

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

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SENATE BILL 882
Finance Committee Substitute Adopted 7/22/98

Short Title: Civil Penalties Law Clarified.

(Public)

Sponsors:

Referred to:

April 15, 1997

1 A BILL TO BE ENTITLED
2 AN ACT TO REQUIRE STATE AGENCIES TO DEPOSIT THE CLEAR PROCEEDS
3 OF CIVIL PENALTIES AND CIVIL FORFEITURES INTO THE CIVIL PENALTY
4 AND FORFEITURE FUND.

5 The General Assembly of North Carolina enacts:

6
7 **PART I. DEPARTMENT OF ADMINISTRATION**

8 **A. CIVIL PENALTIES NOT TO EXCEED \$10,000 OR \$25,000 OF \$50,000**
9 **ASSESSED FOR VIOLATIONS OF FAIR HOUSING ACT**

10 Section 1. G.S. 41A-7(1)(3) reads as rewritten:

11 "(3) The Commission's final decision may be made by a panel consisting of
12 three Commission members appointed by the chairperson of the
13 Commission. If the Commission, in its final decision, finds that a
14 respondent has violated or is about to violate this Chapter, it may order
15 such relief as may be appropriate, including payment to the complainant
16 by the respondent of compensatory damages and injunctive or other
17 equitable relief. The Commission's order may also assess a civil penalty
18 against the respondent:

- 1 a. In an amount not exceeding ten thousand dollars (\$10,000) if the
2 respondent has not been adjudged to have committed any prior
3 unlawful discriminatory housing practices;
- 4 b. In an amount not exceeding twenty-five thousand dollars
5 (\$25,000) if the respondent has been adjudged to have committed
6 one other unlawful discriminatory housing practice during the
7 five-year period ending on the date of the filing of the complaint;
8 or
- 9 c. In an amount not exceeding fifty thousand dollars (\$50,000) if
10 the respondent has been adjudged to have committed two or
11 more unlawful discriminatory housing practices during the
12 seven-year period ending on the date of the filing of the
13 complaint.

14 If the acts constituting the unlawful discriminatory housing practice that
15 is the object of the complaint are committed by the same natural person
16 who has been previously adjudged to have committed acts constituting
17 an unlawful discriminatory housing practice, then the civil penalties set
18 forth in sub-subdivisions b. and c. of this subsection may be imposed
19 without regard to the period of time within which any subsequent
20 discriminatory housing practice occurred.

21 The clear proceeds of civil penalties assessed pursuant to this
22 subdivision shall be remitted to the Civil Penalty and Forfeiture Fund in
23 accordance with G.S. 115C-457.2."
24

25 **B. CIVIL PENALTY OF NOT MORE THAN \$5,000 ASSESSED IN**
26 **CONSULTATION WITH DEPARTMENT OF CULTURAL RESOURCES FOR**
27 **DAMAGE OR SALE OF ARCHAEOLOGICAL RESOURCE IN VIOLATION OF**
28 **ARCHAEOLOGICAL RESOURCES ACT**

29 Section 2. G.S. 70-16 reads as rewritten:

30 **"§ 70-16. Civil penalties.**

31 A civil penalty of not more than five thousand dollars (\$5,000) may be assessed by
32 the Department of Administration, in consultation with the Department of Cultural
33 Resources, against any person who violates the provisions of G.S. 70-15. In determining
34 the amount of the penalty, the Department shall consider the extent of the harm caused by
35 the violation and the cost of rectifying the damage. Any person assessed shall be notified
36 of the assessment by registered or certified mail. The notice shall specify the reasons for
37 the assessment. If the person assessed fails to pay the amount of the assessment to the
38 Department within 30 days after receipt of notice, the Department may institute a civil
39 action in the Superior Court of Wake County to recover the amount of the assessment.

40 The Department may use the assessed funds to rectify the damage to archaeological
41 ~~resources or to otherwise effectuate the purposes of this Article.~~ resources. The clear
42 proceeds of all assessed funds not used to rectify the damage shall be remitted to the Civil
43 Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2."

1
2 **PART II. DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES**

3 **A. CIVIL PENALTIES NOT TO EXCEED \$5,000 ASSESSED FOR**
4 **VIOLATIONS OF THE ANIMAL WELFARE ACT**

5 Section 3. G.S. 19A-40 reads as rewritten:

6 **"§ 19A-40. Civil Penalties.**

7 The Director may assess a civil penalty of not more than five thousand dollars
8 (\$5,000) against any person who violates a provision of this Article or any rule
9 promulgated thereunder. In determining the amount of the penalty, the Director shall
10 consider the degree and extent of harm caused by the violation. The clear proceeds of
11 civil penalties assessed pursuant to this section shall be remitted to the Civil Penalty and
12 Forfeiture Fund in accordance with G.S. 115C-457.2."

13
14 **B. CIVIL PENALTY OF NOT MORE THAN \$5,000 IMPOSED FOR**
15 **WILLFUL VIOLATIONS OF THE WEIGHTS AND MEASURES ACT**

16 Section 4. (a) G.S. 81A-30.1 reads as rewritten:

17 **"§ 81A-30.1. Civil penalties.**

18 A civil penalty of not more than five thousand dollars (\$5,000) for each violation may
19 be assessed by the Commissioner against any person who willfully violates this Chapter.
20 In determining the amount of the penalty, the Commissioner shall consider the degree
21 and extent of harm caused by the violation. No civil penalty shall be assessed under this
22 section unless the person has been given an opportunity for a hearing pursuant to the
23 Administrative Procedure Act. If not paid within 30 days after the effective date of a
24 final decision by the Commissioner, the penalty may be collected by any lawful manner
25 for the collection of a debt.

26 The clear proceeds of civil penalties assessed pursuant to this section shall be remitted
27 to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2."

28 (b) G.S. 81A-2 reads as rewritten:

29 **"§ 81A-2. Administration of these Articles.**

30 The provisions of this Chapter shall be administered by the Commissioner or his
31 authorized agent. For the purpose of administering and giving effect to the provisions of
32 this Chapter, the provisions of Handbook 44 as adopted by the National Conference on
33 Weights and Measures, are hereby adopted except insofar as modified or rejected by the
34 North Carolina Board of Agriculture. The North Carolina Board of Agriculture is
35 empowered to make such further rules and regulations as may be necessary to make
36 effective the purposes and provisions of this Chapter. ~~All~~ Except as otherwise provided in
37 G.S. 81A-30.1, all fees or moneys received by the Commissioner pursuant to this Chapter
38 shall be placed in the Department of Agriculture and Consumer Services fund for the
39 purpose of enforcing this Chapter."

40
41 **C. CIVIL PENALTIES OF NOT MORE THAN \$2,000 FOR VIOLATIONS OF**
42 **STRUCTURAL PEST CONTROL ACT**

43 Section 5. (a) G.S. 106-65.41 reads as rewritten:

1 **"§ 106-65.41. Civil Penalties.**

2 A civil penalty of not more than two thousand dollars (\$2,000) may be assessed by the
3 Committee against any person for any one or more of the causes set forth in G.S. 106-
4 65.28(a)(1) through (12). In determining the amount of any penalty, the Committee shall
5 consider the degree and extent of harm caused by the violation. No civil penalty may be
6 assessed under this section unless the person has been given an opportunity for a hearing
7 pursuant to Chapter 150B of the General Statutes. Assessments may be collected,
8 following judicial review, if any, of the Committee's final decision imposing the
9 assessment, in any lawful manner for the collection of a debt.

10 The clear proceeds of civil penalties assessed pursuant to this section shall be remitted
11 to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2."

12 (b) G.S. 106-65.38 reads as rewritten:

13 **"§ 106-65.38. Disposition of fees and charges.**

14 ~~All~~ Except as otherwise provided in G.S. 106-65.41, all fees and charges received by
15 the Division under this Article shall be deposited in the Department of Agriculture and
16 Consumer Services General Fund Budget for the purpose of administration and
17 enforcement of this Article, with proper approved accounting procedures accounting for
18 all expenditures and receipts."

19
20 **D. REFUND TO CONSUMER OF AGRICULTURE LIMING AND**
21 **LANDPLASTER MATERIAL FOUND TO BE DEFICIENT IN THE MATERIAL**
22 **COMPONENTS CLAIMED BY THE MANUFACTURER**

23 Section 6. G.S. 106-92.11 reads as rewritten:

24 **"§ 106-92.11. Deficiencies: refunds to consumer.**

25 Should any of the agricultural liming and landplaster materials defined in this Article
26 be found to be deficient in the components claimed by the manufacturer or registrant
27 thereof, said manufacturer or registrant, upon official notification to [of] such deficiency
28 by the Commissioner of Agriculture, shall, within 90 days, make refunds to the
29 consumers of the deficient materials as follows:

30 In case of 'agricultural liming material' if the deficiency is five percent (5%) of the
31 guarantee or more, there shall be refunded an amount equal to three times the value of
32 such deficiency and in case of 'landplaster,' for deficiencies in excess of one percent (1%)
33 of the guarantee, there shall be refunded an amount equal to three times the value of the
34 deficiency. Values shall be based on the selling price of said materials. When said
35 consumers cannot be found within the above specified time, refunds shall be forwarded to
36 the Commissioner of Agriculture, where said refund shall be held for payment to the
37 proper consumer upon order of the Commissioner. If the consumer to whom the refund is
38 due cannot be found within a period of one year, the clear proceeds of such refund shall
39 ~~revert to the Department of Agriculture and Consumer Services for expenditure by the~~
40 ~~Commissioner in promoting the agricultural programs of the State. shall be remitted to~~
41 the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2."
42

1 **E. CIVIL PENALTIES OF NOT MORE THAN \$10,000 MAY BE IMPOSED**
2 **FOR VIOLATIONS OF THE WHOLESALE PRESCRIPTION DRUG**
3 **DISTRIBUTORS LAW**

4 Section 7. G.S. 106-145.6(c) reads as rewritten:

5 "(c) Civil Penalty. – The Commissioner may assess a civil penalty of not more than
6 ten thousand dollars (\$10,000) against a person who violates any provision of this
7 Article. In determining the amount of a civil penalty, the Commissioner shall consider
8 the degree and extent of harm caused by the violation. Chapter 150B of the General
9 Statutes governs the assessment of a civil penalty under this subsection. If a civil penalty
10 is not paid within 30 days after the completion of judicial review of a final agency
11 decision by the Commissioner, the penalty may be collected in any manner by which a
12 debt may be collected. ~~Penalties collected shall be credited to the General Fund.~~ The
13 clear proceeds of civil penalties assessed pursuant to this section shall be remitted to the
14 Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2."

15
16 **F. CIVIL PENALTIES OF NOT MORE THAN \$5,000 MAY BE IMPOSED**
17 **FOR VIOLATION OF THE RENDERING PLANTS LAW OR RELATED RULES**

18 Section 8. G.S. 106-168.16 reads as rewritten:

19 **"§ 106-168.16. Civil penalties.**

20 The Commissioner may assess a civil penalty of not more than five thousand dollars
21 (\$5,000) against any person who violates a provision of this Article or any rule
22 promulgated thereunder. In determining the amount of the penalty, the Commissioner
23 shall consider the degree and extent of harm caused by the violation.

24 The clear proceeds of civil penalties assessed pursuant to this section shall be remitted
25 to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2."

26
27 **G. CIVIL PENALTIES OF NOT MORE THAN \$2,000 MAY BE IMPOSED**
28 **FOR VIOLATIONS OF THE PLANT PROTECTION ACT**

29 Section 9. G.S. 106-202.19(a2) reads as rewritten:

30 "(a2) A civil penalty of not more than two thousand dollars (\$2000) may be assessed
31 by the Board against any person guilty of violating this Article a second or subsequent
32 time. The clear proceeds of civil penalties assessed pursuant to this subsection shall be
33 remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2."

34
35 **H. FORFEITURE AND SALE OF PLANTS POSSESSED IN VIOLATION OF**
36 **G.S. 106-202.19**

37 Section 10. G.S. 106-202.20 reads as rewritten:

38 **"§ 106-202.20. Forfeiture of illegally possessed plants; disposition of plants.**

39 Upon conviction of any defendant for a violation of G.S. 106-202.19, the court, in its
40 discretion, may order the defendant to forfeit any plant or plant parts which he possesses
41 in violation of G.S. 106-202.19. The court shall direct disposition of any forfeited plant
42 or plant part by destruction or sale. ~~The proceeds from such a sale shall be paid to the~~
43 ~~North Carolina Department of Agriculture and Consumer Services for use in the~~

1 ~~enforcement of this Article. The clear proceeds of forfeitures and sales pursuant to this~~
2 ~~section shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S.~~
3 ~~115C-457.2."~~

4
5 **I. CIVIL PENALTIES OF THE SMALLER OF \$25.00 OR THE RETAIL**
6 **VALUE OF THE PRODUCT ASSESSED FOR VIOLATIONS OF THE**
7 **COMMERCIAL FEED LAW**

8 Section 11. G.S. 106-284.42(l) reads as rewritten:

9 "(l) Within 60 days from the date of written notice by the Commissioner or his
10 duly designated agent to the manufacturer, guarantor, dealer or agent, all penalties
11 assessed and collected under this section shall be paid to the purchaser of the lot of feed
12 or canned pet food represented by the sample analyzed. When such penalties are paid,
13 receipts shall be taken and promptly forwarded to the Commissioner of Agriculture. If
14 said consumers cannot be found, the ~~amount clear proceeds~~ of the penalty assessed shall
15 ~~be paid to the Commissioner of Agriculture who shall deposit the same in the Department~~
16 ~~of Agriculture and Consumer Services fund, of which the State Treasurer is custodian, for~~
17 ~~the express purpose of enforcement of this Article. remitted to the Civil Penalty and~~
18 ~~Forfeiture Fund in accordance with G.S. 115C-457.2."~~

19
20 **J. CIVIL PENALTIES OF NOT MORE THAN \$5,000 ASSESSED FOR**
21 **VIOLATIONS OF THE ANIMAL DISEASES CONTROL LAW**

22 Section 12. G.S. 106-405.20 reads as rewritten:

23 "**§ 106-405.20. Civil penalties.**

24 The Commissioner may assess a civil penalty of not more than five thousand dollars
25 (\$5,000) against any person who violates a provision of this Article or any rule
26 promulgated thereunder. In determining the amount of the penalty, the Commissioner
27 shall consider the degree and extent of harm caused by the violation.

28 The clear proceeds of civil penalties assessed pursuant to this section shall be remitted
29 to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2."

30
31 **K. CIVIL PENALTY NOT TO EXCEED \$5,000 FOR VIOLATING LAWS**
32 **CONCERNING THE OPERATION OF PUBLIC LIVESTOCK MARKETS**

33 Section 13. G.S. 106-417.1 reads as rewritten:

34 "**§ 106-417.1. Civil penalties.**

35 The Commissioner may assess a civil penalty of not more than five thousand dollars
36 (\$5,000) against any person who violates a provision of this Article or any rule
37 promulgated thereunder. In determining the amount of the penalty, the Commissioner
38 shall consider the degree and extent of harm caused by the violation.

39 The clear proceeds of civil penalties assessed pursuant to this section shall be remitted
40 to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2."

41
42 **L. CIVIL PENALTY NOT TO EXCEED \$5,000 FOR VIOLATING**
43 **LIVESTOCK PROMPT PAY LAW**

1 Section 14. G.S. 106-418.7A reads as rewritten:

2 **"§ 106-418.7A. Civil penalties.**

3 The Commissioner may assess a civil penalty of not more than five thousand dollars
4 (\$5,000) against any person who violates a provision of this Article or any rule
5 promulgated thereunder. In determining the amount of the penalty, the Commissioner
6 shall consider the degree and extent of harm caused by the violation.

7 The clear proceeds of civil penalties assessed pursuant to this section shall be remitted
8 to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2."

9
10 **M. CIVIL PENALTIES OF NOT MORE THAN \$5,000 ASSESSED FOR**
11 **VIOLATIONS OF THE LIVESTOCK DEALERS LICENSING ACT**

12 Section 15. G.S. 106-418.16 reads as rewritten:

13 **"§ 106-418.16. Civil penalties.**

14 The Commissioner may assess a civil penalty of not more than five thousand dollars
15 (\$5,000) against any person who violates a provision of this Article or any rule
16 promulgated thereunder. In determining the amount of the penalty, the Commissioner
17 shall consider the degree and extent of harm caused by the violation.

18 The clear proceeds of civil penalties assessed pursuant to this section shall be remitted
19 to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2."

20
21 **N. CIVIL PENALTIES OF NOT MORE THAN \$5,000 ASSESSED FOR**
22 **VIOLATIONS OF THE POULTRY, HATCHERIES, AND CHICKEN DEALERS**
23 **LAW**

24 Section 16. G.S. 106-549.01 reads as rewritten:

25 **"§ 106-549.01. Civil penalties.**

26 The Department of Agriculture and Consumer Services may assess a civil penalty of
27 not more than five thousand dollars (\$5,000) against any person who violates a provision
28 of this Article or any rule promulgated thereunder. In determining the amount of the
29 penalty, the Department shall consider the degree and extent of harm caused by the
30 violation.

31 The clear proceeds of civil penalties assessed pursuant to this section shall be remitted
32 to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2."

33
34 **O. CIVIL PENALTY OF NOT MORE THAN \$5,000 MAY BE ASSESSED**
35 **FOR VIOLATION OF THE MEAT INSPECTION LAWS**

36 Section 17. G.S. 106-549.35(c) reads as rewritten:

37 "(c) The Commissioner may assess a civil penalty of not more than five thousand
38 dollars (\$5,000) against any person who violates a provision of this Article or Article
39 49B, or any rule promulgated thereunder. In determining the amount of the penalty, the
40 Commissioner shall consider the degree and extent of harm caused by the violation.

41 The clear proceeds of civil penalties assessed pursuant to this subsection shall be
42 remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2."

1 **P. CIVIL PENALTIES OF NOT MORE THAN \$5,000 MAY BE ASSESSED**
2 **FOR VIOLATION OF THE LAW OR RULE REGULATING THE DISPOSAL OF**
3 **DEAD AND DISEASED POULTRY COMMERCIAL FARMS**

4 Section 18. G.S. 106-549.72 reads as rewritten:

5 **"§ 106-549.72. Civil penalties.**

6 The Commissioner may assess a civil penalty of not more than five thousand dollars
7 (\$5,000) against any person who violates a provision of this Article or any rule
8 promulgated thereunder. In determining the amount of the penalty, the Commissioner
9 shall consider the degree and extent of harm caused by the violation.

10 The clear proceeds of civil penalties assessed pursuant to this section shall be remitted
11 to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2."
12

13 **Q. CIVIL PENALTIES OF NOT MORE THAN \$5,000 MAY BE ASSESSED**
14 **FOR VIOLATIONS OF THE BIOLOGICAL RESIDUES IN ANIMALS LAW**

15 Section 19. G.S. 106-549.89 reads as rewritten:

16 **"§ 106-549.89. Civil penalties.**

17 The Commissioner may assess a civil penalty of not more than five thousand dollars
18 (\$5,000) against any person who violates a provision of this Article or any rule
19 promulgated thereunder. In determining the amount of the penalty, the Commissioner
20 shall consider the degree and extent of harm caused by the violation.

21 The clear proceeds of civil penalties assessed pursuant to this section shall be remitted
22 to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2."
23

24 **R. CIVIL PENALTY OF NOT MORE THAN \$10,000 IMPOSED FOR**
25 **VIOLATION OF THE HONEY AND BEE ACT AND RULES OF THE**
26 **COMMISSIONER**

27 Section 20. G.S. 106-644(b) reads as rewritten:

28 "(b) The Commissioner may assess a civil penalty of not more than ten thousand
29 dollars (\$10,000) against a person who violates this Article or a rule adopted to
30 implement this Article. In determining the amount of the penalty, the Commissioner
31 shall consider the degree and extent of harm caused by the violation. No civil penalty
32 may be assessed under this section unless the person has been given the opportunity for a
33 hearing pursuant to the Administrative Procedure Act, Chapter 150B of the General
34 Statutes. If not paid within 30 days after the effective date of a final decision by the
35 Commissioner, the penalty may be collected by any lawful means for the collection of a
36 debt.

