

# 2016 North Carolina Legislative Update



David P. Ferrell  
Vandevanter Black LLP

NCLTA Annual Convention 2016  
Wild Dunes Charleston's Island Resort  
Charleston, SC  
September 15-17, 2016



# North Carolina Land Title Association

Final Legislative Report  
2016

---

On Friday, July 1, 2016, at approximately 11:15 p.m., the “short” session of the North Carolina General Assembly ended for the year. The session, which began on April 25, ended when it was projected to end and lived up to its name. At 68 days, it was shorter than the typical short session (lawmakers have averaged 77 days in election-year sessions since 2000). The primary focus of the session was passing the state’s budget, and the legislature passed the \$22.3 billion state budget bill by the end of the state’s fiscal year (June 30). The budget bill was signed by Governor McCrory on July 14, 2016.

The legislature passed a number of significant pieces of legislation this session, including a bill to govern the use of body worn cameras by law enforcement officers, a bill to expand “crowd funding” investments, a bill to provide an approximate 4.7% raise for public school teachers, and a bill to make a change to the law known as House Bill 2 to restore the right of employees to sue for employment discrimination using state law.

Governor McCrory has until July 31, 2016 to review and sign bills passed in the last few days of the legislative session. If he does not sign or veto a particular bill by that date, it will become law without his signature.

After adjourning the legislative session on July 1, the House honored retiring House Principal Clerk Denise Weeks with a representative statement signed by all 120 House members and a fake resolution requiring her to remain in her post indefinitely. Weeks began working at the General Assembly in 1977. She was first elected by the House as principal clerk in 1993 and has remained there ever since. She delayed her retirement earlier this year to work through the short session.

The legislature enacted several changes to the State’s income tax laws. The State Budget Bill increases the standard deduction from \$15,500 to \$16,500 for married couples filing jointly this year, with an additional increase to \$17,500 next year. For a single person, the deduction increases from \$7,750 to \$8,750 over two years.

The 2017 “long session” is scheduled to begin on Wednesday, January 11, 2017. The legislature did not adopt a studies bill this session. The President Pro Tem of the Senate and Speaker of the House have the inherent authority, including through the Legislative Research Commission and Courts Commission, to study issues, so there may be formal studies before the 2017 legislative session convenes.

This final legislative report contains a summary of the legislation of interest from the 2016 Legislative Session. The first section contains bills enacted into law, and the second section includes bills that were not enacted into law. For more information about legislation described in

this legislative report, feel free to contact me at [dferrell@vanblacklaw.com](mailto:dferrell@vanblacklaw.com) or (919) 754-1171. Information is also available on the General Assembly's website: [www.ncga.state.nc.us](http://www.ncga.state.nc.us).

## BILLS OF INTEREST ENACTED INTO LAW

**Senate Bill 19, Uniform Recording Fees – Register of Deeds.** At the request of NCLTA, the original contents of Senate Bill 19 were removed and replaced with a bill to adjust the uniform recording fees for deeds of trust at the Register of Deeds office in order to comply with closing disclosure requirements established by the federal TRID law. The bill provides that the recording fee for the first 35 pages would be \$64 (currently, first 15 pages is \$56), and each additional page would continue to be \$4. A Register of Deeds study showed that most residential and commercial deeds of trust are 30 pages or less. So this 35 page limit should include most if not all deeds of trust. This should help real estate attorneys in estimating the recording fees in residential real estate transactions under the new TRID rules. This bill is supported by NCLTA as well as the RP Section of the Bar Association, RELANC, and the NC Bankers Association. **Effective: October 1, 2016. Session Law 2016-86.**

**Senate Bill 124, Assumed Bus. Name/IC Contempt/Parks,** modernizes the law governing the use of assumed business names, as recommended by the General Statutes Commission. The bill states that the purpose of the Act is to afford the public a means of ascertaining the real name of persons engaging in business in this State under an assumed business name by requiring those persons to register the assumed business name. The bill provides that before any person engages in business in North Carolina under an assumed business name, the person must file an assumed business name certificate in the office of the register of deeds of the county in which the person is or will be engaged in business. If the person is or will be engaged in business in multiple counties, filing is required in only one of those counties.

An assumed business name certificate must include: (1) the assumed business name; (2) a real name of the person engaging in business under the assumed business name (if the business is a partnership other than a limited liability partnership or limited partnership, the assumed business name certificate must include a real name of five general partners or of each general partner, whichever is fewer); (3) the nature of the business; (4) the street address of the principal place of business; and (5) each county where the person uses or will be using the assumed business name to engage in business.

The bill provides that any person that has filed an assumed business name certificate must, within 60 days after a change in any of the information required in the assumed business name certificate, file a certificate of amendment in the office of the register of deeds of the county in which the assumed business name certificate was filed.

The bill requires the Secretary of State to develop, implement, and maintain a searchable online database of assumed business name information. The system must allow information to be entered and retrieved from the system by the registers of deeds and must be available for searches by the public.

The register of deeds of each county must index every assumed business name with respect to which an assumed business name certificate, a certificate of amendment, or a certificate of withdrawal has been filed in that county. Not later than 30 days after the date a certificate is filed, the register of deeds must transmit a scanned image of the certificate to the Secretary of State and enter into the central database maintained by the Secretary of State the assumed business name, the real name of each person engaging in business under that name, the type of certificate, the county in which the certificate was filed, and, in the case of a certificate of amendment or certificate of withdrawal, the identification number assigned to the assumed business name by the Secretary of State (SOS ID). **Effective only if funds are allocated by the Office of State Budget and Management from the legislative reserve fund. Session Law 2016-100.**

**Senate Bill 482, LLC Clarifications & Emp. Invention Ownership**, makes clarifying changes to the Limited Liability Corporation Act. **Effective: October 1, 2016. Session Law 2016-114.**

**Senate Bill 575, NC/SC Original Border Confirmation**. This bill addresses many of the legal and practical issues that result from the re-establishment of the boundary between North Carolina and South Carolina, including real estate, mortgage, tax, professional or business licensing, voter registration, in-state tuition, and other similar issues.

The bill requires the North Carolina Geodetic Survey to record the final survey of the confirmed NC/SC boundary in the office of the register of deeds in every county in this State where real property has been affected by the certification of the boundary. The applicable uniform fees provided in G.S. 161-10 apply to the recordation of the final survey. The register of deeds shall register and index the surveys.

For parcels of real property affected by the certification of the boundary, situated in whole or in part within the boundaries of North Carolina, the North Carolina Geodetic Survey shall record a Notice of Affected Parcel in the office of the register of deeds in the county or counties where each affected parcel is situated. The register of deeds shall register and index the Notice. Notwithstanding any other provision of law to the contrary, the register of deeds shall not collect any fees or taxes for these Notices. The Notice shall contain at least all of the following information:

- (1) Reference to this act.
- (2) The recording reference for the final survey of the confirmed boundary recorded pursuant to this section.
- (3) The names of the record owners of the parcel.
- (4) The property address of the parcel.
- (5) A tax parcel identification number or other applicable identifier used by a county tax office, if available.
- (6) A brief description of the parcel, if available.
- (7) A source deed reference for the parcel, if available.

The bill provides that title to real property previously treated as being subject to the jurisdiction of the State of South Carolina but that is recognized as being within the boundaries of North Carolina as a result of the certification of the boundary is not affected by the certification of

the boundary or the recognition of the real property as being within the boundaries of North Carolina. All conveyances and instruments of title, of any sort, made prior to the certification of the boundary shall be recognized and given full faith and credit in North Carolina according to the law, jurisdiction, and terms in effect at the time of the conveyance in the jurisdiction the property was previously treated as being subject to. For the purposes of this subsection, "instruments of title" means any instrument that affects title or constitutes the chain of title to real property, including, but not limited to, all deeds, wills, estate documents evidencing transfer of title, plats, surveys, easements, rights-of-way, outstanding mortgages and deeds of trust, judicial orders or decrees, and documents evidencing intestate succession.

The bill provides that liens recorded prior to the date of boundary certification with the register of deeds or docketed with the clerk of superior court in the county in this State where the affected parcel is situated shall attach, as a class, to the affected parcel as of the effective date and time of the boundary certification. This class of liens shall be assigned priority as of the date of boundary certification but shall retain the same priority among themselves as if this subsection did not apply.

The bill provides that the Commissioner of Insurance shall not take any of the following actions with respect to a real estate title insurance company that previously operated only in South Carolina and issued a policy of title insurance in compliance under South Carolina law for a parcel of real estate now determined to be located wholly or partially in North Carolina:

- (1) Require a certificate of authority to do business as a real estate title insurance company under Article 26 of Chapter 58 of the General Statutes.
- (2) Take enforcement action against any title insurance company for failure to comply with the requirements of Article 26, 27, or 28 of Chapter 58 of the General Statutes applicable to real estate title insurance companies in North Carolina or any other statutory or regulatory requirements applicable to all insurance companies in North Carolina.

The bill provides that nothing in this section is intended to prevent the Commissioner of Insurance from entering into a memorandum of agreement with the South Carolina Department of Insurance with respect to enforcement of South Carolina law against real estate title insurance companies subject to this section.

Regarding foreclosure, the bill provides that foreclosure actions initiated on real property encumbered by a security instrument recorded in South Carolina wherein the real property is situated, in whole or in part, within the certified North Carolina boundaries shall be governed by the terms of the security instrument sought to be enforced for that portion of real property recognized as being in a different state. If the security instrument contains a power of sale clause, the party seeking to enforce the terms of the security instrument may initiate a foreclosure action in the county where the real property is situated pursuant to Chapter 45 of the General Statutes. A party seeking to enforce the terms of the security instrument may also resort to judicial foreclosure, pursuant to Article 29A of Chapter 1 of the General Statutes, in accordance with the terms within the security instrument.

The bill provides that judgments or orders of foreclosure entered by courts of North Carolina are binding and effective only with respect to the portion of real property situated within North Carolina. Prior to initiating an action to enforce a security instrument, the security

instrument or a certified copy shall be recorded in the office of the register of deeds for the county where the subject property is situated. The provisions of G.S. 45-10(a) shall apply with regard to the appointment or substitution of a trustee for any mortgage or deed of trust foreclosed pursuant to this section. The bill provides that notwithstanding any other provision of law to the contrary, for mortgages foreclosed under this section, a mortgagee or its successors or assigns shall be entitled to bid at a foreclosure sale conducted pursuant to a judgment or order of foreclosure entered by the courts of this State.

The version of the bill that passed does not contain the “certificate of title” provisions and process that was recommended by many of the real estate and title attorneys that worked on the real estate and mortgage aspects of the bill, either through the NC/SC Boundary Commission or independently.

Towards the end of the legislative session, it seemed there may be an opportunity to make minor changes to the bill to address some of the title and mortgage concerns. However, such an effort was met with strong opposition from the bill sponsors - they represented that since South Carolina had signed off on this version and had already passed their version of the NC/SC Boundary bill, there could be no changes. The House committee chair we were working with ultimately agreed not to make changes this year, but we received the commitment of the bill sponsors that they would support a bill in the 2017 legislative session to make technical changes to the title and foreclosure provisions of the bill as may be necessary. **Effective: June 22, 2016. Session Law 2016-23.**

**Senate Bill 600, Appraiser Compensation/Judge Perform Marriage**, gives the NC Appraisal Board the ability to discipline an Appraisal Management Company (AMC) if they do not pay customary and reasonable fees to residential appraisers in the “primary residence” residential dwelling context in compliance with section 129E(i) of the federal Truth in Lending Act (15 U.S.C. § 1601 et seq.) and regulations promulgated thereunder. **Effective: June 30, 2016. Session Law 2016-61.**

**Senate Bill 770, NC Farm Act of 2016**, modifies when the lien for deferred taxes on land eligible for present use value classification is extinguished, in order to promote sales for land conservation uses. The bill provides that if property loses its eligibility for present-use value classification because the property is conveyed to a nonprofit organization and qualifies for exclusion from the tax base pursuant to G.S. 105-275(12) or G.S. 105-275(29), deferred taxes would be due as follows:

- (1) If the property is conveyed at or below present-use value, no deferred taxes are due, and the lien for the deferred taxes is extinguished.
- (2) If the property is conveyed for more than present-use value, a portion of the deferred taxes for the preceding three fiscal years is due and payable in accordance with G.S. 105-277.1F. The portion due is equal to the lesser of the amount of the deferred taxes or the deferred taxes multiplied by a fraction, the numerator of which is the sale price of the property minus the present-use value of the property and the denominator of which is the true value of the property minus the present-use value of the property.

