



## Legislative Profile

July 18, 2022

The 2022 short session of the North Carolina General Assembly convened on May 18<sup>th</sup> and adjourned on July 1<sup>st</sup>. Approximately 70 bills were enacted. The adjournment resolution provides for the General Assembly to reconvene July 26-28 and at one-month intervals for the remainder of the year (August 23-25, September 20-22, October 18-20, November 15-17, and December 13). The range of permissible topics for the remainder of the year is limited. For example, the door is left open to deal with gubernatorial vetoes, appointments and confirmations, and elections laws. In addition, Governor Roy Cooper and House and Senate leaders have indicated that discussions are continuing over expanding eligibility for Medicaid. Legislators also may adopt conference reports. Remember that when there are differences in the House and Senate adopted versions of a bill, it may be sent to a conference committee of selected legislators. The bill that emerges as part of a conference committee report can be completely different in content than what went in, and the House and Senate simply hold up or down votes on the conference committee report with no amendments. Such was the process used for this year's state budget.

The first section of this summary will focus on notable bills that were enacted. The second section will cover the bills that we monitored, but which were not enacted and could instead reappear as new bill filings during the long session that begins in 2023. At the end of the summary is a Bill Tracker showing in tabular format these and other bills of potential interest along with links to the text of each bill.

### Enacted Bills

#### **2022 Appropriations Act** (House Bill 103 / Session Law 2022-74)

The \$27.9 billion state budget leaves the step-down in corporate income taxes unchanged, with the current 2.5% rate set to begin declining in 2025, with a complete phaseout after 2029 (pursuant to Session Law 2021-180 from last year which amended General Statute 105-130.3). Of a \$6 billion surplus in tax collections, legislators set aside \$1 billion for an "inflationary reserve." The state's rainy day fund, which is savings used to protect from the effects of a possible reduction in tax collections during an economic downturn, is expected to grow to \$4.75 billion. Legislators added an extra 1% salary increase for teachers and state employees, on top of the 2.5% they were already scheduled to receive in the coming fiscal year, and for retired state employees another one-time, 1% cost-of-living bonus on top of the 3% already approved for this year. With falling gasoline tax revenues unable to fully cover road construction costs, the budget reallocates a portion of normal sales tax revenues to increase transportation spending. The budget sets aside money to tear down dilapidated government buildings near the capitol complex in Raleigh and replace them with a state government executive headquarters facility that would host the governor's staff, personnel and operations for various state agencies, and build a new campus for the state's K-12, university and community college administrations. Both the House and Senate passed the budget by a wide margin and Governor Cooper signed it into law.

#### **Remote Electronic Notarization** (House Bill 776 / Session Law 2022-54)

In the final days of the session, legislators passed a permanent framework for remote online notarization, which has become increasingly important in lending and other transactions. Last year, the House had

proposed to allow transactions to occur potentially worldwide. The Senate made changes to restrict transactions to just North Carolina, with a notary and the principal able to use video conferencing technology, but both needing to be physically present in the state even if at different locations. The House and Senate eventually worked out a compromise. The legislation:

1. reinstates the emergency authority for remote electronic notarization until June 30, 2023,
2. retroactively validates attempted remote electronic notarization which occurred since last year while the enabling authority for it was lapsed; and
3. creates a permanent framework, beginning July 1, 2023, for remote online notarization.

The permanent framework generally provides that a notary and the principal can use video conferencing technology to enable the notarization of transactions, provided the principal is physically located somewhere within the United States, as verified via geolocation technology. There is a limited exception for those in military service at military bases abroad and for transactions through U.S. embassies and consular offices.

