



INTRODUCTION

Last week was extremely intense as up to 17 committee meetings happened each day with 30-50 bills being considered in those committees. As members and lobbyists tried to get their bills through one chamber before the cross-over deadline, we heard some similar phrases over and over:

“it needs some work but if we can just get it through we will work on it on the other side”

“we will meet with stakeholders on the other side”

“we know there are a lot of questions but if we could just get it through”

“don’t let the perfect be the enemy of the good”

Many bills clearly had problems that legislators promised to work on when the bill arrived in the Senate or House but their fate is unclear. Whether the other chamber will be willing to take up these issues will depend on whether legislators on the other side are willing to move the bill and fight for it.

Last week, the House also finalized and approved their budget proposal, which we have summarized later in this legislative report. The budget moved quickly through the process and although there were a lot of amendments proposed, the main controversy was the Democrats efforts to include Medicaid Expansion in the budget, which was defeated by the majority Republicans. The budget now goes to the Senate and they will create their own version of the budget before the House and Senate work out their differences.

Although the cross-over deadline was on the 9th, the House finished their business and will not return until next week. The Senate is scheduled to meet on the 8th to go through a full calendar but there are no committee meetings scheduled so we expect their business to be completed on the 8th. This is first time I have ever seen either chamber finish moving bills BEFORE the actual cross-over deadline.



APARTMENT ASSOCIATION OF NORTH CAROLINA



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BILLS OF INTEREST

HOUSE BILL 904, Identity Theft Protection Act/Changes, would make a variety of changes to the Identity Theft Protection Act to:

- require consumer reporting agencies to create and maintain a shared website and toll-free number that a consumer can contact to request a security freeze and actions related to a security freeze;
- prohibit a consumer reporting agency from charging a fee to put a security freeze in place, remove a freeze, or lift a freeze, unless expressly authorized;
- require any business that owns or licenses personal information of residents of North Carolina or any business that conducts business in North Carolina that owns or licenses personal information in any form (whether computerized, paper, or otherwise) to: (1) implement and maintain reasonable security procedures and practices, appropriate to the nature of the personal information and the size, complexity, and capabilities of the business, to protect the personal information from unauthorized access, destruction, use, modification, or disclosure; and (2) provide notice to all persons affected by a security breach and to the Consumer Protection Division of the Attorney General's Office as soon as practicable but not later than 30 days after discovery of the breach or reason to believe a breach has occurred;
- exclude from the term *personal information*: electronic identification numbers or e-mail names or addresses unless it includes any required security code, access code, or password that would allow access to an individual's financial account or resources or other personal information; Internet identification names; parent's legal surname prior to marriage; and a password, unless the business is aware that this information would permit access to a person's financial account or resources or other personal information;
- provide that, if notice of a security breach is provided to any affected person or agency pursuant to HIPAA, then notice must also be provided to the Consumer Protection Division in the Office of the Attorney General;
- require a consumer reporting agency to offer to provide appropriate identity theft prevention and mitigation services such as credit monitoring at no cost to the consumer for not less than 48 months, if the consumer receives notice or is the subject of a security breach by a consumer reporting agency, and the consumer's personal information was held by a consumer reporting agency;
- prohibit a person from obtaining, using, or seeking the consumer report or credit score of a consumer in connection with an application for credit without the written, verbal, or electronic consent of the consumer; and
- amend the definition of *identifying information* to include: (1) health insurance policy number, subscriber identification number, or any other unique identifier used by a health insurer or payer to identify the person; and (2) any information regarding the individual's medical history or condition, medical treatment or diagnosis, or genetic information, by a health care professional.

Introduced by Representatives Saine, Jones, and Reives and referred to the House Commerce Committee.

