify the name of the person who listed the  
19 real property was listed for taxation for each year for which the information  
20 is sought. A person requesting a certificate ~~With with~~ respect to assessments,  
21 the tax collector shall not be required to furnish a certificate unless the  
22 person making the request furnishes such identification of assessments must  
23 identify the real estate as may be reasonably in the manner required by the  
24 tax collector."

25 **SECTION 25.(a)** G.S. 160A-215.2 reads as rewritten:

26 **"§ 160A-215.2. Heavy equipment gross receipts tax in lieu of property tax.**

27 (a) Definitions. – The following definitions apply in this section:

28 (1) Heavy equipment. – Defined in G.S. 153A-156.1.

29 (2) Short-term lease or rental. – Defined in G.S. 105-187.1.

30 (b) Tax Authorized. – A city may, by ~~resolution,~~ ordinance, impose a tax at the rate of  
31 eight tenths percent (0.8%) on the gross receipts from the short-term lease or rental of heavy  
32 equipment by a person whose principal business is the short-term lease or rental of heavy  
33 equipment at retail. The heavy equipment subject to this tax is exempt from property tax under  
34 G.S. 105-275, and this tax provides an alternative to a property tax on the equipment. A person  
35 is not considered to be in the short-term lease or rental business if the majority of the person's  
36 lease and rental gross receipts are derived from leases and rentals to a person who is a related  
37 person under G.S. 105-163.010.

38 The tax authorized by this section applies to gross receipts that are subject to tax under  
39 G.S. 105-164.4(a)(2). Gross receipts from the short-term lease or rental of heavy equipment are  
40 subject to a tax imposed by a city under this section if the place of business from which the  
41 heavy equipment is delivered is located in the city.

42 (c) Payment. – A person whose principal business is the short-term lease or rental of  
43 heavy equipment is required to remit a tax imposed by this section to the ~~city finance officer.~~  
44 city. The tax is payable quarterly and is due by the last day of the month following the end of  
45 the quarter. The tax is intended to be added to the amount charged for the short-term lease or  
46 rental of heavy equipment and paid to the heavy equipment business by the person to whom the  
47 heavy equipment is leased or rented.

48 (d) Enforcement. – The penalties and collection remedies that apply to the payment of  
49 sales and use taxes under Article 5 of Chapter 105 of the General Statutes apply to a tax  
50 imposed under this section. The city finance officer has the same authority as the Secretary of  
51 Revenue in imposing these penalties and remedies.

1 (e) Effective Date. – A tax imposed under this section becomes effective on the date set  
2 in the ~~resolution-ordinance~~ imposing the tax. The date must be the first day of a calendar  
3 quarter and may not be sooner than the first day of the calendar quarter that begins at least two  
4 months after the date the ~~resolution-ordinance~~ is adopted.

5 (f) Repeal. – A city may, by ~~resolution, ordinance,~~ repeal a tax imposed under this  
6 section. The repeal is effective on the date set in the ~~resolution-ordinance~~. The date must be the  
7 first day of a calendar quarter and may not be sooner than the first day of the calendar quarter  
8 that begins at least two months after the date the ~~resolution-ordinance~~ is adopted."

9 **SECTION 25.(b)** A heavy equipment gross receipts tax levied by a city ordinance  
10 or a city resolution on or before the effective date of this act is valid and remains in effect until  
11 amended or repealed.

## 12 OCCUPANCY TAX CHANGES

13 **SECTION 26.** Section 1 of S.L. 2008-33 reads as rewritten:

14 **"SECTION 1.** Chapter 1055 of the 1983 Session ~~Laws-Laws,~~ as amended by Section 21(e)  
15 of S.L. 2007-527, reads as rewritten:

16 'Section 1. ~~Levy of Tax. Occupancy Tax.~~ –

17 (a) Authorization and Scope. – The Cherokee County Board of Commissioners may by  
18 resolution, after not less than 10 days' public notice and after a public hearing held pursuant  
19 thereto, levy a room occupancy and tourism development tax.