#### **Conform Hemp with Federal Law** (Senate Bill 455 / Session Law 2022-32)

Just prior to adjournment, legislators passed a law to permanently carve out hemp from the list of prohibited items in the state's controlled substances act. Under prior law, legislators had faced a deadline of June 30th, which would have been the sunset for the temporary authority to grow and sell hemp-derived products in North Carolina. Had they failed to act, hemp would have again been treated like cannabis. Once the House and Senate agreed on the solution, they passed the bill and sent it to Governor Cooper who immediately signed the bill with just hours left. For banks that lend to hemp growers or deal with anyone in the supply chain or selling hemp-derived products, this was a needed change to state law.

#### **Amendments to Schedule VI of the CSA** (Senate Bill 448 / Session Law 2022-9)

A new law amends the state's controlled substances act to provide a pathway for medical marijuana. If the FDA removes a drug, including one containing cannabis, from the federal controlled substances list, then it may be distributed, dispensed, and used in North Carolina unless the state regulator, the Commission for Mental Health, Developmental Disabilities, and Substance Abuse Services, objects. From a banking standpoint, not much changes under this law, or for that matter under more expansive laws enacted in other states. Remember that, unless federal law also changes, financial institutions providing banking services to cannabis businesses under state laws may be subject to criminal prosecution under federal laws related to aiding and abetting a federal crime and money laundering.

#### **DOI Omnibus Bill** (Senate Bill 496 / Session Law 2022-46)

Insurance companies and agents have grown frustrated with some lenders asking for insurance companies' internal "replacement cost estimates" or "replacement cost estimators" (RCE or RCEs) for homes and buildings. The issue previously surfaced in Florida. A Florida statute 626.9551(1)(e) bars persons from requiring an insurance agent or agency to provide the proprietary replacement cost estimator. Based upon our analysis, discussions with the Florida Bankers Association for background, and discussions with NC banks and the legislative and regulatory committee, banks use appraisals and rarely have a need for an explanation of how the RCE was arrived at unless the RCE seems significantly too low in relation to what it would cost to rebuild a structure. As the Florida law has operated without issue for banks, the new NC law, which legislators passed following discussions among the Independent Insurance

Agents of North Carolina (IIANC) and the bankers association, bars any required disclosure of replacement cost estimators as a condition to making a loan secured by real property. Insurers will still provide an estimate of what it would cost to rebuild a structure if damaged but can't be forced to provide detailed proprietary information about how they calculated the estimate. Knowing violations can lead to an NC Department of Insurance investigation and penalties.

### **Issues that Are Likely to Resurface in 2023**

#### **Credit Union Powers and Statutory Updates (House Bill 439 and Senate Bill 489)**

Last year, the Carolinas Credit Union League (CCUL) requested the filing of two bills by legislators. The bills are less than two pages in length and would have adjusted the fee for obtaining a new credit union charter and the late fee for failure to timely file a semiannual report with the NC Administrator of Credit Unions. Although uncontroversial as originally drafted, the bills did not receive any activity in 2021. Because of the way the bills were written, the bills remained eligible for potential legislative activity this year. In the intervening months between last year and the start of the short session, CCUL worked on potential changes to state credit union law. This culminated in a 69-page rewrite and just prior to the start of session CCUL approached the NCBA to share its draft, solicit feedback, and ask if the bankers association could support the bill. After our review of the bill, which included thorough analysis by the association's legislative and regulatory committee, we communicated our strong objections to CCUL. Despite our objections, CCUL lobbied to have the General Assembly take up the changes during the short session. We lobbied against the bill, and the bill did not advance. CCUL will again try to get legislation introduced and passed during the long session next year. In the interim, conversations will occur between NCBA and CCUL to see if any of the issues can be resolved. Technical changes and minor updates to Chapter 54, which sets out the laws for NC state-chartered credit unions, are not the problem. Our primary issues to date with the draft are the following. The draft would:

1. enable credit unions to massively ramp up business lending and loans to high-net-worth individuals with little to no regard for why credit unions were created and given a tax exemption in the first place, which was to serve well-defined local communities and small groups of consumers of modest means;
2. permit credit unions to immediately expand their membership out of market to new regions of the state, without proper documentation or oversight to determine if low-income people are served; and
3. gut the rulemaking and oversight process of the NC Administrator of Credit Unions and the Credit Union Commission before credit unions may engage in new activities.

