

## **Chapter 52.**

### **Powers and Liabilities of Married Persons.**

#### **§ 52-1. Property of married persons secured.**

The real and personal property of any married person in this State, acquired before marriage or to which he or she may after marriage become in any manner entitled, shall be and remain the sole and separate estate and property of such married person and may be devised and conveyed by such married person subject to G.S. 50-20 and such other regulations and limitations as the General Assembly may prescribe. (Const., Art. X, s. 6; Rev., s. 2093; C.S., s. 2506; 1965, c. 878, s. 1; 1981, c. 815, s. 3; 2011-284, s. 52.)

#### **§ 52-2. Capacity to contract.**

Subject to the provisions of G.S. 52-10 or 52-10.1, G.S. 39-7 and other regulations and limitations now or hereafter prescribed by the General Assembly, every married person is authorized to contract and deal so as to affect his or her real and personal property in the same manner and with the same effect as if he or she were unmarried. (1871-2, c. 193, s. 17; Code, s. 1826; Rev., s. 2094; 1911, c. 109; C.S., s. 2507; 1945, c. 73, s. 16; 1965, c. 878, s. 1; 1977, c. 375, s. 13.)

#### **§ 52-3. Married person may insure spouse's life.**

Any married person in his or her own name, or in the name of a trustee with his assent, may cause to be insured for any definite time the life of his or her spouse, for his or her sole and separate use, and may dispose of the interest in the same by will. (Rev., s. 2099; C.S., s. 2512; 1965, c. 878, s. 1.)

#### **§ 52-4. Earnings and damages.**

The earnings of a married person by virtue of any contract for his or her personal service, and any damages for personal injuries, or other tort sustained by either, can be recovered by such person suing alone, and such earnings or recovery shall be his or her sole and separate property. (1913, c. 13, s. 1; C.S., s. 2513; 1965, c. 878, s. 1.)

#### **§ 52-5. Torts between husband and wife.**

A husband and wife have a cause of action against each other to recover damages sustained to their person or property as if they were unmarried. (1951, c. 263; 1965, c. 878, s. 1.)

#### **§ 52-5.1. Tort actions between husband and wife arising out of acts occurring outside State.**

A husband and wife shall have a cause of action against each other to recover damages for personal injury, property damage or wrongful death arising out of acts occurring outside of North Carolina, and such action may be brought in this State when both were domiciled in North Carolina at the time of such acts. (1967, c. 855.)

#### **§ 52-6. Repealed by Session Laws 1977, c. 375, s. 1, effective January 1, 1978.**

#### **§ 52-7. Validation of certificates of notaries public as to contracts or conveyances between husband and wife.**

Any contract between husband and wife coming within the provisions of G.S. 52-6, executed prior to the first day of January, 1955, acknowledged before a notary public and containing a

certificate of the notary public of his conclusions and findings of fact that such conveyance is not unreasonable or injurious to the wife, is hereby in all respects validated and confirmed, to the same extent as though said certifying officer were one of the officers named in G.S. 52-6. (1955, c. 380; 1965, c. 878, s. 1.)

**§ 52-8. Validation of contracts failing to comply with provisions of former § 52-6.**

Any contract between husband and wife coming within the provisions of G.S. 52-6 executed between January 1, 1930, and January 1, 1978, which does not comply with the requirement of a private examination of the wife or with the requirements that there be findings that such a contract between a husband and wife is not unreasonable or injurious to the wife and which is in all other respects regular is hereby validated and confirmed to the same extent as if the examination of the wife had been separate and apart from the husband. This section shall not affect pending litigation. (1957, c. 1178; 1959, c. 1306; 1965, c. 207; c. 878, s. 1; 1967, c. 1183, s. 1; 1971, c. 101; 1973, c. 1387, s. 1; 1975, c. 495, s. 1; 1977, c. 375, s. 15; 1981, c. 599, s. 16.)

**§ 52-9. Effect of absolute divorce decree on certificate failing to comply with § 52-6.**

Whenever it appears that, since the execution of a contract between a husband and wife in which the certificate of acknowledgment thereof fails to comply with the requirements of G.S. 52-6, a valid decree of absolute divorce between said husband and wife has been rendered, no action shall be maintained by her or anyone claiming under her for the recovery of the possession of, or to establish title to any interest in any property described in such contract unless such action is commenced within seven years after such decree of absolute divorce has become final or unless such action is commenced before January 1, 1978, whichever date is earlier. (1957, c. 1260; 1965, c. 878, s. 1; 1977, c. 375, s. 14.)

