

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2019

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SENATE BILL 595  
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Short Title: Changes to Real Property Statutes.

(Public)

Sponsors:

Referred to:

April 4, 2019

1 A BILL TO BE ENTITLED  
2 AN ACT TO MAKE CHANGES AND TECHNICAL CORRECTIONS TO THE GENERAL  
3 STATUTES CONCERNING REAL PROPERTY LAW, AS RECOMMENDED BY THE  
4 NORTH CAROLINA BAR ASSOCIATION.

5 The General Assembly of North Carolina enacts:

6  
7 **PART I. RECODIFICATIONS AND CHANGES TO TENANCY BY THE ENTIRETY**

8 **SECTION 1.(a)** Chapter 41 of the General Statutes is amended by adding a new  
9 Article 5, and G.S. 41-55 through G.S. 41-69 are reserved for that Article.

10 **SECTION 1.(b)** The following General Statutes are recodified in Article 5 of  
11 Chapter 41 of the General Statutes, as created by subsection (a) of this section, as set forth in the  
12 table below:

<u>Former Citation</u>	<u>Recodified Citation</u>
G.S. 31A-5	G.S. 41-64(b)
G.S. 39-13.3(b)	G.S. 41-56(b)
G.S. 39-13.3(c)	G.S. 41-63(4)
G.S. 39-13.5	G.S. 41-56(c)
G.S. 39-13.6(a)	G.S. 41-58
G.S. 39-13.6(b)	G.S. 41-56(a)
G.S. 39-13.6(c)	G.S. 41-59(b)
G.S. 39-13.7	G.S. 41-65
G.S. 41-2.5	G.S. 41-56(d)

23 **SECTION 1.(c)** Article 5 of Chapter 41 of the General Statutes, as created by  
24 subsection (a) of this section and containing the sections recodified in subsection (b) of this  
25 section, reads as rewritten:

26 "Article 5.

27 "Tenancy by the Entirety.

28 "**§ 41-55. Definitions.**

29 For the purposes of this Article, the following definitions apply:

- 30 (1) Conveyance. – A transfer of title to real property by deed or devise or other  
31 instrument transferring title to real property.  
32 (2) Income. – Rents and profits from property held as tenants by the entirety.  
33 (3) Spouses. – Two individuals then legally married to each other.

34 "**§ 41-56. Creation of tenancy by the entirety.**



1 (a) ~~A~~ Unless a contrary intention is expressed in the conveyance, a conveyance of real  
2 property, or any interest therein, to a husband and wife spouses vests title in them as tenants by  
3 the entirety when the conveyance is to one of the following:

4 (1) A named man "and wife," or wife."

5 (2) A named woman "and husband," or husband."

6 (3) A named individual "and wife."

7 (4) A named individual "and husband."

8 (5) A named individual "and spouse."

9 (6) Two named persons, individuals, married to each other at the time of  
10 conveyance, whether or not identified in the conveyance as being (i) husband  
11 and wife, if at the time of conveyance they are legally married; unless a  
12 contrary intention is expressed in the conveyance. (ii) spouses, or (iii) married  
13 to each other.

14 (b) A conveyance by a grantor of real property, or any interest therein, by a husband to  
15 an individual and his or a wife to such husband and wife her spouse vests the same property in  
16 the husband and wife grantees as tenants by the entirety entirety, unless a contrary intention is  
17 expressed in the conveyance. The joinder of a spouse in a conveyance made by the grantor under  
18 this subsection is not necessary, but the conveyance is subject to the provisions of G.S. 52-10 or  
19 G.S. 52-11, except acknowledgement of the spouse of the grantor is not necessary.

20 (c) When either a husband or a wife an individual owns an undivided interest in real  
21 property as a tenant in common with some person individual or persons individuals other than  
22 his or her spouse and there occurs an actual partition of the property, a tenancy by the entirety  
23 may be created in the husband or wife individual who owned the undivided interest and his or  
24 her spouse in the manner hereinafter provided: as follows:

25 (1) In a division by cross-deed or deeds, between or among the tenants in common  
26 provided that the if the instrument contains both of the following:

27 a. The intent of the tenant in common to create a tenancy by the entirety  
28 with his or her spouse in this exchange of deeds must be is clearly  
29 stated in the granting clause of the deed or deeds to such the tenant in  
30 common and his or her spouse, and further provided that the spouse.