20 (b) Collection of the tax, and liability therefor, shall begin and continue only on and  
21 after the first day of a calendar month set by the Cherokee County Board of Commissioners in  
22 the resolution levying the tax, which in no case may be earlier than the first day of the second  
23 succeeding calendar month after the date of adoption of the resolution.

24 'Sec. 2. Occupancy Tax.

25 (a) The county room occupancy and tourism development tax that may be levied under  
26 this act shall be a percentage tax of three percent (3%) of the gross receipts derived from the  
27 rental of any room, lodging, or similar accommodation furnished by any hotel, motel, inn,  
28 tourist camp, or other similar place within the county now that is subject to the three percent  
29 (3%) sales tax imposed by the State under G.S. 105-164.4(3)-105-164.4(a)(3). During the first  
30 year in which a tax levied under this act is in effect, the tax shall be three percent (3%) of the  
31 gross receipts derived from the rental of taxable accommodations in the county. Thereafter, the  
32 rate of tax shall continue to be three percent (3%) unless the Cherokee County Board of  
33 Commissioners, by resolution, adopts a rate of less than three percent (3%). A change in the  
34 occupancy tax rate adopted by the board of commissioners becomes effective the first day of  
35 the second succeeding calendar month following the date of adoption of the resolution. The  
36 Cherokee County Board of Commissioners may not change the occupancy tax rate more than  
37 once a year.

38 (b) The occupancy tax is in addition to any State or local sales tax. This tax does not  
39 apply to accommodations furnished by nonprofit charitable, educational, ~~benevolent,~~ or  
40 religious organizations.

41 (b) Authorization of Additional Tax. – In addition to the tax authorized by subsection  
42 (a) of this section, the Cherokee County Board of Commissioners may levy an additional room  
43 occupancy tax of up to three percent (3%) of the gross receipts derived from the rental of  
44 accommodations taxable under subsection (a) of this section. The levy, collection,  
45 administration, and repeal of the tax authorized by this subsection shall be in accordance with  
46 the provisions of this act. Cherokee County may not levy a tax under this subsection unless it  
47 also levies the tax authorized under subsection (a) of this section.

48 'Sec. 3. Administration of Tax. – A tax levied under this act shall be levied, collected,  
49 administered, and repealed as provided in G.S. 153A-155. The penalties provided in  
50 G.S. 153A-155 apply to a tax levied under this act.

1 (a) Any tax levied under this act is due and payable to the county in monthly  
2 installments on or before the 20th day of the month following the month in which the tax  
3 accrues. Every person, firm, corporation, or association liable for the tax shall, on or before the  
4 20th day of each month, prepare and render a return on a form prescribed by the county. The  
5 return shall state the total gross receipts derived in the preceding month from rentals upon  
6 which the tax is levied.

7 (b) Any person, firm, corporation, or association who fails or refuses to file the return  
8 required by this act shall pay a penalty of ten dollars (\$10.00) for each day's omission.

9 (c) In case of failure or refusal to file the return or pay the tax for a period of 30 days  
10 after the time required for filing the return or for paying the tax, there shall be an additional tax,  
11 as a penalty, of five percent (5%) of the tax due in addition to the penalty prescribed in  
12 subsection (b), with an additional tax of five percent (5%) for each additional month or fraction  
13 thereof until the occupancy tax is paid.

14 (d) Any person who willfully attempts in any manner to evade the occupancy tax  
15 imposed by this act or to make a return and who willfully fails to pay the tax or make and file a  
16 return shall, in addition to all other penalties provided by law, be guilty of a misdemeanor and  
17 shall be punishable by a fine not to exceed one thousand dollars (\$1,000), imprisonment not to  
18 exceed six months, or both.

19 'Sec. 4. Collection of Tax. Every operator of a business subject to the tax levied pursuant to  
20 this act shall collect the tax on and after the effective date of the levy of the tax.