37 The clear proceeds of civil penalties assessed pursuant to this subsection shall be
38 remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2."
39

40 **S. CIVIL PENALTIES OF VARIOUS AMOUNTS ASSESSED FOR**
41 **VIOLATIONS OF THE COMMERCIAL FERTILIZER LAW**

42 Section 21. G.S. 106-665(c) reads as rewritten:

1 (c) All penalties assessed under this section shall be paid to the consumer of the lot
2 of fertilizer represented by the sample analyzed within three months from the date of
3 notice by the Commissioner to the distributor, receipts taken therefor, and promptly
4 forwarded to the Commissioner; provided, that in no case shall the total assessed
5 penalties exceed the commercial value of the goods to which it applies. If said consumer
6 cannot be found, the ~~amount-clear proceeds~~ of the penalty assessed shall be ~~paid to the~~
7 ~~Commissioner who shall deposit the same in the Department of Agriculture and~~
8 ~~Consumer Services fund, of which the State Treasurer is custodian.~~ remitted to the Civil
9 Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2. Such sums as shall be
10 found to be payable to consumers on lots of fertilizer against which said penalties were
11 assessed shall not be subject to claim by the consumer after 12 months from the date of
12 assessment."
13

14 **T. CIVIL PENALTIES OF NOT MORE THAN \$5,000 ASSESSED FOR**
15 **VIOLATIONS OF THE STATE BIOLOGICS LAW**

16 Section 22. G.S. 106-715 reads as rewritten:

17 "**§ 106-715. Civil penalties.**

18 The Commissioner may assess a civil penalty of not more than five thousand dollars
19 (\$5,000) against any person who violates a provision of this Article or any rule
20 promulgated thereunder. In determining the amount of the penalty, the Commissioner
21 shall consider the degree and extent of harm caused by the violation.

22 The clear proceeds of civil penalties assessed pursuant to this section shall be remitted
23 to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2."
24

25 **U. UNSPECIFIED CIVIL PENALTIES ASSESSED FOR VIOLATION OF**
26 **THE GASOLINE AND OIL INSPECTION LAW**

27 Section 23. (a) G.S. 119-26.1(c) reads as rewritten:

28 (c) The Commissioner of Agriculture may assess and collect civil penalties for
29 violations of rules adopted under G.S. 143-215.107(a)(9) or this section in accordance
30 with G.S. 143-215.114A. The Commissioner of Agriculture may institute a civil action
31 for injunctive relief to restrain, abate, or prevent a violation or threatened violation of
32 rules adopted under G.S. 143-215.107(a)(9) or this section in accordance with G.S. 143-
33 215.114C. The assessment of a civil penalty under this section and G.S. 143-215.114A or
34 institution of a civil action under G.S. 143-215.114C and this section shall not relieve any
35 person from any other penalty or remedy authorized under this Article.

36 The clear proceeds of civil penalties assessed pursuant to this subsection shall be
37 remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2."

38 (b) G.S. 119-23 reads as rewritten:

39 "**§ 119-23. Administration by Commissioner of Agriculture; collection of fees by**
40 **Department of Revenue and payment into State treasury; disposition of**
41 **moneys by State Treasurer.**

42 Gasoline and oil inspection fees or taxes shall be collected by, and reports relating
43 thereto, shall be made to, the Department of Revenue. The administration of the gasoline

1 and oil inspection law shall otherwise be administered by the Commissioner of
2 Agriculture. ~~All~~ Except as provided in G.S. 119-26.1(c) and G.S. 119-39.1, all
3 moneys received under the authority of this Article shall be paid into the State treasury
4 and the State Treasurer shall place to the credit of the 'State Highway Fund' that
5 proportion of said funds representing inspection fees collected on highway use motor
6 fuels, as certified monthly to the State Treasurer by the Secretary of Revenue, and the
7 remainder of said funds shall be credited to the general fund."
8

9 **V. CIVIL PENALTIES OF NOT MORE THAN \$5,000 MAY BE ASSESSED**
10 **FOR VIOLATIONS OF THE GASOLINE AND OIL INSPECTION ACT**

11 Section 24. G.S. 119-39.1 reads as rewritten:

12 **"§ 119-39.1. Civil Penalties.**

13 The Commissioner of Agriculture may assess a civil penalty of not more than five
14 thousand dollars (\$5,000) against any person who violates a provision of this Article or
15 any rule promulgated thereunder. In determining the amount of the penalty, the
16 Commissioner shall consider the degree and extent of harm caused by the violation.

17 The clear proceeds of civil penalties assessed pursuant to this section shall be remitted
18 to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2."
19

20 **W. CIVIL PENALTIES NOT TO EXCEED \$100.00, \$300.00, OR \$500.00**
21 **ASSESSED FOR VIOLATIONS OF THE LIQUEFIED PETROLEUM GASES**
22 **LAW**

23 Section 25. G.S. 119-59(c) reads as rewritten:

24 "(c) Civil Penalty. – The Commissioner may assess a civil penalty against any
25 person who violates a provision of this Article or a rule adopted under it. The penalty
26 may not exceed one hundred dollars (\$100.00) for the first violation, three hundred
27 dollars (\$300.00) for a second violation, and five hundred dollars (\$500.00) for a third or
28 subsequent violation. In determining the amount of a penalty, the Commissioner shall
29 consider the degree and extent of harm or potential harm that has resulted or could have
30 resulted from the violation.

31 The Commissioner may not assess a civil penalty against a person until the
32 Commissioner has notified the person of the alleged violation and has given the person at
33 least 45 days to correct or cease the alleged violation. A notice may be served by any
34 means authorized by G.S. 1A-1, Rule 4. ~~Civil penalties assessed under this subsection~~
35 ~~shall be credited to the General Fund as nontax revenue.~~ The clear proceeds of civil
36 penalties assessed pursuant to this subsection shall be remitted to the Civil Penalty and
37 Forfeiture Fund in accordance with G.S. 115C-457.2."
38

39 **X. CIVIL PENALTIES OF NOT MORE THAN \$500.00 OR \$2,000 ASSESSED**
40 **FOR VIOLATIONS OF THE PESTICIDE LAW**

41 Section 26. (a) G.S. 143-469 is amended by adding a new subsection to read:

42 "(e) The clear proceeds of civil penalties assessed pursuant to this section shall be
43 remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2."

1 (b) G.S. 143-468(a) reads as rewritten:

2 "(a) Except as provided in G.S. 143-469 and in subsection (b), all fees and charges
3 received by the Board under this Article shall be credited to the Department of
4 Agriculture and Consumer Services for the purpose of administration and enforcement of
5 this Article."
6

7 **PART III. DEPARTMENT OF COMMERCE**

8 **A. ABC COMMISSION – PENALTIES UP TO \$500.00, \$750.00 OR \$1,000** 9 **ASSESSED ON PERMIT HOLDERS BY THE ABC COMMISSION FOR** 10 **VIOLATIONS OF ABC LAWS AND REGULATIONS; COMMISSION MAY** 11 **ALSO ACCEPT A COMPROMISE PENALTY OF NOT MORE THAN \$5,000 IN** 12 **LIEU OF REVOKING OR SUSPENDING A PERMIT**

13 Section 27. G.S. 18B-104(c) reads as rewritten:

14 "(c) Fines and Penalties to Treasurer. —~~All fines and penalties collected under~~
15 ~~subsections (a) and (b) shall be remitted by the Commission to the State Treasurer for the~~
16 ~~General Fund.~~ The clear proceeds of fines and penalties assessed pursuant to this section
17 shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-
18 457.2."
19

20 **B. ABC COMMISSION – MONETARY PENALTY OF UP TO \$15,000 AND** 21 **\$35,000 FOR VIOLATING WINE DISTRIBUTION AGREEMENTS LAWS**

22 Section 28. G.S. 18B-1207(c)(4) reads as rewritten:

23 "(4) Impose a monetary penalty up to fifteen thousand dollars (\$15,000) for
24 a first offense and up to thirty-five thousand (\$35,000) for the second
25 offense. ~~All monetary penalties imposed by this subsection shall be~~
26 ~~remitted by the Commission to the State Treasurer for the General Fund.~~
27 The clear proceeds of monetary penalties imposed pursuant to this
28 subdivision shall be remitted to the Civil Penalty and Forfeiture Fund in
29 accordance with G.S. 115C-457.2."
30

31 **C. BANKING COMMISSION – CIVIL PENALTY OF NOT MORE THAN** 32 **\$500.00 OR \$1,000 FOR BANK'S VIOLATION OF COMMISSIONER'S CEASE** 33 **AND DESIST ORDERS**

34 Section 29. G.S. 53-107.1(d) reads as rewritten:

35 "(d) The Commissioner may impose a civil money penalty of not more than one
36 thousand dollars (\$1,000) for each violation by any bank, trust company, or subsidiary
37 thereof, or any director, officer, or employee of an order issued under subdivision (1) of
38 subsection (a) of this section. Provided further, the Commissioner may impose a civil
39 money penalty of not more than five hundred dollars (\$500.00) per day for each day that
40 a bank, trust company, or subsidiary thereof, or any director, officer, or employee violates
41 a cease and desist order issued under subdivision (2) of subsection (a) of this section. ~~All~~
42 ~~civil money penalties collected under this section shall be deposited in the General Fund.~~

1 The clear proceeds of civil money penalties imposed pursuant to this section shall be
2 remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2."

3
4 **D. BANKING COMMISSION – PENALTY OF NOT MORE THAN \$10,000**
5 **FOR BANK'S VIOLATION OF ANY LAWFUL ORDERS OF THE**
6 **COMMISSIONER OR THE BANKING COMMISSION**

7 Section 30. G.S. 53-107.2(b) reads as rewritten:

8 "(b) Notwithstanding any penalty imposed by the Commissioner of Banks, the
9 Banking Commission may after notice of and opportunity for hearing, impose, enter
10 judgment for, and enforce by appropriate process, a penalty of not more than ten
11 thousand dollars (\$10,000) against any bank, trust company, or subsidiary thereof, or
12 against any of its directors, officers, or employees for violating any lawful orders of the
13 Commission or Commissioner of Banks. ~~All civil money penalties collected under this~~
14 ~~section shall be deposited in the General Fund.~~

15 The clear proceeds of civil money penalties imposed pursuant to this subsection shall
16 be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-
17 457.2."

18
19 **E. PENALTY OF \$500.00 FOR BANK ADVERTISING LARGER CAPITAL**
20 **STOCK THAN THAT ACTUALLY PAID IN WITH CASH**

21 Section 31. G.S. 53-133 reads as rewritten:

22 **"§ 53-133. Advertising larger amount than that paid in capital stock.**

23 It shall be unlawful for any bank to advertise in a newspaper, letterhead, or any other
24 way, a larger capital stock than has been actually paid in in cash. Any bank violating this
25 section shall be subject to a penalty of five hundred dollars (\$500.00) for each and every
26 offense. The penalty herein provided for shall be recovered by the State in a civil action
27 in any court of competent jurisdiction, and it shall be the duty of the Attorney General to
28 prosecute all such actions.

29 The clear proceeds of penalties provided for in this section shall be remitted to the
30 Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2."

31
32 **F. PENALTY OF \$1,000 FOR VIOLATION OF COMMISSIONER'S CEASE**
33 **AND DESIST ORDER UNDER THE BANK HOLDING COMPANY ACT**

34 Section 32. G.S. 53-228 reads as rewritten:

35 **"§ 53-228. Cease and desist.**

36 Upon a finding that any action of a bank holding company or nonbank subsidiary
37 subject to this Article may be in violation of any North Carolina banking law, the
38 Commissioner, after a reasonable notice to the bank holding company or its nonbank
39 subsidiary and an opportunity for it to be heard, shall have the authority to order it to
40 cease and desist from such action. If the bank holding company or nonbank subsidiary
41 fails to appeal such decision in accordance with G.S. 53-231 hereof and continues to
42 engage in such action in violation of the Commissioner's order to cease and desist such
43 action, it shall be subject to a penalty of one thousand dollars (\$1,000), to be recovered

1 with costs by the Commissioner in any court of competent jurisdiction in a civil action
2 prosecuted by the Commissioner. The penalty provision of this section shall be in
3 addition to and not in lieu of any other provision of law applicable to a bank holding
4 company's or its nonbank subsidiary's failure to comply with an order of the
5 Commissioner.

6 The clear proceeds of penalties provided for in this section shall be remitted to the
7 Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2."
8

9 **G. PENALTY OF \$1,000 FOR VIOLATION OF COMMISSIONER'S CEASE**
10 **AND DESIST ORDER UNDER N.C. INTERNATIONAL BANKING ACT**

11 Section 33. G.S. 53-232.16 reads as rewritten:

12 **"§ 53-232.16. Cease and desist.**

13 Upon a finding that any action of an international banking corporation or its
14 international banking agency, international banking branch, or international
15 representative office subject to this Article may be in violation of any North Carolina
16 banking law, the Commissioner, after a reasonable notice to the international banking
17 corporation, international bank agency, international bank branch, or international
18 representative office and an opportunity for it to be heard, may order it to cease and desist
19 from the action. If the international banking corporation, international bank agency,
20 international bank branch, or international representative office fails to appeal the
21 decision in accordance with G.S. 53-232.17 and continues to engage in the action in
22 violation of the Commissioner's order to cease and desist the action, it is subject to a
23 penalty of one thousand dollars (\$1,000), to be recovered with costs by the Commissioner
24 in any court of competent jurisdiction in a civil action prosecuted by the Commissioner.
25 This penalty is in addition to and not in lieu of any other law applicable to the failure of
26 an international banking corporation, international bank agency, international bank
27 branch, or international representative office to comply with an order of the
28 Commissioner. ~~All civil money penalties collected under this section shall be deposited~~
29 ~~in the General Fund.~~

30 The clear proceeds of penalties provided for in this section shall be remitted to the
31 Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2."
32

33 **H. PENALTY OF \$1,000 FOR MORTGAGE BANKERS OR MORTGAGE**
34 **BROKERS VIOLATING COMMISSIONER'S CEASE AND DESIST ORDER**

35 Section 34. G.S. 53-239(b) reads as rewritten:

36 "(b) If the mortgage banker or mortgage broker fails to appeal such cease and desist
37 order of the Commissioner in accordance with G.S. 53-240 hereof and continues to
38 engage in such action in violation of the Commissioner's order to cease and desist such
39 action, it shall be subject to a penalty of one thousand dollars (\$1,000) for each such
40 action it takes in violation of the Commissioner's order. The penalty provision of this
41 section shall be in addition to and not in lieu of any other provision of law applicable to a
42 mortgage banker or a mortgage broker for the mortgage banker or mortgage broker's
43 failure to comply with an order of the Commissioner.

1 The clear proceeds of civil penalties provided for in this subsection shall be remitted
2 to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2."

3
4 **I. PENALTY OF \$1,000 FOR EACH ACTION IN VIOLATION OF**
5 **COMMISSIONER'S CEASE AND DESIST ORDER UNDER REFUND**
6 **ANTICIPATION LOAN ACT**

7 Section 35. G.S. 53-251(a) reads as reads as rewritten:

8 "(a) Cease and Desist Order. Upon the finding that any action of a registrant may
9 be in violation of this Article or that the registrant has engaged in an unfair or deceptive
10 act or practice, the Commissioner shall give reasonable notice to the registrant of the
11 suspected violation or unfair or deceptive act or practice, and an opportunity for the
12 registrant to be heard. If, following the hearing, the Commissioner finds that an action of
13 the registrant is in violation of this Article or that the registrant has engaged in an unfair
14 or deceptive act or practice, the Commissioner shall order the registrant to cease and
15 desist from the action.

16 If the registrant fails to appeal a cease and desist order of the Commissioner in
17 accordance with G.S. 53-252 and continues to engage in an action in violation of the
18 Commissioner's order to cease and desist from the action, the registrant shall be subject to
19 a penalty of one thousand dollars (\$1,000) for each action it takes in violation of the
20 Commissioner's order.

21 The clear proceeds of penalties provided for in this subsection shall be remitted to the
22 Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2."

23
24 **J. SAVINGS AND LOANS ASSOCIATIONS – CIVIL PENALTIES**
25 **ASSESSED BY ADMINISTRATOR UP TO \$20,000 FOR SAVINGS AND LOANS**
26 **ASSOCIATIONS' FAILURE TO COMPLY WITH STATE LAW OR**
27 **REGULATION GOVERNING OPERATIONS OR A CEASE AND DESIST**
28 **ORDER**

29 Section 36. G.S. 54B-64(a) reads as rewritten:

30 "(a) Except as otherwise provided in this Article, any association which is found to
31 have violated any provision of this Article may be ordered to forfeit and pay a civil
32 penalty of up to twenty thousand dollars (\$20,000). Any association which is found to
33 have violated or failed to comply with any cease and desist order issued under the
34 authority of this Article may be ordered to forfeit or pay a civil penalty of up to twenty
35 thousand dollars (\$20,000) for each day that the violation or failure to comply continues.

36 The clear proceeds of civil penalties provided for in this section shall be remitted to
37 the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2."

38
39 **K. SAVINGS AND LOANS ASSOCIATIONS – CIVIL PENALTIES**
40 **ASSESSED BY ADMINISTRATOR UP TO \$5,000 FOR FAILURE OF**
41 **DIRECTORS, OFFICERS OR EMPLOYEES OF SAVINGS AND LOANS**
42 **ASSOCIATIONS TO COMPLY WITH STATE LAW OR REGULATION**
43 **GOVERNING OPERATIONS OR A CEASE AND DESIST ORDER**

1 Section 37. G.S. 54B-65(a) reads as rewritten:

2 "(a) Any person, whether a director, officer or employee, who is found to have
3 violated any provision of this Article, whether willfully or as a result of gross negligence,
4 gross incompetency, or recklessness, may be ordered to forfeit and pay a civil penalty of
5 up to five thousand dollars (\$5,000) per violation. Any person who is found to have
6 violated or failed to comply with any cease and desist order issued under the authority of
7 this Article, may be ordered to forfeit and pay a civil penalty of up to five thousand
8 dollars (\$5,000) per violation for each day that the violation or failure to comply
9 continues.

10 The clear proceeds of civil penalties provided for in this section shall be remitted to
11 the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2."
12

13 **L. SAVINGS BANKS – CIVIL PENALTIES ASSESSED BY**
14 **ADMINISTRATOR UP TO \$20,000 PER VIOLATION PER DAY FOR SAVINGS**
15 **INSTITUTION'S OR SAVINGS BANK'S FAILURE TO COMPLY WITH STATE**
16 **LAW OR REGULATION GOVERNING OPERATIONS OR A CEASE AND**
17 **DESIST ORDER**

18 Section 38. (a) G.S. 54C-77 reads as rewritten:

19 "**§ 54C-77. Civil penalties; State savings banks.**

20 (a) Except as otherwise provided in this Article, a savings bank that is found to
21 have violated this Article may be ordered to pay a civil penalty of up to twenty thousand
22 dollars (\$20,000). A savings bank that is found to have violated or failed to comply with
23 any cease and desist order issued under the authority of this Article may be ordered to
24 pay a civil penalty of up to twenty thousand dollars (\$20,000) for each day that the
25 violation or failure to comply continues.

26 The clear proceeds of civil penalties provided for in this section shall be remitted to
27 the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2."

28 (b) G.S. 54C-55(b) reads as rewritten:

29 "(b) All funds and revenue collected by the Division under this section and all other
30 sections of this Chapter that authorize the collection of fees and other funds shall be
31 deposited with the State Treasurer and expended under the terms of the Executive Budget
32 Act, solely to defray expenses incurred by the office of the Administrator in carrying out
33 its supervisory and auditing functions. ~~Civil penalties collected under this Chapter shall~~
34 ~~be credited to the General Fund and may be appropriated by the General Assembly for~~
35 ~~any public purpose."~~

36
37 **M. SAVINGS BANKS – CIVIL PENALTIES ASSESSED BY**
38 **ADMINISTRATOR UP TO \$5,000 PER VIOLATION PER DAY FOR**
39 **DIRECTORS, OFFICERS, OR EMPLOYEES OF SAVINGS BANK WHO FAIL**
40 **TO COMPLY WITH STATE LAW OR REGULATION GOVERNING**
41 **OPERATIONS OR A CEASE AND DESIST ORDER**

42 Section 39. G.S. 54C-78(a) reads as rewritten:

1 (a) A person, whether a director, officer, or employee, who is found to have
2 violated this Article, whether willfully or as a result of gross negligence, gross
3 incompetency, or recklessness, may be ordered to pay a civil penalty of up to five
4 thousand dollars (\$5,000) per violation. A person who is found to have violated or failed
5 to comply with any cease and desist order issued under the authority of this Article, may
6 be ordered to pay a civil penalty of up to five thousand dollars (\$5,000) per violation for
7 each day that the violation or failure to comply continues. ~~All civil penalties, plus interest
8 and cost, that are collected under this subsection shall be deposited into the General Fund
9 of the State treasury.~~ The clear proceeds of civil penalties provided for in this subsection
10 shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-
11 457.2."
12

13 **N. FORFEITURE OF \$100.00 AGAINST PERSON SELLING ARTICLE
14 WITHOUT REQUIRED INSPECTION**

15 Section 40. G.S. 66-5 reads as rewritten:

16 "**§ 66-5. Penalty for sale without inspection.**

17 If any person shall sell any article of forage or provision, of which inspection is
18 required in accordance with this Article, without the same having been inspected as
19 required, he shall, for every offense, forfeit and pay one hundred dollars (\$100.00).