31 b. The deed or deeds to such the tenant in common and his or her spouse  
32 is signed by such the tenant in common and is acknowledged before a  
33 certifying officer in accordance with G.S. 52-10;

34 (2) In a judicial proceeding for partition. In such proceeding, partition where both  
35 spouses have the right to become parties to the proceeding and to have their  
36 pleadings state that the intent of the tenant in common is to create a tenancy  
37 by the entirety with his or her spouse. The order of partition shall provide that  
38 the real property assigned to such the tenant and his or her spouse shall be  
39 owned by them as tenants by the entirety.

40 (d) When a husband and wife spouses become co-owners of a mobile home, in the  
41 absence of anything to the a contrary intention appearing in the instrument of title, they the  
42 spouses become tenants by the entirety with all the incidents of an estate by the entirety in real  
43 property, including the right of survivorship in the case of death of either either spouse. For the  
44 purpose purposes of this section subsection, it shall be is immaterial whether the property at any  
45 particular time shall be classified for any purpose as either real or personal. The provisions of  
46 Nothing in this subsection (a) shall not be deemed to limit or prohibit any other type of ownership  
47 otherwise authorized by law. For the purposes of this section subsection, the term "mobile home"  
48 means a portable manufactured housing unit designed for transportation on its own chassis and  
49 placement on a temporary or semipermanent foundation having a measurement of over 32 feet  
50 in length and over eight feet in width. As used in this Article, subsection, the term "mobile home"  
51 also means a double-wide mobile home which is two or more portable manufactured housing

1 units designed for transportation on their own chassis, which connect on site for placement on a  
2 temporary or semipermanent foundation having a measurement of over 32 feet in length and over  
3 eight feet in width. ~~This section does not repeal or modify any provisions of the law relating to~~  
4 ~~estate or inheritance taxes.~~

5 **"§ 41-57. Presumption of gift by spouse furnishing consideration.**

6 Except for purposes of equitable distribution as provided under G.S. 50-20 and G.S. 50-21,  
7 when an individual furnishing the consideration for real property causes title to be placed in the  
8 name of the individual and the individual's spouse, there is a presumption of a gift to the  
9 individual's spouse of an entirety interest, which is rebuttable by clear, cogent, and convincing  
10 evidence.

11 **"§ 41-58. Possession and control of entireties property.**

12 (a) ~~A husband and wife~~ Spouses shall have an equal right to the control, use, possession,  
13 ~~rents, income, and profits of real and income from~~ property held by them in tenancy as tenants  
14 by the entirety.

15 (b) Neither spouse may bargain, sell, lease, mortgage, transfer, ~~convey~~ convey, sign, pay  
16 out, or in any manner encumber any property so held by them as tenants by the entirety without  
17 the written joinder of the other spouse. This section shall not be construed to require the spouse's  
18 joinder where a different provision is made under G.S. 41-56(b), G.S. 41-63(4), G.S. 39-13,  
19 G.S. 39-13.3, G.S. 39-13.4, or G.S. 52-10.

20 (c) The mortgage or sale of an interest in real property held by spouses as tenants by the  
21 entirety where one or both spouses is incompetent is governed by the provisions of Article 15 of  
22 Chapter 35A of the General Statutes.

23 **"§ 41-59. Income derived from entireties property.**

24 (a) Income derived from property held by spouses as tenants by the entirety becomes  
25 personal property held by the spouses as tenants in common in equal shares.

26 (b) For income tax purposes, each spouse is considered to have received one-half (1/2)  
27 the income or loss from property ~~owned~~ held by the ~~couple~~ spouses as tenants by the entirety.