**Effective: July 26, 2016. Session Law 2016-113.**

**Senate Bill 805, Fiduciary Access to Digital Assets**, enacts the revised Uniform Fiduciary Access to Digital Assets Act and make conforming amendments to various statutes, as recommend by the General Statutes Commission. The bill establishes a framework to address digital assets after one's death, including placing duties on any fiduciary charged with managing tangible property including digital assets. **Effective: June 30, 2016. Session Law 2016-53.**

**Senate Bill 807, Conform Full-Payment Check Law to UCC**, conforms to the comparable provision of the Uniform Commercial Code North Carolina's law on accord and satisfaction of a disputed debt through the tendering of a negotiable instrument as full payment of the debt, as recommended by the General Statutes Commission. **Effective: October 1, 2016. Session Law 2016-52.**

**House Bill 283, Prevent Squatting in Foreclosed Real Property**, enhances the criminal penalties for persons who commit a trespass to real property by re-entering after removal pursuant to a valid order or by knowingly creating or presenting a false document of title or possession. **Effective: December 1, 2016. Session Law 2016-26.**

**House Bill 289, NC Money Transmitters Act.-AB**, enacts the North Carolina Money Transmitters Act as requested by the Office of the North Carolina Commission of Banks to regulate those in the business of transferring currency for third parties, including bitcoin. Some concerns were raised last year that this bill may have the unintended consequence of applying to real estate transactions or wire transfers received by title insurance companies. The attorney for the Commissioner of Banks has assured us that the Money Transmitters Act does not apply to real estate closings and related escrow services, and the Commissioner has agreed to provide an official opinion letter so stating if interested groups feel it is necessary. **Effective: October 1, 2015. Session Law 2016-81.**

**House Bill 436, Unauthorized Practice of Law Changes**. This bill was introduced in the 2015 legislative session to address the disputes between the North Carolina State Bar and Legal Zoom over Legal Zoom's on-line services and whether such services are the unauthorized practice of law. Legislators ended this long-running dispute by passing this bill which allows online services to provide legal documents in North Carolina. The House and Senate passed House Bill 436 after a conference committee spent months negotiating the language. RELANC had input into the conference committee process and several provisions of the bill were amended or added at their request.

The bill redefines the term "practice of law" by exempting services that provide blank legal documents, such as wills, lease agreements and promissory notes, that people can fill out online, purchase and print. The services must register with the State Bar every year, and each type of document must be reviewed and approved by a licensed North Carolina attorney before going online. The services also must include a disclaimer that the online documents are not a substitute

for seeking legal advice, and any customer satisfaction disputes must be referred to the State Bar. In explaining the bill on the Senate floor, Senator Warren Daniel (R-Burke), an attorney in Morganton, said "The Internet has changed the way consumers get services, and this is a first step in adjusting to the online presence of legal services." Senator Daniel also stated: "I would say that it would be penny-wise and pound-foolish to rely on a Web-based legal service to prepare any significant life documents .... That's my free legal advice for the week." **Effective: June 30, 2016. Session Law 2016-60.**

**House Bill 483, Land Use Regulatory Changes.** This bill provides that amendments in zoning ordinances, subdivision ordinances, and unified development ordinances shall not be applicable or enforceable without the written consent of the owner with regard to a multi-phased development. The bill defines "multi-phased development" as a development containing 100 acres or more that (i) is submitted for site plan approval for construction to occur in more than one phase and (ii) is subject to a master development plan with committed elements, including a requirement to offer land for public use as a condition of its master development plan approval. A multi-phased development shall be vested for the entire development with the zoning ordinances, subdivision ordinances, and unified development ordinances then in place at the time a site plan approval is granted for the initial phase of the multi-phased development. The bill provides that a right which has been vested as provided for in this subsection shall remain vested for a period of seven years from the time a site plan approval is granted for the initial phase of the multi-phased development. **Effective: July 22, 2016. Session Law 2016-111.**

**House Bill 870, Cert. of Title/Manuf. Home Changes.** This bill was introduced in the 2015 legislative session by Representative Jonathan Jordan (R-Watauga) and Senator Tamara Barringer (R-Wake) at the request of NCLTA to clarify the renewal, release, and cancellation process for security interests on a certificate of title for a manufactured home. We continued to work with our bill sponsors and other legislators in the off season and early in the 2016 legislative session. Ultimately the bill was considered and enacted into law towards the end of the 2016 legislative session.

The bill requires an application of a security interest on a certificate of title for a manufactured home to state the maturity date of the secured obligation. The bill provides that, with a few specified exceptions, a security interest in a manufactured home would automatically expire 30 years after the date of issuance of the original certificate of title containing the notation of the security interest. The bill outlines the processes and procedures for renewal of the perfection of the secured party's security interest prior to automatic expiration. The bill provides that once issued, the renewal is effective to renew the perfection of the security interest as of the date of the application is delivered to DMV.

The bill amends G.S. 20-109.2(d), Application for Title After Cancellation, to make certain clarifications to the statute that addresses when an owner seeks to separate the manufactured home from the real property and applies for a new certificate of title. **The provision is effective August 1, 2016.**

The bill enacts NCGS 44A-11.1(a1) concerning mechanic's lien agents, to provide that when improvements to a real property leasehold are limited to the purchase, transportation or setup



of a manufactured home, with a current certificate of title, the purchase price of the manufactured home must be excluded in determining if the costs of the undertaking are \$30,000 or more.

House Bill 870 passed the House in 2015 but did not pass the Senate last year due to a concern raised by the Division of Motor Vehicles (DMV) regarding a request for a state appropriation to pay for the upgrades to their title and lien forms and to their computer system. I worked with the bill sponsors and House and Senate Transportation Appropriations Chairs this year to address the DMV funding request. Specifically I identified some “blanks” on the DMV forms that could be re-purposed to include the maturity date of the security interest required by the bill – which may result in minimal cost to DMV. The bill sponsors, Senate Judiciary II Committee chairs, and transportation appropriation subcommittee chairs became comfortable that the bill could move forward without a state appropriation. Ultimately, the bill was considered and approved by the legislature this session. **Effective: July 1, 2017. Session Law 2016-59.**

**House Bill 959, DOT Proposed Legislative Changes**, allows broadband and fiber providers to locate their lines and facilities in North Carolina Department of Transportation (NCDOT) right-of-ways without permission or payment to the underlying landowner.

The bill rescinds all transportation corridor official maps and any amendments thereto, as well as any restrictions on the use of property affected by the rescinded maps. The NCDOT will post information regarding the rescinded maps in clerks’ offices and registers of deeds’ offices in counties where maps of affected properties are/were located. The bill requires NCDOT to study a new process for planning and protecting transportation corridors.

The bill reduces the applicable interest rate available to landowners in NCDOT condemnation cases from 8% to the prime lending rate, which is approximately 3.5% today.

The bill provides an option for motorists to check a box on their motor vehicle title application to have joint tenancy with right of survivorship apply to a motor vehicle. **Effective: July 11, 2016. Session Law 2016-90.**

**House Bill 1018, Confirm Commissioner of Banks**, confirms the Governor’s reappointment of Raymond E. Grace as the Commissioner of Banks. **Ratified: June 2, 2016. Resolution 2016-9.**

**House Bill 1030, 2016 State Appropriations Act**, sets the percentage rate to be used in calculating the insurance regulatory charge under G.S. 58-6-25 at 6.5% for the 2017 calendar year. **Effective July 1, 2016. Session Law 2016-94.**

#### **BILLS OF INTEREST NOT ENACTED INTO LAW**

**Senate Bill 89, Filing By Clerk/Magistrate and Clerk Pilot**. The original contents of Senate Bill 89 were removed and replaced with a bill to address the effect of orders entered by Clerks of Superior Court that may not contain a file stamp. There are some Clerk’s Offices that apparently do not always file stamp orders that are signed by the Clerk. So although the Clerk may sign,

record and enter an order in their docketing system, it may not contain a file stamp. A Court of Appeals case, In re Thompson, ruled that such an order was not effective and set aside subsequent orders and proceeding that relied on the order that lacked a file stamp. This has caused great concern among Clerks and others, such as title insurance companies that rely on orders as a part of the chain of title.

I worked with the Administrative Office of the Courts (AOC) to draft language to address this issue. The agreed upon language was added to Senate Bill 89 when the bill was considered in a House Committee. The language clarifies that the clerk's order is valid and can be relied upon regardless of whether it contains a file stamp. The provisions of the bill would apply to future orders and orders entered previously – so it would have retroactive application.

A controversial gun permit provision was added to this bill in the House, and as a result, we were told the bill would not be considered further. Therefore, at our request, the language of Senate Bill 89 was added to another bill, Senate Bill 349, that was moving through the legislative process. However, the legislature adjourned without passing Senate Bill 349. So this provision did not become law.

**Senate Bill 821, GSC Technical Corrections 1**, would make technical and clarifying changes to various statutes, including to the clerk of superior court's jurisdiction and venue in estate proceedings. The bill would amend N.C. Gen. Stat. § 31B-1(a) concerning property rights, providing that permissible appointees or takers in default under a power of appointment exercised by a testamentary instrument or a nontestamentary instrument can also renounce at any time, in whole or in part, the right of succession to any property or interest.

The bill would amend N.C. Gen. Stat. § 39-13.7, concerning tenancy by the entireties trusts in real property, by adding new subsections to provide that real property held in trust will receive immunity from the claims of separate creditors under certain circumstances. The changes would also allow a person entering a transaction involving real property held in trust under the statute to request confirmation from the trustee whether the requirements of the statute providing immunity from the claims of separate creditors are met at the time of the transaction.

At the request of NCLTA, a provision was added to the bill to amend NCGS 39-13 to clarify the statute as to whether a spouse has to sign a mortgage or deed of trust in the sale of real property for it to be enforceable against the spouse – it would conform the practice for institutional loans (banks) and purchase money (owner) financing. Under the amendment, the spouse does not have to sign the mortgage or deed of trust for the mortgage or deed of trust to apply to that spouse as it relates to the property. The issue was that some clerks and others have interpreted the statute to treat the two scenarios differently; this change would merely conform the practice and treat them the same.

Although most of the provisions of this bill were non-controversial, the legislature adjourned without passing this bill. These provisions did not become law.

**House Bill 3, Eminent Domain**, would amend the North Carolina constitution to prohibit condemnation of private property except for a public use (could not condemn for “public benefit”),

to provide for the determination of just compensation by specifying the right of trial by jury in all condemnation cases, and to make similar statutory changes. House Bill 3 was not enacted this session.

**House Bill 169, Regulatory Reduction Act of 2016.** Although the original contents of this bill were replaced with a bill that was enacted to address some of the provisions of House Bill 2, the original version of House Bill 169 included a provision to “streamline mortgage notice requirements” by providing that the statement mailing requirement and borrower notification requirements of G.S. 45-91 are deemed satisfied by compliance with the disclosure requirements contained in Regulation Z, 12 C.F.R. § 1026.41. This provision did not become law.

**House Bill 375, Real Property/Error Correction & Title Curative.** would amend the procedures for correcting typographical, obvious description, or other minor errors in recorded instruments. This bill was introduced at the request of Investors Title Insurance Company. The bill would define obvious descriptive error, would provide for a “corrective affidavit” process in certain situations, to take the place of a reformation action. The bill would require notice to interested parties as a part of the “corrective affidavit” process. The bill would provide a form for the corrective affidavit. The bill would create a ten-year curative provision for certain defects in recorded instruments.

The bill was not considered this session and was not enacted into law.