20 The clear proceeds of penalties provided for in this section shall be remitted to the
21 Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2."
22

23 **O. PENALTY OF \$200.00 FOR MASTER OR COMMANDER OF VESSEL
24 TAKING ARTICLES ON BOARD WHICH WERE NOT INSPECTED AS
25 REQUIRED**

26 Section 41. G.S. 66-6 reads as rewritten:

27 "**§ 66-6. Penalty on master receiving without inspection.**

28 No master or commander of any vessel shall take on board any cask or barrel or other
29 commodity, liable to inspection as aforesaid, without its being inspected and branded as
30 required, under the penalty of two hundred dollars (\$200.00) for each offense.

31 The clear proceeds of penalties provided for in this section shall be remitted to the
32 Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2."
33

34 **PART IV. DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES**

35 **A. CIVIL PENALTIES NOT TO EXCEED \$500.00 OR \$5,000 FOR
36 VIOLATIONS OF THE MINING ACT OF 1971**

37 Section 42. G.S. 74-64(a)(4) reads as rewritten:

38 "~~(4) All funds collected pursuant to this section shall be credited to the
39 General Fund as nontax revenue.~~ The clear proceeds of civil penalties
40 collected pursuant to this section shall be remitted to the Civil Penalty
41 and Forfeiture Fund in accordance with G.S. 115C-457.2."
42

1 **B. CIVIL PENALTY OF NOT MORE THAN \$5,000 OR \$250.00 FOR**
2 **VIOLATIONS OF ACT CONTROLLING EXPLORATION FOR URANIUM IN**
3 **NORTH CAROLINA**

4 Section 43. G.S. 74-87(a)(4) reads as rewritten:

5 "~~(4) All funds collected pursuant to this section shall be placed in a special~~
6 ~~fund and shall be used to carry out the purposes of this Article. The~~
7 ~~clear proceeds of civil penalties collected pursuant to this subsection~~
8 ~~shall be remitted to the Civil Penalty and Forfeiture Fund in accordance~~
9 ~~with G.S. 115C-457.2."~~

10
11 **C. CIVIL PENALTY OF NOT MORE THAN \$100.00 PER VIOLATION**
12 **ASSESSED FOR VIOLATIONS OF THE WELL CONSTRUCTION ACT**

13 Section 44. G.S. 87-94 is amended by adding a new subsection to read:

14 "(g) The clear proceeds of civil penalties provided for in this section shall be
15 remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2."

16
17 **D. CIVIL PENALTIES NOT TO EXCEED \$100.00 PER DAY ASSESSED FOR**
18 **VIOLATIONS OF WATER TREATMENT FACILITIES CERTIFICATION LAW**

19 Section 45. G.S. 90A-30(a) reads as rewritten:

20 "(a) Upon the recommendation of the Board of Certification, the Secretary of
21 Environment and Natural Resources or a delegated representative may impose an
22 administrative, civil penalty on any person, corporation, company, association,
23 partnership, unit of local government, State agency, federal agency, or other legal entity
24 who violates G.S. 90A-29(a). Each day of a continued violation shall constitute a separate
25 violation. The penalty shall not exceed one hundred dollars (\$100.00) for each day such
26 violation continues. No penalty shall be assessed until the person alleged to be in
27 violation has been notified of the violation.

28 The clear proceeds of penalties imposed pursuant to this section shall be remitted to
29 the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2."

30
31 **E. CIVIL PENALTY NOT TO EXCEED \$1,000 FOR WILLFUL VIOLATION**
32 **OF LAWS CONCERNING CERTIFICATION OF WASTE MANAGEMENT**
33 **SYSTEM OPERATORS**

34 Section 46. G.S. 90A-47.5(b) reads as rewritten:

35 "(b) In addition to revocation of a certificate, the Commission may levy a civil
36 penalty, not to exceed one thousand dollars (\$1,000) per violation, for willful violation of
37 the requirements of this Part.

38 The clear proceeds of civil penalties levied pursuant to this subsection shall be
39 remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2."

40
41 **F. ADMINISTRATIVE PENALTIES NOT TO EXCEED \$10,000 PER DAY**
42 **FOR VIOLATING RADIATION PROTECTION ACT.**

43 Section 47. (a) G.S. 104E-24 reads as rewritten:

1 **"§ 104E-24. Administrative penalties.**

2 (a) The Department may impose an administrative penalty on any person:

3 (1) Who fails to comply with this Chapter, any order issued hereunder, or
4 any rules adopted pursuant to this Chapter;

5 (2) Who refuses to allow an authorized representative of the Radiation
6 Protection Commission or the Department of Environment and Natural
7 Resources a right of entry as provided for in G.S. 104E-11 or
8 impounding materials as provided for in G.S. 104E-14.

9 (b) Each day of a continuing violation shall constitute a separate violation. Such
10 penalty shall not exceed ten thousand dollars (\$10,000) per day. In determining the
11 amount of the penalty, the Department shall consider the degree and extent of the harm
12 caused by the violation. Any person assessed a penalty shall be notified of the assessment
13 by registered or certified mail, and the notice shall specify the reasons for the assessment.

14 (c) The clear proceeds of penalties imposed pursuant to this section shall be
15 remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2."

16 (b) G.S. 104E-16 reads as rewritten:

17 **"§ 104E-16. Nonreverting Radiation Protection Fund.**

18 (a) There is hereby established under the control and direction of the Department a
19 Nonreverting Radiation Protection Fund which shall be used to defray the expenses of
20 any project or activity for:

21 (1) Emergency response to and decontamination of radiation accidents as
22 provided in G.S. 104E-9(a)(5), or

23 (2) Perpetual maintenance and custody of radioactive materials as the
24 Department may undertake.

25 In addition to any moneys that shall be appropriated or otherwise made available to it,
26 the Fund may be maintained by fees, charges, ~~penalties~~ or other moneys paid to or
27 recovered by or on behalf of the Department under the provisions of this ~~Chapter~~.
28 Chapter, except for the clear proceeds of penalties. Any moneys paid to or recovered by
29 or on behalf of the Department as fees, charges, ~~penalties~~ or other payments authorized
30 by this ~~Chapter~~ Chapter, except for the clear proceeds of penalties, shall be paid to the
31 Radiation Protection Fund in an amount equal to the sum expended for the projects or
32 activities in subdivisions (1) and (2) above.

33 (b) Repealed by Session Laws 1987, c. 850, s. 11."
34

35 **G. FORFEITURE OF BOND GIVEN BY FISHERY LICENSE AGENTS**

36 Section 48. G.S. 113-151.1 is amended by adding a new subsection to read:

37 "(a1) The clear proceeds of the forfeiture of a license agent's bond pursuant to this
38 section shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S.
39 115C-457.2."
40

41 **H. FINE OF NOT LESS THAN \$100.00 NOR MORE THAN \$500.00 FOR**
42 **VIOLATION OF THE COMMERCIAL AND SPORT FISHERIES LICENSING**
43 **LAW**

1 Section 49. G.S. 113-162 is amended by adding a new subsection to read:

2 "(c) The clear proceeds of fines assessed pursuant to this section shall be remitted
3 to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2."
4

5 **I. PENALTY NOT TO EXCEED \$1,000 PER DAY FOR KNOWINGLY AND**
6 **WILLFULLY VIOLATING THE OIL AND GAS CONSERVATION ACT**

7 Section 50. G.S. 113-410 reads as rewritten:

8 **"§ 113-410. Penalties for other violations.**

9 Any person who knowingly and willfully violates any provision of this law, or any
10 rule or order of the Department made hereunder, shall, in the event a penalty for such
11 violation is not otherwise provided for herein, be subject to a penalty of not to exceed one
12 thousand dollars (\$1,000) a day for each and every day of such violation, and for each
13 and every act of violation, such penalty to be recovered in a suit in the superior court of
14 the county where the defendant resides, or in the county of the residence of any defendant
15 if there be more than one defendant, or in the superior court of the county where the
16 violation took place. The place of suit shall be selected by the Department, and such suit,
17 by direction of the Department, shall be instituted and conducted in the name of the
18 Department by the Attorney General. The payment of any penalty as provided for herein
19 shall not have the effect of changing illegal oil into legal oil, illegal gas into legal gas, or
20 illegal product into legal product, nor shall such payment have the effect of authorizing
21 the sale or purchase or acquisition, or the transportation, refining, processing, or handling
22 in any other way, of such illegal oil, illegal gas or illegal product, but, to the contrary,
23 penalty shall be imposed for each prohibited transaction relating to such illegal oil, illegal
24 gas or illegal product.

25 Any person knowingly and willfully aiding or abetting any other person in the
26 violation of any statute of this State relating to the conservation of oil or gas, or the
27 violation of any provisions of this law, or any rule or order made thereunder, shall be
28 subject to the same penalties as prescribed herein for the violation by such other person.

29 The clear proceeds of penalties provided for in this section shall be remitted to the
30 Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2."
31

32 **J. PROCEEDS FROM FORFEITURE AND SALE OF CONTRABAND OIL,**
33 **GAS AND PRODUCT**

34 Section 51. G.S. 113-412 reads as rewritten:

35 **"§ 113-412. Seizure and sale of contraband oil, gas and product.**

36 Apart from, and in addition to, any other remedy or procedure which may be available
37 to the Department, or any penalty which may be sought against or imposed upon any
38 person with respect to violations relating to illegal oil, illegal gas, or illegal product, all
39 illegal oil, illegal gas and illegal product shall, except under such circumstances as are
40 stated herein, be contraband and shall be seized and sold, ~~and the proceeds applied as~~
41 ~~herein provided.~~ ~~sold.~~ Such sale shall not take place unless the court shall find, in the
42 proceeding provided for in this paragraph, that the commodity involved is contraband.
43 Whenever the Department believes that illegal oil, illegal gas or illegal product is subject

1 to seizure and sale, as provided herein, it shall, through the Attorney General, have issued
2 a warrant of attachment and bring a civil action in rem for that purpose in the superior
3 court of the county where the commodity is found, or the action may be maintained in
4 connection with any suit or cross bill for injunction or for penalty relating to any
5 prohibited transaction involving such illegal oil, illegal gas or illegal product. Any
6 interested person who may show himself to be adversely affected by any such seizure and
7 sale shall have the right to intervene in such suit to protect his rights.

8 The action referred to above shall be strictly in rem and shall proceed in the name of
9 the State as plaintiff against the illegal oil, illegal gas or illegal product mentioned in the
10 complaint, as defendant, and no bond or bonds shall be required of the plaintiff in
11 connection therewith. Upon the filing of the complaint, the clerk of the court shall issue a
12 summons directed to the sheriff of the county, or to such other officer or person as the
13 court may authorize to serve process, requiring him to summon any and all persons
14 (without undertaking to name them) who may be interested in the illegal oil, illegal gas,
15 or illegal product mentioned in the complaint to appear and answer within 30 days after
16 the issuance and service of such summons. The summons shall contain the style and
17 number of the suit and a very brief statement of the nature of the cause of action. It shall
18 be served by posting one copy thereof at the courthouse door of the county where the
19 commodity involved in the suit is alleged to be located and by posting another copy
20 thereof near the place where the commodity is alleged to be located. Copy of such
21 summons shall be posted at least five days before the return day stated therein, and the
22 posting of such copy shall constitute constructive possession of such commodity by the
23 State. A copy of the summons shall also be published once each week for four weeks in
24 some newspaper published in the county where the suit is pending and having a bona fide
25 circulation therein. No judgment shall be pronounced by any court condemning such
26 commodity as contraband until after the lapse of five days from the last publication of
27 said summons. Proof of service of said summons, and the manner thereof, shall be as
28 provided by general law.

29 Where it appears by a verified pleading on the part of the plaintiff, or by affidavit, or
30 affidavits, or by oral testimony, that grounds for the seizure and sale exist, the clerk, in
31 addition to the summons or warning order, shall issue a warrant of attachment, which
32 shall be signed by the clerk and bear the seal of the court. Such warrant of attachment
33 shall specifically describe the illegal oil, illegal gas or illegal product, so that the same
34 may be identified with reasonable certainty. It shall direct the sheriff to whom it is
35 addressed to take into his custody, actual or constructive, the illegal oil, illegal gas or
36 illegal product, described therein, and to hold the same subject to the orders of the court.
37 Said warrant of attachment shall be executed as a writ of attachment is executed. No bond
38 shall be required before the issuance of such warrant of attachment, and the sheriff shall
39 be responsible upon his official bond for the proper execution thereof.

40 In a proper case, the court may direct the sheriff to deliver the custody of any illegal
41 oil, illegal gas or illegal product seized by him under a warrant of attachment, to a
42 commissioner to be appointed by the court, which commissioner shall act as the agent of
43 the court and shall give bond with such approved surety as the court may direct,

1 conditioned that he will faithfully conserve such illegal oil, illegal gas or illegal product,
2 as may come into his custody and possession in accordance with the orders of the court;
3 provided, that the court may in its discretion appoint any member of the Department or
4 any agent of the Department as such commissioner of the court.

5 Sales of illegal oil, illegal gas or illegal product seized under the authority of this law,
6 and notices of such sales, shall be in accordance with the laws of this State relating to the
7 sale and disposition of attached property; provided, however, that where the property is in
8 custody of a commissioner of the court, the sale shall be held by said commissioner and
9 not by the sheriff. For his services hereunder, such commissioner shall receive a
10 reasonable fee to be paid out of the proceeds of the sale or sales to be fixed by the court
11 ordering such sale.

12 The court may order that the commodity be sold in specified lots or portions, and at
13 specified intervals, instead of being sold at one time. Title to the amount sold shall pass
14 as of the date of the law which is found by the court to make the commodity contraband.
15 The judgment shall provide for ~~payment of the proceeds of the sale into the general fund~~
16 ~~of the State Treasurer, after first deducting the costs in connection with the proceedings~~
17 ~~and the sale. the clear proceeds of the sales to be remitted to the Civil Penalty and~~
18 Forfeiture Fund in accordance with G.S. 115C-457.2. The amount sold shall be treated as
19 legal oil, legal gas or legal product, as the case may be, in the hands of the purchaser, but
20 the purchaser and the commodity shall be subject to all applicable laws, rules, and orders
21 with respect to further sale or purchase or acquisition, and with respect to the
22 transportation, refining, processing, or handling in any other way, of the commodity
23 purchased.

24 Nothing in this section shall deny or abridge any cause of action a royalty owner, or a
25 lienholder, or any other claimant, may have, because of the forfeiture of the illegal oil,
26 illegal gas, or illegal product, against the person whose act resulted in such forfeiture. No
27 illegal oil, illegal gas or illegal product shall be sold for less than the average market
28 value at the time of sale of similar products of like grade and character."
29

30 **K. CIVIL PENALTIES IMPOSED FOR FAILURE TO COMPLY WITH** 31 **SEDIMENTATION CONTROL LAWS**

32 Section 52. G.S. 113A-64(a)(5) reads as rewritten:

33 "(5) ~~Civil~~ The clear proceeds of civil penalties collected by the Department
34 or other State agency under this subsection shall be credited to the
35 General Fund as nontax revenue. remitted to the Civil Penalty and
36 Forfeiture Fund in accordance with G.S. 115C-457.2. Civil penalties
37 collected by a local government under this subsection shall be credited
38 to the general fund of the local government as nontax revenue."
39

40 **L. DIVISION OF COASTAL MANAGEMENT – CIVIL PENALTIES OF NOT** 41 **MORE THAN \$250.00 AND \$2,500 ASSESSED FOR VIOLATIONS OF STATE** 42 **LAWS AND REGULATIONS ESTABLISHING COASTAL MANAGEMENT** 43 **STANDARDS**

1 Section 53. (a) G.S. 113A-126(d) is amended by adding a new subdivision to
2 read:

3 "(5) The clear proceeds of penalties assessed pursuant to this subsection
4 shall be remitted to the Civil Penalty and Forfeiture Fund in accordance
5 with G.S. 115C-457.2."

6 (b) Section 5 of Chapter 839 of the 1991 Session Laws is repealed.
7

8 M. ADMINISTRATIVE PENALTIES IMPOSED FOR VIOLATIONS OF SOLID
9 WASTE (NONHAZARDOUS/MEDICAL) MANAGEMENT REGULATIONS NOT
10 TO EXCEED \$5,000, \$25,000, OR \$50,000 PER DAY DEPENDING UPON EXTENT
11 OF VIOLATION/DIVISION OF ENVIRONMENTAL HEALTH – CIVIL PENALTIES
12 NOT TO EXCEED \$25,000 PER DAY ASSESSED FOR VIOLATIONS OF STATE
13 LAWS AND REGULATIONS GOVERNING OPERATION OF PUBLIC WATER
14 SYSTEMS/EPIDEMIOLOGY BRANCH – ADMINISTRATIVE PENALTIES NOT TO
15 EXCEED \$1,000 PER DAY IMPOSED FOR VIOLATIONS OF ASBESTOS
16 MANAGEMENT REGULATIONS – EPIDEMIOLOGY BRANCH –
17 ADMINISTRATIVE PENALTIES NOT TO EXCEED \$10,000 PER DAY IMPOSED
18 FOR VIOLATIONS OF ASBESTOS NATIONAL EMISSION STANDARDS FOR
19 HAZARDOUS AIR POLLUTANTS (NESHAP) FOR DEMOLITION AND
20 RENOVATION/ADMINISTRATIVE PENALTY NOT TO EXCEED EITHER \$50.00
21 OR \$300.00 PER DAY FOR VIOLATING WASTEWATER SYSTEMS
22 LAW/DIVISION OF MATERNAL AND CHILD HEALTH – MONETARY PENALTY
23 ON VENDOR WHO VIOLATES COMMISSION'S RULES REGARDING THE
24 WOMEN, INFANTS, AND CHILDREN (WIC) PROGRAM

25 Section 54. (a) G.S. 130A-22 reads as rewritten:

26 "**§ 130A-22. Administrative penalties.**

27 (a) The Secretary of Environment and Natural Resources may impose an
28 administrative penalty on a person who violates Article 9 of this Chapter, rules adopted
29 by the Commission pursuant to Article 9, or any order issued under Article 9. Each day of
30 a continuing violation shall constitute a separate violation. The penalty shall not exceed
31 five thousand dollars (\$5,000) per day in the case of a violation involving nonhazardous
32 waste. The penalty shall not exceed twenty-five thousand dollars (\$25,000) per day in
33 case of a first violation involving hazardous waste as defined in G.S. 130A-290 or
34 involving the disposal of medical waste as defined in G.S. 130A-290 in or upon water in
35 a manner that results in medical waste entering waters or lands of the State; and shall not
36 exceed fifty thousand dollars (\$50,000) per day for a second or further violation
37 involving the disposal of medical waste as defined in G.S. 130A-290 in or upon water in
38 a manner that results in medical waste entering waters or lands of the State. If a person
39 fails to pay a civil penalty within 60 days after the final agency decision or court order
40 has been served on the violator, the Secretary of Environment and Natural Resources
41 shall request the Attorney General to institute a civil action in the superior court of any
42 county in which the violator resides or has his or its principal place of business to recover

1 the amount of the assessment. Such civil actions must be filed within three years of the
2 date the final agency decision or court order was served on the violator.

3 (a1) Part 5 of Article 21A of Chapter 143 of the General Statutes shall apply to the
4 determination of civil liability or penalty pursuant to subsection (a) of this section.

5 (b) The Secretary of Environment and Natural Resources may impose an
6 administrative penalty on a person who violates G.S. 130A-325. Each day of a continuing
7 violation shall constitute a separate violation. The penalty shall not exceed twenty-five
8 thousand dollars (\$25,000) for each day the violation continues.

9 (b1) The Secretary may impose an administrative penalty on a person who violates
10 Article 19 of this Chapter or a rule adopted pursuant to that Article. Except as provided in
11 subsection (b2) of this section, the penalty shall not exceed one thousand dollars (\$1,000)
12 per day per violation. Until the Department has notified the person of the violation, a
13 continuing violation shall be treated as one violation. Each day thereafter of a continuing
14 violation shall be treated as a separate violation.

