

# MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION  
SFN 2053 (2/85) 5M



ROLL NUMBER

DESCRIPTION

1049

2001 HOUSE JUDICIARY

HB 1049

2001 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1049

House Judiciary Committee

Conference Committee

Hearing Date 01-16-01

Tape Number	Side A	Side B	Meter #
Tape II	x		4108 to 4847
Committee Clerk Signature <i>Joan Diers</i>			

Minutes: Chr DeKrey opened the hearing on HB 1049.

John Walstad: Legislative Council - Code Advisor It is my responsible to draft the Technical Corrections Act. See page 289 of the Report of the North Dakota Legislative Council

Rep Kretschmar: You are doing a fine job, this bill used to be 50 to 60 pages long.

John Walstad: We used to have over 100 sections in this bill, I can't take all the credit for this, I think that the credit goes to computers.

Rep Mahoney: I move the amendments to HB 1049.

Rep Maragos: Seconded the amendments.

Chr DeKrey: We have a motion on the amendments and a second. Discussion. We will take a voice a vote on the amendments. The amendments pass.

Chr DeKrey: What are the wishes of the committee on this bill? Rep Delmore moved a DO PASS as amended, Rep Grande seconded HB 1049. Any discussion? The clerk will call the roll on a DO PASS as amended on HB 1049. The bill passes with 15 Yes, 0 No, and ) Absent.

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House Judiciary Committee

Bill/Resolution Number H.R. 1049

Hearing Date 01-16-01

Floor assignment - Rep Brekke.

The committee is adjourned until Wednesday morning.

V12.  
1/16/01  
1064

**HOUSE AMENDMENTS TO HB 1049 HOUSE JUDICIARY 01-17-01**

Page 1, line 1, after "15-18-06" Insert ",19-03.1-30"

Page 1, line 4, remove "and", after "40-63-09" Insert ", 45-22-15", and after "49-21-01" Insert "  
subdivision a of subsection 9 of section 51-25-01"

Page 1, line 5, after "sections" Insert "54-44.3-12.2, 57-38-71, 57-38-72, 57-38-73, 57-38-74,"

**HOUSE AMENDMENTS TO HB 1049 HOUSE JUDICIARY 01-17-01**  
Page 3, after line 13, insert:

**"SECTION 4. AMENDMENT.** Section 19-03.1-30 of the North Dakota Century Code is amended and reenacted as follows:

**19-03.1-30. Conditional discharge for possession as first offense.**

Whenever any person who has not previously been convicted of any offense under this chapter or under any statute of the United States or of any state relating to narcotic drugs, marijuana, or stimulant, depressant, or hallucinogenic drugs, pleads guilty to or is found guilty of possession of a controlled substance under subsection ~~3~~ 6 of section 19-03.1-23, the court, without entering a judgment of guilt and with the consent of the accused, may defer further proceedings and place the person on probation upon terms and conditions. Upon violation of a term or condition, the court may enter an adjudication of guilt and proceed as otherwise provided. Upon fulfillment of the terms and conditions, the court shall discharge the person and dismiss the proceedings against the person. Discharge and dismissal under this section is without adjudication of guilt and is not a conviction for purposes of this section or for purposes of disqualifications or disabilities imposed by law upon conviction of a crime, including the extended sentence which may be imposed under section 12.1-32-09, except those disqualifications or disabilities pertaining to the possession of firearms imposed by section 62.1-02-01. There may be only one discharge and dismissal under this section with respect to any person."

**HOUSE AMENDMENTS TO HB 1049 HOUSE JUDICIARY 01-17-01**  
Page 8, after line 23, insert:

**"SECTION 13. AMENDMENT.** Section 45-22-15 of the 1999 Supplement to the North Dakota Century Code is amended and reenacted as follows:

**45-22-15. Limited liability after dissolution.** With respect to limited liability after dissolution:

1. Subject to section 45-22-14, the limited liability shield described in sections ~~45-22-08~~ 45-22-08.1 and 45-22-09 continues in full force for the dissolved domestic limited liability partnership regardless of any dissolution, winding up, and termination.
2. If a domestic limited liability partnership dissolves and the domestic limited liability partnership's business is continued by a successor partnership under section 45-20-02, the limited liability described in section ~~45-22-08~~ 45-22-08.1 also applies to that successor domestic limited liability partnership until the withdrawal of the registration that the dissolved

domestic limited liability partnership had in effect under section 45-22-03 at the moment of dissolution. The successor partnership may at any time file the partnership's own registration under section 45-22-03."