**House Bill 548, Confirming Changes/Constitutional Amend,** would have enacted various statutory changes to support the constitutional amendment proposed in House Bill 3 discussed above. The bill would amend GS 40A-3(a) which applies to private condemnors to provide that they can condemn only for “public use”, not “public use and benefit”. The bill also changes the reference to communication companies and natural gas companies, but these changes are technical or clarifying. The bill also adds a new subsection (d) to GS 40A-3 that specifically states the private condemnors and public condemnors possess the power of eminent domain and may acquire by purchase, gift, or condemnation any property for the connection of any customer or customers to utilize.

**House Bill 1061, Preserve Tenancy by the Entirety,** would make conforming amendments to clarify that tenancy by the entirety is preserved in North Carolina in light of the United States Supreme Court decision in Obergefell v. Hodges, as recommended by the General Statutes Commission. The bill would change references to “husband and wife” to “spouses” or “two individuals married to each other” in various places in the statutes. This bill was not enacted into law.

---

For more information about legislation described in the legislative reports, feel free to contact me at [dferrell@vanblacklaw.com](mailto:dferrell@vanblacklaw.com) or (919) 754-1171. Information is also available on the General Assembly’s website: [www.ncga.state.nc.us](http://www.ncga.state.nc.us).

**Prepared By: David P. Ferrell, Esq. – NCLTA Lobbyist**

**VANDEVENTER BLACK LLP  
434 Fayetteville Street, Suite 2000  
Post Office Box 2599  
Raleigh, North Carolina 27602-2599  
Telephone: (919) 754-1171  
Facsimile: (919) 754-1317  
dferrell@vanblacklaw.com  
www.vanblacklaw.com**

4837-4847-0324, v. 1

 Full Version

<b>Biography</b>	<b>Introduced Bills</b>	<b>Votes</b>	<b>Committees</b>	<b>Senate Info</b>
------------------	-------------------------	--------------	-------------------	--------------------



**Senator Phil Berger**  
**President Pro Tempore**  
**2015-2016 Session**  
**Republican - District 26**  
**Guilford, Rockingham**  
N.C. Senate  
16 W. Jones Street, Room 2007  
Raleigh, NC 27601-2808  
(919) 733-5708  
Phil.Berger@ncleg.net



<b>Office:</b>	2007 Legislative Building
<b>Terms in Senate:</b>	8 (0 in House)
<b>Occupation:</b>	Attorney
<b>Address:</b>	P.O. Box 1309, Eden, NC 27289-1309
<b>Phone:</b>	(336) 623-5210

 Full Version

## North Carolina Senate Leadership

### 2015-2016 Session

President:	Lt. Governor Dan Forest
President Pro Tempore:	Senator Phil Berger
Deputy President Pro Tempore:	Senator Louis Pate
Majority Leader:	Senator Harry Brown
Majority Whip:	Senator Jerry W. Tillman
Republican Caucus Secretary:	Senator Fletcher L. Hartsell, Jr.
Democratic Leader:	Senator Dan Blue
Democratic Whip:	Senator Terry Van Duyn
Democratic Caucus Secretary:	Senator Ben Clark

#### 2015-2016 - Senate Officers

Principal Clerk:	Ms. Sarah Lang
Sergeant-at-Arms:	Mr. Philip King
Reading Clerk:	Mr. Lee Settle

 Full Version

## Judiciary I

### Senate Standing Committee

- Visit the **Committee's website**
- Meets Tuesdays, Thursdays at 10:00 a.m. in 1027 LB
- Bills in Committee: H31, H32, H244, H626, H777, H1060, S310, S411, S416, S460, S496, S520, S571, S577, S588, S589, S590, S619, S626, S630, S643, S660, S684, S686, S822
- Meeting notices via e-mail

#### Members

**Co-Chairman**

Sen. Fletcher L. Hartsell, Jr.

**Co-Chairman**

Sen. E. S. (Buck) Newton

**Members**

Sen. Dan Blue, Sen. Harry Brown, Sen. Angela R. Bryant, Sen. Ben Clark, Sen. Valerie P. Foushee, Sen. Kathy Harrington, Sen. Brent Jackson, Sen. Michael V. Lee, Sen. Floyd B. McKissick, Jr., Sen. Louis Pate, Sen. Bill Rabon, Sen. Gladys A. Robinson, Sen. Bob Rucho, Sen. Norman W. Senderson, Sen. Jerry W. Tillman, Sen. Trudy Wade

 Full Version

## Judiciary II

### Senate Standing Committee

- Visit the **Committee's website**
- Meets Tuesdays, Thursdays at 10:00 a.m. in 1124 LB
- Bills in Committee: H7, H299, H477, H479, H615, H847, H1020, S205, S331, S356, S362, S418, S466, S467, S471, S489, S516, S611, S614, S685, S709, S731, S741, S850, S859, S868
- Meeting notices via e-mail

#### Members

**Co-Chairman**

Sen. Tamara Barringer

**Co-Chairman**

Sen. Warren Daniel

**Co-Chairman**

Sen. Shirley B. Randleman

**Members**

Sen. John M. Alexander, Jr., Sen. Ched Barefoot, Sen. Stan Bingham, Sen. Jay J. Chaudhuri, Sen. Bill Cook, Sen. David L. Curtis, Sen. Jim Davis, Sen. Jeff Jackson, Sen. Joyce Krawiec, Sen. Paul A. Lowe, Jr., Sen. Tom McInnis, Sen. Smith-Ingram, Sen. Terry Van Duyn, Sen. Andy Wells, Sen. Mike Woodard



 Full Version

<b>Biography</b>	<b>Introduced Bills</b>	<b>Votes</b>	<b>Committees</b>	<b>House Info</b>
------------------	-------------------------	--------------	-------------------	-------------------



**Representative Tim Moore**  
**Speaker**  
**2015-2016 Session**  
**Republican - District 111**  
**Cleveland**

N.C. House of Representatives  
16 W. Jones Street, Room 2304  
Raleigh, NC 27601-1096  
919-733-3451  
Tim.Moore@ncleg.net



<b>Office:</b>	2304 Legislative Building
<b>Terms in House:</b>	7 (0 in Senate)
<b>Occupation:</b>	Attorney
<b>Address:</b>	305 East King St., Kings Mountain, NC 28086
<b>Phone:</b>	704-739-1221
<b>No Gifts List ?</b>	Yes
<b>Legislative Assistant:</b>	Nancy Garriss

 Full Version

## North Carolina House Leadership

### 2015-2016 Session

Speaker:	Speaker Tim Moore
Speaker Pro Tempore:	Representative Paul Stam
Majority Leader:	Representative John R. Bell, IV
Deputy Majority Leader:	Representative Marilyn Avila
Majority Whip:	Representative Dean Arp
Deputy Majority Whips:	Representative James L. Boles, Jr. Representative Pat McElraft
Joint Caucus Leader:	Representative Pat B. Hurley
Majority Freshman Leader:	Representative John A. Fraley
Majority Freshman Whip:	Representative John R. Bradford, III
Democratic Leader:	Representative Larry D. Hall
Deputy Democratic Leader:	Representative Susan C. Fisher
Secretary:	Representative Bobbie Richardson
Executive Liaisons:	Representative Henry M. Michaux, Jr. Representative Michael H. Wray
Democratic Conference Chairs:	Representative Grier Martin
Freshman Caucus Co-Chairs:	Representative Garland E. Pierce Representative Craig R. Meyer Representative Robert T. Reives, II
<b>2015-2016 - House Officers</b>	
Principal Clerk:	Ms. Denise G. Weeks
Sergeant-at-Arms:	Mr. Garland Shepheard

 Full Version

# Judiciary I

## House Standing Committee

- Meets Wednesdays at 12:30 p.m. in 415 LOB
- Bills in Committee: H48, H96, H132, H139, H166, H192, H193, H225, H230, H296, H317, H321, H403, H423, H441, H443, H449, H475, H517, H519, H563, H585, H605, H611, H612, H636, H650, H654, H664, H674, H686, H692, H695, H699, H700, H702, H717, H720, H725, H798, H835, H886, H891, H1036, H1059, H1078, H1118, S211, S435, S674
- Meeting notices via e-mail

### Members

**Chairman**

Rep. Daughtry

**Vice Chairman**

Rep. Burr

**Vice Chairman**

Rep. Jackson

**Members**

Rep. Arp, Rep. L. Hall, Rep. Hardister, Rep. Howard, Rep. L. Johnson, Rep. G. Martin, Rep. McNeill, Rep. Robinson, Rep. Steinburg, Rep. Szoka

 Full Version

## Judiciary II

### House Standing Committee

- Meets Tuesdays at 1:00 p.m. in 421 LOB
- Bills in Committee: H109, H167, H187, H246, H399, H419, H445, H508, H514, H753, H802, H873, H876, H887, H906, H987, H1086, S269
- Meeting notices via e-mail

#### Members

<b>Chairman</b>	Rep. Blust
<b>Chairman</b>	Rep. Jordan
<b>Vice Chairman</b>	Rep. Faircloth
<b>Vice Chairman</b>	Rep. Hurley
<b>Vice Chairman</b>	Rep. McGredy
<b>Vice Chairman</b>	Rep. Michaux
<b>Vice Chairman</b>	Rep. Stam
<b>Members</b>	Rep. Bumgardner, Rep. Conrad, Rep. Queen, Rep. Reives, Rep. W. Richardson, Rep. Ross, Rep. Saine, Rep. Salmon

 Full Version

## Judiciary III

### House Standing Committee

- Meets Wednesdays at 12:30 p.m. in 421 LOB
- Bills in Committee: H30, H115, H413, H536, H764, H818, H855, H867, H1010, S503, S652
- Meeting notices via e-mail

#### Members

<b>Chairman</b>	Rep. Davis
<b>Chairman</b>	Rep. Stevens
<b>Vice Chairman</b>	Rep. D. Hall
<b>Vice Chairman</b>	Rep. Harrison
<b>Vice Chairman</b>	Rep. R. Turner
<b>Members</b>	Rep. J. Bell, Rep. R. Brown, Rep. Cleveland, Rep. Farmer-Butterfield, Rep. Hastings, Rep. Horn, Rep. Insko, Rep. Sgro, Rep. Speciale, Rep. Zachary

 Full Version

## Judiciary IV

### House Standing Committee

- Visit the **Committee's website**
- Meets Wednesdays at 10:00 a.m. in 1327 LB
- Bills in Committee: H348, H354, H688, H854, H946, H1064, H1115, H1117, S120, S566
- Meeting notices via e-mail

#### Members

**Chairman**

Rep. Blackwell

**Chairman**

Rep. Bryan

**Vice Chairman**

Rep. Baskerville

**Vice Chairman**

Rep. Hamilton

**Members**

Rep. Adams, Rep. Ager, Rep. Bishop, Rep. Dollar, Rep. Hunter, Rep. Jones, Rep. B. Richardson, Rep. Riddell, Rep. Setzer, Rep. Terry, Rep. Tine, Rep. Torbett, Rep. Warren, Rep. Willingham

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2015

SESSION LAW 2016-86  
SENATE BILL 19

AN ACT TO ADJUST THE UNIFORM FEE FOR RECORDING DEEDS OF TRUST WITH THE REGISTER OF DEEDS IN ORDER TO COMPLY WITH CLOSING DISCLOSURE REQUIREMENTS ESTABLISHED BY THE FEDERAL TRUTH IN LENDING AND REAL ESTATE SETTLEMENT PROCEDURES ACTS.

The General Assembly of North Carolina enacts:

**SECTION 1.** G.S. 161-10(a) reads as rewritten:

"§ 161-10. **Uniform fees of registers of deeds.**

(a) Except as otherwise provided in this Article, all fees collected under this section shall be deposited into the county general fund. While performing the duties of the office, the register of deeds shall collect the following fees which shall be uniform throughout the State:

...  
(1a) Deeds of Trust, Mortgages, and Cancellation of Deeds of Trust and Mortgages. – For registering or filing any deed of trust or mortgage, whether written, printed, or typewritten, mortgage the fee shall be ~~fifty-six~~ ~~sixty-four~~ dollars ~~(\$56.00)~~ ~~(\$64.00)~~ for the first ~~15~~ ~~35~~ pages plus four dollars (\$4.00) for each additional page or fraction thereof.