21 This tax shall be collected as part of the charge for the furnishing of any taxable  
22 accommodations. The tax shall be stated and charged separately from the sales records, and  
23 shall be paid by the purchaser to the operator of the business as trustee for and on account of  
24 Cherokee County. The room occupancy tax levied under this act shall be added to the sales  
25 price and shall be passed on to the purchaser instead of being borne by the operator of the  
26 business. The county shall design, print, and furnish to all appropriate businesses in the county  
27 the necessary forms for filing returns and instructions to ensure the full collection of the tax.

28 'Sec. 5. Disposition of Taxes Collected. Distribution and Use of Tax Revenue. – Cherokee  
29 County shall, on a quarterly basis, remit the net proceeds of all revenues received from the  
30 room occupancy tax to the Cherokee County Tourism Development Authority. Authority  
31 appointed pursuant to this act. The Authority shall use at least two-thirds of the funds remitted  
32 to it under this act to promote travel and tourism in Cherokee County and shall use the  
33 remainder for tourism-related expenditures. "Net proceeds" means gross proceeds less the cost  
34 to the county of administering and collecting the tax. The Authority may expend these funds  
35 only to further the development of travel, tourism, and conventions in the county through  
36 advertising and promotion.

37 The following definitions apply in this section:

38 (1) Net proceeds. – Gross proceeds less the cost to the county of administering  
39 and collecting the tax, as determined by the finance officer, not to exceed  
40 three percent (3%) of the first five hundred thousand dollars (\$500,000) of  
41 gross proceeds collected each year and one percent (1%) of the remaining  
42 gross receipts collected each year.

43 (2) Promote travel and tourism. – To advertise or market an area or activity,  
44 publish and distribute pamphlets and other materials, conduct market  
45 research, or engage in similar promotional activities that attract tourists or  
46 business travelers to the area. The term includes administrative expenses  
47 incurred in engaging in the listed activities.

48 (3) Tourism-related expenditures. – Expenditures that, in the judgment of the  
49 Tourism Development Authority, are designed to increase the use of lodging  
50 facilities, meeting facilities, or convention facilities in a county or to attract

1 tourists or business travelers to the county. The term includes  
2 tourism-related capital expenditures.

3 ~~'Sec. 6. Appointment, Duties of Cherokee County Tourism Development Authority. –~~

4 ~~(a) Appointment and Membership. – When the Cherokee County Board of~~  
5 ~~Commissioners adopts a resolution levying a room occupancy tax, tax under this act, it shall~~  
6 ~~also adopt a resolution creating a County Tourism Development Authority composed of the~~  
7 ~~director of the Cherokee County Chamber of Commerce and the following four members~~  
8 ~~appointed by the Cherokee County Board of Commissioners:~~

9 ~~(1) an owner of a hotel, motel, or other accommodations subject to the tax~~  
10 ~~levied by this act;~~

11 ~~(2) a member of the board of county commissioners;~~

12 ~~(3) a town commissioner or the mayor of the Town of Murphy; and~~

13 ~~(4) a town alderman or the mayor of the Town of Andrews.~~

14 ~~The director of the Cherokee County Chamber of Commerce shall serve as an ex officio~~  
15 ~~member of the Authority. The members appointed by the board of county commissioners shall~~  
16 ~~serve three year terms, except the initial appointees. Of the initial appointees, the board of~~  
17 ~~commissioners shall designate one to serve a one year term, two a two year term, and one a~~  
18 ~~three year term. Vacancies created by an appointed member shall be filled by the board of~~  
19 ~~commissioners. Members appointed to fill vacancies shall serve the remainder of the unexpired~~  
20 ~~term for which they are appointed to fill. Authority, which shall be a public authority under the~~  
21 ~~Local Government Budget and Fiscal Control Act. The resolution shall provide for the~~  
22 ~~membership of the Authority, including the members' terms of office, and for the filling of~~  
23 ~~vacancies on the Authority. At least one-third of the members must be individuals who are~~  
24 ~~affiliated with businesses that collect the tax in the county, and at least one-half of the members~~  
25 ~~must be individuals who are currently active in the promotion of travel and tourism in the~~  
26 ~~county. The board of commissioners shall designate one member of the Authority as chair and~~  
27 ~~shall determine the compensation, if any, to be paid to members of the Authority.~~

