

NORTH CAROLINA GENERAL ASSEMBLY
1977 SESSION

CHAPTER 768
HOUSE BILL 504

AN ACT TO AMEND CHAPTER 39 OF THE GENERAL STATUTES RELATING TO CONVEYANCES, TO ALLOW CONVEYANCES OF REAL PROPERTY TO OR BY A BUSINESS TRUST.

The General Assembly of North Carolina enacts:

Section 1. Chapter 39 of the General Statutes is amended by inserting immediately after G.S. 39-39 a new Article 8 to read as follows:

"ARTICLE 8.

"Business Trusts.

"§ 39-44. Definition. — The term 'business trust' whenever used or referred to in this Article shall mean any unincorporated association, including but not limited to a Massachusetts business trust, engaged in any business or trade under a written instrument or declaration of trust under which the beneficial interest therein is divided into shares represented by certificates or shares of beneficial interest.

"§ 39-45. Authority to acquire and hold real estate. — Business trusts are hereby authorized and empowered to acquire real estate and interests therein and to hold the same in their trust names and may sue and be sued in their trust names.

"§ 39-46. Title vested; conveyance; probate. — Where real estate has been or may be hereafter conveyed to a business trust in its trust name or in the names of its trustees in their capacity as trustees of such business trust, the said title shall vest in said business trust, and the said real estate and interests therein may be conveyed, encumbered or otherwise disposed of by said business trust in its trust name by an instrument signed by at least one of its trustees, its president, a vice-president or other duly authorized officer, and attested or countersigned by its secretary, assistant secretary or such other officer as is the custodian of its common seal, not acting in dual capacity, with its official seal affixed, the said conveyance to be proven and probated in the same manner as provided by law for conveyances by corporations. Any conveyance, encumbrance or other disposition thus made by any such business trust shall convey good and sufficient title to said real estate and interests therein in accordance with the provisions of said conveyance; provided, however, that with respect to any such conveyance, encumbrance or other disposition effected after the effective date of this section, there must be recorded in the county where the land lies a memorandum of the written instrument or declaration of trust referred to in G.S. 39-44. As a minimum such memorandum shall set forth the name, date and place of filing, if any, of such written instrument or declaration of trust, and the place where the written instrument or declaration of trust, and all amendments thereto, is kept and may be examined upon reasonable notice, which place need not be a public office.

"§ 39-47. Prior deeds validated. — All deeds, leases, mortgages, deeds of trust or other conveyances heretofore executed in conformity with this Article and which are proper in all other respects are declared to be sufficient to pass title to real estate held by such business trusts in accordance with the provisions of such instruments."

Sec. 2. This act shall become effective upon ratification, and shall not affect pending litigation.

In the General Assembly read three times and ratified, this the 28th day of June, 1977.