When a deed of trust or mortgage is presented for registration that contains one or more additional instruments, the fee shall be ten dollars (\$10.00) for each additional instrument. A deed of trust or mortgage contains one or more additional instruments if such additional instrument or instruments has or have different legal consequences or intent, each of which is separately executed and acknowledged and could be recorded alone.

For recording records of satisfaction, or the cancellation of record by any other means, of deeds of trust or mortgages, there shall be no fee.

...."

**SECTION 2.** This act becomes effective October 1, 2016.

In the General Assembly read three times and ratified this the 27<sup>th</sup> day of June, 2016.

s/ Daniel J. Forest  
President of the Senate

s/ Tim Moore  
Speaker of the House of Representatives

s/ Pat McCrory  
Governor

Approved 9:14 a.m. this 30<sup>th</sup> day of June, 2016



GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2015

SESSION LAW 2016-23  
SENATE BILL 575

1 AN ACT TO MAKE LEGISLATIVE CHANGES TO FACILITATE THE WORK OF THE  
2 BOUNDARY COMMISSION IN CONFIRMING AND REESTABLISHING THE  
3 ORIGINAL BOUNDARY EXISTING BETWEEN THE STATES OF NORTH CAROLINA  
4 AND SOUTH CAROLINA.  
5

6 The General Assembly of North Carolina enacts:  
7

8 **PART I. GENERAL PROVISIONS**

9 **SECTION 1.(a)** Findings. – The General Assembly finds that:

- 10 (1) North Carolina and South Carolina were created as separate British colonies.  
11 (2) Surveys to determine the boundary between North Carolina and South Carolina  
12 began in 1735 and concluded in 1815.  
13 (3) Resurveys of three sections of the boundary between North Carolina and South  
14 Carolina were performed in 1813, 1905, and 1928.  
15 (4) The boundary between North Carolina and South Carolina has not changed;  
16 however, over the course of time from the original survey of the boundary,  
17 some of the markers denoting the boundary from the original surveys have been  
18 lost or destroyed by the elements.  
19 (5) The boundary commission authorized pursuant to Chapter 141 of the General  
20 Statutes has worked with commissioners appointed by South Carolina to  
21 reestablish the boundary between North Carolina and South Carolina.

22 **SECTION 1.(b)** Intent. – It is the intent of the General Assembly to address the  
23 effects on persons or land with a situs recognized, as a result of a boundary certification, to be in  
24 this State and to avoid disputes with such persons or owners of such land. This act does not apply  
25 to persons whose property, rights, and businesses are not affected by boundary certification. For  
26 purposes of this act, "boundary certification" means the certification by the General Assembly of  
27 the boundary between North Carolina and South Carolina, as provided for in subsection (c) of this  
28 section.

29 **SECTION 1.(c)** Certification. – For purposes other than property tax, the General  
30 Assembly hereby certifies that, as of January 1, 2017, the boundary between North Carolina and  
31 South Carolina is the boundary that was established by the original survey and resurveys that were  
32 adopted through legislative and executive actions, and the reestablished boundary has been  
33 approved by the boundary commissions of North Carolina and South Carolina and proclaimed as  
34 the boundary by the Governor, pursuant to G.S. 141-5. For property tax purposes, the General  
35 Assembly hereby certifies that, as of January 1 of the year following the year this act becomes  
36 effective or the year an executive order has been issued by the Governor proclaiming the boundary  
37 between North Carolina and South Carolina, whichever is earlier, the boundary between North  
38 Carolina and South Carolina is the boundary that was established by the original survey and  
39 resurveys that were adopted through legislative and executive actions, and the reestablished  
40 boundary has been approved by the boundary commissions of North Carolina and South Carolina  
41 and proclaimed as the boundary by the Governor, pursuant to G.S. 141-5.  
42

43 **PART II. TAX LIABILITY**

44 **SECTION 2.(a)** Taxes. – The following provisions apply to taxes affected by  
45 boundary certification:

- 46 (1) Neither the State nor a subdivision of the State may assess a tax on a person for  
47 activities occurring prior to the date of certification where the basis of the  
48 assessment is the certification.





- 1 (2) The State and its subdivisions may assess a tax for activities occurring on or  
2 after the date of certification subject to the following conditions:  
3 a. For taxes imposed for a taxable period, the tax may not be imposed for a  
4 period beginning prior to the date of certification.  
5 b. For sales and use taxes for an item that is provided and billed on a  
6 monthly or other periodic basis, the tax may not be assessed for periods  
7 beginning prior to the date of certification.  
8 c. For a person subject to taxes levied under Article 2A of Chapter 105 of  
9 the General Statutes who, on the date of the certification, has on hand  
10 any tobacco products, the person must file a complete inventory of the  
11 tobacco products within 20 days after date of certification and must pay  
12 an additional tax to the Secretary of Revenue when filing the inventory.  
13 The amount of the tax due is the amount due based on the current tax  
14 rate less any tax paid on the inventory to another state.  
15 d. For installments and carryforwards of tax benefits allowed by this State  
16 at the time of boundary certification for activities with a situs in South  
17 Carolina, a person may claim remaining installments and carryforwards  
18 against State tax liability.  
19 e. For land that is classified under G.S. 105-277.3 at the time of boundary  
20 certification and that fails to meet the size requirements of  
21 G.S. 105-277.3 solely because of boundary certification, (i) no deferred  
22 taxes are due as a result of boundary certification, (ii) the deferred taxes  
23 remain a lien on the land located in this State, and (iii) the deferred taxes  
24 for the land in this State are otherwise payable in accordance with  
25 G.S. 105-277.3. The tax benefit provided in this sub-subdivision is  
26 forfeited if any portion of the land located in this State is sold.  
27 f. For land receiving a property tax benefit other than classification under  
28 G.S. 105-277.3 at the time of boundary certification that fails to meet  
29 the requirements for the property tax benefit solely because of boundary  
30 certification, the land is not entitled to receive the property tax benefit  
31 after the time of boundary certification unless it meets the statutory  
32 requirements, but the lien on the land for the deferred taxes is  
33 extinguished as if it has been paid in full.  
34 (3) A person may not seek a refund for activities occurring prior to the date of  
35 certification where the basis of the refund is the certification.

36 **SECTION 2.(b)** An establishment to which permits may be issued pursuant to  
37 G.S. 18B-1006(n1), as enacted by this act, is designated a special class of property under Section  
38 2(2) of Article V of the North Carolina Constitution, and the motor fuel sold by that establishment  
39 is taxable in accordance with this section. Notwithstanding G.S. 105-449.80, the motor fuel excise  
40 tax rate for an establishment to which permits may be issued pursuant to G.S. 18B-1006(n1), as  
41 enacted by this act, is sixteen cents (16¢) per gallon. The Revenue Laws Study Committee shall  
42 annually compare the motor fuel excise tax rate imposed by this section with the rate levied by the  
43 State of South Carolina on motor fuels and may recommend a change in the rate imposed by this  
44 section to an amount no greater than the rate then in effect for the State of South Carolina. An  
45 establishment designated as a special class of property by this section may obtain monthly refunds  
46 on the difference between the motor fuel excise tax imposed under G.S. 105-449.80 and the motor  
47 fuel excise tax imposed by this section. The Department shall calculate for each calendar year the  
48 difference between the motor fuel excise tax that would have been imposed under G.S. 105-449.80  
49 on the motor fuel sold by an establishment classified by this section in the absence of this  
50 classification and the motor fuel excise tax that was imposed on the motor fuel sold by the  
51 establishment due to the classification. The difference in taxes, together with any interest,  
52 penalties, or costs that may accrue thereon, are a lien on the real property underlying the  
53 establishment as provided in G.S. 105-355(a). The difference in taxes shall be carried forward in  
54 the records of the Department as deferred taxes. The deferred taxes for the preceding three  
55 calendar years are due and payable on the day this subsection becomes ineffective due to the  
56 occurrence of a disqualifying event; provided, however, the amount collected for deferred taxes  
57 pursuant to this subsection does not exceed the tax value of the property. A disqualifying event  
58 occurs when the title to the real property underlying the establishment is transferred to a new

1 owner. A lien for deferred taxes is extinguished when the amount required by this subsection is  
2 paid.

3 **SECTION 2.(c)** For property tax purposes, this Part is effective on the date of  
4 certification applicable to property tax purposes provided in Section 1(c) of this act. For all other  
5 purposes, this Part is effective for taxable periods beginning on or after January 1, 2017.  
6

### 7 **PART III. INSTRUMENTS OF TITLE TO REAL PROPERTY**

8 **SECTION 3.(a)** The North Carolina Geodetic Survey shall record the final survey of  
9 the confirmed boundary in the office of the register of deeds in every county in this State where  
10 real property has been affected by the certification of the boundary. The applicable uniform fees  
11 provided in G.S. 161-10 shall apply to the recordation of the final survey. The register of deeds  
12 shall register and index the surveys in accordance with the provisions of Article 2 of Chapter 161  
13 of the General Statutes.

14 **SECTION 3.(b)** For parcels of real property affected by the certification of the  
15 boundary, situated in whole or in part within the boundaries of this State, the North Carolina  
16 Geodetic Survey shall record a Notice of Affected Parcel in the office of the register of deeds in  
17 the county or counties where each affected parcel is situated. The register of deeds shall register  
18 and index the Notice in accordance with the provisions of Article 2 of Chapter 161 of the General  
19 Statutes. Notwithstanding any other provision of law to the contrary, the register of deeds shall not  
20 collect any fees or taxes for the Notice recorded pursuant to this subsection. The Notice shall  
21 contain at least all of the following information:

- 22 (1) Reference to this act.
- 23 (2) The recording reference for the final survey of the confirmed boundary  
24 recorded pursuant to subsection (a) of this section.
- 25 (3) The names of the record owners of the parcel.
- 26 (4) The property address of the parcel.
- 27 (5) A tax parcel identification number or other applicable identifier used by a  
28 county tax office, if available.
- 29 (6) A brief description of the parcel, if available.
- 30 (7) A source deed reference for the parcel, if available.

31 **SECTION 3.(c)** Title to real property previously treated as being subject to the  
32 jurisdiction of the State of South Carolina but that is recognized as being within the boundaries of  
33 this State as a result of the certification of the boundary is not affected by the certification of the  
34 boundary or the recognition of the real property as being within the boundaries of this State. All  
35 conveyances and instruments of title, of any sort, made prior to the certification of the boundary  
36 shall be recognized and given full faith and credit in this State according to the law, jurisdiction,  
37 and terms in effect at the time of the conveyance in the jurisdiction the property was previously  
38 treated as being subject to. For the purposes of this subsection, "instruments of title" means any  
39 instrument that affects title or constitutes the chain of title to real property, including, but not  
40 limited to, all deeds, wills, estate documents evidencing transfer of title, plats, surveys, easements,  
41 rights-of-way, outstanding mortgages and deeds of trust, judicial orders or decrees, and documents  
42 evidencing intestate succession.

43 **SECTION 3.(d)** Liens recorded prior to the date of boundary certification with the  
44 register of deeds or docketed with the clerk of superior court in the county in this State where the  
45 affected parcel is situated shall attach, as a class, to the affected parcel as of the effective date and  
46 time of the boundary certification. This class of liens shall be assigned priority as of the date of  
47 boundary certification but shall retain the same priority among themselves as if this subsection did  
48 not apply.

49 **SECTION 3.(e)** The Commissioner of Insurance shall not take any of the following  
50 actions with respect to a real estate title insurance company that previously operated only in South  
51 Carolina and issued a policy of title insurance in compliance under South Carolina law for a parcel  
52 of real estate now determined to be located wholly or partially in North Carolina:

- 53 (1) Require a certificate of authority to do business as a real estate title insurance  
54 company under Article 26 of Chapter 58 of the General Statutes.
- 55 (2) Take enforcement action against any title insurance company for failure to  
56 comply with the requirements of Article 26, 27, or 28 of Chapter 58 of the  
57 General Statutes applicable to real estate title insurance companies in North  
58 Carolina or any other statutory or regulatory requirements applicable to all  
59 insurance companies in North Carolina.