28 ~~The Authority shall meet at the call of the chair and shall adopt rules of procedure to govern~~  
29 ~~its meetings. The Finance Officer for Cherokee County shall be the ex officio finance officer of~~  
30 ~~the Authority.~~

31 ~~(b) Duties. – The Authority shall expend the net proceeds of the tax levied under this~~  
32 ~~act for the purposes provided in this act. The Authority shall promote travel, tourism, and~~  
33 ~~conventions in the county, sponsor tourist-related events and activities in the county, and~~  
34 ~~finance tourist-related capital projects in the county. The members of the Tourism Development~~  
35 ~~Authority shall elect from its membership a chairman. The Authority shall meet at the call of~~  
36 ~~the chairman and shall adopt rules of procedure to govern its meetings. The finance officer of~~  
37 ~~Cherokee County shall serve ex officio as accountant for the Authority.~~

38 ~~(c) Reports. – The Tourism Development Authority shall report quarterly and at the~~  
39 ~~close of the fiscal year to the board of county commissioners on its receipts and disbursements~~  
40 ~~for the preceding quarter and for the year in such detail as the board may require.~~

41 ~~'Sec. 7. Repeal of Levy.~~

42 ~~(a) The board of county commissioners may by resolution repeal the levy of the room~~  
43 ~~occupancy tax in Cherokee County, but no repeal of taxes levied under this act is effective until~~  
44 ~~the end of the fiscal year in which the repeal resolution was adopted.~~

45 ~~(b) No liability for any tax levied under this act that attached prior to the date on which~~  
46 ~~a levy is repealed is discharged as a result of the repeal, and no right to a refund of a tax that~~  
47 ~~accrued prior to the effective date on which a levy is repealed may be denied as a result of the~~  
48 ~~repeal.~~

49 ~~'Sec. 8. This act is effective upon ratification.'~~

50 **SECTION 27.** The catch line for Section 21(j) of S.L. 2007-527 reads as rewritten:

1 "SECTION 21.(j) Subsection (a) of Section 4 of Chapter 929 of the 1985 Session Laws as  
2 amended by S.L. 1985-929 Laws, as amended by Chapter 319 of the 1987 Session Laws, reads  
3 as rewritten:"

4 SECTION 28. Section 1(b) of S.L. 2005-68 reads as rewritten:

5 "SECTION 1.(b) Administration. – Except as otherwise provided in this act, a tax levied  
6 under this section shall be levied, administered, and collected as provided in Part IV of Chapter  
7 908 of the 1983 Session Laws, as amended by Chapters 821 and 922 of the 1989 Session Laws  
8 and S.L. 2001-402. Laws, S.L. 2001-402, and Section 21(cc) of S.L. 2007-527. The penalties  
9 provided in Part IV of Chapter 908 of the 1983 Session Laws, as amended by Chapters 821 and  
10 922 of the 1989 Session Laws and S.L. 2001-402, apply to a tax levied under this section."

## 11 12 MOTOR FUEL TAX CHANGES

13 SECTION 29.(a) G.S. 105-449.45(a) reads as rewritten:

14 "(a) Report. – A motor carrier must report its operations to the Secretary on a quarterly  
15 basis unless subsection (b) of this section exempts the motor carrier from this requirement. A  
16 quarterly report covers a calendar quarter and is due by the last day in April, July, October, and  
17 January. A report must be filed in the form required by the Secretary."

18 SECTION 29.(b) This section becomes effective January 1, 2010.

19 SECTION 30. G.S. 105-449.47A reads as rewritten:

20 "§ 105-449.47A. **Reasons why the Secretary can deny an application for a registration  
21 and decals.**

22 The Secretary may refuse to register and issue a decal to an applicant that has done any of  
23 the following:

- 24 (1) Had a registration issued under Chapter 105 or Chapter 119 of the General  
25 Statutes cancelled by the Secretary for cause.
- 26 (2) Had a registration issued by another jurisdiction, pursuant to the  
27 International Fuel Tax Agreement, cancelled for cause.
- 28 (3) Been convicted of fraud or misrepresentation.
- 29 (4) Been convicted of any other offense that indicates that the applicant may not  
30 comply with this Article if registered and issued a decal.
- 31 (5) Failed to remit payment for a tax debt under Chapter 105 or Chapter 119 of  
32 the General Statutes. The term "tax debt" has the same meaning as defined in  
33 G.S. 105-243.1.
- 34 (6) Failed to file a return due under Chapter 105 or Chapter 119 of the General  
35 Statutes."