28 **"§ 41-60. Liability of entireties property for debts of spouses.**

29 (a) With respect to property held by spouses as tenants by the entirety prior to its  
30 termination, all of the following shall apply:

31 (1) The property may not be held liable for individual debts of either spouse and  
32 a judgment lien against one spouse alone does not attach to the property. The  
33 property may be conveyed by joint deed of both spouses to anyone of their  
34 choice free and clear of a judgment lien against either spouse.

35 (2) The property is liable for obligations of both spouses and a judgment lien  
36 against both spouses upon a joint obligation attaches to the property which  
37 may be sold under execution to satisfy the judgment.

38 (b) Upon termination of the tenancy by the entirety and the conversion of the real property  
39 held by the entirety to another form of estate, a judgment lien against one spouse during tenancy  
40 by the entirety, if still active and unsatisfied, shall attach at that time to that spouse's interest in  
41 the new estate. Conversions of tenancy by the entirety property to another form of an estate occur,  
42 without limitation, under either of the following circumstances:

43 (1) Upon divorce of the spouses, in which event the property is converted to a  
44 tenancy in common as provided in G.S. 41-63(5) and the judgment lien  
45 against the spouse will attach at that time to the undivided interest of the  
46 spouse.

47 (2) Upon death of a spouse, in which event the surviving spouse acquires the  
48 entire legal title as provided in G.S. 41-64 and the judgment lien against the  
49 surviving spouse will attach at that time to the property.

50 **"§ 41-61. Reimbursement for expenditures made on entireties property.**

1       (a) Neither spouse holding property as tenants by the entirety is entitled to reimbursement  
2 of expenditures made on the property, including payments on indebtedness encumbering the  
3 property, while the tenancy by the entirety exists.

4       (b) When the tenancy by the entirety is converted to a tenancy in common by absolute  
5 divorce or otherwise, responsibility for expenditures for the property held as tenants in common  
6 is allocated as provided by the law governing tenants in common, unless otherwise directed in a  
7 court order such as in an equitable distribution proceeding.

8 **"§ 41-62. Insurance coverage and character of proceeds.**

9       Where property held as tenants by the entirety is insured, unless the parties by contract have  
10 provided what disposition should be made of the insurance proceeds, the policy and insurance  
11 proceeds inure to the benefit of the entire estate even though the policy was issued in the name  
12 of only one spouse and paid for by that spouse, and the insurance proceeds become divisible  
13 personal property held by the spouses as tenants in common.

14 **"§ 41-63. Termination of tenancy by the entirety other than upon death of a spouse; effects**  
15 **of termination.**

16       Events terminating a tenancy by the entirety other than the death of a spouse and the effects  
17 of termination include the following:

18       (1) The voluntary sale and conveyance of property held as tenants by the entirety  
19 to a third party, including a foreclosure sale pursuant to a power of sale in a  
20 deed of trust. Proceeds of the sale, including surplus funds generated from a  
21 foreclosure sale, are personal property held by the spouses as tenants in  
22 common.

23       (2) The voluntary partition between the spouses executing a joint instrument  
24 conveying the property held as tenants by the entirety to themselves as tenants  
25 in common or in severalty.

26       (3) The involuntary transfer of title of property held by spouses as tenants by the  
27 entirety. The proceeds resulting from the transfer are held by the spouses as  
28 tenants by the entirety. An involuntary transfer of title includes:

29       a. A sale pursuant to Article 15 of Chapter 35A of the General Statutes  
30 as to an incompetent spouse.

31       b. An appropriation in a condemnation proceeding by the North Carolina  
32 State Highway Commission.

33       (4) ~~A~~ The conveyance from a husband or a wife one spouse to the other spouse  
34 of real property, or any interest therein, his or her interest in property held by  
35 such husband and wife as tenants by the entirety dissolves such tenancy in the  
36 property or interest conveyed and entirety. The conveyance vests such the  
37 property or interest formerly held by the as tenants by the entirety in the  
38 grantee other spouse. The joinder of a spouse in a conveyance made by the  
39 grantor pursuant to this subdivision is not necessary, but the conveyance is  
40 subject to the provisions of G.S. 52-10 or G.S. 52-10.1, except that an  
41 acknowledgment by the spouse of the grantor is not necessary.

