

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2011

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SENATE DRS55198-LM-40A (02/14)

Short Title: Memo of Contract/Deeds & Deeds of Trust. (Public)

Sponsors: Senators Vaughan, Stein, and Newton (Primary Sponsors).

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT TO ALLOW THAT A CONTRACT TO CONVEY REAL ESTATE MAY BE
3 REGISTERED BY REGISTERING A MEMORANDUM OF CONTRACT AND TO
4 REQUIRE THAT DEEDS AND DEEDS OF TRUST PREPARED IN OTHER STATES
5 AND PRESENTED FOR REGISTRATION TO THE REGISTER OF DEEDS OF ANY
6 COUNTY IN THIS STATE SHALL BEAR AN ENTRY SHOWING THE NAME OF
7 EITHER THE PERSON OR LAW FIRM WHO DRAFTED THE INSTRUMENT.

8 The General Assembly of North Carolina enacts:

9 **SECTION 1.** Article 8 of Chapter 47 of the General Statutes is amended by adding
10 a new section to read as follows:

11 **"§ 47-119.1. Form of memorandum for contract to purchase real estate.**

12 A contract to convey real estate may be registered by registering a memorandum thereof
13 which shall set forth all of the following:

- 14 (1) The names of the parties thereto.
15 (2) A description of the property which is subject to the contract.
16 (3) The expiration date of the contract.
17 (4) Reference sufficient to identify the complete agreement between the parties.

18 The memorandum may be in substantially the following form:

19 NORTH CAROLINA

20 _____ COUNTY

21 _____
22 _____
23 (Name and address of person contracting to sell real estate)

24 and

25 _____
26 (Name and address of person contracting to purchase real estate)

27 have entered into a contract to sell and purchase the following property:

28 _____
29 (Here describe property)

30 This contract provides for a closing date of the _____ day of _____, _____.

31 The provisions set forth in a written contract to convey real estate between the parties dated
32 the day of _____, _____, are hereby incorporated in this memorandum.

33 Witness our hand(s) and seal(s) this _____ day of _____, _____

34 (Seal)

35 (Seal)



1 [Acknowledgement notarial certificate by all parties, as provided by applicable law in order
2 to register in the office of the register of deeds of the county in which the property is located.]

3 The titles of the contract and the parties thereto, as contained in the original written
4 contract, may be substituted in lieu of the above references."

5 **SECTION 2.** G.S. 47-120 reads as rewritten:

6 "**§ 47-120. Memorandum as notice.**

7 Such memorandum of ~~an option to purchase real estate, or lease a lease, an option to~~
8 purchase real estate, or a contract to convey real estate as proposed by ~~G.S. 47-118 or~~
9 47-119, G.S. 47-118, 47-119, or 47-119.1 when executed, acknowledged, delivered and
10 registered as required by law, shall be as good and sufficient notice, and have the same force
11 and effect as if the written ~~lease or lease, option to purchase real estate estate, or contract to~~
12 convey had been registered in its entirety. However, it shall be conclusively presumed that the
13 conditions of any contract to purchase that is the subject of a recorded memorandum under this
14 section have been complied with or have expired and are no longer enforceable as against
15 creditors or purchasers for valuable consideration who have recorded their interests after the
16 memorandum from and after the expiration of 60 days from whichever of the following events
17 occurs last:

18 (1) The closing date stated in the memorandum, or any recorded extension or
19 renewal of the memorandum, signed by the parties and acknowledged before
20 an officer authorized to take acknowledgements.

21 (2) The date when the conditions of the contract to convey, including payment
22 of the last installment of earnest money or balance of purchase price (other
23 than a purchase money note or deed of trust), and delivery of the deed from
24 the seller to buyer were required by the terms of the recorded memorandum
25 to have been performed, or the date of any recorded extension or renewal
26 thereof signed by the parties and acknowledged before an officer authorized
27 to take acknowledgements."

28 **SECTION 3.** G.S. 47-17.1 reads as rewritten:

29 "**§ 47-17.1. Documents registered or ordered to be registered in certain counties to**
30 **designate draftsman; exceptions.**

31 The register of deeds of any county in North Carolina shall not accept for registration, nor
32 shall any judge order registration pursuant to G.S. 47-14, of any deeds or deeds of trust,
33 executed after January 1, 1980, unless the first page of the deeds or deeds of trust bears an
34 entry showing the name of either the person or law firm who drafted the ~~instrument, except that~~
35 ~~papers or documents prepared in other states may be registered or ordered to be registered~~
36 ~~without having the name of either the person or law firm who drafted the instrument designated~~
37 thereon-instrument."

38 **SECTION 4.** This act is effective when it becomes law. Sections 2 and 3 of this act
39 apply to all memoranda of contracts to purchase real estate recorded prior to and on or after the
40 date this act becomes effective.