1 Nothing in this section is intended to prevent the Commissioner of Insurance from  
2 entering into a memorandum of agreement with the South Carolina Department of Insurance with  
3 respect to enforcement of South Carolina law against real estate title insurance companies subject  
4 to this section.  
5

#### 6 **PART IV. FORECLOSURE OF DEEDS OF TRUST AND MORTGAGES**

7 **SECTION 4.(a)** Foreclosure actions initiated on real property encumbered by a  
8 security instrument recorded in South Carolina wherein the real property is situated, in whole or in  
9 part, within the certified North Carolina boundaries shall be governed by the terms of the security  
10 instrument sought to be enforced for that portion of real property recognized as being in a different  
11 state. If the security instrument contains a power of sale clause, the party seeking to enforce the  
12 terms of the security instrument may initiate a foreclosure action in the county where the real  
13 property is situated pursuant to Chapter 45 of the General Statutes. A party seeking to enforce the  
14 terms of the security instrument may also resort to judicial foreclosure, pursuant to Article 29A of  
15 Chapter 1 of the General Statutes, in accordance with the terms within the security instrument.  
16 Judgments or orders of foreclosure entered by courts of this State are binding and effective only  
17 with respect to the portion of real property situated within this State. Prior to initiating an action to  
18 enforce a security instrument, the security instrument or a certified copy shall be recorded in the  
19 office of the register of deeds for the county where the subject property is situated. The provisions  
20 of G.S. 45-10(a) shall apply with regard to the appointment or substitution of a trustee for any  
21 mortgage or deed of trust foreclosed pursuant to this section.

22 **SECTION 4.(b)** Notwithstanding any other provision of law to the contrary, for  
23 mortgages foreclosed pursuant to subsection (a) of this section, a mortgagee or its successors or  
24 assigns shall be entitled to bid at a foreclosure sale conducted pursuant to a judgment or order of  
25 foreclosure entered by the courts of this State.  
26

#### 27 **PART V. PUBLIC SCHOOL STUDENT ENROLLMENT**

28 **SECTION 5.(a)** Notwithstanding any other provision of law, a student who (i) was  
29 eligible to enroll in a North Carolina local school administrative unit in accordance with  
30 G.S. 115C-366 prior to the date of the certification and (ii) loses the eligibility to enroll in a public  
31 school, including a charter school, as a result of certification may attend a North Carolina public  
32 school located within the local school administrative unit or attend a North Carolina charter  
33 school, without the payment of tuition, until that student:

- 34 (1) Reaches the age of 21.
- 35 (2) Obtains a high school diploma.
- 36 (3) No longer meets the requirements of G.S. 115C-366 that were the basis for the  
37 student's eligibility for enrollment prior to the date of certification.
- 38 (4) Loses eligibility pursuant to subsection (b) of this section.

39 **SECTION 5.(b)** A student who attends a North Carolina public school or charter  
40 school under subsection (a) of this section and the student's parent, legal guardian, or custodian  
41 shall be subject to the laws and rules governing North Carolina public schools and charter schools  
42 in accordance with Chapter 115C of the General Statutes, including meeting the requirements of  
43 the compulsory attendance law under Part 1 of Article 26 of Chapter 115C of the General Statutes.

44 Notwithstanding the enforcement provisions of G.S. 115C-378(f), 115C-380,  
45 115C-381, and 115C-382, a parent, guardian, or custodian of a student enrolled in a North  
46 Carolina public school or charter school under this section who is determined by the principal of  
47 the student's public school or the charter school to be in violation of the compulsory attendance  
48 laws shall no longer be eligible to enroll the student in a North Carolina public school or charter  
49 school pursuant to subsection (a) of this section in a subsequent semester of the school year. In  
50 addition, the local school administrative unit or charter school in which the student is enrolled  
51 shall notify, based on the student's place of residence in South Carolina, the juvenile court or such  
52 other court in the county that has jurisdiction of juveniles and, if applicable, the attendance  
53 supervisor for that county.

54 **SECTION 5.(c)** The State Board of Education shall provide that a student enrolled in  
55 a North Carolina public school or charter school in accordance with subsection (a) of this section  
56 be included in calculations for average daily membership, reporting for the Uniform Education  
57 Reporting System, and eligibility for State and federal funds.

1           **SECTION 5.(d)** Except as otherwise provided by this section or G.S. 115C-366, a  
2 student who is a legal resident of South Carolina shall not be entitled to enroll in a North Carolina  
3 public school.  
4

#### 5 **PART VI. DRIVER EDUCATION ELIGIBILITY/BEGINNER LICENSE**

6           **SECTION 6.(a)** Notwithstanding State Board of Education policy, GCS-R-004, or  
7 any other provision of law, if a student enrolled in a North Carolina public school or charter  
8 school under subsection (a) of Section 5 of this act obtains a beginner's permit in South Carolina,  
9 the student shall be eligible to participate in behind-the-wheel instruction as part of a driver  
10 education course offered by the local school administrative unit in which the student is enrolled.

11           **SECTION 6.(b)** Notwithstanding G.S. 20-11(b)(1), a student who (i) as a result of the  
12 boundary certification becomes a legal resident of North Carolina on the date of the certification  
13 and (ii) is enrolled in a South Carolina school district in which his or her residence was located  
14 prior to certification or in the South Carolina statewide public charter school district may meet the  
15 requirement in G.S. 20-11(b)(1) for obtaining a limited learner's permit if the student passes a  
16 course of driver education offered by the South Carolina high school in which the student is  
17 enrolled.

18           **SECTION 6.(c)** The Department of Transportation, Division of Motor Vehicles, in  
19 collaboration with the State Board of Education, shall develop a procedure for any North Carolina  
20 resident who is a student enrolled in a South Carolina school pursuant to the conditions described  
21 in subsection (b) of this section to satisfy the driver eligibility certificate requirements of  
22 G.S. 20-11 to obtain and continue to hold a limited or full provisional license under this section.  
23

#### 24 **PART VII. ELIGIBILITY FOR IN-STATE TUITION**

25           **SECTION 7.(a)** Notwithstanding any other provision of law, independent persons and  
26 their dependents formerly domiciled in North Carolina counties who are domiciled in South  
27 Carolina counties as a result of the North Carolina-South Carolina boundary certification may be  
28 considered eligible for in-State tuition rates for a period of up to 10 years from the effective date  
29 of the boundary change. To be eligible for in-State tuition rates, such persons must have been  
30 domiciled and reside on property in North Carolina in accordance with G.S. 116-143.1  
31 immediately prior to the effective date of North Carolina legislation approving the North  
32 Carolina-South Carolina boundary certification and must maintain residence and domicile on that  
33 same property within South Carolina.

34           **SECTION 7.(b)** Notwithstanding any other provision of law, independent persons and  
35 their dependents previously domiciled on property in South Carolina which is located in North  
36 Carolina as a result of the North Carolina-South Carolina boundary certification may, for a period  
37 of two years from the effective date of the boundary certification, be eligible for in-State rates  
38 without the requirement of residency and domicile for 12 months in this State provided such  
39 independent persons have evidenced the intent to establish domicile in North Carolina in  
40 accordance with G.S. 116-143.1. To be eligible under this provision, such persons must reside on  
41 the same property that was in South Carolina immediately prior to the effective date of North  
42 Carolina legislation approving the certified North Carolina-South Carolina boundary. To maintain  
43 eligibility for in-State tuition rates longer than the two years permitted under this paragraph, the  
44 independent persons and their dependents must satisfy the requirements of G.S. 116-143.1.

45           **SECTION 7.(c)** The provisions established under subsections (a) and (b) of this  
46 section are not transferable to persons other than those independent persons and their dependents  
47 falling within the scope of those provisions.

48           **SECTION 7.(d)** Should the domicile and residence of independent persons and their  
49 dependents change from the property affected by the boundary certification, maintenance of  
50 eligibility for in-State rates will be determined as provided in G.S. 116-143.1.  
51

#### 52 **PART VIII. ABC PERMITS**

53           **SECTION 8.** G.S. 18B-1006 is amended by adding a new subsection to read:

54           "(n1) State Boundary Certification. – The Commission may issue permits listed in  
55 G.S. 18B-1001(2) and (4), without approval at an election, to qualified establishments defined in  
56 G.S. 18B-1000(7) that meet all of the following requirements:

57           (1) The establishment is located in a county that borders on another state.

58           (2) The location of the establishment was reclassified from out-of-state to North  
59 Carolina as a result of a State boundary certification.

1           (3)   The establishment was licensed or permitted by the previous state of record to  
2           sell malt beverages and unfortified wine."  
3

4   **PART IX. TITLE, REGISTRATION, AND HIGHWAY USE TAX**

5           **SECTION 9.(a)** Definition. – For purposes of this section, "impacted person" shall  
6 mean any person who is the owner of a motor vehicle titled and registered in South Carolina and  
7 who has now been determined to be a resident of North Carolina as a result of a boundary  
8 certification agreed to by the states of North Carolina and South Carolina.

9           **SECTION 9.(b)** The Division of Motor Vehicles of the Department of Transportation  
10 shall require title, registration, and the payment of highway use tax from impacted persons in the  
11 same manner as it currently uses for persons moving to North Carolina from another state.  
12

13   **PART X. ENVIRONMENTAL COMPLIANCE SCHEDULE**

14           **SECTION 10.(a)** Definition. – For purposes of this section, "impacted location" shall  
15 mean any facility or property that has now been determined to be located in North Carolina as a  
16 result of a boundary certification recognized by the states of North Carolina and South Carolina,  
17 and, as a result, either of the following applies to the facility or property:

18           (1) It is required to obtain a permit, license, or approval from the North Carolina  
19 Department of Environmental Quality.

20           (2) It is subject to a permit, license, or approval program that is operated by a local  
21 government and is delegated from or approved by the North Carolina  
22 Department of Environmental Quality.

23           **SECTION 10.(b)** Notwithstanding any other provision of law to the contrary, the  
24 Department of Environmental Quality, the Environmental Management Commission, or any local  
25 program delegated or approved by the Department or the Commission (collectively, the  
26 "permitting authorities"), in issuing any environmental permit, license, or approval to an impacted  
27 location, shall provide a schedule of compliance that allows the recipient of the permit, license, or  
28 approval a period of no less than five years to come into compliance with any North Carolina  
29 environmental rule or standard established by the permitting authorities that (i) has no  
30 corresponding rule or standard under South Carolina law or regulation or (ii) is more stringent  
31 than the corresponding rule or standard established under South Carolina law or regulations. The  
32 permitting authorities may include increments of progress applicable in each year of the schedule  
33 established under this subsection. The owner or operator of an impacted location may waive the  
34 schedule of compliance required by this subsection. Nothing in this section is intended to limit the  
35 applicability or employment of existing procedures under North Carolina statutes and regulations  
36 granting waivers or variances from otherwise applicable environmental rules or standards.  
37

38   **PART XI. UTILITIES/EXTENSION OF RURAL FIRE PROTECTION DISTRICTS,**  
39   **COUNTY SERVICE DISTRICTS, AND WATER AND SEWER DISTRICTS**

40           **SECTION 11.(a)** The owner or occupant of a dwelling unit or commercial  
41 establishment on improved property that shall be deemed located in whole or in part in the State of  
42 North Carolina as a result of the boundary certification described in this act may continue to  
43 receive utility services from the South Carolina utility or its successor that is providing service to  
44 the dwelling unit or commercial establishment on January 1, 2017. However, the owner or  
45 occupant may, within his or her discretion, elect to have one or more of the utility services being  
46 provided to the property by a South Carolina utility on January 1, 2017, be provided by a North  
47 Carolina utility as long as the property is located within the North Carolina utility's service area. A  
48 North Carolina utility that is a city or county may require the owner of the property to pay a  
49 periodic availability fee authorized by law only if the owner elects to have utility service provided  
50 to the dwelling unit or commercial establishment by the North Carolina utility. A South Carolina  
51 utility that provides service to the property as authorized in this section is not a public utility under  
52 G.S. 62-3(23), and is not subject to regulation by the North Carolina Utilities Commission as it  
53 relates to providing the particular utility service involved. For purposes of this subsection only, the  
54 term "South Carolina utility" has the same meaning as the term "utility" or "utilities" in the Code  
55 of Laws of South Carolina, and the term "North Carolina utility" has the same meaning as the term  
56 "public utility" which is defined in G.S. 62-3(23), and also includes a city or county that provides  
57 any of the services listed in G.S. 160A-311 or G.S. 153A-274, an authority organized under the  
58 North Carolina Water and Sewer Authorities Act, or an electric or telephone membership  
59 corporation.