15 In determining the amount of a penalty under this subsection or subsection (b2) of this
16 section, the Secretary shall consider all of the following factors:

- 17 (1) The degree and extent of harm to the natural resources of the State, to
18 the public health, or to private property resulting from the violation.
- 19 (2) The duration and gravity of the violation.
- 20 (3) The effect on air quality.
- 21 (4) The cost of rectifying the damage.
- 22 (5) The amount of money the violator saved by noncompliance.
- 23 (6) The prior record of the violator in complying or failing to comply with
24 Article 19 of this Chapter or a rule adopted pursuant to that Article.
- 25 (7) The cost to the State of the enforcement procedures.
- 26 (8) If applicable, the size of the renovation and demolition involved in the
27 violation.

28 ~~Administrative penalties imposed by the Secretary under this subsection or subsection~~
29 ~~(b2) of this section shall be credited to the General Fund as nontax revenue.~~

30 (b2) The penalty for violations of the asbestos NESHAP for demolition and
31 renovation, as defined in G.S. 130A-444, shall not exceed ten thousand dollars (\$10,000)
32 per day per violation. Until the Department has provided the person with written
33 notification of the violation of the asbestos NESHAP for demolition and renovation that
34 describes the violation, recommends a general course of action, and establishes a time
35 frame in which to correct the violations, a continuing violation shall be treated as one
36 violation. Each day thereafter of a continuing violation shall be treated as a separate
37 violation. A violation of the asbestos NESHAP for demolition and renovation is not
38 considered to continue during the period a person who has received the notice of
39 violation is following the general course of action and complying with the time frame set
40 forth in the notice of violation.

41 (b3) The Secretary may impose an administrative penalty on a person who violates
42 Article 19A of this Chapter or any rules adopted pursuant to Article 19A of this Chapter.
43 Each day of a continuing violation is a separate violation. The penalty shall not exceed

1 one thousand dollars (\$1,000) for each day the violation continues. The penalty
2 authorized by this section does not apply to a person who is not required to be certified
3 under this Article.

4 (c) The Secretary of Environment and Natural Resources may impose an
5 administrative penalty on a person who willfully violates Article 11 of this Chapter, rules
6 adopted by the Commission pursuant to Article 11 or any condition imposed upon a
7 permit issued under Article 11. An administrative penalty may not be imposed upon a
8 person who establishes that neither the site nor the system may be improved or a new
9 system installed so as to comply with Article 11 of this Chapter. Each day of a continuing
10 violation shall constitute a separate violation. The penalty shall not exceed fifty dollars
11 (\$50.00) per day in the case of a wastewater collection, treatment and disposal system
12 with a design daily flow of no more than 480 gallons or in the case of any system serving
13 a single one-family dwelling. The penalty shall not exceed three hundred dollars
14 (\$300.00) per day in the case of a wastewater collection, treatment and disposal system
15 with a design daily flow of more than 480 gallons which does not serve a single one-
16 family dwelling.

17 (c1) The Secretary may impose a monetary penalty on a vendor who violates rules
18 adopted by the Commission pursuant to Article 13 of this Chapter when the Secretary
19 determines that disqualification would result in hardship to participants in the Women,
20 Infants, and Children (WIC) program. The penalty shall be calculated using the following
21 formula: multiply five percent (5%) times the average dollar amount of the vendor's
22 monthly redemptions of WIC food instruments for the 12-month period immediately
23 preceding disqualification, then multiply that product by the number of months of the
24 disqualification period determined by the Secretary.

25 (d) In determining the amount of the penalty in subsections (a), (b) and (c), the
26 Secretary and the Secretary of the Department of Environment and Natural Resources
27 shall consider the degree and extent of the harm caused by the violation and the cost of
28 rectifying the damage.

29 (e) A person contesting a penalty shall, by filing a petition pursuant to G.S. 150B-
30 23(a) not later than 30 days after receipt by the petitioner of the document which
31 constitutes agency action, be entitled to an administrative hearing and judicial review in
32 accordance with Chapter 150B of the General Statutes, the Administrative Procedure Act.

33 (f) The Commission shall adopt rules concerning the imposition of administrative
34 penalties under this section.

35 (g) The Secretary or the Secretary of Environment and Natural Resources may
36 bring a civil action in the superior court of the county where the violation occurred or
37 where the defendant resides to recover the amount of an administrative penalty
38 authorized under this section whenever a person:

- 39 (1) Who has not requested an administrative hearing in accordance with
40 subsection (e) of this section fails to pay the penalty within 60 days after
41 being notified of the penalty; or

1 (2) Who has requested an administrative hearing fails to pay the penalty
2 within 60 days after service of a written copy of the final agency
3 decision.

4 (h) A local health director may impose an administrative penalty on any person
5 who willfully violates the wastewater collection, treatment, and disposal rules of the local
6 board of health adopted pursuant to G.S. 130A-335(c) or who willfully violates a
7 condition imposed upon a permit issued under the approved local rules. An
8 administrative penalty may not be imposed upon a person who establishes that neither the
9 site nor the system may be improved or a new system installed so as to comply with
10 Article 11 of this Chapter. The local health director shall establish and recover the
11 amount of the administrative penalty in accordance with subsections (d) and (g). Each
12 day of a continuing violation shall constitute a separate violation. The penalty shall not
13 exceed fifty dollars (\$50.00) per day in the case of a wastewater collection, treatment and
14 disposal system with a design daily flow of no more than 480 gallons or in the case of
15 any system serving a single one-family dwelling. The penalty shall not exceed three
16 hundred dollars (\$300.00) per day in the case of a wastewater collection, treatment and
17 disposal system with a design daily flow of more than 480 gallons which does not serve a
18 single one-family dwelling. A person contesting a penalty imposed under this subsection
19 shall be entitled to an administrative hearing and judicial review in accordance with G.S.
20 130A-24. A local board of health shall adopt rules concerning the imposition of
21 administrative penalties under this subsection.

22 (i) The clear proceeds of penalties assessed pursuant to this section shall be
23 remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2."

24 (b) G.S. 130A-306 reads as rewritten:

25 **"§ 130A-306. Emergency Response Fund.**

26 There is established under the control and direction of the Department, an Emergency
27 Response Fund which shall be a nonreverting fund consisting of any money appropriated
28 for such purpose by the General Assembly or available to it from grants, fees, charges,
29 and other money paid to or recovered by or on behalf of the Department pursuant to this
30 Article, except fees and penalties specifically designated by this Article for some other
31 use or purpose. The Emergency Response Fund shall be treated as a special trust fund
32 and shall be credited with interest by the State Treasurer pursuant to G.S. 147-69.2 and
33 G.S. 147-69.3. The Fund shall be used to defray expenses incurred by the Department in
34 developing and implementing an emergency hazardous waste remedial plan and to
35 reimburse any federal, State or local agency and any agent or contractor for expenses
36 incurred in developing and implementing such a plan that has been approved by the
37 Department. These funds shall be used upon a determination that sufficient funds or
38 corrective action cannot be obtained from other sources without incurring a delay that
39 would significantly increase the threat to life or risk of damage to the environment. This
40 Fund may not exceed five hundred thousand dollars (\$500,000); money in excess of five
41 hundred thousand dollars (\$500,000) shall be deposited in the Inactive Hazardous Sites
42 Cleanup Fund. The Secretary is authorized to take the necessary action to recover all
43 costs incurred by the State for site investigation and the development and implementation

1 of an emergency hazardous waste remedial plan, including attorney's fees and other
2 expenses of bringing the cost recovery action from the responsible party or parties. The
3 provisions of G.S. 130A-310.7 shall apply to actions to recover costs under this section
4 except that: (i) reimbursement shall be to the Emergency Response Fund and (ii) the
5 State need not show that it has complied with the provisions of Part 3 of this Article."
6

7 **N. CIVIL PENALTY OF \$50.00 FOR KNOWINGLY DISPOSING OF TIRE**
8 **IMPROPERLY**

9 Section 55. G.S. 130A-309.62 reads as rewritten:

10 **"§ 130A-309.62. Fines and penalties.**

11 Any person who knowingly hauls or disposes of a tire in violation of this Part or the
12 rules adopted pursuant to this Part shall be assessed a civil penalty of fifty dollars
13 (\$50.00) per violation. Each tire hauled or disposed of in violation of this Part or rules
14 adopted pursuant to this Part constitutes a separate violation.

15 The clear proceeds of civil penalties assessed pursuant to this section shall be remitted
16 to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2."
17

18 **O. CIVIL PENALTY NOT TO EXCEED \$50.00 PER VIOLATION AGAINST**
19 **PERSONS KNOWINGLY DISPOSING OF LEAD-ACID BATTERIES IN**
20 **VIOLATION OF SECTION**

21 Section 56. G.S. 130A-309.70(c) reads as rewritten:

22 "(c) Any person who knowingly places or disposes of a lead-acid battery in
23 violation of this section shall be assessed a civil penalty of not more than fifty dollars
24 (\$50.00) per violation. Each battery improperly disposed of shall constitute a separate
25 violation.

26 The clear proceeds of civil penalties assessed pursuant to this section shall be remitted
27 to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2."
28

29 **P. CIVIL PENALTY NOT TO EXCEED \$50.00 PER DAY AGAINST PERSON**
30 **FAILING TO POST NOTICES CONCERNING RECYCLING AND DISPOSING**
31 **OF LEAD-ACID BATTERIES**

32 Section 57. G.S. 130A-309.71(c) reads as rewritten:

33 "(c) Any person who fails to post the notice required by subsection (b) of this
34 section after receiving a written warning from the Department to do so shall be assessed a
35 civil penalty of not more than fifty dollars (\$50.00) per day for each day the person fails
36 to post the required notice.

37 The clear proceeds of civil penalties assessed pursuant to this section shall be remitted
38 to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2."
39

40 **Q. CIVIL PENALTY OF \$50.00 PER VIOLATION AGAINST**
41 **WHOLESALEERS WHO REFUSE TO ACCEPT LEAD-ACID BATTERIES**
42 **FROM CUSTOMERS**

43 Section 58. G.S. 130A-309.72(b) reads as rewritten:

1 "(b) Any person who violates this section shall be assessed a civil penalty of fifty
2 dollars (\$50.00) per violation. Each battery refused by a wholesaler or not removed from
3 the retail point of collection within 90 days shall constitute a separate violation.

4 The clear proceeds of civil penalties assessed pursuant to this section shall be remitted
5 to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2."
6

7 **R. CIVIL PENALTY UP TO \$100.00 FOR IMPROPER DISPOSAL OF** 8 **WHITE GOODS**

9 Section 59. G.S. 130A-309.84 reads as rewritten:

10 **"§ 130A-309.84. Civil penalties for improper disposal.**

11 The Department may assess a civil penalty of not more than one hundred dollars
12 (\$100.00) against a person who, knowing it is unlawful, places or otherwise disposes of a
13 discarded white good in a landfill, an incinerator, or a waste-to-energy facility. The
14 Department may assess this penalty for the day the unlawful disposal occurs and each
15 following day until the white good is disposed of properly.

16 The Department may assess a penalty of up to one hundred dollars (\$100.00) against a
17 person who, knowing it is required, fails to remove chlorofluorocarbon refrigerants from
18 a discarded white good. The Department may assess this penalty for the day the failure
19 occurs and each following day until the chlorofluorocarbon refrigerants are removed.

20 ~~Civil penalties collected under this section shall be credited to the General Fund as~~
21 ~~non-tax revenue.~~ The clear proceeds of civil penalties assessed pursuant to this section
22 shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-
23 457.2."
24

25 **S. AIR AND WATER QUALITY – CIVIL PENALTIES OF NOT MORE** 26 **THAN \$25,000 OR \$50,000 FOR VIOLATION AND AN ADDITIONAL \$25,000** 27 **OR \$50,000 FOR EACH ADDITIONAL DAY VIOLATION CONTINUES** 28 **ASSESSED FOR UNLAWFUL DISPOSAL OF MEDICAL WASTE**

29 Section 60. G.S. 143-214.2A(b) is amended by adding a new subdivision to
30 read:

31 "(7) The clear proceeds of civil penalties assessed pursuant to this subsection
32 shall be remitted to the Civil Penalty and Forfeiture Fund in accordance
33 with G.S. 115C-457.2."
34

35 **T. INFRACTION PENALTY OF \$10.00 FOR USING PROHIBITED** 36 **CLEANING AGENTS WHICH CONTAIN PHOSPHORUS**

37 Section 61. G.S. 143-214.4(g) reads as rewritten:

38 "(g) Any person who uses any cleaning agent in violation of the provisions of this
39 section shall be responsible for an infraction for which the sanction is a penalty of not
40 more than ten dollars (\$10.00). Notwithstanding G.S. 143-3.1(a), the clear proceeds of
41 infractions pursuant to this section shall be remitted to the Civil Penalty and Forfeiture
42 Fund in accordance with G.S. 115C-457.2."
43

1 **U. CIVIL PENALTY ASSESSED PURSUANT TO G.S. 143-215.6A(a)(7) & (e)**
2 **AGAINST LOCAL GOVERNMENTS AND PERSONS WHO FAIL TO FOLLOW**
3 **LAWS CONCERNING WATER SUPPLY WATERSHEDS**

4 Section 62. G.S. 143-214.5(g) reads as rewritten:

5 "(g) Civil Penalties. – A local government that fails to adopt a local water supply
6 watershed protection program as required by this section or willfully fails to administer
7 or enforce the provisions of its program in substantial compliance with the minimum
8 statewide water supply watershed management requirements shall be subject to a civil
9 penalty pursuant to G.S. 143-215.6A(e). In any area of the State that is not covered by an
10 approved local water supply watershed protection program, any person who violates or
11 fails to act in accordance with any minimum statewide water supply watershed
12 management requirement or more stringent management requirement adopted by the
13 Commission for a critical water supply watershed established pursuant to this section
14 shall be subject to a civil penalty as specified in G.S. 143-215.6A(a)(7).

15 The clear proceeds of civil penalties provided for in this section shall be remitted to
16 the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2."

17
18 **V. CIVIL PENALTIES OF NOT MORE THAN \$10,000 OR \$10,000 PER DAY**
19 **OR \$10,000 PER MONTH FOR VARIOUS WATER POLLUTION CONTROL**
20 **VIOLATIONS**

21 Section 63. G.S. 143-215.6A is amended by adding a new subsection to read:

22 "(h1) The clear proceeds of civil penalties assessed by the Secretary or the
23 Commission pursuant to this section shall be remitted to the Civil Penalty and Forfeiture
24 Fund in accordance with G.S. 115C-457.2."

25
26 **W. CIVIL PENALTY OF VARIOUS AMOUNTS FOR VIOLATIONS OF**
27 **REGULATIONS FOR USE OF WATER RESOURCES**

28 Section 64. G.S. 143-215.17(b) is amended by adding a new subdivision to
29 read:

30 "(8) The clear proceeds of civil penalties assessed pursuant to this subsection
31 shall be remitted to the Civil Penalty and Forfeiture Fund in accordance
32 with G.S. 115C-457.2."

33
34 **X. LAND RESOURCES DIVISION – CIVIL PENALTIES NOT TO EXCEED**
35 **\$100.00 OR \$500.00 ASSESSED FOR VIOLATIONS OF THE DAM SAFETY**
36 **LAW. IF WILLFUL, NOT TO EXCEED \$500.00 PER DAY FOR EACH DAY OF**
37 **VIOLATION**

38 Section 65. G.S. 143-215.36(b) is amended by adding a new subdivision to
39 read:

40 "(8) The clear proceeds of civil penalties assessed pursuant to this subsection
41 shall be remitted to the Civil Penalty and Forfeiture Fund in accordance
42 with G.S. 115C-457.2."

1 **Y. CIVIL PENALTY NOT TO EXCEED \$10,000 FOR VIOLATING AIR AND**
2 **WATER QUALITY REPORTING REGULATIONS**

3 Section 66. G.S. 143-215.69(b) reads as rewritten:

4 "(b) Civil Penalties. – The Commission may assess a civil penalty against a person
5 who violates this Part or a rule of the Commission implementing this Part. For persons
6 subject to the provisions of G.S. 143-215.1, the amount of the penalty shall not exceed
7 the maximum imposed in G.S. 143-215.6A and shall be assessed in accordance with the
8 procedure set out in G.S. 143-215.6A for assessing a civil penalty. For persons subject to
9 the provisions of Title V, G.S. 143-215.108, or G.S. 143-215.109, the amount of penalty
10 shall not exceed the maximum imposed in G.S. 143-215.114A and shall be assessed in
11 accordance with the procedure set out in G.S. 143-215.114A for assessing a civil penalty.
12 Civil~~The clear proceeds of civil penalties~~ assessed under this subsection shall be ~~credited~~
13 ~~to the General Fund as nontax revenue.~~ remitted to the Civil Penalty and Forfeiture Fund
14 in accordance with G.S. 115C-457.2."

15
16 **Z. OIL POLLUTION AND HAZARDOUS SUBSTANCES CONTROL – CIVIL**
17 **PENALTIES OF NOT MORE THAN \$5,000 ASSESSED FOR UNLAWFUL**
18 **DISCHARGE OF OIL**

19 Section 67. (a) G.S. 143-215.88A is amended by adding a new subsection to
20 read:

21 "(c) The clear proceeds of civil penalties provided for in this section shall be
22 remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2."

23 (b) G.S. 143-215.87 reads as rewritten:

24 "**§ 143-215.87. Oil or Other Hazardous Substances Pollution Protection Fund.**

25 There is hereby established under the control and direction of the Department an Oil
26 or Other Hazardous Substances Pollution Protection Fund which shall be a nonlapsing,
27 revolving fund consisting of any moneys appropriated for such purpose by the General
28 Assembly or that shall be available to it from any other source. The moneys shall be used
29 to defray the expenses of any project or program for the containment, collection,
30 dispersal or removal of oil or other hazardous substances discharged to the land or waters
31 of this State, or discharged into waters outside the territorial limits of the State which
32 affect land and waters or related uses within the State; to assess damages for injury to,
33 destruction of, or loss of use of natural resources; and to develop and implement plans for
34 restoration, rehabilitation, replacement, or acquisition of the equivalent of the natural
35 resources injured by the discharge. In addition to any moneys that shall be appropriated
36 or otherwise made available to it, the fund shall be maintained by fees, charges, ~~penalties~~
37 or other moneys except for the clear proceeds of civil penalties paid to or recovered by or
38 on behalf of the Department under the provisions of this Part. Any moneys paid to or
39 recovered by or on behalf of the Department as fees, charges, ~~penalties~~ or other payments
40 as damages authorized by this Part except for the clear proceeds of civil penalties shall be
41 paid to the Oil or Other Hazardous Substances Pollution Protection Fund in an amount
42 equal to the sums expended from the fund for the project or activity. ~~Within the meaning~~

1 of this section, the word "penalties" means ~~civil penalties and does not include criminal~~
2 ~~finest or penalties.~~

3 The clear proceeds of civil penalties provided for in this section shall be remitted to
4 the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2."

5
6 **AA. CIVIL PENALTY ASSESSED PURSUANT TO G.S. 143-215.94K AGAINST**
7 **OWNER OR OPERATOR OF COMMERCIAL UNDERGROUND STORAGE TANK**
8 **WHO FAILS TO PROPERLY COMMENCE AND COMPLETE CLOSURE**

9 Section 68. G.S. 143-215.94E(i) reads as rewritten:

10 "(i) An owner or operator who notifies the Department of an intention to close or
11 upgrade a commercial underground storage tank as provided in G.S. 143-215.94B(b)(2a)
12 shall commence the closure or upgrade prior to 1 July 1994 and shall complete the
13 closure or upgrade prior to 1 January 1995. An owner who notifies the Department of an
14 intention to close or upgrade a commercial underground storage tank and who fails to
15 commence and complete the closure as specified in this subsection is subject to a civil
16 penalty as provided in G.S. 143-215.94K. The provisions of G.S. 143-215.94B(b)(2a) do
17 not apply if an owner or operator who notifies the Department of an intention to close or
18 upgrade a commercial underground storage tank fails to commence or complete the
19 closure or upgrade within the dates specified in this subsection.

20 The clear proceeds of civil penalties provided for in this subsection shall be remitted
21 to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2."