#### **Small Business Truth in Lending (House Bill 969)**

Filed at the NC Rural Center's request, House Bill 969 would have required new disclosures by nonbank lenders when making commercial loans of \$500,000 or less. It specifically exempts banks, savings banks, savings and loan associations, and credit unions. An updated bill draft, incorporating a suggestion from the bankers association, would have further clarified the exemption to also exclude bank holding companies, subsidiaries, and affiliates. At issue is the treatment that some small businesses have received, particularly following major disasters and as credit is needed for repairs and rebuilding, when nonbank lenders encouraged them to take out loans with explanations of loan terms that did not match reality. Through requiring more robust, bank-like standards on disclosures, small business owners would be in a better position to weigh loan offers by both nonbanks and banks. Although the bill did not receive any

committee activity, it could resurface again. If a future version is filed, issues surrounding registration and enforcement for noncompliance will likely need to be addressed as, for example, the bill currently requires payment of a one-time registration fee that may be inadequate to pay the true costs of supervision.

### **Protect Personal Info/LEOs, Judges, DAs (House Bill 304)**

Eight years ago, the father of an assistant district attorney in North Carolina was abducted after a high-ranking gang member arranged the kidnapping from his prison cell as payback for a life sentence. The assistant district attorney was the intended target but those who carried out the kidnapping mistakenly took the wrong person. They used publicly available address information to carry out the crime. FBI agents were able to find the father and make arrests before he could be tortured or killed. Since then, legislators have looked at ways to reduce the amount of personal information that is available online on government websites. Like bills filed in prior sessions, House Bill 304 sought to remove home address information for law enforcement officers and others from government websites. Unfortunately, there are unintended consequences, as the removed information is necessary for transactions like title searches. The bill passed the House and crossed to the Senate, where it lost momentum. If the bill is refiled, a helpful improvement in a future iteration would be a secure mechanism so that the address information can still be accessed electronically for legitimate reasons by those like attorneys and paralegals performing title searches.

### **Closing Thoughts**

Barring something interesting happening during the brief mini sessions for the remainder of the year, any of the legislation in the attached Bill Tracker that has thus far failed to be enacted is likely to remain inactive. The clock will then reset next year with the new 2023-2024 session when bill filing numbers will start over again from the beginning.

Regarding partisan matters, based upon how the current state legislative district maps are drawn and other factors, Republicans are expected to retain majority control of both the NC House and NC Senate following the November election. Right now, Democratic Governor Roy Cooper can veto legislation and Republicans are unable to override without also convincing some Democrats in the House and Senate to vote with them. Some analysts predict that Republicans have a realistic shot of picking up enough seats this fall to have veto-proof supermajorities in both chambers.

As a final point, it is with deep appreciation that I express thanks to you, our members, for working behind the scenes on legislative issues. The bank government relations directors, bank executives, and lobbyists serving on the NCBA's legislative and regulatory committee, in particular, deserve a special word of thanks for devoting countless hours to ensure a smooth session. Thank you for your work on behalf of our industry whenever the need arises.

If you have any questions about these bills or any other legislative issues, please contact us at the NCBA.



Nathan R. Batts  
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# NCBA BILL TRACKER