42       (5) An absolute divorce of the spouses. An absolute divorce converts property  
43 held as tenants by the entirety to a tenancy in common.

44       (6) A judgment of forfeiture ordering divestment of an interest in tenancy by the  
45 entirety pursuant to Chapter 75D of the General Statutes. The effect of a  
46 judgment when one spouse is an innocent person as defined in G.S. 75D-5(i)  
47 is governed by G.S. 75D-8(a).

48 **"§ 41-64. Termination of tenancy by the entirety upon death of a spouse.**

49       (a) Except as provided in subsection (b) of this section, upon the death of a spouse,  
50 property held as tenants by the entirety belongs to the surviving spouse by right of purchase under

1 the original grant or devise and by virtue of survivorship. The deceased spouse has no estate  
2 which is descendable or divisible.

3 (b) ~~Where the slayer~~ a slayer, as defined in G.S. 31A-3(3), and decedent hold property as  
4 tenants by the entirety, ~~one-half~~ one-half of the property shall pass upon the death of the decedent  
5 to the decedent's estate, and ~~the other one-half~~ one-half shall be held by the slayer during ~~his or~~  
6 her ~~the slayer's~~ life, subject to pass upon the slayer's death to the slain decedent's heirs or devisees  
7 as defined in G.S. 28A-1-1.

8 **"§ 41-65. Entireties property conveyed to trusts.**

9 (a) Any real property held by ~~a husband and wife~~ spouses as a tenancy ~~tenants~~ by the  
10 ~~entireties~~ entirety and conveyed ~~to~~ (i) to a joint trust or (ii) in equal shares to two separate trusts;  
11 trusts shall no longer be held by the ~~husband and wife~~ spouses as tenants by the entirety and shall  
12 be disposed of by the terms of the trust or ~~trusts, but,~~ trusts. However, subject to the provisions  
13 of subsection (b) of this section, the ~~real property~~ provisions of G.S. 41-60(a)(1) shall have the  
14 same immunity from the claims of the separate creditors of the ~~husband and wife~~ apply to the  
15 property held in trust as would exist if the spouses had continued to hold the property as tenants  
16 by the entireties.

17 (b) ~~The immunity from the claims of separate creditors provided by subsection (a) of this~~  
18 section ~~provisions of G.S. 41-60(a)(1) shall apply to the property held in trust as long as all of~~  
19 the following apply:

20 (1) ~~The husband and wife~~ spouses remain married.

21 (2) ~~The real property~~ continues to be held in the trust or trusts as provided in  
22 subsection (a) of this section.

23 (3) ~~Both husband and wife~~ spouses are current beneficiaries of the joint trust if  
24 the real property is conveyed to that trust or of each separate trust if the ~~real~~  
25 property is conveyed in equal shares to their separate trusts.

26 (c) ~~After~~ If immediately preceding the death of the first of ~~the husband and wife~~ spouse  
27 to die, all the provisions of G.S. 41-60(a)(1) apply to the real property held in trust that was  
28 immune from the claims of their separate creditors under subsection (a) of this section  
29 immediately prior to the individual's death shall continue to have immunity from the claims of  
30 the decedent's separate creditors as would have existed if the husband and wife continued to hold  
31 the property conveyed in trust as tenants by the entirety upon the death of a spouse, the provisions  
32 of G.S. 41-60(b)(2) shall apply to the property.

33 (d) The trustee acting under the express provisions of a trust instrument or with the  
34 written consent of both ~~the husband and wife~~ spouses may waive the ~~immunity from the claims~~  
35 ~~of separate creditors provided under this section~~ application of G.S. 41-60(a)(1) as to any specific  
36 creditor or any specifically described property including all separate creditors of a ~~husband and~~  
37 wife ~~spouse~~ or all former tenancy by the entirety property conveyed to the trustee.