36 SECTION 31. G.S. 105-449.72 is amended by adding a new subsection to read:

37 "(f) Exemption. – The requirement to obtain a bond or an irrevocable letter of credit  
38 does not apply to a distributor, an importer, or a motor fuel transporter who supplies motor fuel  
39 when the market for motor fuel is disrupted and emergency supplies are needed, as identified  
40 by an executive order of the Governor."

41 SECTION 32.(a) G.S. 105-449.81 reads as rewritten:

42 "§ 105-449.81. **Excise tax on motor fuel.**

43 An excise tax at the motor fuel rate is imposed on motor fuel that is:

- 44 (1) Removed from a refinery or a terminal and, upon removal, is subject to the  
45 federal excise tax imposed by § 4081 of the Code.
- 46 (2) Imported by a system transfer to a refinery or a terminal and, upon  
47 importation, is subject to the federal excise tax imposed by § 4081 of the  
48 Code.
- 49 (3) Imported by a means of transfer outside the terminal transfer system for sale,  
50 use, or storage in this State and would have been subject to the federal excise

1 tax imposed by § 4081 of the Code if it had been removed at a terminal or  
 2 bulk plant rack in this State instead of imported.

3 (3a) Repealed by Session Laws 2007-527, s. 38(a), effective January 1, 2008.

4 (3b) Fuel grade ethanol that meets any of the following descriptions:

5 a. Is produced in this State, ~~State and~~ is removed from the storage  
 6 facility at the production location, ~~and is not delivered to a terminal~~  
 7 ~~in this State location.~~

8 b. Is imported to this State outside the terminal transfer system ~~and is~~  
 9 ~~not delivered to a terminal system.~~

10 c. ~~Is removed from a terminal.~~

11 (4) Blended fuel made in this State or imported to this State.

12 (5) Transferred within the terminal transfer system and is subject, upon transfer,  
 13 to the federal excise tax imposed by section 4081 of the Code or is  
 14 transferred to a person who is not licensed under this Article as a supplier."

15 **SECTION 32.(b)** G.S. 105-449.83A reads as rewritten:

16 "**§ 105-449.83A. Liability for tax on fuel grade ethanol.**

17 The excise tax imposed by G.S. 105-449.81(3b) on fuel grade ethanol is payable by the  
 18 refiner or fuel alcohol provider."

19 **SECTION 32.(c)** Subsection (a) of this section becomes effective January 1, 2010.

20 The remainder of this section is effective when it becomes law.

21 **SECTION 33.(a)** G.S. 105-449.95 is recodified as G.S. 105-449.105B.

22 G.S. 105-449.105B, as recodified by this section, reads as rewritten:

23 "**§ 105-449.105B. Quarterly Monthly hold harmless refunds for licensed distributors and**  
 24 **some licensed importers.**

25 (a) ~~Calculation. At the end of each calendar quarter, the Secretary must review the~~  
 26 ~~amount of discounts each licensed distributor or licensed importer received under~~  
 27 ~~G.S. 105-449.93(b). The Secretary must determine if the amount of discounts the distributor or~~  
 28 ~~importer received under that subsection in each month of the is less than~~ If a licensed  
 29 distributor or licensed importer purchases motor fuel from a licensed supplier during a month  
 30 and the discount the distributor or importer receives under G.S. 105-449.93(b) on the motor  
 31 fuel is less than the amount the distributor or importer would have received during that month if  
 32 the distributor or importer had been allowed a discount on taxable gasoline purchased by the  
 33 distributor or importer from a supplier during each month of the quarter under the following  
 34 schedule: under the following schedule, the distributor or importer is allowed a monthly refund  
 35 of the difference:

<u>Amount of Gasoline Purchased</u>	<u>Percentage</u>
<u>Each Month</u>	<u>Discount</u>
38 First 150,000 gallons	2%
39 Next 100,000 gallons	1 1/2%
40 Amount over 250,000 gallons	1%.