## HOUSE BILLS – 2022

**CODE: S=Support; N=Neutral or No Position; O=Opposed; Updated: July 18, 2022**

BILL NUM.	SHORT TITLE	NCBA POS.	INTRO DATE	HOU. COM.	FULL HOU.	SEN. COM.	FULL SEN.	GOV SIGN	COMMENTS
<a href="#">H-76</a>	<del>Modernize Debt Settlement Prohibition</del>	N	<del>2/11/21</del>	<del>2/25/21</del>	<del>3/3/21</del>				Bars certain debt settlement activities as an unfair trade practice; exempts normal debtor-creditor transactions
<a href="#">H 103</a>	2022 Appropriations Act	N	2/17/21	3/24/21	4/28/21	6/24/21	9/8/21	7/11/22	SL 2022-74; dealt with automatic renewal of contracts, but on 6/28/22 turned into the 2022 state budget bill
<a href="#">H-134</a>	<del>2<sup>nd</sup> Amendment Protection Act</del>	N	<del>2/23/21</del>	<del>3/9/21</del>	<del>3/11/21</del>				Expands slightly who can bring a concealed handgun into certain locations, including private premises where a notice is posted saying that handguns are not allowed
<a href="#">H-161</a>	<del>Address Abandoned and Derelict Vessels</del>	N	<del>2/25/21</del>	<del>3/10/21</del>	<del>3/24/21</del>				Allows the Wildlife Resources Commission to deem a vessel abandoned and have a lien for towing, removal, and storage costs enforceable by sale; notice to be provided to owner but doesn't specify notice to lienholders
<a href="#">H-176</a>	<del>Enhance SHP Debt Collection Abilities</del>	N	<del>2/25/21</del>	<del>4/14/21</del>	<del>4/28/21</del>				Identical to S 160; deals with garnishments of

									overpayments from the state health plan
<a href="#">H 304</a>	<del>Protect Personal Info/LEOs, Judges, DAs</del>	N	<del>3/15/21</del>	<del>4/21/21</del>	<del>5/6/21</del>				For personal safety reasons, the bill seeks to remove home address information for law enforcement officers and others from government websites; could adversely affect title searches
<a href="#">H 439</a>	<del>Credit Union Late Fees/Penalty</del>	Ø	<del>3/29/21</del>						As originally filed not relevant as the bill deals only with supervisory fees paid to a credit union's regulator; however, the Carolinas Credit Union League is proposing to replace with a 69-page bill that we oppose; identical to S 489
<a href="#">H 707</a>	<del>Student Borrowers' Bill of Rights</del>	N	<del>4/27/21</del>	<del>6/24/21</del>					Under the bill, the Office of the Commissioner of Banks would regulate student loan servicers
<a href="#">H 725</a>	<del>Earned Wage Access Services Act</del>	N	<del>4/28/21</del>						This bill could open the door for payday style loans to return to NC; compare to S 467
<a href="#">H 776</a>	Remote Electronic Notarization	N	5/3/21	5/5/21	5/6/21	9/8/21	9/22/21	7/8/22	SL 2022-54; creates permanent authority for remote notarization, provided the principal is within the United States or fits into narrow exceptions such as in military service

									at a base abroad or physically present at a U.S. Embassy or consular office
<a href="#">H 899</a>	North Carolina Work and Save	N	5/5/21	6/22/21					Would create a state-run retirement program geared toward private industry employees who do not have access to an employer-sponsored retirement plan; raises questions about whether such a program would directly compete against existing offerings available from retirement plan administrators
<a href="#">H 969</a>	Small Business Truth in Financing	N	5/11/21						Exempts banks, savings banks, savings and loan associations, and credit unions (but the filed version does not exempt holding companies, subsidiaries, or affiliates); filed at the suggestion of the NC Rural Center to address issues after major disasters in which nonbank lenders would draw affected businesses into loans with overly rosy explanations of loan terms that didn't match reality
<a href="#">H 1039</a>	Medical Debt De-Weaponization Act	N	5/24/22						Not applicable to banks but tracked because of the debt collection provisions;

									would require hospitals and medical providers to disclose prices and financial assistance, provide minimum levels of free care, and prohibit certain debt collection practices
<a href="#">H-1082</a>	<del>Infrastructure Bank Feasibility Study</del>	N	5/26/22						Unlikely to advance; a Democratic proposal to study the creation of a state infrastructure bank to help finance infrastructure and for other purposes