**HOUSE AMENDMENTS TO HB 1049 HOUSE JUDICIARY 01-17-01**  
Page 9, after line 13, insert:

**"SECTION 15. AMENDMENT.** Subdivision a of subsection 9 of section 51-25-01 of the North Dakota Century Code is amended and reenacted as follows:

- a. Manufactures cigarettes anywhere that the manufacturer intends to be sold in the United States, including cigarettes intended to be sold in the United States through an importer (except where the importer is an original participating manufacturer, as that term is defined in the master settlement agreement, which will be responsible for the payments under the master settlement agreement with respect to such cigarettes as a result of the provisions of subsection 11(mm) of the master settlement agreement and which pays the taxes specified in subsection 11(z) of the master settlement agreement, and provided that the manufacturer of such cigarettes does not market or advertise the cigarettes in the United States);"

Page 9, after line 19, insert:

**"SECTION 17. AMENDMENT.** Section 54-44.3-12.2 of the 1999 Supplement to the North Dakota Century Code is amended and reenacted as follows:

**54-44.3-12.2. Employee complaints - Cooperation in development and implementation of basic agency grievance procedures and a statewide appeal mechanism - Appeals.** It is the intent of the state of North Dakota to assure fair and equitable treatment and promote harmony between and among all classified employees. To ensure this the state desires to resolve bona fide employee complaints as quickly as possible. The division shall cooperate with and assist the various departments, agencies, and institutions of the state in the development and implementation of basic agency grievance procedures and a statewide appeal mechanism. The division shall certify appeals from nonprobationary employees in the classified service which are related to discrimination, merit system qualification, reprisals, reduction in force, forced relocation, demotion with loss of pay, suspension without pay, and dismissal, and from applicants for positions in the classified service related to discrimination. Upon receipt of an appeal, the division shall submit a written request to the director of the office of administrative hearings to designate an administrative hearing officer for the division to conduct the hearing and related proceedings, including receiving evidence and preparing findings of fact, conclusions of law, and issuing a final decision. The moving party in the initial action bears the burden of proof in the appeal. An appeal to the district court from the determination of the administrative hearing officer must be filed according to chapter 28-32, but neither the division nor the office of administrative hearings may be named as a party to the appeal under chapter ~~28-32~~ 28-32 unless an employee of one of those two agencies is involved in the grievance.

**SECTION 18. AMENDMENT.** Section 57-38-71 of the North Dakota Century Code is amended and reenacted as follows:

**57-38-71. Definitions applicable to sections 57-38-71 through 57-38-74.** As used in sections 57-38-71 through 57-38-74, unless the context otherwise requires:

- 1. "Beginning ~~businessman~~ entrepreneur", excluding beginning farmers as defined in subdivision m of subsection 1 of section 57-38-01.2, means any person who:

- a. Is a resident of this state.
  - b. Receives more than one-half of that person's gross annual income from a revenue-producing enterprise, unless the person initially commences business during the tax year for which a deduction will be claimed under sections 57-38-71 through 57-38-74.
  - c. Intends to use any revenue-producing enterprise purchased or rented for business purposes.
  - d. Has had adequate training, by experience or education, in the type of revenue-producing enterprise which that person wishes to begin.
  - e. Has, including the net worth of that person's dependents and spouse, if any, a net worth of less than one hundred thousand dollars, not including the value of their equity in their principal residence, the value of one personal or family motor vehicle, and the value of their household goods, including furniture, appliances, musical instruments, clothing, and other personal belongings.
2. "~~Businessman~~ Entrepreneur" means any person owning a revenue-producing enterprise in North Dakota, except that any person who acquires such an enterprise for the purpose of obtaining the income tax deduction provided for in sections 57-38-71 through 57-38-74 is not deemed to be a ~~businessman~~ an entrepreneur.
3. "Revenue-producing enterprise" means any real property, buildings, and improvements on the property or to the buildings, and any equipment located on the property or in the buildings, or any personal property used or useful in connection with a revenue-producing enterprise engaged in any industry or business not prohibited by the Constitution of North Dakota or the laws of this state.