1           **SECTION 11.(b)** The governing body of a county that gains territory as a result of the  
2 boundary certification described in this act shall meet as soon as practicable after the date this act  
3 becomes law to determine whether the residents of the territory (i) require the services provided by  
4 an existing rural fire protection district established under Article 3A of Chapter 69 of the General  
5 Statutes or a county service district established under Article 16 of Chapter 153A of the General  
6 Statutes or (ii) would benefit from the services provided by an existing county water and sewer  
7 district established under Article 6 of Chapter 162A of the General Statutes. If the governing body  
8 finds that the residents of the territory require or would benefit from the services of the district, the  
9 governing body shall annex the territory to the district as provided in G.S. 69-25.11(1), 153A-303,  
10 and 162A-87.1.

11  
12 **PART XII. SEVERABILITY AND EFFECTIVE DATE**

13           **SECTION 12.(a)** If any provision of this act or its application is held invalid, the  
14 invalidity does not affect other provisions or applications of this act that can be given effect  
15 without the invalid provisions or application, and to this end, the provisions of this act are  
16 severable.

17           **SECTION 12.(b)** Except as otherwise provided, this act is effective when it becomes  
18 law.

19           In the General Assembly read three times and ratified this the 20<sup>th</sup> day of June, 2016.

20  
21  
22                                   s/ Robert A. Rucho  
23                                   Presiding Officer of the Senate

24  
25  
26                                   s/ Tim Moore  
27                                   Speaker of the House of Representatives

28  
29  
30                                   s/ Pat McCrory  
31                                   Governor

32  
33  
34           Approved 4:03 p.m. this 22<sup>nd</sup> day of June, 2016

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2015

SESSION LAW 2016-60  
HOUSE BILL 436

AN ACT TO FURTHER DEFINE THE TERM "PRACTICE LAW" FOR THE PURPOSE OF PROTECTING MEMBERS OF THE PUBLIC FROM HARM RESULTING FROM THE UNAUTHORIZED PRACTICE OF LAW BY A PERSON WHO IS NOT A TRAINED AND LICENSED ATTORNEY.

The General Assembly of North Carolina enacts:

**SECTION 1.** G.S. 84-2.1 reads as rewritten:

**"§ 84-2.1. "Practice law" defined.**

(a) The phrase "practice law" as used in this Chapter is defined to be performing any legal service for any other person, firm or corporation, with or without compensation, specifically including the preparation or aiding in the preparation of deeds, mortgages, wills, trust instruments, inventories, accounts or reports of guardians, trustees, administrators or executors, or preparing or aiding in the preparation of any petitions or orders in any probate or court proceeding; abstracting or passing upon titles, the preparation and filing of petitions for use in any court, including administrative tribunals and other judicial or quasi-judicial bodies, or assisting by advice, counsel, or otherwise in any legal work; and to advise or give opinion upon the legal rights of any person, firm or corporation: Provided, that the above reference to particular acts which are specifically included within the definition of the phrase "practice law" shall not be construed to limit the foregoing general definition of the term, but shall be construed to include the foregoing particular acts, as well as all other acts within the general definition.

(b) The phrase "practice law" does not ~~encompass the~~ encompass:

- (1) The drafting or writing of memoranda of understanding or other mediation summaries by mediators at community mediation centers authorized by G.S. 7A-38.5 or by mediators of employment-related matters for The University of North Carolina or a constituent institution, or for an agency, commission, or board of the State of North Carolina.
- (2) The selection or completion of a preprinted form by a real estate broker licensed under Chapter 93A of the General Statutes, when the broker is acting as an agent in a real estate transaction and in accordance with rules adopted by the North Carolina Real Estate Commission, or the selection or completion of a preprinted residential lease agreement by any person or Web site provider. Nothing in this subdivision or in G.S. 84-2.2 shall be construed to permit any person or Web site provider who is not licensed to practice law in accordance with this Chapter to prepare for any third person any contract or deed conveying any interest in real property, or to abstract or pass upon title to any real property, which is located in this State.
- (3) The completion of or assisting a consumer in the completion of various agreements, contracts, forms, and other documents related to the sale or lease of a motor vehicle as defined in G.S. 20-286(10), or of products or services ancillary or related to the sale or lease of a motor vehicle, by a motor vehicle dealer licensed under Article 12 of Chapter 20 of the General Statutes."

**SECTION 2.** Article 1 of Chapter 84 of the General Statutes is amended by adding a new section to read:

**"§ 84-2.2. Exemption and additional requirements for Web site providers.**



(a) The practice of law, including the giving of legal advice, as defined by G.S. 84-2.1 does not include the operation of a Web site by a provider that offers consumers access to interactive software that generates a legal document based on the consumer's answers to questions presented by the software, provided that all of the following are satisfied:

- (1) The consumer is provided a means to see the blank template or the final, completed document before finalizing a purchase of that document.
- (2) An attorney licensed to practice law in the State of North Carolina has reviewed each blank template offered to North Carolina consumers, including each and every potential part thereof that may appear in the completed document. The name and address of each reviewing attorney must be kept on file by the provider and provided to the consumer upon written request.
- (3) The provider must communicate to the consumer that the forms or templates are not a substitute for the advice or services of an attorney.
- (4) The provider discloses its legal name and physical location and address to the consumer.
- (5) The provider does not disclaim any warranties or liability and does not limit the recovery of damages or other remedies by the consumer.
- (6) The provider does not require the consumer to agree to jurisdiction or venue in any state other than North Carolina for the resolution of disputes between the provider and the consumer.
- (7) The provider must have a consumer satisfaction process. All consumer concerns involving the unauthorized practice of law made to the provider shall be referred to the North Carolina State Bar. The consumer satisfaction process must be conspicuously displayed on the provider's Web site.

(b) A Web site provider subject to this section shall register with the North Carolina State Bar prior to commencing operation in the State and shall renew its registration with the State Bar annually. The State Bar may not refuse registration.

(c) Each Web site provider subject to this section shall pay an initial registration fee in an amount not to exceed one hundred dollars (\$100.00) and an annual renewal fee in an amount not to exceed fifty dollars (\$50.00)."

**SECTION 3.** G.S. 84-10.1 reads as rewritten:

**"§ 84-10.1. Private cause of action for the unauthorized practice of law.**

If any person knowingly violates any of the provisions of G.S. 84-4 through G.S. 84-6 or G.S. 84-9, fraudulently holds himself or herself out as a North Carolina certified paralegal by use of the designations set forth in G.S. 84-37(a), or knowingly aids and abets another person to commit the unauthorized practice of law, in addition to any other liability imposed pursuant to this Chapter or any other applicable law, any person who is damaged by the unlawful acts set out in this section shall be entitled to maintain a private cause of action to recover damages and reasonable attorneys' ~~fees~~ fees and other injunctive relief as ordered by court. No order or judgment under this section shall have any effect upon the ability of the North Carolina State Bar to take any action authorized by this Chapter."

**SECTION 4.** The General Assembly shall review the implementation of Section 2 of this act and consider whether the provision should be modified or discontinued by June 30, 2018.



**SECTION 5.** This act is effective when it becomes law.  
In the General Assembly read three times and ratified this the 20<sup>th</sup> day of June,  
2016.

s/ Robert A. Rucho  
Presiding Officer of the Senate

s/ Tim Moore  
Speaker of the House of Representatives

s/ Pat McCrory  
Governor

Approved 9:30 a.m. this 30<sup>th</sup> day of June, 2016

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2015

SESSION LAW 2016-59  
HOUSE BILL 870

AN ACT TO CLARIFY THE RENEWAL, RELEASE, AND CANCELLATION PROCESS FOR SECURITY INTERESTS ON A CERTIFICATE OF TITLE FOR A MANUFACTURED HOME AND TO CLARIFY THE CALCULATION OF THE COST OF THE UNDERTAKING FOR THE INSTALLATION OF A MANUFACTURED HOME.

The General Assembly of North Carolina enacts:

**SECTION 1.** G.S. 20-4.01 reads as rewritten:

**"§ 20-4.01. Definitions.**

Unless the context requires otherwise, the following definitions apply throughout this Chapter to the defined words and phrases and their cognates:

...  
(14) House Trailer. – Any trailer or semitrailer designed and equipped to provide living or sleeping facilities and drawn by a motor vehicle. This term shall not include a manufactured home as defined in subdivision (18a) of this section.

...  
(18a) Manufactured Home. – Defined in G.S. 143-143.9(6).

...  
(32b) Recreational Vehicle. – A vehicular type unit primarily designed as temporary living quarters for recreational, camping, or travel use that either has its own motive power or is mounted on, or towed by, another vehicle. The basic entities are camping trailer, fifth-wheel travel trailer, motor home, travel trailer, and truck camper. This term shall not include a manufactured home as defined in G.S. 143-143.9(6).

a. Motor home. – As defined in G.S. 20-4.01(27)d2.

b. Travel trailer. – A vehicular unit mounted on wheels, designed to provide temporary living quarters for recreational, camping, or travel use, and of a size or weight that does not require a special highway movement permit when towed by a motorized vehicle.

c. Fifth-wheel trailer. – A vehicular unit mounted on wheels designed to provide temporary living quarters for recreational, camping, or travel use, of a size and weight that does not require a special highway movement permit and designed to be towed by a motorized vehicle that contains a towing mechanism that is mounted above or forward of the tow vehicle's rear axle.

d. Camping trailer. – A vehicular portable unit mounted on wheels and constructed with collapsible partial side walls that fold for towing by another vehicle and unfold at the campsite to provide temporary living quarters for recreational, camping, or travel use.

e. Truck camper. – A portable unit that is constructed to provide temporary living quarters for recreational, camping, or travel use, consisting of a roof, floor, and sides and is designed to be loaded onto and unloaded from the bed of a pickup truck.

...  
(49) Vehicle. – Every device in, upon, or by which any person or property is or may be transported or drawn upon a highway, excepting devices moved by human power or used exclusively upon fixed rails or tracks; provided, that



for the purposes of this Chapter bicycles shall be deemed vehicles and every rider of a bicycle upon a highway shall be subject to the provisions of this Chapter applicable to the driver of a vehicle except those which by their nature can have no application. This term shall not include a device which is designed for and intended to be used as a means of transportation for a person with a mobility impairment, or who uses the device for mobility enhancement, is suitable for use both inside and outside a building, including on sidewalks, and is limited by design to 15 miles per hour when the device is being operated by a person with a mobility impairment, or who uses the device for mobility enhancement. This term shall not include an electric personal assistive mobility device as defined in G.S. 20-4.01(7a). Unless the context requires otherwise, and except as provided under G.S. 20-109.2, 47-20.6, or 47-20.7, a manufactured home shall be deemed a vehicle.

...."

**SECTION 2.** G.S. 20-58 reads as rewritten:

**"§ 20-58. Perfection by indication of security interest on certificate of title.**

...  
(c) An application for the notation of a security interest pursuant to subsection (a) of this section on a certificate of title for a manufactured home shall state the maturity date of the secured obligation. The Division shall include the stated maturity date for the certificate of title, including the notation of the maturity date on the certificate of title, in its public records and in any reports regarding the certificate of title provided to third parties. For the purposes of this subsection, the maturity date of the security interest is defined in G.S. 45-36.24."

**SECTION 3.** Article 3 of Chapter 20 of the General Statutes is amended by adding a new section to read:

**"§ 20-58.3A. Automatic expiration of security interest in manufactured home; renewal of security interests in manufactured homes.**

(a) For the purposes of this section, the term "secured party" means the secured party named on a certificate of title for a manufactured home and those parties that succeed to the rights of the secured party as a secured creditor by assignment or otherwise. The term "borrower" means the homeowner or the debtor on the obligation secured by the security interest noted on the certificate of title for a manufactured home.