41 (b) ~~Refund. If the amount the licensed distributor or licensed importer received under~~  
 42 ~~G.S. 105-449.93(b) for a month in the quarter is less than the amount the distributor or importer~~  
 43 ~~would have received on the distributor's or importer's taxable gasoline purchases under the~~  
 44 ~~monthly schedule in subsection (a) of this section, the Secretary must send the distributor or~~  
 45 ~~importer a refund check for the difference. In determining the amount of discounts a distributor~~  
 46 ~~or importer received under G.S. 105-449.93(b) for gasoline motor fuel purchased in a month, a~~  
 47 ~~distributor or importer is considered to have received the amount of any discounts the~~  
 48 ~~distributor or importer could have received under that subsection but did not receive because~~  
 49 ~~the distributor or importer failed to pay the tax due to the supplier by the date the supplier had~~  
 50 ~~to pay the tax to the State."~~



1           **SECTION 33.(b)** This section becomes effective January 1, 2010, and applies to  
2 motor fuel purchased on or after that date.

3           **SECTION 34.(a)** G.S. 105-449.115 reads as rewritten:

4           "(a) Issuance. – A person may not transport motor fuel by railroad tank car or transport  
5 truck unless the person has a shipping document for its transportation that complies with this  
6 section. A refiner, a terminal operator and operator, a fuel alcohol provider, and the operator of  
7 a bulk plant must give a shipping document to the person who operates a railroad tank car or a  
8 transport truck into which motor fuel is loaded at the terminal rack or bulk plant rack.

9           (b) Content. – A shipping document ~~a terminal operator or the operator of a bulk plant~~  
10 must contain the following information and any other information required by the Secretary:

11           (1) Identification, including address, of the terminal or bulk plant from which  
12 the motor fuel was received.

13           (1a) The type of motor fuel loaded.

14           (2) The date the motor fuel was loaded.

15           (3) The gross gallons ~~loaded~~ loaded if the motor fuel is loaded onto a transport  
16 truck, and the gross pounds loaded if the motor fuel is loaded onto a railroad  
17 tank car.

18           (3a) The motor fuel transporter for the motor fuel.

19           (4) The destination state of the motor fuel, as represented by the purchaser of the  
20 motor fuel or the purchaser's agent.

21           (5) If the document is issued by a refiner or a terminal operator, the document  
22 must be machine printed and it printed. If the motor fuel is loaded onto a  
23 transport truck, the document must contain the following information:

24           a. The net gallons loaded.

25           b. A tax responsibility statement indicating the name of the supplier that  
26 is responsible for the tax due on the motor fuel.

27           (c) Reliance. – A ~~terminal operator or bulk plant operator~~ person who issues a shipping  
28 document may rely on the representation made by the purchaser of motor fuel or the  
29 purchaser's agent concerning the destination state of the motor fuel. A purchaser is liable for  
30 any tax due as a result of the purchaser's diversion of fuel from the represented destination  
31 state.

32           (d) Duties of Transporter. – A person to whom a shipping document was issued must do  
33 all of the following:

34           (1) Carry the shipping document in the conveyance for which it was issued  
35 when transporting the motor fuel described in it.

36           (2) Show the shipping document to a law enforcement officer upon request  
37 when transporting the motor fuel described in it.

38           (3) Deliver motor fuel described in the shipping document to the destination  
39 state printed on it unless the person does all of the following:

40           a. Notifies the Secretary before transporting the motor fuel into a state  
41 other than the printed destination state that the person has received  
42 instructions since the shipping document was issued to deliver the  
43 motor fuel to a different destination state.

44           b. Receives from the Secretary a confirmation number authorizing the  
45 diversion.

46           c. Writes on the shipping document the change in destination state and  
47 the confirmation number for the diversion.

