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SENATE BILL DRS35233-NO-31C

Short Title: ROD Code of Ethics & Breach Notices/Costs. (Public)

Sponsors: Senators Daniel, B. Newton, and Britt (Primary Sponsors).

Referred to:

A BILL TO BE ENTITLED
AN ACT REQUIRING COUNTY BOARDS OF COMMISSIONERS TO ADOPT A CODE OF
ETHICS FOR REGISTERS OF DEEDS AND TO PROVIDE A PROCESS TO REMOVE
A REGISTER OF DEEDS FROM OFFICE FOR CERTAIN ACTIONS FOUND TO BE IN
VIOLATION OF THE CODE OF ETHICS AND REQUIRING THIRD-PARTY ENTITIES
THAT CAUSE SECURITY BREACHES TO PAY FOR OR REIMBURSE NORTH
CAROLINA GOVERNMENTS FOR COSTS ASSOCIATED WITH BREACH
NOTIFICATIONS UNDER THE IDENTITY THEFT PROTECTION ACT.

The General Assembly of North Carolina enacts:

**PART I. ESTABLISHING A CODE OF ETHICS AND REMOVAL PROCESS FOR
REGISTERS OF DEEDS.**

SECTION 1. Article 1 of Chapter 161 of the General Statutes is amended by adding
a new section to read:

"§ 161-11.7. Code of ethics for registers of deeds.

(a) Code of Ethics Established. – Notwithstanding the provisions of G.S. 153A-76(a) or
any other provision of law, each county board of commissioners shall adopt a resolution or policy
establishing a code of ethics to guide actions by the county's register of deeds in the performance
of his or her official duties. The code of ethics shall seek to ensure the proper performance of
duties and the maintenance of integrity, professionalism, and respect within the office of the
register of deeds, and shall address at least all of the following:

- (1) The need to faithfully perform the duties of the office.
- (2) The need to uphold the integrity of the office.
- (3) The need to avoid impropriety in the exercise of the register of deeds' official
duties.
- (4) The need to maintain professionalism and respect toward the public,
employees, and all stakeholders associated with the office.

(b) Complaint; Review. – A person alleging that a register of deeds has violated the code
of ethics established under subsection (a) of this section may file a written complaint with the
county manager providing sufficient information to adequately describe how the register of deeds
allegedly violated the code of ethics. Upon receipt of the complaint, the county manager shall,
by registered mail, return receipt requested, give notice to the register of deeds that a complaint
has been made against him or her and the allegations included in the complaint and shall inform
the board of the complaint and allegations made therein. Not later than 10 business days after
receipt of the complaint, the register of deeds may respond in writing to the county manager. The
county manager shall, in a closed review, promptly consider whether the allegations made in the



complaint constitute a violation of the code of ethics established under subsection (a) of this section but, in no case, shall the closed review be held more than 15 business days after the complaint is filed. If the county manager finds that the register of deeds violated the code of ethics, the county manager shall, in a written report, inform the board of his or her findings and conclusions in detail and the basis for the same.

(c) Public Hearing. – The board shall, in a closed session, consider the report submitted by the county manager. If the board determines that the findings in the report constitute a violation of the code of ethics, the board shall hold a public hearing on the matter not later than 15 business days after the county manager's review. The board shall by registered mail, return receipt requested, notify the register of deeds and the complainant of the date, time, and place of the public hearing, and that they are entitled to be represented by counsel and to inspect and copy any records upon which the board plans to rely upon at the public hearing if the records are requested, in writing, by the register of deeds, the complainant, or their attorney prior to the day set for the public hearing. For the public hearing held under this section, the board shall comply with all applicable laws governing open meetings and public records.

(d) Decision; Sanctions. – The board shall render its decision, in writing, on whether the register of deeds violated the code of ethics not later than 10 business days after the public hearing is held. Notwithstanding the provisions of G.S. 153A-76(a) or any other provision of law, if the board determines, by a majority vote, that the register of deeds violated the code of ethics, the board may, but shall not be required to, impose one or more of the following sanctions: (i) private censure, (ii) public censure, (iii) suspension from office without pay, or (iv) removal from the office of the register of deeds; provided, however, a register of deeds may be removed from office only if one of the following grounds is found:

- (1) Willful or habitual neglect or refusal to perform the duties of the office.
- (2) Willful misconduct or maladministration in office.
- (3) Corruption.
- (4) Extortion.
- (5) Conviction of a felony.
- (6) Sexual harassment or sexual misconduct.
- (7) Creation of a hostile work environment within the office.