22
23 **BB. CIVIL PENALTY OF NOT MORE THAN \$10,000 FOR VIOLATING**
24 **UNDERGROUND STORAGE TANK REGULATIONS. IF VIOLATION IS**
25 **CONTINUOUS, MAY ASSESS \$10,000 PER DAY NOT TO EXCEED \$200,000**

26 Section 69. G.S. 143-215.94W is amended by adding a new subsection to read:

27 "(h) The clear proceeds of civil penalties assessed pursuant to this section shall be
28 remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2."

29
30 **CC. CIVIL PENALTY OF EITHER \$50,000 OR \$250,000 PER DAY FOR**
31 **FAILURE TO IMMEDIATELY REPORT AN OFFSHORE DISCHARGE**

32 Section 70. G.S. 143-215.94GG is amended by adding a new subsection to
33 read:

34 "(c) The clear proceeds of penalties provided for in this section shall be remitted to
35 the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2."

36
37 **DD. CIVIL PENALTY NOT TO EXCEED \$10,000 FOR VIOLATIONS OF**
38 **OIL REFINING FACILITY PERMIT LAWS AND REGULATIONS**

39 Section 71. G.S. 143-215.102(a) reads as rewritten:

40 "(a) Civil Penalty. – Any person who violates any provision of this Part,
41 or any rule, regulation or order made pursuant to this Part, shall incur, in addition to any
42 other penalty provided by law, a civil penalty in an amount not to exceed ten thousand
43 dollars (\$10,000) for every such violation, the amount to be determined by the Secretary

1 after taking into consideration the factors set out in G.S. 143B-282.1(b). The procedures
2 set out in G.S. 143-215.6 and G.S. 143B-282.1 shall apply to civil penalties assessed
3 under this section. The penalty herein provided for shall become due and payable when
4 the person incurring the penalty receives a notice in writing from the Commission
5 describing the violation with reasonable particularity and advising such person that the
6 penalty is due. A person may contest a penalty by filing a petition for a contested case
7 under G.S. 150B-23 within 30 days after receiving notice of the penalty. If any civil
8 penalty has not been paid within 30 days after notice of assessment has been served on
9 the violator, the Secretary shall request the Attorney General to institute a civil action in
10 the Superior Court of any county in which the violator resides or has his or its principal
11 place of business to recover the amount of the assessment, unless the violator contests the
12 assessment, or requests remission of the assessment in whole or in part as provided in
13 G.S. 143-215.6. If any civil penalty has not been paid within 30 days after the final
14 agency decision or court order has been served on the violator, the Secretary shall request
15 the Attorney General to institute a civil action in the Superior Court of any county in
16 which the violator resides or has his or its principal place of business to recover the
17 amount of the assessment.

18 ~~Any sums recovered under this subsection shall be payable to the Oil Pollution~~
19 ~~Protection Fund as established by this Article. The clear proceeds of civil penalties~~
20 ~~provided for in this section shall be remitted to the Civil Penalty and Forfeiture Fund in~~
21 ~~accordance with G.S. 115C-457.2."~~

22 23 **EE. FORFEITURE OF BONDS FOR NONCOMPLIANCE WITH SPECIAL** 24 **ORDERS CONCERNING AIR POLLUTION CONTROL**

25 Section 72. G.S. 143-215.110(e) reads as rewritten:

26 "(e) Compliance Bonds. – A special order or other instrument authorized by this
27 section may provide that a bond or other surety be posted to ensure compliance. In
28 determining the amount of such bond the Commission shall consider the degree and
29 extent of harm which may result if the person to whom the special order is directed fails
30 to comply with the terms of the order, the cost of rectifying such harm, the economic
31 consequences to the person to whom the special order is directed if the special order is
32 issued as compared to the consequences of a denial, suspension, or revocation of the
33 special order or permit, and the person's history of compliance with pollution control
34 requirements, other special orders, history of payment of any penalties which may have
35 been previously assessed by the Commission. In the event of noncompliance with the
36 special order or other instrument, the bond shall be forfeited and the ~~entire amount of the~~
37 ~~bond shall be deposited in the General Fund. clear proceeds of the bond shall be remitted~~
38 ~~to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2."~~

39 40 **FF. CIVIL PENALTY OF NOT MORE THAN \$10,000 FOR VARIOUS AIR** 41 **POLLUTION CONTROL VIOLATIONS**

42 Section 73. G.S. 143-215.114A is amended by adding a new subsection to
43 read:

1 "(h) The clear proceeds of penalties provided for in this section shall be remitted to
2 the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2."

3
4 **PART V. DEPARTMENT OF HEALTH AND HUMAN SERVICES**

5 **A. CIVIL PENALTIES OF NOT MORE THAN \$20,000 AND \$75,000 FOR**
6 **CIRCUMVENTION OF THE SELF-REFERRALS BY HEALTH CARE**
7 **PROVIDERS LAW**

8 Section 74. G.S. 90-407 is amended by adding a new subsection to read:

9 "(d) The clear proceeds of civil penalties provided for in this section shall be
10 remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2."

11
12 **B. CIVIL PENALTY NOT TO EXCEED \$1,000 IMPOSED UPON CHILD**
13 **DAY CARE FACILITIES OR HOMES FOR VIOLATIONS OF STATE LAW OR**
14 **REGULATION GOVERNING LICENSURE/STANDARDS**

15 Section 75. G.S. 110-103.1 is amended by adding a new subsection to read:

16 "(d) The clear proceeds of penalties provided for in this section shall be remitted to
17 the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2."

18
19 **C. CIVIL PENALTIES OF \$100.00 OR \$500.00 OR \$1,000 FOR FAILURE OF**
20 **PAYORS/EMPLOYERS TO COMPLY WITH EMPLOYEE'S CHILD SUPPORT**
21 **ENFORCEMENT ORDERS**

22 Section 76. G.S. 110-136.8(e) reads as rewritten:

23 "(e) Prohibited conduct by payor; civil penalty. Notwithstanding any other
24 provision of law, when a court finds, pursuant to a motion in the cause filed by the
25 initiating party joining the payor as a third party defendant, with 30 days notice to answer
26 the motion, that a payor has willfully refused to comply with the provisions of this
27 section, such payor shall be ordered to commence withholding and shall be held liable to
28 the initiating party for any amount which such payor should have withheld, except that
29 such payor shall not be required to vary the normal pay or disbursement cycles in order to
30 comply with these provisions.

31 A payor shall not discharge from employment, refuse to employ, or otherwise take
32 disciplinary action against any obligor solely because of the withholding. When a court
33 finds that a payor has taken any of these actions, the payor shall be liable for a civil
34 ~~penalty to be paid to the county school fund penalty.~~ For a first offense, the civil penalty
35 shall be one hundred dollars (\$100.00). For second and third offenses, the civil penalty
36 shall be five hundred dollars (\$500.00) and one thousand dollars (\$1,000), respectively.
37 Any payor who violates any provision of this paragraph shall be liable in a civil action for
38 reasonable damages suffered by an obligor as a result of the violation, and an obligor
39 discharged or demoted in violation of this paragraph shall be entitled to be reinstated to
40 his former position. The statute of limitations for actions under this subsection shall be
41 one year pursuant to G.S. 1-54 of this section.

42 The clear proceeds of civil penalties provided for in this subsection shall be remitted
43 to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2."

1
2 **D. CIVIL PENALTY NOT TO EXCEED \$100.00 PER VIOLATION FOR**
3 **WILLFUL VIOLATION OF PROVISIONS FOR CERTIFICATION OF ADULT**
4 **DAY CARE PROGRAM**

5 Section 77. G.S. 131D-6(c) reads as rewritten:

6 "(c) The Secretary may impose a civil penalty not to exceed one hundred dollars
7 (\$100.00) for each violation on a person, firm, agency, or corporation who willfully
8 violates any provision of this section or any rule adopted by the Social Services
9 Commission pursuant to this section. Each day of a continuing violation constitutes a
10 separate violation.

11 In determining the amount of the civil penalty, the Secretary shall consider the degree
12 and extent of the harm or potential harm caused by the violation.

13 The Social Services Commission shall adopt rules concerning the imposition of civil
14 penalties under this subsection.

15 The clear proceeds of civil penalties imposed pursuant to this subsection shall be
16 remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2."

17
18 **E. CIVIL PENALTIES OF VARYING AMOUNTS IMPOSED UPON ADULT**
19 **CARE HOMES FOR VIOLATIONS OF STATE LAW OR REGULATION**
20 **GOVERNING LICENSURE AND STANDARDS/ADMINISTRATIVE AND CIVIL**
21 **PENALTIES OF VARIOUS AMOUNTS IMPOSED UPON NURSING**
22 **FACILITIES FOR VIOLATIONS OF STATE LAW OR REGULATION**
23 **GOVERNING LICENSURE AND STANDARDS**

24 Section 78. (a) G.S. 131D-34 is amended by adding a new subsection to read:

25 "(i) The clear proceeds of civil penalties provided for in this section shall be
26 remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2."

27 (b) G.S. 131E-129 is amended by adding a new subsection to read:

28 "(h) The clear proceeds of civil penalties provided for in this section shall be
29 remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2."

30 (c) G.S. 131E-109 is amended by adding a new subsection to read:

31 "(e) The clear proceeds of civil penalties provided for in this section shall be
32 remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2."

33 (d) G.S. 131E-242(a) reads as rewritten:

34 "(a) The Department shall establish a temporary management contingency fund
35 from the proceeds of penalties collected by the Department under the provisions of ~~G.S.~~
36 ~~131E-109 and G.S. 131E-129 for nursing facilities, and G.S. 131D-2 and G.S. 131D-34~~
37 ~~for adult care homes."~~

38
39 **F. CIVIL PENALTY OF \$50.00 PER DAY UP TO \$1,500 PER VIOLATION**
40 **AGAINST NURSING HOMES FOR NOT GIVING FIRST AVAILABLE BED TO**
41 **PATIENT WHO LEFT FOR TEMPORARY TREATMENT**

42 Section 79. G.S. 131E-130(b) reads as rewritten:

1 (b) If the Department finds that a nursing home has violated the provisions of
2 subsection (a) of this section, the Department may assess a civil penalty of fifty dollars
3 (\$50.00) a day, up to a maximum of one thousand five hundred dollars (\$1,500), against
4 the nursing home, for each violation.

5 The clear proceeds of penalties provided for in this subsection shall be remitted to the
6 Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2."

7
8 **G. CIVIL PENALTIES OF NOT MORE THAN \$20,000 IMPOSED FOR**
9 **VIOLATIONS OF STATE LAW OR REGULATION REQUIRING ISSUANCE**
10 **OF AND COMPLIANCE WITH CERTIFICATES OF NEED**

11 Section 80. G.S. 131E-190(f) reads as rewritten:

12 (f) The Department may assess a civil penalty of not more than twenty thousand
13 dollars (\$20,000) against any person who knowingly offers or develops any new
14 institutional health service within the meaning of this Article without a certificate of need
15 issued under this Article and the rules pertaining thereto, or in violation of the terms or
16 conditions of such a certificate, whenever it determines a violation has occurred and each
17 time the service is provided in violation of this provision. In determining the amount of
18 the penalty the Department shall consider the degree and extent of harm caused by the
19 violation and the cost of rectifying the damage. A person who is assessed a penalty shall
20 be notified of the penalty by registered or certified mail. The notice shall state the
21 reasons for the penalty. If a person fails to pay a penalty, the Department shall refer the
22 matter to the Attorney General for collection. For the purpose of this subsection, the
23 word 'person' shall not include an individual in his capacity as an officer, director, or
24 employee of a person as otherwise defined in this Article.

25 The clear proceeds of penalties provided for in this subsection shall be remitted to the
26 Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2."

27
28 **H. ADMINISTRATIVE PENALTIES FOR VIOLATIONS OF THE**
29 **SOLICITATIONS OF CONTRIBUTIONS LAW NOT TO EXCEED \$1,000 PER**
30 **ACT OR OMISSION**

31 Section 81. G.S. 131F-23(g) reads as rewritten:

32 (g) Disposition of Penalties. — ~~Penalties collected by the Department under~~
33 ~~subsection (e) of this section shall be credited to the General Fund as nontax revenue. The~~
34 clear proceeds of penalties provided for in subsection (e) of this section shall be remitted
35 to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2."

36
37 **I. CIVIL PENALTIES NOT TO EXCEED \$10,000 FOR VIOLATION OF THE**
38 **SOLICITATIONS OF CONTRIBUTIONS LAW**

39 Section 82. G.S. 131F-24(a) reads as rewritten:

40 (a) Civil Remedies. — In addition to other remedies authorized by law, the
41 Attorney General may bring a civil action in superior court to enforce this Chapter. Upon
42 a finding that any person has violated this Chapter, a court may make any necessary order
43 or enter a judgment, including a temporary or permanent injunction, a declaratory

1 judgment, the appointment of a master or receiver, the sequestration of assets, the
2 reimbursement of persons from whom contributions have been unlawfully solicited, the
3 distribution of contributions in accordance with the charitable or sponsor purpose
4 expressed in the registration statement or in accordance with the representations made to
5 the person solicited, the reimbursement of the Department for attorneys' fees and costs,
6 including investigative costs, and any other equitable relief the court finds appropriate.
7 Upon a finding that any person has violated any provision of this Chapter, a court may
8 enter an order imposing a civil penalty in an amount not to exceed ten thousand dollars
9 (\$10,000) per violation.

10 The clear proceeds of penalties imposed pursuant to this subsection shall be remitted
11 to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2."
12

13 PART VI. DEPARTMENT OF INSURANCE

14 **A. PENALTIES OF NOT LESS THAN \$100.00 NOR MORE THAN \$1,000**
15 **ASSESSED AGAINST INSURANCE COMPANIES FOR FAILURE TO COMPLY**
16 **WITH STATE LAWS AND REGULATIONS/COMMISSIONER MAY IMPOSE A**
17 **CIVIL PENALTY PURSUANT TO G.S. 58-2-70 IF INSURER FAILS TO NOTICE**
18 **A CLAIM WITHIN 30 DAYS AFTER RECEIVING WRITTEN NOTICE OF THE**
19 **CLAIM/ANY INSURER WILLFULLY MISREPRESENTING TERMS,**
20 **CONDITIONS, OR BENEFITS OF A POLICY IS SUBJECT TO THE PENALTY**
21 **PROVISIONS OF G.S. 58-2-70/CIVIL PENALTY OF NO MORE THAN \$2,000,**
22 **PURSUANT TO G.S. 58-2-70 FOR INSURERS REFUSING TO PAY**
23 **CLAIMANTS BECAUSE OF REPAIR SERVICE CHOSEN/CIVIL PENALTY**
24 **PURSUANT TO G.S. 58-2-70 IMPOSED FOR VIOLATING REINSURANCE**
25 **INTERMEDIARIES LAW/CIVIL PENALTY AS PROVIDED IN G.S. 58-21-105**
26 **FOR SURPLUS LINES LICENSEE OR PRODUCING BROKER WHO FAILS TO**
27 **PRODUCE PROPER EVIDENCE OF INSURANCE/CIVIL PENALTY**
28 **PURSUANT TO G.S. 58-2-70 IMPOSED FOR VIOLATING THE SURPLUS**
29 **LINES ACT/CIVIL PENALTY PURSUANT TO G.S. 58-2-70 IMPOSED FOR**
30 **KNOWINGLY AND WILLFULLY VIOLATING COMMISSIONER'S ORDERS**
31 **FOR INSURERS SUPERVISION, REHABILITATION, AND**
32 **LIQUIDATION/CIVIL PENALTY PURSUANT TO G.S. 58-2-70(d) IMPOSED**
33 **AGAINST INSURANCE MANAGING GENERAL AGENT WHO HAS NOT**
34 **MATERIALLY COMPLIED WITH AGENCY AND MANAGEMENT**
35 **CONTRACTS LAWS/CIVIL PENALTY PURSUANT TO G.S. 58-2-70 IMPOSED**
36 **FOR VIOLATION OF INSURANCE INFORMATION AND PRIVACY**
37 **PROTECTION ACT**

38 Section 83. (a) G.S. 58-2-70(d) reads as rewritten:

39 "(d) Upon a finding by the Commissioner of a violation as specified in subsection
40 (c) of this section, the Commissioner shall direct the payment of a penalty of not less than
41 one hundred dollars (\$100.00) nor more than one thousand dollars (\$1,000). In
42 determining the amount of the penalty, the Commissioner shall consider the degree and
43 extent of harm caused by the violation, the amount of money that inured to the benefit of

1 the violator as a result of the violation, whether the violation was committed willfully,
2 and the prior record of the violator in complying or failing to comply with laws, rules, or
3 orders applicable to the violator. ~~The penalty shall be payable to the Commissioner, who~~
4 ~~shall then forward the clear proceeds of which to the State Treasurer for deposit in the~~
5 ~~General Fund of the State.~~ The clear proceeds of the penalty shall be remitted to the Civil
6 Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2. Payment of the civil
7 penalty under this section shall be in addition to payment of any other penalty for a
8 violation of the criminal laws of this State."

9 (b) G.S. 58-6-1 reads as rewritten:

10 **"§ 58-6-1. Commissioner to report taxes, fees, and civil penalties taxes and fees and**
11 **pay monthly.**

12 On or before the 10th day of each month the Commissioner shall furnish to the Auditor
13 a statement in detail of the ~~taxes, fees, and civil penalties~~ taxes and fees received during
14 the previous month, and shall pay the amounts received to the Treasurer. Except as
15 otherwise provided, the amounts shall be credited to the General Fund. The Auditor may
16 examine the accounts of the Commissioner and check them up with said statement."

17
18 **B. CIVIL PENALTY OF \$100.00 PER DAY NOT TO EXCEED \$1,000 FOR**
19 **VIOLATING INSURANCE HOLDING COMPANY SYSTEM REGULATORY**
20 **ACT**

21 Section 84. G.S. 58-19-50(a) reads as rewritten:

22 "(a) Any person failing, without just cause, to file any registration statement as
23 required in this Article shall pay, after notice and hearing, a civil penalty of one hundred
24 dollars (\$100.00) for each day's delay, not to exceed a total penalty of one thousand
25 dollars (\$1,000), to the ~~Commissioner, who shall forward the clear proceeds to the~~
26 ~~General Fund of this State.~~ Commissioner. The clear proceeds of civil penalties provided
27 for in this section shall be remitted to the Civil Penalty and Forfeiture Fund in accordance
28 with G.S. 115C-457.2."

29
30 **C. PENALTY OF \$1,000 FOR PERSON WHO PLACES SURPLUS LINES**
31 **INSURANCE WITHOUT A VALID SURPLUS LINES LICENSE IN EFFECT**

32 Section 85. G.S. 58-21-65(d) reads as rewritten:

33 "(d) Each surplus lines license shall be issued on September 1 of each year and
34 expire August 31 of the following year unless renewed. Application for renewal shall be
35 made 30 days before the expiration date. The license shall be renewed upon payment of
36 the annual license fee and compliance with the other applicable provisions of this section.
37 Any person who places surplus lines insurance without a valid surplus lines license in
38 effect shall pay a penalty of one thousand dollars (\$1,000) and be subject to such other
39 penalties as provided by law.

40 The clear proceeds of civil penalties provided for in this subsection shall be remitted
41 to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2."
42

1 **D. CIVIL PENALTY NOT TO EXCEED \$10,000 FOR VIOLATING**
2 **COMMISSIONER'S SUPERVISORY ORDERS**

3 Section 86. G.S. 58-30-60(h) reads as rewritten:

4 "(h) If any person violates any supervision order issued under this section that as to
5 him is then still in effect, he shall be liable to pay a civil penalty imposed by the Court
6 not to exceed ten thousand dollars (\$10,000). The clear proceeds of civil penalties
7 imposed pursuant to this subsection shall be remitted to the Civil Penalty and Forfeiture
8 Fund in accordance with G.S. 115C-457.2."