**SECTION 19. AMENDMENT.** Section 57-38-72 of the North Dakota Century Code is amended and reenacted as follows:

**57-38-72. Income tax deduction for revenue-producing enterprise sale to beginning businessman entrepreneur.** Any businessman entrepreneur who sells a revenue-producing enterprise to a beginning businessman entrepreneur is entitled to a reduction in the ~~businessman's~~ entrepreneur's taxable income in an amount equal to all income realized and otherwise subject to state income taxes after consideration of any capital gains treatment.

**SECTION 20. AMENDMENT.** Section 57-38-73 of the North Dakota Century Code is amended and reenacted as follows:

**57-38-73. Rent from beginning businessman entrepreneur exempt from income tax.** All income received and otherwise subject to taxation for state income tax purposes resulting from the rental of any revenue-producing enterprise by a ~~businessman~~ an entrepreneur to a beginning ~~businessman~~ entrepreneur under any agreement providing for a lease for at least three years is exempt from income taxes; provided, that no ~~businessman~~ entrepreneur may exclude more than twenty-five thousand dollars pursuant to this section in any tax year nor may any ~~businessman~~ entrepreneur claim this deduction for agreements with more than one beginning ~~businessman~~ entrepreneur for rentals of the same revenue-producing enterprise.

**SECTION 21. AMENDMENT.** Section 57-38-74 of the North Dakota Century Code is amended and reenacted as follows:

4 of 4

**57-38-74. Claim for income tax deduction for revenue-producing enterprise sale or rental to a beginning businessman entrepreneur.** To qualify for the deduction provided in sections 57-38-71 through 57-38-74, the taxpayer shall file with the taxpayer's state income tax return a statement from the beginning ~~businessman entrepreneur~~ who purchased or rented the revenue-producing enterprise containing a list of the assets, debts, and net worth of the beginning ~~businessman entrepreneur~~, together with any other information required by the state tax commissioner. The value placed on any real property located in North Dakota and owned by the buyer must be the amount listed as the current market value on the most recent real estate tax statement for that particular piece of property. To qualify for the deduction for rental income provided in section 57-38-73, the taxpayer shall state on the taxpayer's tax return that any rental arrangement with any other person was not canceled for the purpose of qualifying for this deduction."

Renumber accordingly



Date: 01-16-01  
Roll Call Vote #: /

2001 HOUSE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. HB-1049

House JUDICIARY Committee

Subcommittee on \_\_\_\_\_  
or  
 Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken Do Pass as amended

Motion Made By Rep Delmare Seconded By Rep Grande

Representatives	Yes	No	Representatives	Yes	No
CHR - Duane DeKrey	✓				
VICE CHR -- Wm E Kretschmar	✓				
Rep Curtis E Brekke	✓				
Rep Lois Delmore	✓				
Rep Rachael Disrud	✓				
Rep Bruce Eckre	✓				
Rep April Fairfield	✓				
Rep Bette Grande	✓				
Rep G. Jane Gunter	✓				
Rep Joyce Kingsbury	✓				
Rep Lawrence R. Klemin	✓				
Rep John Mahoney	✓				
Rep Andrew G Maragos	✓				
Rep Kenton Onstad	✓				
Rep Dwight Wrangham	✓				

Total (Yes) 15 No 0

Absent 0

Floor Assignment Rep Brekke

If the vote is on an amendment, briefly indicate intent:

**REPORT OF STANDING COMMITTEE**

**HB 1049: Judiciary Committee (Rep. DeKrey, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (15 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1049 was placed on the Sixth order on the calendar.