38 (e) For purposes of this ~~section~~ section, all of the following apply:

39 (1) The reference to the real property conveyed to or held in the trust shall be  
40 deemed to include the proceeds arising from the involuntary ~~conversion~~  
41 transfer of title of the real property.

42 (2) ~~The reference to a term~~ "joint trust" means a revocable or irrevocable trust of  
43 which both the husband and wife are the ~~settlers, and the reference to settlers.~~

44 (3) The term "separate trusts" means revocable or irrevocable trusts of which ~~the~~  
45 husband ~~one spouse~~ is the settlor of one trust and the wife ~~other spouse~~ is the  
46 settlor of the other trust.

47 ~~(3)(4)~~ The husband and wife ~~spouses~~ are "beneficiaries" of a trust if they are  
48 distributees or permissible distributees of the income or principal of the trust  
49 whether or not other ~~persons~~ individuals are also current or future  
50 beneficiaries of the trust.



1 notice must be given to other joint tenants before any joint tenant terminates the joint tenancy as  
2 provided in G.S. 41-73(b).

3 **"§ 41-72. Determination of the interests of joint tenants in a joint tenancy with right of**  
4 **survivorship.**

5 (a) The interests of the grantees holding property joint tenants in a joint tenancy with  
6 right of survivorship shall be deemed to be equal unless otherwise specified provided in the  
7 instrument of conveyance.

8 (b) This subsection-section shall apply to any conveyance of an interest in property  
9 created at any time that explicitly sought-seeks to create unequal ownership interests-interest in  
10 a joint tenancy with right of survivorship.

11 (c) Distributions made prior to the enactment of this subsection-October 10, 2009, that  
12 were made in equal amounts from a joint tenancy with the-right of survivorship that sought to  
13 create unequal ownership shares shall remain valid and shall not be subject to modification on  
14 the basis of this subsection-section.

15 (d) Any joint tenancy interest held by a husband and wife, unless otherwise specified,  
16 conveyed to individuals married to each other and to one or more other joint tenants in the same  
17 instrument of conveyance shall be deemed to be held as by the married individuals in a single  
18 tenancy by the entirety, which and the married individuals shall be treated as a single party when  
19 determining interests in the joint tenancy with right of survivorship-tenant, unless otherwise  
20 provided in the instrument.

21 **"§ 41-73. Termination of a joint tenancy with right of survivorship.**

22 (a) Events terminating a joint tenancy with right of survivorship due to the collective  
23 action of all joint tenants include the following:

24 (1) The conveyance to a third party by all of the joint tenants of all of their  
25 interests in the property held in the joint tenancy, including a foreclosure sale  
26 pursuant to a power of sale in a deed of trust.

27 (2) The execution of an instrument with a third party by all of the joint tenants  
28 that does not convey all of their interests in the property held in the joint  
29 tenancy to the third party, including a lease, executory contract of sale, option  
30 to purchase, or deed of trust, and an intention to terminate expressly appears  
31 in the instrument.

32 (3) The execution of an instrument by all joint tenants for the purpose of  
33 expressing an intent to terminate the joint tenancy as between or among  
34 themselves.

35 (b) Events terminating a joint tenancy with right of survivorship due to the unilateral  
36 action of a joint tenant include the following:

37 (1) The conveyance to a third party by a joint tenant of all of that joint tenant's  
38 interest in the property held in the joint tenancy, including a foreclosure sale  
39 pursuant to a power sale in a deed of trust.

40 (2) The execution of an instrument with a third party by a joint tenant that does  
41 not convey all of that joint tenant's interest to the third party, including a lease,  
42 executory contract of sale, option to purchase, or deed of trust, and an intention  
43 to terminate expressly appears in the instrument.

44 (3) The execution of an instrument by a joint tenant where the joint tenant is both  
45 the grantor and the grantee if the intention to terminate expressly appears in  
46 the instrument. A termination under this subdivision shall be effective only  
47 upon the recording, prior to the death of the joint tenant, of an instrument  
48 expressing an intent to terminate in the office of the register of deeds in the  
49 county or counties where the real property is situated.

