

**GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2019**

**SESSION LAW 2020-50  
SENATE BILL 595**

AN ACT TO MAKE CHANGES AND TECHNICAL CORRECTIONS TO THE GENERAL STATUTES CONCERNING REAL PROPERTY LAW, AS RECOMMENDED BY THE NORTH CAROLINA BAR ASSOCIATION.

The General Assembly of North Carolina enacts:

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

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

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

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

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

"Article 5.

"Tenancy by the Entirety.

**"§ 41-55. Definitions.**

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

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

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

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

- (1) A named man "and wife," ~~or wife.~~
- (2) A named woman "and husband," ~~or husband.~~
- (3) A named individual "and wife."
- (4) A named individual "and husband."
- (5) A named individual "and spouse."



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

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

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

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

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

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

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

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

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

Except for purposes of equitable distribution as provided under G.S. 50-20 and G.S. 50-21, when an individual furnishing the consideration for real property causes title to be placed in the name of the individual and the individual's spouse, there is a presumption of a gift to the

individual's spouse of an entirety interest, which is rebuttable by clear, cogent, and convincing evidence.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

- (1) The voluntary sale and conveyance of property held as tenants by the entirety to a third party, including a foreclosure sale pursuant to a power of sale in a deed of trust. Proceeds of the sale, including surplus funds generated from a foreclosure sale, are personal property held by the spouses as tenants in common.
- (2) The voluntary partition between the spouses executing a joint instrument conveying the property held as tenants by the entirety to themselves as tenants in common or in severalty.
- (3) The involuntary transfer of title of property held by spouses as tenants by the entirety. The proceeds resulting from the transfer are held by the spouses as tenants by the entirety. An involuntary transfer of title includes:
  - a. A sale pursuant to Article 15 of Chapter 35A of the General Statutes as to an incompetent spouse.
  - b. An appropriation in a condemnation proceeding by the North Carolina State Highway Commission.
- (4) ~~A~~ ~~The conveyance from a husband or a wife~~ ~~one spouse~~ to the other spouse of real property, or any interest therein, ~~his or her interest in property held by such husband and wife as tenants by the entirety dissolves such tenancy in the property or interest conveyed and~~ ~~entirety~~. The conveyance vests such the property or interest formerly held ~~by the~~ ~~as tenants by the entirety in the grantee~~ other spouse. The joinder of a spouse in a conveyance made by the grantor pursuant to this subdivision is not necessary, but the conveyance is subject to the provisions of G.S. 52-10 or G.S. 52-10.1, except that an acknowledgment by the spouse of the grantor is not necessary.
- (5) An absolute divorce of the spouses. An absolute divorce converts property held as tenants by the entirety to a tenancy in common.
- (6) A judgment of forfeiture ordering divestment of an interest in tenancy by the entirety pursuant to Chapter 75D of the General Statutes. The effect of a judgment when one spouse is an innocent person as defined in G.S. 75D-5(i) is governed by G.S. 75D-8(a).

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

(a) Except as provided in subsection (b) of this section, upon the death of a spouse, property held as tenants by the entirety belongs to the surviving spouse by right of purchase under the original grant or devise and by virtue of survivorship. The deceased spouse has no estate which is descendable or divisible.

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

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

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

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

- (1) ~~The husband and wife spouses remain married.~~
- (2) ~~The real property continues to be held in the trust or trusts as provided in subsection (a) of this section.~~
- (3) ~~Both husband and wife spouses are current beneficiaries of the joint trust if the real property is conveyed to that trust or of each separate trust if the real property is conveyed in equal shares to their separate trusts.~~

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

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

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

- (1) ~~The reference to the real property conveyed to or held in the trust shall be deemed to include the proceeds arising from the involuntary conversion transfer of title of the real property.~~
- (2) ~~The reference to a term "joint trust" means a revocable or irrevocable trust of which both the husband and wife are the settlors, and the reference to settlors.~~
- (3) ~~The term "separate trusts" means revocable or irrevocable trusts of which the husband one spouse is the settlor of one trust and the wife other spouse is the settlor of the other trust.~~
- ~~(3)~~(4) ~~The husband and wife spouses are "beneficiaries" of a trust if they are distributees or permissible distributees of the income or principal of the trust whether or not other persons individuals are also current or future beneficiaries of the trust.~~