48           (4) Give a copy of the shipping document to the distributor or other person to  
49 whom the motor fuel is delivered.

50           (e) Duties of Person Receiving Shipment. – A person to whom motor fuel is delivered  
51 by railroad tank car or transport truck may not accept delivery of the motor fuel if the

1 destination state shown on the shipping document for the motor fuel is a state other than North  
2 Carolina. To determine if the shipping document shows North Carolina as the destination state,  
3 the person to whom the fuel is delivered must examine the shipping document and must keep a  
4 copy of the shipping document. The person must keep a copy at the place of business where the  
5 motor fuel was delivered for 90 days from the date of delivery and must keep it at that place or  
6 another place for at least three years from the date of delivery. A person who accepts delivery  
7 of motor fuel in violation of this subsection is jointly and severally liable for any tax due on the  
8 fuel.

9 (f) ~~Sanctions Against Transporter. – The following acts listed in this subsection are~~  
10 ~~grounds for a civil penalty: penalty. The penalty is payable to the agency that assessed the~~  
11 ~~penalty and is payable by the person in whose name the conveyance is registered, if the~~  
12 ~~conveyance is a transport truck, and is payable by the person responsible for the movement of~~  
13 ~~motor fuel in the conveyance, if the conveyance is a railroad tank car. The amount of the~~  
14 ~~penalty is five thousand dollars (\$5,000). A penalty imposed under this subsection is in addition~~  
15 ~~to any motor fuel tax assessed. The grounds for a civil penalty are:~~

- 16 (1) Transporting motor fuel in a railroad tank car or transport truck without a  
17 shipping document or with a false or an incomplete shipping document.
- 18 (2) Delivering motor fuel to a destination state other than that shown on the  
19 shipping document.

20 ~~The penalty is payable to the agency that assessed the penalty and is payable by the person~~  
21 ~~in whose name the conveyance is registered, if the conveyance is a transport truck, and is~~  
22 ~~payable by the person responsible for the movement of motor fuel in the conveyance, if the~~  
23 ~~conveyance is a railroad tank car. The amount of the penalty is five thousand dollars (\$5,000).~~  
24 ~~A penalty imposed under this subsection is in addition to any motor fuel tax assessed.~~

25 (g) ~~Penalty Defense. – Compliance with the conditions set out in this subsection is a~~  
26 ~~defense to a civil penalty imposed under subsection (f) of this section as a result of the delivery~~  
27 ~~of fuel to a state other than the destination state printed on the shipping document for the fuel.~~  
28 ~~The Secretary must waive a penalty imposed against a person under that subsection if the~~  
29 ~~person establishes a defense under this subsection. The conditions for the defense are:~~

- 30 (1) The person notified the Secretary of the diversion and received a  
31 confirmation number for the diversion before the imposition of the penalty.
- 32 (2) Tax was timely paid on the diverted fuel, unless the person is a motor fuel  
33 transporter.

34 (h) ~~Sanctions Against Terminal Operator. Sanctions. – The Secretary may assess a civil~~  
35 ~~penalty of five thousand dollars (\$5,000) against a terminal operator person who intentionally~~  
36 ~~issues a shipping document that does not satisfy the requirements of subsection (b) of this~~  
37 ~~section."~~

38 **SECTION 34.(b)** This section becomes effective January 1, 2010.

39 **SECTION 35.** G.S. 105-449.121(b)(2) reads as rewritten:

- 40 "(2) Audit a distributor, a retailer, a ~~bulk end user,~~ bulk end-user, or a motor fuel  
41 user that is not licensed under this Article."