9
10 **E. FORFEITURE OF \$1,000 OR \$5,000 FOR VIOLATING COMMISSION'S**
11 **FINAL ORDER ABOUT REGULATION OF CREDIT LIFE INSURANCE**

12 Section 87. G.S. 58-57-80 reads as rewritten:

13 **"§ 58-57-80. Penalties.**

14 In addition to any other penalty provided by law, any person, firm or corporation
15 which willfully violates an order of the Commissioner after it has become final, and
16 while such order is in effect, shall, upon proof thereof to the satisfaction of the court,
17 forfeit and pay to the State of North Carolina a sum not to exceed one thousand dollars
18 (\$1,000) which may be recovered in a civil action, except that if such violation is found
19 to be willful, the amount of such penalty shall be a sum not to exceed five thousand
20 dollars (\$5,000). The clear proceeds of penalties provided for in this section shall be
21 remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2.
22 The Commissioner, in his discretion, may revoke or suspend the license or certificate of
23 authority of the person, firm or corporation guilty of such willful violation. Such order
24 for suspension or revocation shall be upon notice and hearing, and shall be subject to
25 judicial review as provided in G.S. 58-57-75. Any creditor who requires credit life
26 insurance or credit accident and health insurance, or both, in excess of the amounts set
27 forth in G.S. 58-57-15 or who violates the provisions of G.S. 58-57-65 shall be guilty of a
28 Class 3 misdemeanor, the penalty for which shall only be a fine of two thousand dollars
29 (\$2,000) for each such occurrence or violation."

30
31 **F. MONETARY FORFEITURE NOT LESS THAN \$1,000 NOR MORE THAN**
32 **\$5,000 FOR FAILURE TO COMPLY WITH CEASE AND DESIST ORDER**
33 **CONCERNING UNFAIR TRADE PRACTICE**

34 Section 88. G.S. 58-63-50 reads as rewritten:

35 **"§ 58-63-50. Penalty.**

36 Any person who willfully violates a cease and desist order of the Commissioner under
37 G.S. 58-63-32, after it has become final, and while the order is in effect, shall forfeit and
38 pay to the Commissioner ~~for the use of the public schools of the county or counties in~~
39 ~~which the act or acts complained of occurred~~ the sum of not less than one thousand
40 dollars (\$1,000) nor more than five thousand dollars (\$5,000) for each violation, which if
41 not paid shall be recovered in a civil action instituted in the name of the Commissioner in
42 the Superior Court of Wake County. The clear proceeds of forfeitures provided for in this

1 section shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S.
2 115C-457.2."

3
4 **G. PENALTY OF NOT LESS THAN \$100.00 OR GREATER THAN \$2,000**
5 **AGAINST COLLECTION AGENCIES FOR VIOLATING COLLECTION OF**
6 **DEBT RULES**

7 Section 89. (a) G.S. 58-70-130 is amended by adding a new subsection to
8 read:

9 "(d) The clear proceeds of civil penalties imposed under this section in suits
10 instituted by the Attorney General shall be remitted to the Civil Penalty and Forfeiture
11 Fund in accordance with G.S. 115C-457.2."

12 (b) G.S. 58-39-95 is amended by adding a new subsection to read:

13 "(c) The clear proceeds of any civil penalties levied pursuant to this section shall be
14 remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2."

15
16 **H. CIVIL PENALTIES OF \$250.00 ASSESSED FOR VIOLATION OF BAIL**
17 **BONDSMEN AND RUNNERS LAW**

18 Section 90. G.S. 58-71-80(b) reads as rewritten:

19 "(b) The Commissioner, in lieu of revoking or suspending a license in accordance
20 with the provisions of this Article, may, in any one proceeding, by order, require the
21 licensee to pay ~~to the school fund in the licensee's county of residence~~ a civil penalty of
22 two hundred fifty dollars (\$250.00) for each offense. The Commissioner shall remit the
23 clear proceeds of these civil penalties to the Civil Penalty and Forfeiture Fund in
24 accordance with G.S. 115C-457.2. Upon the licensee's failure to pay the penalty within
25 20 days after the order is mailed, postage prepaid, registered and addressed to the
26 licensee's last known place of business, unless the order is stayed by an order of the court
27 of competent jurisdiction or unless the Commissioner has already suspended or revoked
28 the license of the licensee, the Commissioner may revoke the license or may suspend the
29 license for any period."

30
31 **I. FORFEITURE OF \$500.00 FOR OFFICER ACTING WITHOUT BOND**

32 Section 91. G.S. 58-72-5 reads as rewritten:

33 "**§ 58-72-5. Penalty for officer acting without bond.**

34 Every person or officer of whom an official bond is required, who presumes to
35 discharge any duty of his office before executing such bond in the manner prescribed by
36 law, is liable to a forfeiture of five hundred dollars (\$500.00) to the use of the State for
37 each attempt so to exercise his office. The clear proceeds of forfeitures provided for in
38 this section shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with
39 G.S. 115C-457.2."

40
41 **J. CIVIL PENALTY NOT LESS THAN \$100.00 NOR MORE THAN \$500.00**
42 **FOR VIOLATING MANUFACTURED HOMES WARRANTIES LAW**

43 Section 92. G.S. 143-143.13(c) reads as rewritten:

1 (c) In addition to the authority to deny, suspend, or revoke a license under this
2 Article, the Board also has the authority to impose a civil penalty upon any person
3 violating the provisions of this Article. Upon a finding by the Board of a violation of this
4 Article, the Board shall direct the payment of a penalty of not less than one hundred
5 dollars (\$100.00) nor more than five hundred dollars (\$500.00). In determining the
6 amount of the penalty, the Board shall consider the degree and extent of harm caused by
7 the violation, the amount of money that inured to the benefit of the violator as a result of
8 the violation, whether the violation was committed willfully, and the prior record of the
9 violator in complying or failing to comply with laws, rules, or orders applicable to the
10 violator. Each day during which a violation occurs shall constitute a separate offense.
11 The penalty shall be payable to the Board, ~~which shall then forward the clear proceeds of~~
12 ~~which to the State Treasurer for deposit in the General Fund of the State.~~ Board. The
13 Board shall remit the clear proceeds of penalties provided for in this subsection to the
14 Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2.

15 Payment of the civil penalty under this section shall be in addition to payment of any
16 other penalty for a violation of the criminal laws of this State. Nothing in this subsection
17 shall prevent the Board from negotiating a mutually acceptable agreement with any
18 person as to the status of the person's license or certificate or as to any civil penalty."
19

20 K. CIVIL PENALTIES NOT TO EXCEED \$1,000 PER VIOLATION IMPOSED
21 FOR VIOLATIONS OF THE UNIFORM STANDARDS FOR MANUFACTURED
22 HOMES

23 Section 93. G.S. 143-151(a) reads as rewritten:

24 "(a) Whoever violates (i) the provisions of this Article; or (ii) any rules
25 promulgated under this Article, shall be liable for civil penalty not to exceed one
26 thousand dollars (\$1,000) for each violation. Each such violation shall constitute a
27 separate violation with respect to each manufactured home or with respect to each failure
28 or refusal to allow or perform an act required thereby, except that the maximum civil
29 penalty may not exceed one million dollars (\$1,000,000) for any related series of
30 violations occurring within one year from the date of the first violation. The clear
31 proceeds of civil penalties provided for in this section shall be remitted to the Civil
32 Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2."
33

34 **PART VII. DEPARTMENT OF JUSTICE**

35 **A. CIVIL PENALTY OF \$100.00 IMPOSED AGAINST JUDGMENT**
36 **CREDITOR FAILING TO FILE NOTICE OF RECEIPT OF PAYMENT WITH**
37 **CLERK OF SUPERIOR COURT**

38 Section 94. G.S. 1-239(c) reads as rewritten:

39 "(c) Upon receipt by the judgment creditor of any payment of money upon a
40 judgment, the judgment creditor shall within 60 days after receipt of the payment give
41 satisfactory notice thereof to the clerk of the superior court in which the judgment was
42 rendered, and the clerk shall thereafter promptly enter the payment on the judgment
43 docket of the court, and the clerk shall immediately forward a certificate thereof to the

1 clerk of the superior court of each county to whom a transcript of the judgment has been
2 sent, and the clerk of each superior court shall thereafter promptly enter the same on the
3 judgment docket of the court and file the original with the judgment roll in the action. If
4 the judgment creditor fails to file the notice required by this subsection within 30 days
5 following written demand by the debtor, he may be required to pay a civil penalty of one
6 hundred dollars (\$100.00) in addition to attorneys' fees and any loss caused to the debtor
7 by such failure. The clear proceeds of civil penalties provided for in this section shall be
8 remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2."
9

10 **B. FINE NOT TO EXCEED \$2,000 PAID TO COURT FOR UNLAWFULLY**
11 **WITHHOLDING TITLE TO AN OFFICE (QUO WARRANTO)**

12 Section 95. G.S. 1-527 reads as rewritten:

13 "**§ 1-527. Judgment in such actions.**

14 In every such case judgment shall be rendered upon the right of the defendant, and
15 also upon the right of the party alleged to be entitled, or only upon the right of the
16 defendant, as justice requires. When the defendant, whether a natural person or
17 corporation, against whom the action has been brought, is adjudged guilty of usurping or
18 intruding into, or unlawfully holding or exercising any office, franchise or privilege,
19 judgment shall be rendered that the defendant be excluded from such office, franchise or
20 privilege, and also that the plaintiff recover costs against him. The court may also, in its
21 discretion, fine the defendant a sum not exceeding two thousand dollars (\$2000). The
22 clear proceeds of the fine shall be remitted to the Civil Penalty and Forfeiture Fund in
23 accordance with G.S. 115C-457.2."
24

25 **C. COURT MAY ASSESS CIVIL PENALTIES AGAINST ANYONE**
26 **OPERATING A PYRAMID OR CHAIN SCHEME IN VIOLATION OF**
27 **LOTTERY AND GAMING LAWS**

28 Section 96. G.S. 14-291.2(c) reads as rewritten:

29 "(c) Any judge of the superior court shall have jurisdiction, upon petition by the
30 Attorney General of North Carolina or district attorney of the superior court, to enjoin, as
31 an unfair or deceptive trade practice, the continuation of the scheme described in
32 subsection (a); in such proceeding the court may assess civil penalties and attorneys' fees
33 to the Attorney General or the District Attorney pursuant to G.S. 75-15.2 and 75-16.1;
34 and the court may appoint a receiver to secure and distribute assets obtained by any
35 defendant through participation in any such scheme. The clear proceeds of civil penalties
36 provided for in this subsection shall be remitted to the Civil Penalty and Forfeiture Fund
37 in accordance with G.S. 115C-457.2."
38

39 **D. CIVIL PENALTIES NOT TO EXCEED \$25,000 ASSESSED FOR**
40 **VIOLATIONS OF THE INVENTION DEVELOPMENT SERVICES LAW**

41 Section 97. G.S. 66-216 reads as rewritten:

42 "**§ 66-216. Enforcement.**

1 The Attorney General shall enforce this Article and may recover a civil penalty not to
2 exceed twenty-five thousand dollars (\$25,000) for each violation of this Article and may
3 seek equitable relief to restrain the violation of this Article. The clear proceeds of civil
4 penalties provided for in this section shall be remitted to the Civil Penalty and Forfeiture
5 Fund in accordance with G.S. 115C-457.2."
6

7 **E. CIVIL PENALTIES OF NOT MORE THAN \$2,000 ASSESSED FOR**
8 **VIOLATION OF LAWS AND REGULATIONS GOVERNING PRIVATE**
9 **PROTECTIVE SERVICES**

10 Section 98. G.S. 74C-17(c) reads as rewritten:

11 "(c) In lieu of revocation or suspension of a license or permit under G.S. 74C-12, a
12 civil penalty of not more than two thousand dollars (\$2,000) may be assessed by the
13 Board against any person or business who violates any provision of this Chapter or any
14 rule of the Board adopted pursuant to this Chapter. In determining the amount of any
15 penalty, the Board shall consider the degree and extent of harm caused by the violation.
16 The clear proceeds of civil penalties provided for in this subsection shall be remitted to
17 the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2."
18

19 **F. CIVIL PENALTIES OF NOT MORE THAN \$5,000 ASSESSED BY THE**
20 **COURTS FOR KNOWING VIOLATIONS OF MONOPOLIES, TRUSTS, AND**
21 **CONSUMER PROTECTION LAWS OR RELATED COURT ORDERS**

22 Section 99. G.S. 75-15.2 reads as rewritten:

23 "**§ 75-15.2. Civil penalty.**

24 In any suit instituted by the Attorney General, in which the defendant is found to have
25 violated G.S. 75-1.1 and the acts or practices which constituted the violation were, when
26 committed, knowingly violative of a statute, the court may, in its discretion, impose a
27 civil penalty against the defendant of up to five thousand dollars (\$5,000) for each
28 violation. In any action brought by the Attorney General pursuant to this Chapter in
29 which it is shown that an action or practice when committed was specifically prohibited
30 by a court order, the Court may, in its discretion, impose a civil penalty of up to five
31 thousand dollars (\$5,000) for each violation. Civil penalties may be imposed in a new
32 action or by motion in an earlier action, whether or not such earlier action has been
33 concluded. In determining the amount of the civil penalty, the court shall consider all
34 relevant circumstances, including, but not limited to, the extent of the harm caused by
35 the conduct constituting a violation, the nature and persistence of such conduct, the
36 length of time over which the conduct occurred, the assets, liabilities, and net worth of
37 the person, whether corporate or individual, and any corrective action taken by the
38 defendant. ~~Any penalty so assessed shall be paid to the General Fund of the State of~~
39 ~~North Carolina.~~ The clear proceeds of penalties so assessed shall be remitted to the Civil
40 Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2."
41

1 **G. FINE UP TO \$2,000 PER PERSON FOR LENDER REQUIRING**
2 **BORROWER TO DEAL WITH A PARTICULAR INSURER OR FOR**
3 **APPROVING INSURER ON DISCRIMINATORY BASIS**

4 Section 100. G.S. 75-19 reads as rewritten:

5 **"§ 75-19. Violators subject to fine and injunction.**

6 The superior court, on complaint by any person that G.S. 75- 17 or 75-18 is being
7 violated, may issue an injunction against such violation and may fine all persons, firms,
8 corporations, and officers, directors, trustees, agents, employees, or affiliates of such up
9 to two thousand dollars (\$2,000) per person for such violation. In event of a disregard of
10 such injunction or other court order, the superior court shall hold such parties in contempt
11 and prescribe such further penalties as the court in its discretion shall so determine. The
12 clear proceeds of fines provided for in this section shall be remitted to the Civil Penalty
13 and Forfeiture Fund in accordance with G.S. 115C-457.2."

14
15 **H. CIVIL PENALTY NOT TO EXCEED \$2,000 FOR DEBT COLLECTORS**
16 **WHO ATTEMPT TO COLLECT DEBTS IN UNAUTHORIZED MANNER**

17 Section 101. G.S. 75-56 reads as rewritten:

18 **"§ 75-56. Application.**

19 The specific and general provisions of this Article shall exclusively constitute the
20 unfair or deceptive acts or practices proscribed by G.S. 75-1.1 in the area of commerce
21 regulated by this Article. Notwithstanding the provisions of G.S. 75-15.2 and 75-16, in
22 private actions or actions instituted by the Attorney General, civil penalties in excess of
23 two thousand dollars (\$2,000) shall not be imposed, nor shall damages be trebled for any
24 violation under this Article. The clear proceeds of civil penalties imposed in actions
25 instituted by the Attorney General shall be remitted to the Civil Penalty and Forfeiture
26 Fund in accordance with G.S. 115C-457.2."

27
28 **I. CIVIL PENALTY OF \$1,000 FOR KNOWINGLY INDUCING OR**
29 **ATTEMPTING TO INDUCE SOMEONE TO VIOLATE THE MOTOR FUEL**
30 **MARKETING ACT**

31 Section 102. G.S. 75-83 reads as rewritten:

32 **"§ 75-83. Unlawful inducement; civil penalty.**

33 It shall be unlawful to knowingly induce, or to knowingly attempt to induce, a
34 violation of this Article, whether by otherwise lawful or unlawful means. In any action
35 initiated by the Attorney General, anyone found to have violated this provision shall be
36 subject to the civil penalty applicable to the sales made in violation of this Article; or, if
37 no sales were made, to a civil penalty of one thousand dollars (\$1,000). The clear
38 proceeds of any civil penalties imposed in any actions initiated by the Attorney General
39 under this section shall be remitted to the Civil Penalty and Forfeiture Fund in accordance
40 with G.S. 115C-457.2."

1 **J. CIVIL PENALTY OF NOT MORE THAN \$1,000 PER OFFENSE FOR**
2 **ESTABLISHING A PRICE IN VIOLATION OF THE MOTOR FUEL**
3 **MARKETING ACT**

4 Section 103. G.S. 75-84 reads as rewritten:

5 **"§ 75-84. Separate offenses; injunctions.**

6 Each act of establishing a price in violation of this Article shall constitute a separate
7 offense by the seller and the civil penalty for each offense shall be not more than one
8 thousand dollars (\$1,000). Upon a proper showing by the Attorney General or his
9 delegate, further violations may be temporarily or permanently enjoined.

10 The clear proceeds of civil penalties provided for in this section shall be remitted to
11 the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2."
12

13 **K. ATTORNEY GENERAL MAY SEEK CIVIL PENALTIES FOR**
14 **VIOLATIONS OF THE MOTOR FUEL MARKETING ACT**

15 Section 104. G.S. 75-85 reads as rewritten:

16 **"§ 75-85. Investigations by Attorney General.**

17 The Attorney General is authorized to investigate any allegation of a violation of this
18 Article made by a motor fuel merchant or by an association or group of motor fuel
19 merchants. If an investigation discloses a violation, the Attorney General may exercise
20 the authority under this Article to seek an injunction and he may also seek civil penalties.

21 The clear proceeds of civil penalties provided for in this section shall be remitted to the
22 Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2."
23

24 **L. CIVIL PENALTIES OF NOT MORE THAN \$100,000 ASSESSED BY THE**
25 **COURTS FOR UNLAWFUL ACTIVITIES IN CONNECTION WITH CERTAIN**
26 **CORPORATE TRANSACTIONS; COURT MAY TREBLE PENALTY IF**
27 **CONDUCT IS WILLFUL**

28 Section 105. G.S. 75E-5 reads as rewritten:

29 **"§ 75E-5. Civil penalties.**

30 In any suit instituted by the Attorney General in which the defendant is found to have
31 violated G.S. 75E-2, the court may, in its discretion, impose a civil penalty against the
32 defendant of not more than one hundred thousand dollars (\$100,000) for each violation;
33 provided that, if the court shall determine that such violation was willful, it may in its
34 discretion treble such penalty; provided, further, that in either of the foregoing
35 circumstances, the court may in its discretion award to the Attorney General costs and
36 reasonable attorneys' fees. ~~Any penalty assessed pursuant to this section shall be paid to~~
37 ~~the General Fund of the State of North Carolina.~~ The clear proceeds of any penalty
38 assessed pursuant to this section shall be remitted to the Civil Penalty and Forfeiture
39 Fund in accordance with G.S. 115C-457.2."
40

41 **M. CIVIL PENALTIES AND FORFEITURE OF PERSONAL AND REAL**
42 **PROPERTY AUTHORIZED IN NUISANCE ACTIONS**

43 Section 106. G.S. 19-6 reads as rewritten:

1 **"§ 19-6. Civil penalty; forfeiture; accounting; lien as to expenses of abatement;**
2 **invalidation of lease.**

3 Lewd matter is contraband, and there are no property rights therein. All personal
4 property, including all money and other considerations, declared to be a nuisance under
5 the provisions of G.S. 19-1.3 and other sections of this Article, are subject to forfeiture to
6 the local government and are recoverable as damages in the county wherein such matter
7 is sold, exhibited or otherwise used. Such property including moneys may be traced to
8 and shall be recoverable from persons who, under G.S. 19-2.4, have knowledge of the
9 nuisance at the time such moneys are received by them.

10 Upon judgment against the defendant or defendants in legal proceedings brought
11 pursuant to this Article, an accounting shall be made by such defendant or defendants of
12 all moneys received by them which have been declared to be a nuisance under this
13 Article. An amount equal to the sum of all moneys estimated to have been taken in as
14 gross income from such unlawful commercial activity shall be forfeited to the general
15 funds of the city and county governments wherein such activity took place, to be shared
16 equally, as a forfeiture of the fruits of an unlawful enterprise, and as partial restitution for
17 damages done to the public welfare; provided, however, that no provision of this Article
18 shall authorize the recovery of any moneys or gross income received from the sale of any
19 book, magazine, or exhibition of any motion picture prior to the issuance of a preliminary
20 injunction. Where the action is brought pursuant to this Article, special injury need not be
21 proven, and the costs of abatement are a lien on both the real and personal property used
22 in maintaining the nuisance. Costs of abatement include, but are not limited to,
23 reasonable attorney's fees and court costs.