Page 1, line 1, after "15-18-06" insert ", 19-03.1-30"

Page 1, line 4, remove "and", after "40-63-09" insert ", 45-22-15", and after "49-21-01" insert ", subdivision a of subsection 9 of section 51-25-01"

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  - a. Is a resident of this state.

- b. Receives more than one-half of that person's gross annual income from a revenue-producing enterprise, unless the person initially commences business during the tax year for which a deduction will be claimed under sections 57-38-71 through 57-38-74.
  - c. Intends to use any revenue-producing enterprise purchased or rented for business purposes.
  - d. Has had adequate training, by experience or education, in the type of revenue-producing enterprise which that person wishes to begin.
  - e. Has, including the net worth of that person's dependents and spouse, if any, a net worth of less than one hundred thousand dollars, not including the value of their equity in their principal residence, the value of one personal or family motor vehicle, and the value of their household goods, including furniture, appliances, musical instruments, clothing, and other personal belongings.
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  3. "Revenue-producing enterprise" means any real property, buildings, and improvements on the property or to the buildings, and any equipment located on the property or in the buildings, or any personal property used or useful in connection with a revenue-producing enterprise engaged in any industry or business not prohibited by the Constitution of North Dakota or the laws of this state.

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Renumber accordingly

2001 SENATE JUDICIARY

HB 1049

2001 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1049

Senate Judiciary Committee

Conference Committee

Hearing Date 2-20-01

Tape Number	Side A	Side B	Meter #
1	x		52.9-End
1		x	0.0-8.9
Committee Clerk Signature <i>Gayelle Schaf</i>			

Minutes:

Hearing opened on HB 1049 on 2-20-01.

**John Walstad:** (Attorney with Legislative Council; Supports) hands out proposed amendments.

See attached. Explains bill and changes made section by section. This bill is a technical corrections act to correct the errors in the code.

Senator Trenbeath motions to accept the proposed amendments. Seconded by Senator Bercier.

Roll Call taken. 6-0-1.

Senator Bercier motions to Do Pass as amended. Seconded by Senator Trenbeath. Roll call taken.

6-0-1.

Floor carrier is Senator Traynor.

Hearing closed on HB 1049.

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1049

Page 1, line 1, after "sections" insert "1-08-12," and after "4-30-03.9" insert ", 6-09.6-01.1, 6-09.6-01.2"

Page 1, line 4, after "40-63-09" insert ", 42-04-01"

Page 1, line 5, after "52-06-06.1" insert ", subsection 9 of section 54-40.1-02"

Page 1, after line 10, insert:

**"SECTION 1. AMENDMENT.** Section 1-08-12 of the 1999 Supplement to the North Dakota Century Code is amended and reenacted as follows:

**1-08-12. Alternative methods of signing, subscribing, or verifying documents filed by electronic means.** A state agency, as defined in section ~~32-12.1-02~~ 44-08-04.2, charged by law with the duty of receiving signed, subscribed, or verified documents may accept such documents filed by electronic means, including telecommunications. The secretary of state shall adopt rules in the manner provided in chapter 28-32 to govern methods for signing, subscribing, or verifying documents filed by electronic means, except documents filed with the tax commissioner. A signature on a document filed by electronic means which is accepted by the state agency and complies with the rules of the secretary of state has the same validity and consequence as the actual signature and written declaration for a paper document."

Page 2, after line 6, Insert:

**"SECTION 3. AMENDMENT.** Section 6-09.6-01.1 of the North Dakota Century Code is amended and reenacted as follows:

**6-09.6-01.1. Developmentally disabled facility loan fund program no. 2.** There is hereby created a developmentally disabled facility loan fund program no. 2 for the purpose of making loans to nonprofit corporations, organized in the localities in which facilities are proposed to be located, for project costs, including the cost of real estate, construction, reconstruction, acquisition, furnishings, and equipment, and administrative costs related to the establishment thereof, of facilities for developmentally disabled, chronically mentally ill, and physically disabled persons. The loan fund may borrow an amount not to exceed five million dollars from the common ~~school~~ schools trust fund to finance the program. The loan must be repaid from any moneys in the lands and minerals trust fund not otherwise appropriated. Any interest earned by the loan fund before loans are made must be credited by the Bank to the lands and minerals trust fund. The loan fund program must be administered by the Bank of North Dakota in the same manner the Bank administers the program established by sections 6-09.6-01 and 6-09.6-02 through 6-09.6-05, except that all payments of principal and interest must be credited by the Bank to the lands and minerals trust fund after the Bank has deducted a service fee for administering the program equivalent to an annual fee of one-half of one percent of the principal balance of the outstanding loans.