(b) With the exception of a security interest in a manufactured home perfected pursuant to G.S. 20-58(c), unless satisfied pursuant to G.S. 20-58.4 or G.S. 20-109.2, the perfection of a security interest in a manufactured home that is perfected by a notation on the certificate of title shall automatically expire 30 years after the date of the issuance of the original certificate of title containing the notation of the security interest, unless a different maturity date is stated on the title.

(c) Unless satisfied pursuant to G.S. 20-58.4 or G.S. 20-109.2, the perfection of a security interest in a manufactured home perfected by a notation on the certificate of title pursuant to G.S. 20-58(c) shall automatically expire as follows:

- (1) If the perfection of the security interest has not been renewed as provided in this section, on the earlier of (i) 90 days after the maturity date stated on the application for the security interest or (ii) 15 years plus 180 days after the date of issuance of the original certificate of title containing the notation of the security interest.
- (2) If the perfection of the security interest has been renewed as provided in this section, on the earlier of (i) 10 years after the date of the renewal of the perfection of the security interest, (ii) 90 days after the original maturity date of the security interest, if the original maturity date has not been extended, or (iii) 90 days after any extended maturity date stated on the application of renewal.

(d) Prior to the date that perfection of a secured party's security interest in a manufactured home automatically expires pursuant to subsection (b) or (c) of this section, the secured party may deliver to the Division an application for renewal of the perfection of the secured party's security interest. The application for the renewal of the perfection of the secured party's security interest shall be in a form prescribed by the Division. Nothing in this section shall be construed to extend the maturity date of the secured obligation unless an agreement in writing has been executed by the borrower extending the original maturity date. The application

for renewal of the perfection of the secured party's security interest shall contain all of the following:

- (1) The secured party's signature.
- (2) The existing certificate of title, unless it is in the possession of a prior secured party.
- (3) An affirmative statement of any agreement executed by the borrower to extend the maturity date.
- (4) If the application is submitted by the assignee or successor in interest of the secured party listed on the certificate of title, documentary evidence that the applicant is the assignee or successor in interest of the secured party listed on the certificate of title.
- (5) The name and address of the party from whom information concerning the security interest may be obtained.
- (6) Any other information requested by the Division.

(e) Upon receipt of the application for renewal of the perfection of the secured party's security interest, the Division shall do one of the following:

- (1) If the existing certificate of title is included with the application for renewal, the Division shall issue a new certificate of title bearing the original or extended maturity date of the security interest.
- (2) If the existing certificate of title is in the possession of a prior secured party, the Division, if satisfied as to the genuineness and regularity of the application for renewal, may request the certificate of title from the party in possession for the purpose of notating the original or extended maturity date of the security interest. Once the notations have been made, the Division shall return the certificate of title to the possession of the secured party.
- (3) If the existing certificate of title is not obtained upon request, the Division shall cancel the existing certificate of title and issue a new certificate of title. The new certificate of title shall list all known security interests and shall bear notation that shows the original or extended maturity date of the security interest.

(f) An application for the renewal of a secured party's security interest pursuant to this section shall be effective to renew the perfection of the security interest as of the date the application is delivered to the Division. Each renewed security interest shall retain its original date of perfection and the perfection shall thereafter expire on the earlier to occur of (i) 10 years after the date of renewal of the perfection of the security interest, (ii) 90 days after the original maturity date of the security interest, if the original maturity date has not been extended, or (iii) 90 days after any extended maturity date stated on the application of renewal. Perfection of a security interest in a manufactured home may be renewed more than once pursuant to this section.

(g) The Division shall not be subject to a claim under Article 31 of Chapter 143 of the General Statutes related to the renewal of the perfection of a security interest on a certificate of title for a manufactured home pursuant to this section if the claim is based on reliance by the Division on any application for renewal submitted to the Division by a third party pursuant to this section."

**SECTION 4. G.S. 20-58.4 reads as rewritten:**

**"§ 20-58.4. Release of security interest.**

(e) If it is impossible for the owner to secure from the secured party the release contemplated by this section, the owner may exhibit to the Division such evidence as may be available showing satisfaction or other discharge of the debt secured, together with a sworn affidavit by the owner that the debt has been satisfied, ~~which the satisfied.~~

(e1) If the vehicle is a manufactured home, the owner may proceed in accordance with subsection (e) of this section or may, in the alternative, provide the Division with a sworn affidavit by the owner that the debt has been satisfied and that either:

- (1) After diligent inquiry, the owner has been unable to determine the identity or the current location of the secured creditor or its successor in interest; or
- (2) The secured creditor has not responded within 30 days to a written request from the owner to release the secured creditor's security interest.

(e2) The Division may treat either of the methods employed by the owner pursuant to subsection (e) or subsection (e1) of this section as a proper release for purposes of this section when satisfied as to the genuineness, truth and sufficiency thereof. Prior to cancellation of a security interest under the provisions of this subsection, at least 15 days' notice of the pendency thereof shall be given to the secured party at his last known address by the Division by registered letter. The Division shall not cancel a security interest pursuant to this subsection if, within 15 days after the Division gives notice, the secured party responds to the Division indicating that the security interest remains in effect.

(f) The Division shall not be subject to a claim under Article 31 of Chapter 143 of the General Statutes related to the release of the perfection of a security interest on a certificate of title for a manufactured home pursuant to this section if the claim is based on reliance by the Division on any release, affidavit, notation of the certificate of title, or documents evidencing the release or satisfaction of a security interest submitted to the Division by a third party pursuant to this section."

**SECTION 5.** G.S. 20-85(a)(8) reads as rewritten:

**"§ 20-85. Schedule of fees.**

(a) The following fees are imposed concerning a certificate of title, a registration card, or a registration plate for a motor vehicle. These fees are payable to the Division and are in addition to the tax imposed by Article 5A of Chapter 105 of the General Statutes.

...  
(8) Each application for renewing a security interest on a certificate of title or removing a lien or security interest from a certificate of title..... 20.00"

**SECTION 6.** G.S. 20-109.2(d) reads as rewritten:

"(d) Application for Title After Cancellation. – If the owner of a manufactured home whose certificate of title has been cancelled under this section subsequently seeks to separate the manufactured home from the real property, the owner may apply for a new certificate of title. The owner must submit to the Division an affidavit containing the same information set out in subsection (b) of this section, verification that the manufactured home has been removed from the real property, verification of the identity of the current owner of the real property upon which the manufactured home was located, and written consent of any affected owners of recorded mortgages, deeds of trust, or security interests in the real property where the manufactured home was placed. The Commissioner may require evidence sufficient to demonstrate that all affected owners of security interests have been notified and consent. Upon receipt of this information, together with a title application and required fee, the Division is ~~authorized to issue a new title for the manufactured home.~~ shall issue a new title for the manufactured home in the name of the current owner of the real property upon which the manufactured home was located."

**SECTION 7.** G.S. 44A-11.1 is amended by adding a new subsection to read:

"(a1) Where the improvements to a real property leasehold are limited to the purchase, transportation, and setup of a manufactured home, as defined in G.S. 143-143.9(6), for which there is a current certificate of title, the purchase price of the manufactured home shall be excluded in determining whether the costs of the undertaking are thirty thousand dollars (\$30,000) or more."

**SECTION 8.** G.S. 153A-357(e) reads as rewritten:

"(e) No permit shall be issued pursuant to subdivision (1) of subsection (a) of this section where the cost of the work is thirty thousand dollars (\$30,000) or more, other than for improvements to an existing single-family residential dwelling unit as defined in G.S. 87-15.5(7) that the owner occupies as a residence, or for the addition of an accessory building or accessory structure as defined in the North Carolina Uniform Residential Building Code, the use of which is incidental to that residential dwelling unit, unless the name, physical and mailing address, telephone number, facsimile number, and electronic mail address of the lien agent designated by the owner pursuant to G.S. 44A-11.1(a) is conspicuously set forth in the permit or in an attachment thereto. The building permit may contain the lien agent's electronic mail address. The lien agent information for each permit issued pursuant to this subsection shall be maintained by the inspection department in the same manner and in the same location in which it maintains its record of building permits issued. Where the improvements to a real property leasehold are limited to the purchase, transportation, and setup of a manufactured home, as defined in G.S. 143-143.9(6), for which there is a current

certificate of title, the purchase price of the manufactured home shall be excluded in determining whether the cost of the work is thirty thousand dollars (\$30,000) or more."

**SECTION 9.** G.S. 160A-417(d) reads as rewritten:

"(d) No permit shall be issued pursuant to subdivision (1) of subsection (a) of this section where the cost of the work is thirty thousand dollars (\$30,000) or more, other than for improvements to an existing single-family residential dwelling unit as defined in G.S. 87-15.5(7) that the owner occupies as a residence, or for the addition of an accessory building or accessory structure as defined in the North Carolina Uniform Residential Building Code, the use of which is incidental to that residential dwelling unit, unless the name, physical and mailing address, telephone number, facsimile number, and electronic mail address of the lien agent designated by the owner pursuant to G.S. 44A-11.1(a) is conspicuously set forth in the permit or in an attachment thereto. The building permit may contain the lien agent's electronic mail address. The lien agent information for each permit issued pursuant to this subsection shall be maintained by the inspection department in the same manner and in the same location in which it maintains its record of building permits issued. Where the improvements to a real property leasehold are limited to the purchase, transportation, and setup of a manufactured home, as defined in G.S. 143-143.9(6), for which there is a current certificate of title, the purchase price of the manufactured home shall be excluded in determining whether the cost of the work is thirty thousand dollars (\$30,000) or more."

**SECTION 10.** Section 6 of this act becomes effective August 1, 2016, and applies to titles issued on or after that date. The remainder of this act becomes effective July 1, 2017.

In the General Assembly read three times and ratified this the 21<sup>st</sup> day of June, 2016.

s/ Daniel J. Forest  
President of the Senate

s/ Tim Moore  
Speaker of the House of Representatives

s/ Pat McCrory  
Governor

Approved 9:29 a.m. this 30<sup>th</sup> day of June, 2016

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2015

H

2

HOUSE BILL 375\*  
Committee Substitute Favorable 4/27/15

Short Title: Real Prop./Error Correction & Title Curative.

(Public)

Sponsors:

Referred to:

March 30, 2015

1 A BILL TO BE ENTITLED  
2 AN ACT TO CLARIFY THE PROCESS FOR CORRECTING NONMATERIAL ERRORS  
3 IN RECORDED INSTRUMENTS OF TITLE; TO CREATE A CURATIVE  
4 PROCEDURE FOR OBVIOUS DESCRIPTION ERRORS IN DOCUMENTS OF TITLE;  
5 AND TO CREATE A TEN-YEAR CURATIVE PROVISION FOR CERTAIN DEFECTS  
6 IN RECORDED INSTRUMENTS OF TITLE.

7 The General Assembly of North Carolina enacts:

8 SECTION 1. G.S. 47-36.1 reads as rewritten:

9 "§ 47-36.1. Correction of obvious description errors in recorded instruments.  
10 of title.

11 (a) Notwithstanding G.S. 47-14 and G.S. 47-17, notice of a nonmaterial typographical  
12 or other minor nonmaterial error in a deed or other instrument recorded with the register of  
13 deeds may be given by recording an a corrective affidavit. If an a corrective affidavit is  
14 conspicuously identified as a corrective ~~or scrivener's~~ affidavit in its title, the register of deeds  
15 shall index the name of the affiant, the names of the original parties in the instrument, the  
16 recording information of the instrument being corrected, and the original parties as they are  
17 named in the affidavit. A copy of the previously recorded instrument to which the affidavit  
18 applies may be attached to the affidavit and need not be a certified copy. To the extent the  
19 correction is inconsistent with the originally recorded instrument, and only to that extent, notice  
20 of the corrective information as provided by the affiant in the corrective affidavit is deemed to  
21 have been given as of the time the corrective affidavit is registered. Nothing in this section  
22 invalidates or otherwise alters the legal effect of any instrument of correction authorized by  
23 statute in effect on the date the instrument was registered.

24 (a1) A corrective affidavit authorized by this section shall not be used to correct an  
25 obvious description error as defined in G.S. 47-36.2.

26 ...."