HOUSE BILL 929, Gaming Commission, would create the North Carolina Gaming Commission to establish and oversee the operation of gaming in this State, and provide for the regulation of sports fantasy leagues. **Introduced by Representatives Warren, Hardister, Saine, and Hunter and referred to the House Commerce Committee.**

HOUSE BILL 934, Right to Try Adult Stem Cell Treatments, would expand the Right to Try Act to provide access to investigational adult stem cell treatments for patients diagnosed with a terminal or chronic illness. **Introduced by Representatives Blackwell, Lambeth, Murphy, and Reives and referred to the House Health Committee.**

HOUSE BILL 944, Protect the Integrity of NC Elections Act, would: (1) provide funds for three additional compliance investigator positions and two data analyst positions with the North Carolina State Board of Elections; (2) require county boards of elections to maintain a record of who is requesting or delivering a request form for absentee application and ballots; and (3) make it a Class 2 misdemeanor to sell or attempt to sell a completed written request form for an absentee application and ballot or condition its delivery upon payment. **Introduced by Representatives Ball, Lewis, Warren, and Dahle and referred to the Elections and Ethics Law Committee.**

HOUSE BILL 957, Small Business Income Tax Relief, is identical to House Bill 277, summarized in the March 12, 2019, Legislative Report. **Introduced by Representatives Farmer-Butterfield and Cunningham and referred to the House Finance Committee.**

HOUSE BILL 994, Top Four Open Primary/Elections, would establish a process for the election of certain offices through an open primary, sometimes referred to as a nonpartisan blanket primary or nonpartisan preliminary election, which would be followed by a general election conducted by ranked-choice voting. Ranked-choice voting is a system of election whereby voters rank candidates in order of preference used to avoid vote splitting and a spoiler outcome when support is divided among similar candidates. The system generally proceeds after an initial tabulation of the first-preference votes. Candidates with the fewest first-preference votes would be eliminated and votes redistributed to candidates that voters have marked as their next preferences. The bill would provide \$410,000 to the State Board of Elections for the implementation, education, and training needed in the development of the ranked-choice election. **Introduced by Representatives Morey, Hawkins, and Russell and referred to the House Elections and Ethics Law Committee.**

HOUSE BILL 1010, Criminal Law Reform, is identical to Senate Bill 584, summarized in the April 19, 2019, Legislative Report. **Introduced by Representatives Riddell and Morey and referred to the House Judiciary Committee.**

HOUSE BILL 1012, Safety Updates for Rental Properties, otherwise known as “the mold bill,” was the subject of stakeholder discussion by groups including **the Apartment Association of North Carolina**, though the final product is not something AANC supports. House Bill 1012 was introduced by two Mecklenburg County Democrats with no Republican support. As such the bill is unlikely to be taken up, but as filed it would:

- amend current statute to extend when a city or county is authorized to exercise its police powers to repair, close, or demolish a dwelling to include when a dwelling has fungal growth that may result in medical ailments as a result of prolonged exposure, as determined by parameters and guidelines established by the Commission for Public Health;
- require the Commission for Public Health to adopt rules establishing statewide parameters and guidelines for exposure to fungal growth that may result in medical ailments;
- set out six considerations when establishing those parameters and guidelines: (1) fungal species that can cause respiratory and immune ailments from prolonged exposure, (2) scientific and medical research on harmful fungal growth exposure, (3) scientific research on the accuracy and cost-effectiveness of fungal growth testing regimes, (4) the ability of

counties and cities to implement fungal growth testing in a timely manner, (5) the cost of remediating fungal growth, and (6) parameters and guidelines established by other states.

- set out steps relating to notice and public hearings and comments that the Commission must take at least 30 days before adopting, amending, or repealing a rule implementing these requirements;
- allow the governing board of a county or city to expend tax or nontax funds to conduct tests under the established parameters and guidelines;
- allow the governing body to enter into contracts with and accept loans and grants for testing purposes;
- change the requirement for a landlord to repair or remedy an imminently dangerous condition on the premises in a reasonable time to include fungal growth that may result in medical ailments for the tenant or another person authorized to live in the dwelling;
- require the tenant to notify the landlord of the presence of fungal growth that the tenant fears may result or suspects has resulted in medical ailments for the tenant or another person authorized to live in the dwelling unit;
- exempt the Commission with respect to developing fungal growth parameters and guidelines from rulemaking requirements;
- allow the governing body of a county or city exercising the authority granted in statute to adopt ordinances to implement the statewide parameters and guidelines established by the Commission;
- allow the ordinances to include the manner and time period in which tenants must notify the landlord of the presence of fungal growth in a dwelling unit, and a tenant's notification, if in accordance with the ordinance, be deemed notification under the statutory requirements;
- allow the ordinances to prescribe what constitutes a reasonable period of time in which the landlord must take action to remediate fungal growth in a dwelling unit, and the landlord's remedial action, if in accordance with the ordinance, is deemed to comply with the statutory requirements; and would
- appropriate \$90,000 in nonrecurring funds for 2019-20 from the General Fund to the Commission to provide grants to counties and cities to conduct fungal growth testing.