24 If it is judicially found after an adversary hearing pursuant to this Article that a tenant
25 or occupant of a building or tenement, under a lawful title, uses such place for the
26 purposes of lewdness, assignation, prostitution, gambling, sale or possession of illegal
27 alcoholic beverages or substances proscribed under the North Carolina Controlled
28 Substances Act, such use makes void the lease or other title under which he holds, at the
29 option of the owner, and, without any act of the owner, causes the right of possession to
30 revert and vest in such owner.

31 The clear proceeds of civil penalties and forfeitures provided for in this section,
32 except for penalties and properties that accrue to local governments instead of the State,
33 shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-
34 457.2."

35
36 **PART VIII. DEPARTMENT OF LABOR**

37 **A. CIVIL PENALTIES PURSUANT TO G.S. 95-25.23 FOR PERSONS**
38 **REQUIRED TO COMPLY WITH FAIR LABOR STANDARDS ACT WHO**
39 **VIOLATE N.C. YOUTH EMPLOYMENT LAW/YOUTH EMPLOYMENT –**
40 **CIVIL PENALTIES NOT TO EXCEED \$250.00 PER VIOLATION ASSESSED**
41 **AGAINST EMPLOYERS FOR VIOLATING YOUTH EMPLOYMENT LAWS**

42 Section 107. G.S. 95-25.23(c) reads as rewritten:

1 "~~(c) Sums collected under this section by the Commissioner shall be paid into the~~
2 ~~General Fund of the State treasury. The clear proceeds of civil penalties provided for in~~
3 ~~this section shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with~~
4 ~~G.S. 115C-457.2."~~

5
6 **B. CIVIL PENALTY OF UP TO \$250.00 PER EMPLOYEE NOT TO EXCEED**
7 **\$1,000 PER INVESTIGATION FOR VIOLATING RECORD-KEEPING**
8 **REQUIREMENTS OF WAGE AND HOUR ACT**

9 Section 108. G.S. 95-25.23A(c) reads as rewritten:

10 "~~(c) Sums collected under this section by the Commissioner shall be paid into the~~
11 ~~General Fund. The clear proceeds of civil penalties provided for in this section shall be~~
12 ~~remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2."~~

13
14 **C. PRIVATE PERSONNEL SERVICES – FINES UP TO \$250.00 AND CIVIL**
15 **PENALTIES NOT LESS THAN \$50.00 NOR MORE THAN \$100.00 PER DAY, UP**
16 **TO \$2,000 IMPOSED UPON SERVICES WHICH VIOLATE LAW OR RULES**
17 **OR OPERATES WITHOUT A LICENSE/CIVIL PENALTIES (LIKE THAT**
18 **IMPOSED IN G.S. 95-47.9(e)) IMPOSED FOR OPERATING A JOB-LISTING**
19 **SERVICE WITHOUT A VALID LICENSE**

20 Section 109. G.S. 95-47.9(e) reads as rewritten:

21 "(e) Any person who operates as a private personnel service without first obtaining
22 the appropriate license (i) shall be guilty of a Class 1 misdemeanor; and (ii) be subject to
23 a civil penalty of not less than fifty dollars (\$50.00) nor more than one hundred dollars
24 (\$100.00) for each day the private personnel service operates without a license, the
25 penalty not to exceed a total of two thousand dollars (\$2,000). Actions to recover civil
26 penalties shall be initiated by the Attorney General and any such penalties collected shall
27 ~~be deposited to the general fund. General. The clear proceeds of civil penalties provided~~
28 ~~for in this section shall be remitted to the Civil Penalty and Forfeiture Fund in accordance~~
29 ~~with G.S. 115C-457.2."~~

30
31 **D. CIVIL PENALTIES NOT TO EXCEED \$1,000 PER DAY OR NOT TO**
32 **EXCEED \$1,000 ASSESSED FOR VIOLATIONS OF THE AMUSEMENT**
33 **DEVICE SAFETY ACT**

34 Section 110. G.S. 95-111.4(17) reads as rewritten:

35 "(17) To order the payment of all civil penalties provided by this Article.
36 ~~Funds The clear proceeds of funds~~ collected pursuant to a civil penalty
37 order shall be ~~deposited with the State Treasurer;~~ remitted to the Civil
38 Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2; and".

39
40 **E. OSHA – CIVIL PENALTIES OF \$7,000 AND CIVIL PENALTIES NOT**
41 **LESS THAN \$5,000 NOR GREATER THAN \$70,000 ASSESSED AGAINST**
42 **EMPLOYERS FOR OSHA VIOLATIONS**

43 Section 111. G.S. 95-138(b) reads as rewritten:

1 "~~(b) All~~The clear proceeds of all civil penalties and interest recovered by the
2 Commissioner, together with the costs thereof, shall be ~~paid into the general fund of the~~
3 ~~State treasury.~~ remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S.
4 115C-457.2."

5
6 **F. CIVIL PENALTIES OF NOT MORE THAN \$1,000 ASSESSED FOR**
7 **VIOLATIONS OF THE LAWS CONCERNING IDENTIFICATION OF TOXIC**
8 **OR HAZARDOUS SUBSTANCES/CIVIL PENALTIES (AS PROVIDED IN G.S.**
9 **95-195(c)) ASSESSED AGAINST EMPLOYER WHICH REFUSES TO LIST**
10 **CHEMICALS USED OR STORED AT THE EMPLOYMENT FACILITY**

11 Section 112. G.S. 95-195(c) reads as rewritten:

12 "(c) If the Commissioner of Labor finds that the employer violated this Article, the
13 Commissioner shall order the employer to comply within 14 days following receipt of
14 written notification of the violation. Employers not complying within 14 days following
15 receipt of written notification of a violation shall be subject to civil penalties of not more
16 than one thousand dollars (\$1,000) per violation imposed by the Commissioner of Labor.
17 There shall be a separate offense for each day the violation continues. The clear proceeds
18 of civil penalties provided for in this section shall be remitted to the Civil Penalty and
19 Forfeiture Fund in accordance with G.S. 115C-457.2."

20
21 **G. CONTROLLED SUBSTANCES EXAMINATION ACT – CIVIL PENALTY**
22 **UP TO \$250.00 PER EXAMINEE NOT TO EXCEED \$1,000 PER**
23 **INVESTIGATION ASSESSED AGAINST EXAMINEES WHO VIOLATE CSE**
24 **ACT**

25 Section 113. G.S. 95-234(c) reads as rewritten:

26 "~~(c) Sums collected under this section by the Commissioner shall be paid into the~~
27 ~~General Fund.~~ The clear proceeds of civil penalties provided for in this section shall be
28 remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2."

29
30 **H. \$25.00 CIVIL PENALTY FOR EMPLOYER FAILING TO NOTIFY THE**
31 **INDUSTRIAL COMMISSION AND EMPLOYEE WHEN WORKERS'**
32 **COMPENSATION FINAL PAYMENT HAS BEEN MADE**

33 Section 114. G.S. 97-18(h) reads as rewritten:

34 "(h) Within 16 days after final payment of compensation has been made, the
35 employer shall send to the Commission and the employee a notice, in accordance with a
36 form prescribed by the Commission, stating that such final payment has been made, the
37 total amount of compensation paid, the name of the employee and of any other person to
38 whom compensation has been paid, the date of the injury or death, and the date to which
39 compensation has been paid. If the employer fails to so notify the Commission or the
40 employee within such time, the Commission shall assess against such employer a civil
41 penalty in the amount of twenty-five dollars (\$25.00). The clear proceeds of civil
42 penalties assessed pursuant to this section shall be remitted to the Civil Penalty and
43 Forfeiture Fund in accordance with G.S. 115C-457.2."

1
2 **I. INDUSTRIAL COMMISSION – CIVIL PENALTIES OF \$1.00 PER**
3 **EMPLOYEE, BUT NOT LESS THAN \$50.00 NOR MORE THAN \$100.00 PER**
4 **DAY ASSESSED FOR EMPLOYER'S FAILURE TO SECURE THE PAYMENT**
5 **OF COMPENSATION**

6 Section 115. G.S. 97-94(b) reads as rewritten:

7 "(b) Any employer required to secure the payment of compensation under this
8 Article who refuses or neglects to secure such compensation shall be punished by a
9 penalty of one dollar (\$1.00) for each employee, but not less than fifty dollars (\$50.00)
10 nor more than one hundred dollars (\$100) for each day of such refusal or neglect, and
11 until the same ceases; and the employer shall be liable during continuance of such refusal
12 or neglect to an employee either for compensation under this Article or at law at the
13 election of the injured employee.

14 The penalty herein provided may be assessed by the Industrial Commission
15 administratively, with the right to a hearing if requested within 30 days after notice of the
16 assessment of the penalty and the right of review and appeal as in other cases.
17 Enforcement of the penalty shall be made by the Office of the Attorney General. The
18 clear proceeds of penalties provided for in this subsection shall be remitted to the Civil
19 Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2. "
20

21 **PART IX. DEPARTMENT OF REVENUE**

22 **A. CIVIL PENALTY OF \$100.00 AND \$1,000 FOR DISCIPLINARY**
23 **EMPLOYMENT ACTION AGAINST DEBTOR WHO HAS MONEY**
24 **WITHHELD**

25 Section 116. G.S. 105B-4(b) reads as rewritten:

26 "(b) A payor shall not discharge from employment, refuse to employ, or otherwise
27 take disciplinary action against any debtor because of the withholding. When a court
28 finds that a payor has taken any of these actions, the payor shall be liable for a civil
29 ~~penalty to be paid to the county school fund.~~ penalty. For a first offense, the civil penalty
30 shall be one hundred dollars (\$100.00). For second and third offenses, the civil penalty
31 shall be five hundred dollars (\$500.00) and one thousand dollars (\$1,000), respectively.
32 Any payor who violates any provision of this paragraph shall be liable in a civil action for
33 reasonable damages suffered by a debtor as a result of the violation, and a debtor
34 discharged or demoted in violation of this paragraph shall be entitled to be reinstated to
35 his former position. The statute of limitations for actions under this subsection shall be
36 one year pursuant to G.S. 1-54.

37 The clear proceeds of civil penalties provided for in this section shall be remitted to
38 the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2."
39

40 **PART X. SECRETARY OF STATE**

41 **A. CIVIL PENALTY OF \$10.00 PER DAY NOT TO EXCEED \$1,000**
42 **AGAINST FOREIGN CORPORATIONS TRANSACTING BUSINESS WITHOUT**
43 **AUTHORITY**

1 Section 117. G.S. 55-15-02(d) reads as rewritten:

2 "(d) A foreign corporation failing to obtain a certificate of authority as required by
3 this Chapter or by prior acts then applicable shall be liable to the State for the years or
4 parts thereof during which it transacted business in this State without a certificate of
5 authority in an amount equal to all fees and taxes which would have been imposed by law
6 upon such corporation had it duly applied for and received such permission, plus interest
7 and all penalties imposed by law for failure to pay such fees and taxes. In addition, the
8 foreign corporation shall be liable for a civil penalty of ten dollars (\$10.00) for each day,
9 but not to exceed a total of one thousand dollars (\$1,000) for each year or part thereof, it
10 transacts business in this State without a certificate of authority. The Attorney General
11 may bring actions to recover all amounts due the State under the provisions of this
12 subsection.

13 The clear proceeds of civil penalties provided for in this subsection shall be remitted
14 to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2."

15
16 **B. CIVIL PENALTY OF \$10.00 PER DAY NOT TO EXCEED \$1,000**
17 **AGAINST FOREIGN CORPORATIONS FOR CONDUCTING AFFAIRS**
18 **WITHOUT AUTHORITY**

19 Section 118. G.S. 55A-15-02(b) reads as rewritten:

20 "(b) A foreign corporation failing to obtain a certificate of authority as required by
21 this Chapter or by prior acts then applicable shall be liable to the State for the years or
22 parts thereof during which it conducted affairs in this State without a certificate of
23 authority in an amount equal to all fees and taxes which would have been imposed by law
24 upon the corporation had it duly applied for and received such permission, plus interest
25 and all penalties imposed by law for failure to pay such fees and taxes. In addition, the
26 foreign corporation shall be liable for a civil penalty of ten dollars (\$10.00) for each day,
27 but not to exceed a total of one thousand dollars (\$1,000) for each year or part thereof, it
28 conducts affairs in this State without a certificate of authority. The Attorney General
29 may bring actions to recover all amounts due the State under the provisions of this
30 subsection. The clear proceeds of civil penalties provided for in this subsection shall be
31 remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2."

32
33 **C. CIVIL PENALTY OF \$10.00 PER DAY NOT TO EXCEED \$1,000 PER**
34 **YEAR AGAINST FOREIGN LLCs FOR TRANSACTING BUSINESS WITHOUT**
35 **AUTHORITY**

36 Section 119. G.S. 57C-7-03(b) reads as rewritten:

37 "(b) A foreign limited liability company failing to obtain a certificate of authority as
38 required by this Chapter shall be liable to the State for the years or parts thereof during
39 which it transacted business in this State without a certificate of authority in an amount
40 equal to all fees and taxes which would have been imposed by law upon the foreign
41 limited liability company had it duly applied for and received such permission, plus
42 interest and all penalties imposed by law for failure to pay such fees and taxes. In
43 addition, the foreign limited liability company shall be liable for a civil penalty of ten

1 dollars (\$10.00) for each day, but not to exceed a total of one thousand dollars (\$1,000)
2 for each year or part thereof, it transacts business in this State without a certificate of
3 authority. The Attorney General may bring actions to recover all amounts due the State
4 under the provisions of this subsection. The clear proceeds of civil penalties provided for
5 in this subsection shall be remitted to the Civil Penalty and Forfeiture Fund in accordance
6 with G.S. 115C-457.2."
7

8 **D. SECURITIES DIVISION – CIVIL PENALTIES UP TO \$2,500 OR \$25,000**
9 **ASSESSED FOR SINGLE OR MULTIPLE VIOLATIONS OF SECURITIES ACT**

10 Section 120. G.S. 78A-47(c) reads as rewritten:

11 "(c) The Administrator may issue an order against an applicant, registered person,
12 or other person who willfully violates this Chapter or a rule or order of the Administrator
13 under this Chapter:

14 (1) Imposing a civil penalty of up to two thousand five hundred dollars
15 (\$2,500) for a single violation or of up to twenty-five thousand dollars
16 (\$25,000) for multiple violations in a single proceeding or a series of
17 related proceedings; and

18 (2) Requiring reimbursement of the costs of investigation.

19 The clear proceeds of civil penalties imposed under this subsection shall be remitted
20 to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2. Any civil
21 penalty or reimbursement imposed under this subsection shall be paid into the General
22 Fund. No order under this subsection may be entered without prior notice and an
23 opportunity for a hearing conducted pursuant to Article 3 of Chapter 150B of the General
24 Statutes."
25

26 **E. SECURITIES DIVISION – CIVIL PENALTIES UP TO \$2,500 OR \$25,000**
27 **ASSESSED FOR WILLFUL VIOLATIONS OF THE INVESTMENT ADVISORS**
28 **ACT OR RELATED RULES AND ORDERS**

29 Section 121. G.S. 78C-28(c) reads as rewritten:

30 "(c) The Administrator may issue an order against an applicant, registered person,
31 or other person who willfully violates this Chapter or a rule or order of the Administrator
32 under this Chapter:

33 (1) Imposing a civil penalty of up to two thousand five hundred dollars
34 (\$2,500) for a single violation or of up to twenty-five thousand dollars
35 (\$25,000) for multiple violations in a single proceeding or a series of
36 related proceedings; and

37 (2) Requiring reimbursement of the costs of investigation.

38 The clear proceeds of civil penalties imposed under this subsection shall be remitted
39 to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2. Any civil
40 penalty or reimbursement imposed under this subsection shall be paid into the General
41 Fund. No order authorized by this subsection may be entered without prior notice of an
42 opportunity for a hearing conducted pursuant to Article 3 of Chapter 150B of the General
43 Statutes."

1
2 **F. SECURITIES DIVISION – CIVIL PENALTIES UP TO \$2,500 OR \$25,000**
3 **ASSESSED FOR WILLFUL VIOLATING INVESTMENT ADVISORS ACT**
4 **CONCERNING REGULATION OF ATHLETE AGENT OR RELATED RULES**
5 **AND ORDERS**

6 Section 122. (a) G.S. 78C-79 is amended by adding a new subsection to read:

7 "(d) The clear proceeds of civil penalties imposed pursuant to this section shall be
8 remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2."

9 (b) G.S. 78C-74 reads as rewritten:

10 **"§ 78C-74. Disposition of fees.**

11 Fees Except as otherwise provided, fees and other funds received under this Article by
12 the Secretary of State shall be deposited in the State treasury to the credit of the General
13 Fund."

14
15 **G. SECURITIES DIVISION – CIVIL PENALTIES NOT TO EXCEED \$25,000**
16 **OR \$50,000 ASSESSED FOR VIOLATION OF THE COMMODITIES ACT**

17 Section 123. G.S. 78D-22(a) reads as rewritten:

18 "(a) If the Administrator believes, whether or not based upon an investigation
19 conducted under G.S. 78D-21 that any person has engaged or is about to engage in any
20 act or practice constituting a violation of any provision of this Chapter or any rule or
21 order hereunder, the Administrator may:

22 (1) Issue a cease and desist order;

23 (2) Issue an order imposing a civil penalty in an amount which may not
24 exceed twenty-five thousand dollars (\$25,000) for any single violation
25 or five hundred thousand dollars (\$500,000) for multiple violations in a
26 single proceeding or a series of related proceedings;

27 (3) Issue an order requiring reimbursement of the costs of investigation; or

28 (4) Initiate any of the actions specified in subsection (b) of this section.

29 The clear proceeds of civil penalties imposed pursuant to this subsection shall be remitted
30 to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2. Any civil
31 penalty or reimbursement of costs imposed by this subsection shall be paid to the General
32 Fund."

33
34 **H. CIVIL PENALTY IMPOSED AT THE COURT'S DISCRETION NOT TO**
35 **EXCEED \$25,000 OR \$500,000 FOR VIOLATING COMMODITIES ACT**

36 Section 124. G.S. 78D-23(a) reads as rewritten:

37 "(a) (1) Upon a proper showing by the Administrator that a person
38 has violated, or is about to violate, any provision of this Chapter or
39 any rule or order of the Administrator, any court of competent
40 jurisdiction may grant appropriate legal or equitable remedies.

41 (2) Upon showing of violation of this Chapter or a rule or order of the
42 Administrator, the court, in addition to traditional legal and equitable
43 remedies, including temporary restraining orders, permanent or

1 temporary prohibitory or mandatory injunctions, and writs of
2 prohibition or mandamus, may grant the following special remedies:

- 3 a. Imposition of a civil penalty in an amount which may not exceed
4 twenty-five thousand dollars (\$25,000) for any single violation or
5 five hundred thousand dollars (\$500,000) for multiple violations
6 in a single proceeding or a series of related proceedings;
7 b. Disgorgement;
8 c. Declaratory judgment;
9 d. Restitution to investors wishing restitution; and
10 e. Appointment of a receiver or conservator for the defendant or the
11 defendant's assets.

12 (3) Appropriate remedies when the defendant is shown only about to violate
13 this Chapter or a rule or order of the Administrator shall be limited to:

- 14 a. A temporary restraining order;
15 b. A temporary or permanent injunction;
16 c. A writ of prohibition or mandamus; or
17 d. An order appointing a receiver or conservator for the defendant
18 or the defendant's assets.

19 The clear proceeds of civil penalties imposed pursuant to this subsection shall be remitted
20 to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2."

21
22 **I. CIVIL PENALTY OF \$5,000 OR \$25,000 FOR WILLFUL VIOLATION OF**
23 **PROVISIONS CONCERNING BOXING IN STATE**

24 Section 125. G.S. 143-658(a) reads as rewritten:

25 "(a) Civil Penalties. – The Secretary of State may issue an order against a licensee
26 or other person who willfully violates any provision of this Article, imposing a civil
27 penalty of up to five thousand dollars (\$5,000) for a single violation or of up to twenty-
28 five thousand dollars (\$25,000) for multiple violations in a single proceeding or a series
29 of related proceedings. No order under this subsection may be entered without giving the
30 licensee or other person 15 days' prior notice and an opportunity for a contested case
31 hearing conducted pursuant to Article 3 of Chapter 150B of the General Statutes.

32 The clear proceeds of civil penalties imposed pursuant to this subsection shall be
33 remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2."