**SECTION 4. AMENDMENT.** Section 6-09.6-01.2 of the 1999 Supplement to the North Dakota Century Code is amended and reenacted as follows:



**6-09.6-01.2. Developmentally disabled facility loan fund program no. 3.**

There is hereby created a developmentally disabled facility loan fund program no. 3 for the purpose of making loans to nonprofit corporations, organized in the localities in which facilities are proposed to be located, for project costs, including the cost of real estate, construction, reconstruction, acquisition, furnishings, and equipment, and administrative costs related to the establishment thereof, of facilities for developmentally disabled, chronically mentally ill, and physically disabled persons. The loan fund may borrow an amount not to exceed four million nine hundred fifty-one thousand one hundred forty-five dollars from the common ~~school~~ schools trust fund to finance the program. The loan fund program shall be administered by the Bank of North Dakota in the same manner the Bank administers the program established by sections 6-09.6-01 and 6-09.6-02 through 6-09.6-05, except that all payments of principal and interest must be credited by the Bank to the lands and minerals trust fund after the Bank has deducted a service fee for administering the program equivalent to an annual fee of one-half of one percent of the principal balance of the outstanding loans."

Page 9, after line 8, insert:

**"SECTION 16. AMENDMENT.** Section 42-04-01 of the North Dakota Century Code is amended and reenacted as follows:

**42-04-01. Agricultural operation defined.** As used in this chapter, "agricultural operation" means the science and art of production of plants and animals useful to people, by a corporation or a limited liability company as allowed under chapter 10-06.1, or by a corporation or limited liability company, a partnership, or a proprietorship, and including, to a variable extent, the preparation of these products for people's use and their disposal by marketing or otherwise, and includes horticulture, floriculture, viticulture, forestry, dairy, livestock, poultry, bee, and any and all forms of farm products, and farm production."

Page 10, after line 31, insert:

**"SECTION 21. AMENDMENT.** Subsection 9 of section 54-40.1-02 of the 1999 Supplement to the North Dakota Century Code is amended and reenacted as follows:

9. "Regional council" means the council for comprehensive planning and development established in each region pursuant to ~~section 54-40-08~~ this chapter."

Renumber accordingly

Date:   
 Roll Call Vote #: /

2001 SENATE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. /049

Senate Judiciary Committee

Subcommittee on \_\_\_\_\_  
or  
 Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken Do Pass Amendments

Motion Made By Trenbath Seconded By Bercier

Senators	Yes	No	Senators	Yes	No
<del>Trenbath, J. Chairman</del>	X		Bercier, D.	X	
<del>Ketner, L. V. Chairman</del>	X		Nelson, C		
<del>Dennis, D.</del>	X				
<del>Lupson, B.</del>	X				
<del>Sheehy, T.</del>	X				

Total (Yes) 6 No 0

Absent 1

Floor Assignment \_\_\_\_\_

If the vote is on an amendment, briefly indicate intent:

**REPORT OF STANDING COMMITTEE**

**HB 1049, as engrossed: Judiciary Committee (Sen. Traynor, Chairman) recommends AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (6 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). Engrossed HB 1049 was placed on the Sixth order on the calendar.