(f) ~~Notice may be given in a statement in the conveyance of the tenancy by the entireties real property to the trust that the real property is held under this section and that, as of the date of the conveyance, the requirements are met providing for the application of G.S. 41-60(a)(1) protecting the real property from liability for the individual debts of either spouse.~~

(g) ~~A person entering into a transaction involving real property held in trust under this section may request confirmation from the trustee whether the provisions of G.S. 41-60(a)(1) are met at the time of the transaction.~~

**"§ 41-66. Common law of tenancy by the entirety; equitable principles.**

The common law of tenancy by the entirety and principles of equity supplement this Article except to the extent it conflicts or is inconsistent with a provision of this Article or the laws of this State."

## **PART II. CHANGES TO JOINT TENANCY**

**SECTION 2.(a)** Chapter 41 of the General Statutes is amended by creating a new Article 6, and G.S. 41-70 through G.S. 41-79 are reserved for that Article.

**SECTION 2.(b)** The following General Statutes are recodified in Article 6 of Chapter 41 of the General Statutes, as created by subsection (a) of this section, as set forth in the table below:

<u>Former Citation</u>	<u>Recodified Citation</u>
Third sentence of G.S. 41-2(a)	Second sentence of G.S. 41-73(c)(3)
Fourth sentence of G.S. 41-2(a)	First sentence of G.S. 41-73(c)(3)
First sentence of G.S. 41-2(b)	G.S. 41-72(a)
Second sentence of G.S. 41-2(b)	G.S. 41-72(d)
Third sentence of G.S. 41-2(b)	G.S. 41-74
Fourth sentence of G.S. 41-2(b)	G.S. 41-72(b)
Fifth sentence of G.S. 41-2(b)	G.S. 41-72(c)

**SECTION 2.(c)** Article 6 of Chapter 41 of the General Statutes, as created by subsection (a) of this section and containing the sections recodified in subsection (b) of this section, reads as rewritten:

"Article 6.

"Joint Tenancy.

### **"§ 41-70. Definitions.**

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

- (1) Conveyance. – A transfer of title to real or personal property by deed, devise, assignment, or other means of transferring title.
- (2) Termination. – A severance of the right of survivorship resulting in the creation of a tenancy in common as provided in this Article. The term is used in the context of an estate with a joint tenancy with a right of survivorship.

### **"§ 41-71. Creation of a joint tenancy with right of survivorship.**

(a) A conveyance to two or more persons creates a tenancy in common unless a joint tenancy with right of survivorship is created as provided in subsection (b) of this section or a tenancy by the entirety is created as provided by the law governing tenancy by the entireties.

(b) A conveyance to two or more persons creates a joint tenancy with right of survivorship if the instrument expresses an intent to create a joint tenancy with right of survivorship. The following words in the instrument shall be deemed to express an intent to create a joint tenancy with right of survivorship unless the instrument otherwise provides: "joint tenants with right of survivorship," "joint tenants," "joint tenancy," "tenants in common with right of survivorship," "joint with right of survivorship," "with right of survivorship."

(c) Nothing in this Article prohibits joint tenants from entering into any agreement with regard to the property held in joint tenancy, including, without limitation, an agreement that notice must be given to other joint tenants before any joint tenant terminates the joint tenancy as provided in G.S. 41-73(b).

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

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

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

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

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

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

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

- (1) The conveyance to a third party by all of the joint tenants of all of their interests in the property held in the joint tenancy, including a foreclosure sale pursuant to a power of sale in a deed of trust.
- (2) The execution of an instrument with a third party by all of the joint tenants that does not convey all of their interests in the property held in the joint tenancy to the third party, including a lease, executory contract of sale, option to purchase, or deed of trust, and an intention to terminate expressly appears in the instrument.
- (3) The execution of an instrument by all joint tenants for the purpose of expressing an intent to terminate the joint tenancy as between or among themselves.