50 (4) The filing by a joint tenant of a petition to partition.

51 (c) When a termination occurs, a tenancy in common is created as follows:

- 1           (1)    If a termination occurs under subdivision (1) of subsection (a) of this section  
2           because of the conveyance of all of the joint tenants' interests to a third party,  
3           a tenancy in common is created among the tenants as to any proceeds of sale  
4           or surplus funds generated from a foreclosure sale.
- 5           (2)    If a termination occurs because of the execution by all of the joint tenants of  
6           an instrument described in subdivision (2) or (3) of subsection (a) of this  
7           section, a tenancy in common is created among the tenants.
- 8           (3)    ~~Upon conveyance to a third party by~~ If a termination occurs under subdivision  
9           (a) of subsection (b) of this section because one of two the joint tenants  
10           ~~holding property in joint tenancy with right of survivorship, conveys all of~~  
11           that joint tenant's interest to a third party and there are only two joint tenants,  
12           a tenancy in common is created between the third party and the remaining  
13           ~~other joint tenant. Upon conveyance~~ If there are more than two joint tenants  
14           and one of the joint tenants conveys all of that joint tenant's interests to a third  
15           ~~party by less than all of three or more joint tenants holding property in joint~~  
16           ~~tenancy with right of survivorship, party,~~ a tenancy in common is created  
17           among the third party and the remaining joint tenants, who remain joint  
18           tenants with right of survivorship as between or among themselves.
- 19           (4)    If a termination occurs because of the execution by a joint tenant of an  
20           instrument described in subdivision (2) or (3) of subsection (b) of this section  
21           or because of the filing of a petition by a joint tenant as provided in subdivision  
22           (4) of subsection (b) of this section, and there are two joint tenants, a tenancy  
23           in common is created between the joint tenant causing the termination and the  
24           other joint tenant. If there are more than two joint tenants, a tenancy in  
25           common is created among the joint tenant causing the termination and the  
26           remaining joint tenants who continue as joint tenants with right of  
27           survivorship as between or among themselves.

28           (d)    The following events do not result in a termination of joint tenancy with right of  
29           survivorship:

- 30           (1)    The filing of a judgment against one joint tenant.
- 31           (2)    The filing of a bankruptcy petition by one joint tenant.
- 32           (3)    When married individuals holding an interest as tenants by the entirety in a  
33           joint tenancy with one or more other joint tenants divorce. Unless the divorced  
34           individuals agree otherwise, the divorced individuals shall be deemed to hold  
35           their existing interest equally as tenants in common as to each other, but as  
36           joint tenants with right of survivorship as to remaining joint tenancy holders.

37           (e)    Nothing in this section shall limit the manner or effect of a termination ordered by a  
38           court of competent jurisdiction.

39           **"§ 41-74. Application of 120-hour survival requirement to joint tenancy with right of**  
40           **survivorship.**

41           ~~Joint~~ The provisions of G.S. 28A-24-3 apply to joint tenancy interests among two or more  
42           joint tenants holding property in joint tenancy with right of survivorship are subject to the  
43           ~~provisions of G.S. 28A-24-3 upon the death of one or more of the joint tenants.~~

44           **"§ 41-75. Inapplicability of Article.**

45           This Article does not apply to any of the following:

- 46           (1)    Executors or trustees in their representative capacity.
- 47           (2)    Partnerships governed by Chapter 59 of the General Statutes.
- 48           (3)    Business entities.
- 49           (4)    Accounts established under G.S. 42-2.1 or G.S. 42-2.2 to the extent  
50           inconsistent with the provisions of this Article.
- 51           (5)    Life estates.



1 **"§ 41-76. Common law of joint tenancy; equitable principles.**

2 The common law of joint tenancy with right of survivorship and principles of equity  
3 supplement this Article except to the extent it conflicts or is inconsistent with a provision of this  
4 Article or the laws of this State.