Page 1, line 1, after "seclions" insert "1-08-12," and after "4-30-03.9" insert ", 6-09.6-01.1, 6-09.6-01.2"

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Page 1, after line 10, Insert:

**"SECTION 1. AMENDMENT.** Section 1-08-12 of the 1999 Supplement to the North Dakota Century Code is amended and reenacted as follows:

**1-08-12. Alternative methods of signing, subscribing, or verifying documents filed by electronic means.** A state agency, as defined in section ~~32-12-1-02~~ 44-08-04.2, charged by law with the duty of receiving signed, subscribed, or verified documents may accept such documents filed by electronic means, including telecommunications. The secretary of state shall adopt rules in the manner provided in chapter 28-32 to govern methods for signing, subscribing, or verifying documents filed by electronic means, except documents filed with the tax commissioner. A signature on a document filed by electronic means which is accepted by the state agency and complies with the rules of the secretary of state has the same validity and consequence as the actual signature and written declaration for a paper document."

Page 2, after line 6, Insert:

**"SECTION 3. AMENDMENT.** Section 6-09.6-01.1 of the North Dakota Century Code is amended and reenacted as follows:

**6-09.6-01.1. Developmentally disabled facility loan fund program no. 2.** There is hereby created a developmentally disabled facility loan fund program no. 2 for the purpose of making loans to nonprofit corporations, organized in the localities in which facilities are proposed to be located, for project costs, including the cost of real estate, construction, reconstruction, acquisition, furnishings, and equipment, and administrative costs related to the establishment thereof, of facilities for developmentally disabled, chronically mentally ill, and physically disabled persons. The loan fund may borrow an amount not to exceed five million dollars from the common ~~school~~ schools trust fund to finance the program. The loan must be repaid from any moneys in the lands and minerals trust fund not otherwise appropriated. Any interest earned by the loan fund before loans are made must be credited by the Bank to the lands and minerals trust fund. The loan fund program must be administered by the Bank of North Dakota in the same manner the Bank administers the program established by sections 6-09.6-01 and 6-09.6-02 through 6-09.6-05, except that all payments of principal and interest must be credited by the Bank to the lands and minerals trust fund after the Bank has deducted a service fee for administering the program equivalent to an annual fee of one-half of one percent of the principal balance of the outstanding loans.

**SECTION 4. AMENDMENT.** Section 6-09.6-01.2 of the 1999 Supplement to the North Dakota Century Code is amended and reenacted as follows:

**6-09.6-01.2. Developmentally disabled facility loan fund program no. 3.**

There is hereby created a developmentally disabled facility loan fund program no. 3 for the purpose of making loans to nonprofit corporations, organized in the localities in which facilities are proposed to be located, for project costs, including the cost of real estate, construction, reconstruction, acquisition, furnishings, and equipment, and administrative costs related to the establishment thereof, of facilities for developmentally disabled, chronically mentally ill, and physically disabled persons. The loan fund may borrow an amount not to exceed four million nine hundred fifty-one thousand one hundred forty-five dollars from the common ~~schools~~ schools trust fund to finance the program. The loan fund program shall be administered by the Bank of North Dakota in the same manner the Bank administers the program established by sections 6-09.6-01 and 6-09.6-02 through 6-09.6-05, except that all payments of principal and interest must be credited by the Bank to the lands and minerals trust fund after the Bank has deducted a service fee for administering the program equivalent to an annual fee of one-half of one percent of the principal balance of the outstanding loans."

Page 9, after line 8, insert:

**"SECTION 16. AMENDMENT.** Section 42-04-01 of the North Dakota Century Code is amended and reenacted as follows:

**42-04-01. Agricultural operation defined.** As used in this chapter, "agricultural operation" means the science and art of production of plants and animals useful to people, by a corporation or a limited liability company as allowed under chapter 10-06.1, or by a corporation or limited liability company, a partnership, or a proprietorship, and including, to a variable extent, the preparation of these products for people's use and their disposal by marketing or otherwise, and includes horticulture, floriculture, viticulture, forestry, dairy, livestock, poultry, bee, and any and all forms of farm products, and farm production."

Page 10, after line 31, insert:

**"SECTION 21. AMENDMENT.** Subsection 9 of section 54-40.1-02 of the 1999 Supplement to the North Dakota Century Code is amended and reenacted as follows:

9. "Regional council" means the council for comprehensive planning and development established in each region pursuant to ~~section 54-40-08~~ this chapter."

Renumber accordingly