27 SECTION 2. Article 2 of Chapter 47 of the General Statutes is amended by adding  
28 a new section to read:

29 "§ 47-36.2. Correction of errors in recorded instruments.

30 (a) The following definitions apply to this section, unless the context requires a  
31 different meaning:

32 (1) Attorney. – A person licensed to practice law under Chapter 84 of the  
33 General Statutes.

34 (2) Curative affidavit. – An affidavit executed by an attorney to correct an  
35 obvious description error in a deed, deed of trust, or other instrument  
36 recorded with the register of deeds.



- 1           (3)   Obvious description error. – An error in the legal description of real property  
2           that is contained in a recorded deed, deed of trust, mortgage, or other  
3           conveyance that is evidenced by any of the following:  
4           a.     The subject parcel is properly identified and shown on a recorded  
5           plat.  
6           b.     The error is made apparent by reference to other information  
7           contained in the instrument or an attachment to the instrument, or by  
8           reference to another instrument in the chain of title for the subject  
9           parcel, including the recorded plat.  
10          c.     The instrument contains the correct address or tax map identification  
11          number for the subject parcel.  
12          d.     The instrument contains one or more errors transcribing courses and  
13          distances, including the omission of one or more lines of courses and  
14          distances or the omission of angles and compass directions.  
15          e.     The instrument contains an erroneous incorporation of an incorrect  
16          plat or deed reference.  
17          f.     The instrument contains an error in a lot or unit number or  
18          designation.  
19          g.     The instrument omits an exhibit or attachment intended to supply the  
20          legal description of the subject property.  
21          The term does not include missing or improper signatures or  
22          acknowledgements or any designation of the type of ownership interest or  
23          right of survivorship.  
24          (4)   Recorded plat. – A plat that has been prepared by a registered land surveyor  
25          licensed pursuant to Chapter 89C of the General Statutes and has been  
26          recorded with the register of deeds in the county where the property is  
27          situated.  
28          (5)   Title insurance agent. – A person or entity licensed by the Commissioner of  
29          Insurance and contractually authorized by one or more title insurance  
30          companies to issue commitments and policies on behalf of said title  
31          insurance company.  
32          (6)   Title insurance company. – A company certified pursuant to Article 26 of  
33          Chapter 58 of the General Statutes that has issued a policy of title insurance  
34          covering a conveyance needing correction.  
35          (b)   Notwithstanding G.S. 47-14 and G.S. 47-17, obvious description errors in a  
36          recorded deed, deed of trust, or other instrument purporting to convey or transfer an interest in  
37          real property may be corrected by recording a curative affidavit containing the attorney's North  
38          Carolina State Bar number with the register of deeds in every county where the real property is  
39          situated, provided that no correction of an obvious description error shall be inconsistent with  
40          the description of the property in any recorded plat.  
41          (c)   Prior to recording a curative affidavit as described in subsection (b) of this section,  
42          the attorney seeking to record the affidavit shall deliver a notice and copy of the affidavit to the  
43          last known address for all of the persons listed in this subsection.  
44          The notice and copy of the curative affidavit shall be made in any manner provided by the  
45          Rules of Civil Procedure for service of summons, including delivered by personal service or  
46          sent by registered mail or by certified mail, return receipt requested. The attorney may rely on  
47          the last known address as contained in (i) the instrument needing correction, (ii) any recorded  
48          instruments relating to the transaction involving the instrument needing correction, (iii) any  
49          forwarding address information provided to the attorney, or (iv) any other source that can  
50          establish a current address with reasonable certainty.



1 If a county or a municipality is a party to the instrument needing correction, the notice and  
2 copy of the curative affidavit shall be sent to the attorney for the county or municipality or to  
3 the manager of the county or municipality. If the State is a party to the instrument needing  
4 correction, the notice and copy of the curative affidavit shall be sent to the Attorney General  
5 and to the director, chief executive officer, or head of the State agency, department, or entity in  
6 possession of the subject property.

7 The persons entitled to notice and a copy of the curative affidavit pursuant to this section  
8 are as follows:

- 9 (1) All parties to the deed, deed of trust, or other instrument being corrected.
- 10 (2) The current record owner of the real property at the property address and any  
11 other address reflected in the tax records of the county where the property is  
12 situated.
- 13 (3) The attorney who prepared the deed, deed of trust, or other instrument being  
14 corrected, if known.
- 15 (4) Any title insurance company and title insurance agent, if applicable, who has  
16 issued a policy covering the subject property, if known.
- 17 (5) All adjoining record parcel owners, record holders of any mineral or timber  
18 rights, or record easement holders affected by the correction of an error of  
19 the type described in sub-subdivision d. of subdivision (3) of subsection (a)  
20 of this section.

21 (d) If, after 30 days of receipt of the notice described in subsection (c) of this section,  
22 no written objection to the recordation of the curative affidavit or dispute of the facts recited in  
23 the affidavit has been received, the attorney may record the curative affidavit and all parties to  
24 the instrument being corrected shall be bound by the terms contained in the affidavit. The  
25 curative affidavit shall be notarized and shall contain (i) a statement that no objection was  
26 received from any party entitled to notice, (ii) a copy of the notice sent to the parties, and (iii)  
27 the attorney's North Carolina State Bar number.

28 (e) A curative affidavit that is recorded pursuant to this section shall operate as a  
29 correction of the deed, deed of trust, or other instrument and relates back to the date of the  
30 original recordation of the deed, deed of trust, or other instrument as if the deed, deed of trust,  
31 or other instrument was correct when first recorded. A title insurance company, upon request,  
32 and receipt of the written opinion of the attorney who filed the curative affidavit that the  
33 curative affidavit complies with this statute may issue an endorsement to reflect the corrections  
34 made by the curative affidavit and shall deliver a copy of the endorsement to all parties to the  
35 title policy that can be located.

36 (f) The register of deeds shall record the curative affidavit in the deed book and index  
37 the affidavit in the names of parties to the deed, deed of trust, or other instrument as grantees  
38 and grantors, irrespective of their designation in the deed, deed of trust, or other instrument  
39 needing correction. The costs associated with the recording of a curative affidavit pursuant to  
40 this section shall be paid by the party submitting the affidavit to the register of deeds. An  
41 affidavit recorded in compliance with this section shall be prima facie evidence of the facts  
42 stated therein. Any person who wrongfully or erroneously records a curative affidavit is liable  
43 for actual damages sustained by any party as a result of the recordation, including reasonable  
44 attorneys' fees and costs.

45 (g) The remedies prescribed by this section are not exclusive and do not abrogate any  
46 rights or remedies available under the laws of this State.

47 (h) A curative affidavit made pursuant to this section shall be in substantially the  
48 following form:

49 "Curative Affidavit  
50

This Affidavit, prepared pursuant to § 47-36.2 of the North Carolina General Statutes, shall be indexed in the names of \_\_\_\_\_ (grantor) and \_\_\_\_\_ (grantee), whose addresses are \_\_\_\_\_. The undersigned affiant, being first duly sworn, deposes and states as follows:

1. That the affiant is a North Carolina attorney, North Carolina State Bar No. \_\_\_\_\_.

2. That the deed, deed of trust, or other instrument needing correction was made in connection with a real estate transaction in which \_\_\_\_\_ conveyed real property to \_\_\_\_\_, as shown in a deed recorded in the Register of Deeds of \_\_\_\_\_ County, on \_\_\_\_\_ and in Book \_\_\_\_\_, Page \_\_\_\_\_.

3. That the property description in the aforementioned deed, deed of trust, or other instrument contains an obvious description error.

4. That the property description (if any) containing the obvious description error reads: \_\_\_\_\_

5. That the correct property description should read: \_\_\_\_\_

6. That this affidavit is given pursuant to § 47-36.1 of the North Carolina General Statutes to correct the property description in the aforementioned deed, deed of trust, or other instrument and such description shall be as stated in paragraph 5 above upon recordation of this affidavit with the Register of Deeds of \_\_\_\_\_ County.

7. That the notice of the intent to record this curative affidavit and a copy of this affidavit was delivered to all parties to the deed, deed of trust, or other instrument being corrected or otherwise required to be noticed pursuant to § 47-36.2 of the North Carolina General Statutes and that no objection to the recordation of this affidavit was received within the applicable period of time as set forth in § 47-36.1 of the North Carolina General Statutes.

\_\_\_\_\_  
(Name of attorney)

\_\_\_\_\_  
(Signature of attorney)

\_\_\_\_\_  
(North Carolina State Bar Number)

\_\_\_\_\_  
(Address of attorney)

\_\_\_\_\_  
(Telephone number of attorney)

The foregoing affidavit was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by \_\_\_\_\_ (Notary Public)

My commission expires: \_\_\_\_\_"

(i) Notice of a curative affidavit made pursuant to this section shall be in substantially the following form:

"Notice of Intent to Correct an Obvious Description Error

Notice is hereby given to you concerning the deed, deed of trust, or other instrument described in the curative affidavit, a copy of which is attached to this notice as follows:

1. The attorney identified below has discovered or has been advised of an obvious description error in the deed, deed of trust, or other instrument recorded as part of a real estate settlement. The error is described in the attached affidavit.

2. The undersigned will record the affidavit with the Register of Deeds of \_\_\_\_\_ County to correct the error described in the affidavit unless the undersigned receives a written objection disputing the facts recited in the affidavit or objecting to the recordation of the affidavit. Your objections must be sent within 30 days of receipt of this notice the following address:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

(Name of attorney)

(Signature of attorney)

(North Carolina State Bar Number

(Address of attorney)

(Telephone number of attorney)"

(m) If an affidavit is conspicuously identified as a curative affidavit in its title and contains the North Carolina State Bar number of the attorney affiant, the register of deeds shall index the name of the affiant, the names of the original parties in the instrument, the recording information of the instrument being corrected, and the original parties as they are named in the affidavit. A copy of the previously recorded instrument to which the affidavit applies may be attached to the affidavit and need not be a certified copy. The register of deeds may rely upon the curative affidavit containing the North Carolina State Bar number of the attorney affiant and is not responsible for confirming that the attorney affiant is licensed to practice law under Chapter 84 of the General Statutes.

(n) Nothing in this section requires that an affidavit be attached to an original or certified copy of a previously recorded instrument that is unchanged but rerecorded. Nothing in

1 this section requires that an affidavit be attached to a previously recorded instrument with a  
2 copy of a previously recorded instrument that includes identified corrections or an original  
3 execution by a party or parties of the corrected instrument after the original recording with  
4 proof or acknowledgment of their execution of the correction of the instrument."

5       **SECTION 3.** Article 4 of Chapter 47 of the General Statutes is amended by adding  
6 a new section to read:

7 **"§ 47-108.27. Ten-year curative statute.**

8       (a) If an instrument conveying or purporting to convey an interest in real property  
9 contains a material defect, irregularity, or omission is recorded by the register of deeds in the  
10 county where the property is situated and the defect, irregularity, or omission is not corrected  
11 before a period of 10 years has elapsed since the instrument was recorded, then the instrument  
12 shall be deemed effective to vest title as stated therein and to the same extent as though the  
13 instrument had not contained the defect, irregularity, or omission. The proper recordation and  
14 indexing of a curative instrument or a notice of lis pendens shall act as a toll to the 10-year  
15 curative period.

16       (b) For the purposes of this section, a "material defect, irregularity, or omission" occurs  
17 when the recorded instrument facially fails to comply with any of the following:

18           (1) The proper execution of a form of acknowledgment as provided under  
19           Article 3 of Chapter 47 of the General Statutes.

20           (2) The proper recitals of consideration, residence, address, or date.

21           (3) The proper affixation of a seal by a sheriff, commissioner, receiver,  
22 executor, executrix, administrator, administratrix, or other officer authorized  
23 to execute an instrument by virtue of an office or appointment held by the  
24 grantor.

25       (c) Nothing in this section is intended to modify any provisions of law pertaining to the  
26 competency or infancy of the grantor or the provisions of Chapter 22 of the General Statutes or  
27 to limit any remedies available under the laws of this State."

28       **SECTION 4.** This act becomes effective October 1, 2015, and applies to curative  
29 affidavits filed on or after that date.