5 **"§ 41-77. Citation to prior statutes.**

6 A citation to a former statute recodified in Article 5 of Chapter 41 of the General Statutes,  
7 whether made before or after adoption of Article 5, shall be deemed to be a citation to the  
8 recodified statute, unless application of this rule of construction would substantially impair the  
9 rights of a party."

10 **SECTION 2.(d)** The remaining sentences of G.S. 41-2 not recodified under this  
11 section are repealed.

12  
13 **PART III. REAL PROPERTY TECHNICAL CORRECTIONS**

14 **SECTION 3.(a)** Section 4.1 of S.L. 2018-80 reads as rewritten:

15 **"SECTION 4.1.** Sections 1.2 and 1.3 of this act become effective October 1, 2018, and apply  
16 to instruments presented for registration on or after that date. Section 3.1 of this act becomes  
17 effective October 1, 2018. The remainder of this act is effective when this act becomes law and  
18 applies to mortgages and deeds of trust entered into before, on, or after that ~~date~~ date and to other  
19 instruments under G.S. 47-18.3 executed before, on, or after August 1, 2020."

20 **SECTION 3.(b)** G.S. 47-17.1 reads as rewritten:

21 **"§ 47-17.1. Documents registered or ordered to be registered in certain counties to**  
22 **designate draftsman; exceptions.**

23 The register of deeds of any county in North Carolina shall not accept for registration, nor  
24 shall any judge order registration pursuant to G.S. 47-14, of any deeds or deeds of trust, executed  
25 after January 1, 1980, unless the first page of the deeds or deeds of trust bears an entry showing  
26 the name of ~~either the person or law firm who drafted the instrument. This section shall not apply~~  
27 ~~to other instruments presented for registration. For the purposes of this section, the register of~~  
28 ~~deeds shall accept the written representation of the individual presenting the deed or deed of trust~~  
29 ~~for registration, or any individual reasonably related to the transaction, including, but not limited~~  
30 ~~to, any employee of a title insurance company or agency purporting to be involved with the~~  
31 ~~transaction, that the individual or law firm listed on the first page is a validly licensed attorney~~  
32 ~~or validly existing law firm in this State or another jurisdiction within the United States.~~ the drafter  
33 of the deed or deed of trust. The register of deeds shall not be required to verify or make inquiry  
34 concerning the capacity or authority of the person or entity shown as the drafter on the  
35 instrument."

36 **SECTION 3.(c)** This section becomes effective August 1, 2020.

37 **SECTION 3.1.** If Senate Bill 729, 2019 Regular Session, becomes law,  
38 G.S. 41-56(c), as amended by Section 13 of that act and Section 1 of this act, reads as rewritten:

39 "(c) When an individual owns an undivided interest in real property as a tenant in common  
40 with some individual or individuals other than his or her spouse and there occurs an actual  
41 partition of the property, a tenancy by the entirety may be created in the individual who owned  
42 the undivided interest and his or her spouse as follows:

- 43 (1) In a division by cross-deed or deeds between or among the tenants in common  
44 if the instrument contains both of the following:
- 45 a. The intent of the tenant in common to create a tenancy by the entirety  
46 with his or her spouse in this exchange of deeds is clearly stated in the  
47 granting clause of the deed or deeds to the tenant in common and his  
48 or her spouse.
  - 49 b. The deed or deeds to the tenant in common and his or her spouse ~~must~~  
50 ~~be is~~ signed by the tenant in common and ~~must be is~~ acknowledged  
51 before a certifying officer in accordance with G.S. 52-10.

1                   (2)    In a judicial proceeding for actual partition ~~the~~ where both spouses have the  
2                                   right to become parties to the proceeding and to have their pleadings state that  
3                                   the intent of the tenant in common is to create a tenancy by the entirety with  
4                                   his or her spouse. The order of partition must provide that the real property  
5                                   apportioned to the tenant in common and his or her spouse shall be owned by  
6                                   them as tenants by the entirety."  
7

8   **PART IV. EFFECTIVE DATE**

9                   **SECTION 4.** Except as otherwise provided, this act is effective when it becomes  
10 law.