Introduced by Representatives Beasley and Belk and referred to the House Committee on Appropriations, Health and Human Services, if favorable, House Rules Committee. The Apartment Association opposes this legislation.

SENATE BILL 673, N.C. Citizens Redistricting Commission, would amend the State Constitution, if approved by the qualified voters of the State at the primary election in March 2020, to create a 15-member Citizens Redistricting Commission with membership divided among persons affiliated with the two major political parties and persons who are politically unaffiliated. The Citizens Redistricting Commission would adopt districting plans for members of the General Assembly and the U.S. House of Representatives, and, if the Commission could not agree to adopt any districting plan, it would appoint a special master to draw the plan. **Introduced by Senators Smith, Foushee, and Van Duyn and referred to the Senate Rules Committee.**

BILL UPDATES

HOUSE BILL 432, Water/Sewer to Contiguous Dwelling Units, was heard as a Proposed Committee Substitute (PCS) in the Committee on Energy and Public Utilities of the House. The PCS changes the act's long title and makes clarifying changes to a proposed subsection, so that if the Commission approves a flat rate to be charged by a water or sewer utility for the provision of

water or sewer services to contiguous dwelling units, the lessor may pass through and charge the tenants of the contiguous dwelling units the same flat rate for water or sewer services, rather than a rate based on metered consumption, and an administrative fee, as authorized. **The bill was approved by the House Energy and Public Utilities Committee and the Full House and will next be considered by the Senate Rules Committee.**

HOUSE BILL 724, Truth in Caller ID Act, was amended in the House Rules Committee to expand the definitions of the terms *telephone solicitation* and *unsolicited telephone call* to also include text communications in addition to voice communications. **The bill as amended was approved by the House Rules Committee and will next heard by the full House.**

HOUSE BILL 730, Trash Collection/Multifamily Residential, has been amended three times since the first edition was introduced:

- this bill was first heard as a Proposed Committee Substitute (PCS) in the Committee on Regulatory Reform of the House, where the bill was amended to clarify that it is the Building Code Council (previously, the Commission) that is to revise the exit obstruction and waste accumulation provision of the NCFPC;
- the bill was heard as a PCS to the 2nd edition in the Committee on Rules, Calendar, and Operations of the House, and added to the conditions of doorstep refuse and recycling containers permitted under the act's implementation provisions. It limits the number of described containers to one refuse and one recycling collection container for a total of two containers per apartment occupancy for apartment occupancies with enclosed corridors and apartment occupancies with open-air corridors or balconies served by exterior exit stairs; and
- the bill was then amended on the House floor by adding to the conditions of doorstep refuse and recycling containers permitted under the act's implementation provisions. This amendment established that use of doorstep refuse and recycling containers in apartment occupancies with exit access corridors or open-air corridors with balconies served by exterior exit stairs is revocable by the fire code enforcement official having jurisdiction over violations of the prohibition against refuse and containers reducing required egress width, or the requirement for management to have staff of the apartment occupancy have written policies and procedures in place and enforce them to ensure compliance with the conditions and produce the written policies upon request of the official.

The bill was approved by the Regulatory Reform Committee, the House Rules Committee and the Full House and will next be considered by the Senate.

SENATE BILL 316, Affordable Housing, was heard as a Proposed Committee Substitute (PCS) by the Committee on State and Local Government of the Senate. The PCS changed the recipients of the report from municipalities with a population of at least 90,000 so that it goes to the Joint Legislative Oversight Committee on General Government, instead of the Joint Legislative Committee on Local Government. The bill was then amended on the Senate floor by adding that affordable housing is defined as housing affordable for a household with income of up to 80% of area median income, and moderate-income housing is defined as housing affordable for a household with income that is greater than 80% but not more than 120% of area median income. **The bill was approved by the Full Senate and will next be considered by the House.**

SENATE BILL 420, NC Servicemembers Civil Relief Act, was heard as a Proposed Committee Substitute (PCS) in the Senate Judiciary Committee. The PCS makes the following changes to the prior edition, several of which were made at the request of **the Apartment Association of North Carolina**:

- defines military service to include State active duty under an order of the Governor pursuant to statute for a period of more than 30 consecutive days for members of the North Carolina National Guard;
- specifies that servicemembers who have entered into certain service contracts and who later receive military orders to relocate to a location that does not support those contracts as determined by the service provider should not be penalized for terminating those contracts;
- requires the servicemember's notice of termination to state the effective date of the termination;
- requires service providers to give the servicemember written, electronic, or oral notice of the servicemember's rights upon termination of the contract;
- eliminates the proposed prohibition against evicting a servicemember while the member is engaged in military service or within 14 days after service terminates;
- eliminates the proposed provision that held a servicemember not liable for any penalty or fee arising from failure to vacate a residence if service prevents the member from removing possessions from the residence;
- requires the servicemember to provide written or electronic notice to the landlord or the landlord's representative prior to extending the lease to allow a lease agreement expiring while the member is engaged in military service to be extended to terminate 10 days after the member's service terminates;
- limits the scope of proposed provisions regarding residential lease agreements and penalties and fees to servicemembers on active duty under an order of a US Governor for any period of time, who is current on all rents and security deposits and in good standing regarding the lease;
- specifies that the statute does not relieve the servicemember of the obligation to pay rent, fees, dues, or other monies required in the lease agreement on time and in full; and
- makes knowing violations of the Article an unfair or deceptive trade practice.

The bill as amended was approved by the Senate Judiciary Committee and the Full House and will next be considered by the House.

SENATE BILL 569, Fair Contracts, was amended in the Senate Judiciary Committee to establish as void and against public policy any contract agreement for engineering, architectural, landscape architectural or surveying services purporting to require that one party to the agreement indemnify, hold harmless, or defend the other party, its independent contractors, agents, employees, or any other person or entity. The bill would exempt a promise or agreement providing only for indemnification for damages or expenses to the extent resulting from the negligence, recklessness, or intentionally wrongful conduct of the promisor, its employees, agents, or other persons utilized by the promisor in the performance of the contract. **The bill as amended was approved by the Senate Judiciary and Rules Committees and will next be considered by the full Senate.**

SENATE BILL 572, S Corp Pro Se Representation in Court, was amended in the Senate Judiciary Committee to specify that S Corporations may represent themselves and appear in any court of this State using a non-attorney representative who is an owner of the business entity, if the owner's interest in the business entity is at least 25%. **The bill as amended was approved by the Senate Judiciary Committee and will next be considered by the Senate Rules Committee.**

BUDGET

On April 29th, House posted its version of the budget online, and began moving it through the committee process the next day. The budget quickly moved from the Appropriation Subcommittees, through the Appropriations Committee and to the House Floor in one week. The budget includes increased spending on school safety measures, such as hiring school resource officers and mental health professionals. It also includes funding for testing of the State's backlog of untested evidence in rape cases, and upgrades to buildings throughout the UNC System including the UNC-Chapel Hill business school and the medical school at ECU. The proposed budget includes tax changes that would raise the standard deduction for personal income taxpayers by 3.75 percent, and would reduce franchise taxes on businesses. The budget also gives an additional \$5 million a year to state-run treatment programs and for the development of new programs to help tackle the opioid crisis. After more than fifty proposed amendments and many hours of debate, the budget was approved by the House and sent on to the Senate, which will craft its own version. Once the Senate passes their version of the budget, the two chambers will negotiate a compromise version to send to the Governor, who has indicated he will likely veto it if it does not include Medicaid Expansion (which is unlikely). Given the gains Democrats made in each chamber during the last election, they have enough votes to sustain the Governor's veto, all of which sets up a potentially protracted and contentious budget process over the weeks and months to come.

The House budget appropriates \$10.66 million to the North Carolina Housing Finance Agency (Agency) to administer the Workforce Housing Loan Program. Under the program a taxpayer "allocated a federal low-income housing tax credit to construct or substantially rehabilitate a qualified North Carolina low-income housing development" is eligible for a loan under the Workforce Housing Loan Program if the taxpayer satisfies the loan criteria established by the Agency. The loan criteria are developed "in partnership with developers of low-income housing in the State who receive a federal low-income housing tax credit." The Agency is directed to take into consideration all eligible sources of funding for each development project, including whether there are other eligible sources of funding available for the development project.

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