42 **SECTION 36.** G.S. 105-449.136 reads as rewritten:

43 **"§ 105-449.136. Tax on alternative fuel.**

44 A tax at the motor fuel rate is imposed on liquid alternative fuel used to operate a highway  
45 vehicle by means of a vehicle supply tank that stores fuel only for the purpose of supplying fuel  
46 to operate the vehicle. A tax at the equivalent of the motor fuel rate is imposed on all other  
47 alternative fuel used to operate a highway vehicle. The Secretary must determine the equivalent  
48 rate. The exemptions from the tax on motor fuel in ~~G.S. 105-449.88(2), (3), and (4)~~  
49 G.S. 105-449.88 apply to the tax imposed by this section. The refunds for motor fuel tax  
50 allowed by Part 5 of Article 36C of this Chapter apply to the tax imposed by this section,  
51 except that the refund allowed by G.S. 105-449.107(b) for certain vehicles that use power

1 takeoffs does not apply to a vehicle whose use of alternative fuel is taxed on the basis of miles  
2 driven. The proceeds of the tax imposed by this section must be allocated in accordance with  
3 G.S. 105-449.125."  
4

#### 5 OTHER CHANGES

6 **SECTION 37.** G.S. 143B-437.63 reads as rewritten:

7 "**§ 143B-437.63. JDIG Program cash flow requirements.**

8 Notwithstanding any other provision of law, grants made through the Job Development  
9 Investment Grant Program, including amounts transferred pursuant to G.S. 143B-437.61, shall  
10 be budgeted and funded on a cash flow basis. The Office of State Budget and Management  
11 shall periodically transfer funds from the JDIG Reserve ~~Fund~~ established pursuant to  
12 ~~G.S. 143-15.3E~~ G.S. 143C-9-6 to the Department of Commerce in an amount sufficient to  
13 satisfy grant obligations and amounts to be transferred pursuant to G.S. 143B-437.61 to be paid  
14 during the fiscal year."

15 **SECTION 38.(a)** Section 12.8 of S.L. 2006-66 is repealed.

16 **SECTION 38.(b)** G.S. 150B-1(d)(15) is repealed.

17 **SECTION 39.** The prefatory language of Section 28.19(a) of S.L. 2008-107 reads  
18 as rewritten:

19 "**SECTION 28.19.(a)** G.S. 105-164.13B(a) ~~is amended by adding a new subdivision to~~  
20 ~~read:~~ reads as rewritten:"

21 **SECTION 40.** The prefatory language of Section 28.25(c) of S.L. 2008-107 reads  
22 as rewritten:

23 "**SECTION 28.25.(c)** ~~G.S. 105-134(e)(5b)~~ G.S. 105-134.6(c)(5b) reads as rewritten:"

24 **SECTION 41.** The prefatory language of Section 67(a) of S.L. 2008-134 reads as  
25 rewritten:

26 "**SECTION 67.(a)** ~~G.S. 58-5-25(a)(2)~~ G.S. 58-6-25(a)(2) is repealed."

27 **SECTION 42.(a)** Section 1.4 of S.L. 2008-146 reads as rewritten:

28 "**SECTION 1.4.** This ~~section~~ Part becomes effective July 1, 2009, and mandatory  
29 advancements in G.S. 105-286(a)(2), as amended by ~~this section~~ Section 1.1 of this Part, apply  
30 to notices sent under G.S. 105-284(c) on or after that date."

31 **SECTION 42.(b)** Section 2.3 of S.L. 2008-146 reads as rewritten:

32 "**SECTION 2.3.** This ~~section~~ Part is effective for taxes imposed for taxable years beginning  
33 on or after July 1, 2008."

34 **SECTION 42.(c)** Section 3.2 of S.L. 2008-146 reads as rewritten:

35 "**SECTION 3.2.** This ~~section~~ Part is effective for taxes imposed for taxable years beginning  
36 on or after July 1, 2009."

37 **SECTION 42.(d)** Section 4.2 of S.L. 2008-146 reads as rewritten:

38 "**SECTION 4.2.** This ~~section~~ Part is effective for taxable years beginning on or after July 1,  
39 2008."

40 **SECTION 42.(e)** Section 5.2 of S.L. 2008-146 reads as rewritten:

41 "**SECTION 5.2.** This ~~section~~ Part is effective for taxable years beginning on or after July 1,  
42 2008."

#### 43 EFFECTIVE DATE

44 **SECTION 43.** Except as otherwise provided, this act is effective when it becomes  
45 law.  
46