**§ 52-10. Contracts between husband and wife generally; releases.**

(a) Contracts between husband and wife not inconsistent with public policy are valid, and any persons of full age about to be married and married persons may, with or without a valuable consideration, release and quitclaim such rights which they might respectively acquire or may have acquired by marriage in the property of each other; and such releases may be pleaded in bar of any action or proceeding for the recovery of the rights and estate so released. No contract or release between husband and wife made during their coverture shall be valid to affect or change any part of the real estate of either spouse, or the accruing income thereof for a longer time than three years next ensuing the making of such contract or release, unless it is in writing and is acknowledged by both parties before a certifying officer.

(a1) A contract between a husband and wife made, with or without a valuable consideration, during a period of separation to waive, release, or establish rights and obligations to post separation support, alimony, or spousal support is valid and not inconsistent with public policy. A provision waiving, releasing, or establishing rights and obligations to post separation support, alimony, or spousal support shall remain valid following a period of reconciliation and subsequent separation, if the contract satisfies all of the following requirements:

- (1) The contract is in writing.
- (2) The provision waiving the rights or obligations is clearly stated in the contract.
- (3) The contract was acknowledged by both parties before a certifying officer.

A release made pursuant to this subsection may be pleaded in bar of any action or proceeding for the recovery of the rights released.

(b) Such certifying officer shall be a notary public, or a justice, judge, magistrate, clerk, assistant clerk or deputy clerk of the General Court of Justice, or the equivalent or corresponding officers of the state, territory or foreign country where the acknowledgment is made. Such officer must not be a party to the contract.

(c) This section shall not apply to any judgment of the superior court or other State court of competent jurisdiction, which, by reason of its being consented to by a husband and wife, or their attorneys, may be construed to constitute a contract or release between such husband and wife. (1871-2, c. 193, s. 28; Code, s. 1836; Rev., s. 2108; C.S., s. 2516; 1959, c. 879, s. 12; 1965, c. 878, s. 1; 1977, c. 375, s. 2; 2013-140, s. 1.)

#### **§ 52-10.1. Separation agreements.**

Any married couple is hereby authorized to execute a separation agreement not inconsistent with public policy which shall be legal, valid, and binding in all respects; provided, that the separation agreement must be in writing and acknowledged by both parties before a certifying officer as defined in G.S. 52-10(b). Such certifying officer must not be a party to the contract. This section shall not apply to any judgment of the superior court or other State court of competent jurisdiction, which, by reason of its being consented to by a husband and wife, or their attorneys, may be construed to constitute a separation agreement between such husband and wife. (1965, c. 803; 1977, c. 375, s. 3.)

#### **§ 52-10.2. Resumption of marital relations defined.**

"Resumption of marital relations" shall be defined as voluntary renewal of the husband and wife relationship, as shown by the totality of the circumstances. Isolated incidents of sexual intercourse between the parties shall not constitute resumption of marital relations. (1987, c. 664, s. 1.)

#### **§ 52-11. Antenuptial contracts and torts.**

The liability of a married person for any debts owing, or contracts made or damages incurred before marriage shall not be impaired or altered by such marriage. No person shall by marriage incur any liability for any debts owing, or contracts made, or for wrongs done by his or her spouse before the marriage. (1871-2, c. 193, ss. 13, 14; Code, ss. 1822, 1823; Rev., ss. 2101, 2106; C.S., s. 2517; 1965, c. 878, s. 1.)

#### **§ 52-12. Postnuptial crimes and torts.**

No married person shall be liable for damages accruing from any tort committed by his or her spouse, or for any costs or fines incurred in any criminal proceeding against such spouse. (1871-2, c. 193, s. 25; Code, s. 1833; Rev., s. 2105; C.S., s. 2518; 1921, c. 102; 1965, c. 878, s. 1.)

#### **§ 52-13. Procedures in causes of action for alienation of affection and criminal conversation.**

(a) No act of the defendant shall give rise to a cause of action for alienation of affection or criminal conversation that occurs after the plaintiff and the plaintiff's spouse physically separate with the intent of either the plaintiff or plaintiff's spouse that the physical separation remain permanent.

(b) An action for alienation of affection or criminal conversation shall not be commenced more than three years from the last act of the defendant giving rise to the cause of action.

(c) A person may commence a cause of action for alienation of affection or criminal conversation against a natural person only. (2009-400, s. 1.)