(e) Vacancy of Office. – If the board suspends or removes a register of deeds from office pursuant to subsection (d) of this section, the board shall fill the vacant office as provided by G.S. 161-5.

(f) Appeal. – A register of deeds may appeal any action taken by the board under subsection (d) of this section to the judge of superior court resident in, or holding the courts of, the county in which the register of deeds holds office. The county shall be listed as the respondent in the register of deeds' appeal, and it shall be the duty of the county attorney to appear and defend any action taken by the board under this section. An appeal under this subsection shall be advanced and take precedence over all other causes upon the superior court calendar and shall be heard at the next session after the appeal is filed, provided the appeal is filed in the court in time for the appeal to be heard. If the final termination of the appeal is favorable to the accused register of deeds, he or she shall be allowed the reasonable and necessary expense incurred in making his or her defense, including a reasonable attorney fee, to be fixed by the judge, and that amount shall be paid to the accused by the county.

(g) County without Manager; Clerk of Superior Court. – If, at the time a complaint is filed as provided in subsection (b) of this section, the county has not adopted or does not operate under the county-manager plan as provided in Part 3 of Article 5 of Chapter 153A of the General Statutes, the board shall perform all duties imposed on the county manager under this section or the board may designate the head of any county department to perform the duties. If, at the time a complaint is filed as provided in subsection (b) of this section, the county has adopted the county-manager plan under Part 2 Article 5 of Chapter 153A of the General Statutes and the

1 register of deeds serves as clerk to the board as authorized by G.S. 161-23, the complaint shall
2 be filed with the county manager, but the clerk of superior court of the county shall perform all
3 duties imposed on the board under this section."

4 **SECTION 2.** G.S. 153A-76 reads as rewritten:

5 **"§ 153A-76. Board of commissioners to organize county government.**

6 (a) The board of commissioners may create, change, abolish, and consolidate offices,
7 positions, departments, boards, commissions, and agencies of the county government, may
8 impose ex officio the duties of more than one office on a single officer, may change the
9 composition and manner of selection of boards, commissions, and agencies, and may generally
10 organize and reorganize the county government in order to promote orderly and efficient
11 administration of county affairs, subject to the following limitations:

12 ...

13 (b) Notwithstanding the provisions of subsection (a) of this section or any other provision
14 of law, the board of commissioners may sanction or remove a register of deeds as provided in
15 G.S. 161-11.7."

16 **SECTION 3.** G.S. 161-23 reads as rewritten:

17 **"§ 161-23. Clerk to board of commissioners.**

18 The register of deeds, or such other county officer or employee as the board of county
19 commissioners shall designate in accordance with the provisions of ~~G.S. 153-40~~, G.S. 153A-111,
20 shall be ex officio clerk of the board of county commissioners, and as such shall perform the
21 duties imposed by law or by order of said board."

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23 **PART II. SECURITY BREACH NOTIFICATIONS AND ASSOCIATED COSTS.**

24 **SECTION 4.** Article 2A of Chapter 75 of the General Statutes is amended by adding
25 a new section to read:

26 **"§ 75-67. Governmental entities; breach notification and associated legal fees.**

27 Where a security breach or unauthorized release, as defined in G.S. 75-61 or in any other
28 applicable State or federal regulation, results from the acts or omissions of a third-party vendor
29 or contractor, the third-party vendor or contractor shall pay for or reimburse a North Carolina
30 governmental entity for the full cost of the notifications required by G.S. 75-65 and any
31 associated legal fees. This payment shall be made either through the third party's cyber liability
32 insurance provider or through the third party's own entity funds."

33
34 **PART III. EFFECTIVE DATE.**

35 **SECTION 5.** Section 4 of this act is effective when it becomes law and applies to
36 acts and omissions occurring on or after that date. The remainder of this act is effective when it
37 becomes law.