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

- (1) The conveyance to a third party by a joint tenant of all of that joint tenant's interest in the property held in the joint tenancy, including a foreclosure sale pursuant to a power sale in a deed of trust.
- (2) The execution of an instrument with a third party by a joint tenant that does not convey all of that joint tenant's interest to the third party, including a lease, executory contract of sale, option to purchase, or deed of trust, and an intention to terminate expressly appears in the instrument.
- (3) The execution of an instrument by a joint tenant where the joint tenant is both the grantor and the grantee if the intention to terminate expressly appears in the instrument. A termination under this subdivision shall be effective only upon the recording, prior to the death of the joint tenant, of an instrument expressing an intent to terminate in the office of the register of deeds in the county or counties where the real property is situated.
- (4) The filing by a joint tenant of a petition to partition.

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

- (1) If a termination occurs under subdivision (1) of subsection (a) of this section because of the conveyance of all of the joint tenants' interests to a third party, a tenancy in common is created among the tenants as to any proceeds of sale or surplus funds generated from a foreclosure sale.
- (2) If a termination occurs because of the execution by all of the joint tenants of an instrument described in subdivision (2) or (3) of subsection (a) of this section, a tenancy in common is created among the tenants.

- (3) Upon conveyance to a third party by If a termination occurs under subdivision (a) of subsection (b) of this section because one of two the joint tenants holding property in joint tenancy with right of survivorship, conveys all of that joint tenant's interest to a third party and there are only two joint tenants, a tenancy in common is created between the third party and the remaining other joint tenant. Upon conveyance If there are more than two joint tenants and one of the joint tenants conveys all of that joint tenant's interests to a third party by less than all of three or more joint tenants holding property in joint tenancy with right of survivorship, party, a tenancy in common is created among the third party and the remaining joint tenants, who remain joint tenants with right of survivorship as between or among themselves.
- (4) If a termination occurs because of the execution by a joint tenant of an instrument described in subdivision (2) or (3) of subsection (b) of this section or because of the filing of a petition by a joint tenant as provided in subdivision (4) of subsection (b) of this section, and there are two joint tenants, a tenancy in common is created between the joint tenant causing the termination and the other joint tenant. If there are more than two joint tenants, a tenancy in common is created among the joint tenant causing the termination and the remaining joint tenants who continue as joint tenants with right of survivorship as between or among themselves.

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

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

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

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

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

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

This Article does not apply to any of the following:

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

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

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

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

A citation to a former statute recodified in Article 5 of Chapter 41 of the General Statutes, whether made before or after adoption of Article 5, shall be deemed to be a citation to the



recodified statute, unless application of this rule of construction would substantially impair the rights of a party."

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

### **PART III. REAL PROPERTY TECHNICAL CORRECTIONS**

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

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

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

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

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

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

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

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

- (1) In a division by cross-deed or deeds between or among the tenants in common if the instrument contains both of the following:
  - a. The intent of the tenant in common to create a tenancy by the entirety with his or her spouse in this exchange of deeds is clearly stated in the granting clause of the deed or deeds to the tenant in common and his or her spouse.
  - b. The deed or deeds to the tenant in common and his or her spouse ~~must be~~is signed by the tenant in common and ~~must be~~is acknowledged before a certifying officer in accordance with G.S. 52-10.
- (2) In a judicial proceeding for actual partition ~~the~~ where both spouses have the right to become parties to the proceeding and to have their pleadings state that the intent of the tenant in common is to create a tenancy by the entirety with his or her spouse. The order of partition must provide that the real property apportioned to the tenant in common and his or her spouse shall be owned by them as tenants by the entirety."

**PART IV. EFFECTIVE DATE**

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

In the General Assembly read three times and ratified this the 19<sup>th</sup> day of June, 2020.

s/ Philip E. Berger  
President Pro Tempore of the Senate

s/ David R. Lewis  
Presiding Officer of the House of Representatives

s/ Roy Cooper  
Governor

Approved 12:15 p.m. this 30<sup>th</sup> day of June, 2020