**SENATE BILLS – 2022**

**CODE: S=Support; N=Neutral or No Position; O=Opposed; Updated: July 18, 2022**

BILL NUM.	SHORT TITLE	NCBA POS.	INTRO DATE	SEN. COM.	FULL SEN.	HOU. COM.	FULL HOU.	GOV SIGN	COMMENTS
<a href="#">S-160</a>	<del>Enhance SHP Debt Collection Abilities</del>	N	2/25/21						Identical to H 176
<a href="#">S-357</a>	<del>Helping Consumers in Crisis Act</del>	N	3/25/21	9/21/21					Requires a legal funding company to register with the Commissioner of Insurance and authorizes advances of up to \$500,000 to a consumer who is pursuing a legal claim to be used for expenses other than the legal claim
<a href="#">S-358</a>	<del>C-PACE Program</del>	N	3/25/21						Would utilize tax assessments to help repay

									financing of energy efficiency and other improvements to commercial and other buildings (that are not 1-4 family residences)
S 448	Amendments to Schedule VI of the CSA	N	4/1/21	5/4/21	5/10/21	5/25/21	6/8/22	6/14/22	SL 2022-9; provides a pathway for medical marijuana; if FDA removes a drug, including one containing cannabis, from the federal controlled substances list, then it may be distributed, dispensed, and used in NC unless the state regulator objects
<del>S 449</del>	<del>Revise Manufact. Home Title Laws</del>	N	4/1/21	4/20/21	4/22/21				Among other things, creates a procedure to remove a security interest on a certificate of title if the owner provides an affidavit that the debt has been paid and the secured party cannot be located
S 455	Conform Hemp with Federal Law	N	4/1/21	4/28/21	5/5/21	5/25/22	6/1/22	6/30/22	SL 2022-32; on 5/25/22 an unrelated bill was turned into one creating a permanent exception to the state controlled substances act for hemp
<del>S 467</del>	<del>Earned Wage Access Services Act</del>	N	4/1/21						Would have the Commissioner of Banks monitor “earned wage access service providers;” compare to H 725

S 488	<del>Consumer Protection Invoice Advertisements</del>	S	4/1/21	5/10/21	5/13/21				Would remove a loophole that often tricks consumers into entering into a contract when they receive a simulated check in the mail
S 489	<del>Credit Union Fees and Late Penalty</del>	Ø	4/1/21						Identical to H 439
S 496	DOI Omnibus Bill	N	4/1/21	5/6/21	5/11/21	10/20/21	2/17/22	7/7/22	SL 2022-46; Part XVI bars “disclosure of replacement cost estimators;” at issue is the practice of forcing insurers or agents to turn over their underwriting or proprietary business information as a condition to making a loan secured by real property; insurers will still provide an estimate of what it would cost to rebuild a structure if damaged but can’t be forced to provide detailed information about how they calculated the estimate; lenders should instead continue to rely upon appraisals and tax values; modeled on a FL law as this has historically been a nonissue for banks; knowing violations can lead to an NCDOI investigation and penalties

<del>S 711</del>	<del>NC Compassionate Care Act</del>	N	<del>4/7/21</del>	<del>7/1/21</del>	<del>6/6/22</del>				One of a number of bills that would at least partially legalize cannabis; the Speaker of the House said he had no plans for the House to consider the bill during the 2022 short session
S 769	GSC Postponement/Judicial & Execution Sales.	N	5/23/22	6/1/22	6/7/22	N/A	6/30/22	7/8/22	SL 2022-60; allows judicial sales and execution sales to be postponed up to 90 days (compared to six days previously), aligning the postponement authority for judicial and execution sales with that of sales under a contractual power of sale clause
S 917	Adjournment Resolution	N	6/30/22	N/A	7/1/22	N/A	7/1/22	N/A	Adjourns the 2022 session but provides for the General Assembly to come back each month for the remainder of the year for brief check-ins of sorts to deal with, among other things, any vetoes, bills related to election laws, and adoption of conference reports for bills that went to conference on or before 7/1/22