34
35 **PART XI. UTILITIES COMMISSION**

36 **A. UNSPECIFIED CIVIL PENALTY FOR VIOLATING SAFETY**
37 **STANDARDS FOR GAS PIPELINE FACILITIES. MAXIMUM AMOUNT OF**
38 **PENALTY NOT TO EXCEED THE MAXIMUM AMOUNT IF PENALTY HAD**
39 **BEEN IMPOSED BY SECRETARY OF U.S. DEPARTMENT OF**
40 **TRANSPORTATION UNDER 49 U.S.C. APPROXIMATELY § 1679a(a)/**
41 **FORFEITURE OF \$1,000 BY PUBLIC UTILITIES FOR PROVIDING**
42 **UNAUTHORIZED SERVICES OR FOR FAILURE TO PROVIDE SERVICES AS**
43 **AUTHORIZED**

1 Section 126. G.S. 62-302(d) reads as rewritten:

2 "(d) Use of Proceeds. – A special fund in the office of State Treasurer, the Utilities
3 Commission and Public Staff Fund, is created. The fees collected pursuant to this section
4 and all other funds received by the Commission or the Public Staff ~~Staff~~, except for the
5 clear proceeds of civil penalties collected pursuant to G.S. 62-50(d) and the clear
6 proceeds of funds forfeited pursuant to G.S. 62-310(a), shall be deposited in the Utilities
7 Commission and Public Staff Fund. The Fund shall be placed in an interest bearing
8 account and any interest or other income derived from the Fund shall be credited to the
9 Fund. Monies in the Fund shall only be spent pursuant to appropriation by the General
10 Assembly.

11 The Utilities Commission and Public Staff Fund shall be subject to the provisions of
12 the Executive Budget Act except that no unexpended surplus of the Fund shall revert to
13 the General Fund. All funds credited to the Utilities Commission and Public Staff Fund
14 shall be used only to pay the expenses of the Commission and the Public Staff in
15 regulating public utilities in the interest of the public as provided by this Chapter.

16 The clear proceeds of civil penalties collected pursuant to G.S. 62-50(d) and the clear
17 proceeds of funds forfeited pursuant to G.S. 62-310(a) shall be remitted to the Civil
18 Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2."

19 20 **PART XII. ALARM SYSTEM LICENSING BOARD**

21 **A. CIVIL PENALTY OF NOT MORE THAN \$2,000 FOR VIOLATIONS OF** 22 **ALARM SYSTEMS LICENSING ACT OR RULES OF ALARM SYSTEMS** 23 **LICENSING BOARD**

24 Section 127. G.S. 74D-11(d) reads as rewritten:

25 "(d) In lieu of revocation of suspension of a license or registration under G.S. 74D-
26 10, a civil penalty of not more than two thousand dollars (\$2,000) may be assessed by the
27 Board against any person who violates any provision of this Chapter, or any rule of the
28 Board adopted pursuant to this Chapter. In determining the amount of any penalty, the
29 Board shall consider the degree and extent of harm caused by the violation. ~~All~~ The clear
30 proceeds of all penalties collected under this section will be deposited in the General
31 Fund ~~shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S.~~
32 115C-457.2."

33 34 **PART XIII. BOARD OF ARCHITECTURE**

35 **A. CIVIL PENALTY OF NOT MORE THAN \$500.00 PER VIOLATION FOR** 36 **DISHONEST, INCOMPETENT OR UNPROFESSIONAL CONDUCT BY A** 37 **REGISTRANT**

38 Section 128. G.S. 83A-15(b) reads as rewritten:

39 "(b) Actions to recover civil penalties against any registrant may be commenced by
40 the Board pursuant to Chapter 150B of the General Statutes. In determining the amount
41 of any civil penalty, the Board shall consider the degree and extent of harm caused by the
42 violation. ~~Any~~ The clear proceeds of any civil penalty collected hereunder shall be

1 ~~deposited to the General Fund.~~ remitted to the Civil Penalty and Forfeiture Fund in
2 accordance with G.S. 115C-457.2."
3

4 **B. CIVIL PENALTIES NOT TO EXCEED \$500.00 PER DAY AUTHORIZED**
5 **AGAINST NONREGISTERED PERSON OR CORPORATION**
6 **MISREPRESENTING THEMSELVES AS AN ARCHITECT OR PRACTICING**
7 **ARCHITECTURE**

8 Section 129. G.S. 83A-16(a) reads as rewritten:

9 "(a) Any individual or corporation not registered under this Chapter, who shall
10 wrongfully use the title 'Architect' or represent himself or herself to the public as an
11 architect, or practice architecture as herein defined, or seek to avoid the provisions of this
12 Chapter by the use of any other designation than 'Architect': (i) shall be guilty of a Class
13 2 misdemeanor; and (ii) be subject to a civil penalty not to exceed five hundred dollars
14 (\$500.00) per day of such violation. Each day of such unlawful practice shall constitute a
15 distinct and separate violation. ~~Any~~ The clear proceeds of any civil penalty collected
16 hereunder shall be ~~deposited to the General Fund.~~ remitted to the Civil Penalty and
17 Forfeiture Fund in accordance with G.S. 115C-457.2."
18

19 **PART XIV. BOARD OF CPA EXAMINERS**

20 **A. CIVIL PENALTIES NOT TO EXCEED \$1,000 FOR VIOLATION OF**
21 **RULES OF PROFESSIONAL CONDUCT**

22 Section 130. G.S. 93-12(9) reads as rewritten:

23 "(9) Adoption of Rules of Professional Conduct; Disciplinary Action. – The
24 Board shall have the power to adopt rules of professional ethics and
25 conduct to be observed by certified public accountants in this State. The
26 Board shall have the power to revoke, either permanently or for a
27 specified period, any certificate issued under the provisions of this
28 Chapter to a certified public accountant or to censure the holder of any
29 such certificate or to assess a civil penalty not to exceed one thousand
30 dollars (\$1,000) for any one or combination of the following causes:

- 31 a. Conviction of a felony under the laws of the United States or of
32 any state of the United States.
- 33 b. Conviction of any crime, an essential element of which is
34 dishonesty, deceit or fraud.
- 35 c. Fraud or deceit in obtaining a certificate as a certified public
36 accountant.
- 37 d. Dishonesty, fraud or gross negligence in the public practice of
38 accountancy.
- 39 e. Violation of any rule of professional ethics and professional
40 conduct adopted by the Board.

41 Any disciplinary action taken shall be in accordance with the
42 provisions of Chapter 150B of the General Statutes. ~~Any~~ The
43 clear proceeds of any civil penalty assessed under this section

1 shall be collected by the Board and transferred to the State
2 Treasurer for use in the General Fund, remitted to the Civil
3 Penalty and Forfeiture Fund in accordance with G.S. 115C-
4 457.2."
5

6 PART XV. STATE BOARD OF ELECTIONS

7 A. \$500.00 PENALTY FOR FAILURE OF PRESIDENTIAL ELECTOR TO 8 ATTEND AND VOTE FOR PARTY CANDIDATE

9 Section 131. G.S. 163-212 reads as rewritten:

10 "§ 163-212. Penalty for failure of presidential elector to attend and vote.

11 Any presidential elector having previously signified his consent to serve as such, who
12 fails to attend and vote for the candidate of the political party which nominated such
13 elector, for President and Vice-President of the United States at the time and place
14 directed in G.S. 163-210 (except in case of sickness or other unavoidable accident) shall
15 forfeit and pay to the State five hundred dollars (\$500.00), to be recovered by the
16 Attorney General in the Superior Court of Wake County. In addition to such forfeiture,
17 refusal or failure to vote for the candidates of the political party which nominated such
18 elector shall constitute a resignation from the office of elector, his vote shall not be
19 recorded, and the remaining electors shall forthwith fill such vacancy as hereinbefore
20 provided.

21 The clear proceeds of forfeitures provided for in this section shall be remitted to the
22 Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2."
23

24 PART XVI. ELECTRICAL CONTRACTORS

25 A. CIVIL PENALTIES OF NOT MORE THAN \$1,000 IMPOSED FOR 26 VIOLATIONS OF RULES AND REGULATIONS GOVERNING ELECTRICAL 27 CONTRACTORS

28 Section 132. G.S. 87-47 reads as rewritten:

29 "§ 87-47. Penalties imposed by Board; enforcement procedures.

30 (a) Repealed by Session Laws 1989, c. 709, s. 9.

31 (a1) The following activities are prohibited:

- 32 (1) Offering to engage or engaging in electrical contracting without being
33 licensed.
- 34 (2) Selling, transferring, or assigning a license, regardless of whether for a
35 fee.
- 36 (3) Aiding or abetting an unlicensed person, partnership, firm, or
37 corporation to offer to engage or to engage in electrical contracting.
- 38 (4) Being convicted of a crime involving fraud or moral turpitude.
- 39 (5) Engaging in fraud or misrepresentation to obtain a certification, obtain
40 or renew a license, or practice electrical contracting.
- 41 (6) Engaging in false or misleading advertising.

1 (7) Engaging in malpractice, unethical conduct, fraud, deceit, gross
2 negligence, gross incompetence, or gross misconduct in the practice of
3 electrical contracting.

4 (a2) The Board may administer one or more of the following penalties if the
5 applicant, licensee, or qualified individual has engaged in any activity prohibited under
6 subsection (a1) of this section:

7 (1) Reprimand.

8 (2) Suspension from practice for a period not to exceed 12 months.

9 (3) Revocation of the right to serve as a listed qualified individual on any
10 license issued by the Board.

11 (4) Revocation of license.

12 (5) Probationary revocation of license or the right to serve as a listed
13 qualified individual on any license issued by the Board, upon conditions
14 set by the Board as the case warrants, and revocation upon failure to
15 comply with the conditions.

16 (6) Revocation of certification.

17 (7) Refusal to certify an applicant or a qualified individual.

18 (8) Refusal to issue a license to an applicant.

19 (9) Refusal to renew a license.

20 (a3) In addition to administering a penalty under subsection (a2) of this section, the
21 Board may assess a civil penalty of not more than one thousand dollars (\$1,000) against a
22 licensee or a qualified individual who has engaged in an activity prohibited under
23 subsection (a1) of this section or has violated another provision of this Article or a rule
24 adopted by the Board. ~~Civil—The clear proceeds of civil penalties collected under this~~
25 ~~subsection shall be deposited in the General Fund of North Carolina as nontax revenue.~~
26 remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2.

27 In determining the amount of a civil penalty, the Board shall consider:

28 (1) The degree and extent of harm to the public safety or to property, or the
29 potential for harm.

30 (2) The duration and gravity of the violation.

31 (3) Whether the violation was committed willfully or intentionally, or
32 reflects a continuing pattern.

33 (4) Whether the violation involved elements of fraud or deception either to
34 the public or to the Board, or both.

35 (5) The violator's prior disciplinary record with the Board.

36 (6) Whether and the extent to which the violator profited by the violation.

37 (a4) Any person, including the Board and its staff on their own initiative, may
38 prefer charges pursuant to this section, and such charges must be submitted in writing to
39 the Board. The Board may, without a hearing, dismiss charges as unfounded or trivial.
40 The Board may issue a notice of violation based on the charges, to be served by a
41 member of the Board's staff or in accordance with Rule 4 of the Rules of Civil Procedure,
42 against any person, partnership, firm, or corporation for engaging in an activity
43 prohibited under subsection (a1) of this section or for a violation of the provisions of this

1 Article or any rule adopted by the Board. The person or other entity to whom the notice
2 of violation is issued may request a hearing by notifying the Board in writing within 20
3 days after being served with the notice of violation. Hearings shall be conducted by the
4 Board or an administrative law judge pursuant to Article 3A of Chapter 150B of the
5 General Statutes. In conducting hearings, the Board may remove the hearings to any
6 county in which the offense, or any part thereof, was committed if in the opinion of the
7 Board the ends of justice or the convenience of witnesses require such removal.

8 (a5) If the person or other entity does not request a hearing under subsection (a4) of
9 this section, the Board shall enter a final decision and may impose penalties against the
10 person or other entity. If the person or other entity is not a licensee or a qualified
11 individual, the Board may impose penalties under subsection (a2) of this section. If the
12 person or other entity is a licensee or a qualified individual, the Board may impose
13 penalties under subsection (a2) of this section, subsection (a3) of this section, or both.

14 (b) The Board shall adopt and publish rules, in accordance with Chapter 150B of
15 the General Statutes and consistent with the provisions of this Article, governing the
16 matters contained in this section.

17 (c) The Board shall establish and maintain a system whereby detailed records are
18 kept regarding charges and notices of violation pursuant to this section. This record shall
19 include, for each person, partnership, firm, and corporation charged or notified of a
20 violation, the date and nature of each charge or notice of violation, investigatory action
21 taken by the Board, any findings by the Board, and the disposition of the matter.

22 (d) The Board may reinstate a qualified individual's certification and may reinstate
23 a license after having revoked it, provided that one year has elapsed from revocation until
24 reinstatement and that the vote of the Board for reinstatement is by a majority of its
25 members.

26 The Board shall immediately notify the Secretary of State and the electrical inspectors
27 within the licensee's county of residence upon the revocation of a license or the
28 reissuance of a license which had been revoked.

29 (e) In any case in which the Board is entitled to convene a hearing to consider
30 imposing any penalty provided for in subsection (a2) or (a3) of this section, the Board
31 may accept an offer in compromise of the charge, whereby the accused shall pay to the
32 Board a penalty of not more than one thousand dollars (\$1,000). ~~Penalties—The clear~~
33 ~~proceeds of penalties~~ collected by the Board under this subsection shall be ~~deposited in~~
34 ~~the General Fund of North Carolina as nontax revenue.—remitted to the Civil Penalty and~~
35 ~~Forfeiture Fund in accordance with G.S. 115C-457.2."~~

36 PART XVII. BOARD OF EMPLOYEE ASSISTANCE PROFESSIONALS

37 A. CIVIL PENALTY NOT TO EXCEED \$50.00 PER DAY FOR EMPLOYER 38 ASSISTANCE PROFESSIONAL WHO FAILS TO BE LICENSED AS 39 REQUIRED 40

41 Section 133. G.S. 90-506(c) reads as rewritten:

1 (c) Civil penalties assessed by the Board pursuant to subdivision (3) of subsection
2 (a) of this section are final 30 days after the date the assessment is served upon the
3 alleged violation, unless the alleged violator seeks review by the Board within that time.

4 The clear proceeds of these civil penalties shall be remitted to the Civil Penalty and
5 Forfeiture Fund in accordance with G.S. 115C-457.2."
6

7 **PART XVIII. STATE BOARD OF PROFESSIONAL ENGINEERS AND LAND** 8 **SURVEYORS**

9 **A. CIVIL PENALTIES NOT TO EXCEED \$2,000 ASSESSED AGAINST** 10 **PROFESSIONAL ENGINEERS AND LAND SURVEYORS WHO VIOLATE** 11 **PROVISIONS OF THE ENGINEERING AND LAND SURVEYING ACT/CIVIL** 12 **PENALTY ASSESSED AGAINST ENGINEERS AND LAND SURVEYORS WHO** 13 **COMMIT FRAUD, DECEIT, GROSS NEGLIGENCE, INCOMPETENCE,** 14 **MISCONDUCT OR VIOLATE THE RULES OF PROFESSIONAL CONDUCT**

15 Section 134. G.S. 89C-21(c) reads as rewritten:

16 (c) The Board may levy a civil penalty not in excess of two thousand dollars
17 (\$2,000) for any engineer or land surveyor who violates any of the provisions of
18 subdivisions (1) through (4) of subsection (a) of this section. ~~All~~ The clear proceeds of all
19 civil penalties collected by the Board, including civil penalties collected pursuant to G.S.
20 89C-22(c), shall be deposited in the General Fund of North Carolina, remitted to the Civil
21 Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2."
22

23 **PART XIX. NORTH CAROLINA BOARD FOR LICENSING OF SOIL** 24 **SCIENTIST**

25 **A. CIVIL PENALTY NOT TO EXCEED \$1,000 FOR VIOLATION OF SOIL** 26 **SCIENTIST LICENSING ACT**

27 Section 135. G.S. 89F-5(c) reads as rewritten:

28 (c) The Secretary-Treasurer shall deposit funds received by the ~~Board~~ Board,
29 except for the clear proceeds of civil penalties assessed pursuant to G.S. 89F-20(b), in
30 one or more funds in banks or other financial institutions carrying deposit insurance and
31 authorized to do business in the State. Interest earned on funds may remain in the account
32 and may be expended as authorized by the Board to carry out the provisions of this
33 Chapter. The Board may authorize expenditures deemed necessary to carry out the
34 provisions of this Chapter, and all expenses shall be paid upon the warrant of the
35 Secretary-Treasurer. During any fiscal year, expenditures shall not exceed the revenues
36 of the Board.

37 The clear proceeds of civil penalties shall be remitted to the Civil Penalty and
38 Forfeiture Fund in accordance with G.S. 115C-457.2."
39

40 **PART XX. VETERINARY MEDICAL BOARD**

41 **B. CIVIL PENALTY UP TO \$5,000 AGAINST LICENSED VETERINARIES** 42 **FOR VIOLATING ARTICLE**

43 Section 136. 90-187.8(b) reads as rewritten:

1 "(b) The Board may impose and collect from a licensee a civil monetary penalty of
2 up to five thousand dollars (\$5,000) for each violation of this Article or a rule adopted
3 under this Article. The clear proceeds of these civil penalties shall be remitted to the
4 Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2.

5 The amount of the civil penalty, up to the maximum, shall be determined upon a
6 finding of one or more of the following factors:

- 7 (1) The degree and extent of harm to the public health or to the health of the
8 animal under the licensee's care.
- 9 (2) The duration and gravity of the violation.
- 10 (3) Whether the violation was committed willfully or intentionally or
11 reflects a continuing pattern.
- 12 (4) Whether the violation involved elements of fraud or deception either to
13 the client or to the Board, or both.
- 14 (5) The prior disciplinary record with the Board of the licensee.
- 15 (6) Whether and the extent to which the licensee profited by the violation.

17 **PART XXI. CAPE FEAR RIVER AND MOREHEAD CITY NAVIGATION AND** 18 **PILOTAGE COMMISSIONS**

19 **A. FINES MAY BE ASSESSED FOR PILOTS WHO VIOLATE RULES OF** 20 **COMMISSIONS**

21 Section 137. (a) G.S. 76A-5(d) reads as rewritten:

22 "(d) Fine, License Suspension and Cancellation. – The Commission shall have the
23 power to fine or call in and suspend or cancel the license of any pilot found to be derelict
24 of duty, in violation of the reasonable rules and regulations as set out by the Commission
25 or for other just cause. Grounds for suspension or cancellation shall include but not be
26 limited to: citation by the Coast Guard and/or Commission for careless or neglectful duty
27 resulting in damage to property or personal harm; absence, neglect of duty, absence from
28 duty for a period longer than four weeks without written submission to and written
29 approval from the Commission chairman; other violations of regulations or in actions
30 found by the Commission to be unduly disruptive of the pilotage and service and/or
31 harmful to person or property.

32 The clear proceeds of fines levied pursuant to this subsection shall be remitted to the
33 Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2."

34 (b) G.S. 76A-35(d) reads as rewritten:

35 "(d) Fine, License Suspension and Cancellation. – The Commission shall have the
36 power to fine or call in and suspend or cancel the license of any pilot found to be derelict
37 of duty, in violation of the reasonable rules and regulations as set out by the Commission
38 or for other just cause. Grounds for suspension or cancellation shall include but not be
39 limited to: citation by the Coast Guard and/or Commission for careless or neglectful duty
40 resulting in damage to property or personal harm; absence, neglect of duty, absence from
41 duty for a period longer than four weeks without written submission to and written
42 approval from the Commission Chairman; other violations of regulations or in actions

1 found by the Commission to be unduly disruptive of the pilotage and service and/or
2 harmful to person or property.

3 The clear proceeds of fines levied pursuant to this subsection shall be remitted to the
4 Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2."

5

6 **PART XXII. REAL ESTATE COMMISSION**

7 **A. \$500.00 PENALTY FOR EACH VIOLATION OF TIME SHARE**
8 **DEVELOPER LAWS**

9 Section 138. G.S. 93A-54 is amended by adding a new subsection to read:

10 "(a1) The clear proceeds of fines collected pursuant to subsection (a) of this section
11 shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-
12 457.2."

13

14 **PART XXIII. MISCELLANEOUS PROVISIONS**

15 **EFFECT OF HEADINGS**

16 Section 139. The headings to the parts and sections of this act are a
17 convenience to the reader and are for reference only. The headings do not expand, limit,
18 or define the text of this act, except for effective dates referring to a Part.

19

20 **EFFECTIVE DATE**

21 Section 140. Except as otherwise provided, this act is effective when it
22 becomes law.