

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2021

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SENATE BILL 196
House Committee Substitute Favorable 6/29/21
PROPOSED HOUSE COMMITTEE SUBSTITUTE S196-CSBK-12 [v.5]

06/29/2021 08:11:03 PM

Short Title: GSC Sale of Property Amend/Delay Prosec Split.

(Public)

Sponsors:

Referred to:

March 9, 2021

1 A BILL TO BE ENTITLED
2 AN ACT TO (I) UPDATE THE MAILING METHOD OF NOTICE TO A JUDGMENT
3 DEBTOR OF AN EXECUTION SALE OF REAL PROPERTY, (II) CLARIFY THE
4 EFFECTS OF A DEFAULT BID IN PRIVATE JUDICIAL SALES AND PUBLIC OR
5 PRIVATE PARTITION SALES, (III) AMEND THE TAX FORECLOSURE STATUTES
6 AND MAKE TECHNICAL CHANGES, (IV) MAKE AMENDMENTS AFFECTING THE
7 VALIDITY OF NOTARIAL ACTS, (V) MAKE AMENDMENTS AFFECTING REAL
8 PROPERTY, AS RECOMMENDED BY THE GENERAL STATUTES COMMISSION,
9 AND (VI) TO DELAY THE REASSIGNMENT OF DISTRICT 36, BURKE, CALDWELL,
10 AND CATAWBA COUNTIES, INTO TWO SEPARATE PROSECUTORIAL DISTRICTS
11 The General Assembly of North Carolina enacts:

12
13 **PART I. UPDATE MAILING METHOD OF NOTICE IN EXECUTION SALES**

14 **SECTION 1.(a)** G.S. 1-339.54 reads as rewritten:

15 **"§ 1-339.54. Notice to judgment debtor of sale of real property.**

16 In addition to complying with G.S. 1-339.52, relating to posting and publishing the notice of
17 sale, the sheriff shall, at least ten days before the sale of real property, take the following action:

- 18 (1) If the judgment debtor is found in the county, serve a copy of the notice of
19 sale on ~~him personally, or the judgment debtor personally.~~
20 (2) If the judgment debtor is not found in the county, send and serve notice as
21 follows:
22 a. Send a copy of the notice of sale by registered ~~mail or certified mail,~~
23 return receipt requested, to the judgment debtor at ~~his the judgment~~
24 debtor's last address known to the sheriff, and sheriff.
25 b. Serve a copy of the notice of sale on the judgment debtor's agent, if
26 there is in the county a person known to the sheriff to be an agent who
27 has custody or management of, or who exercises control over, any
28 property in the county belonging to the judgment debtor."

29 **SECTION 1.(b)** This section becomes effective October 1, 2021, and applies to
30 executions issued on or after that date.

31
32 **PART II. CLARIFY EFFECTS OF DEFAULT BIDS IN PRIVATE JUDICIAL SALES**
33 **AND PUBLIC OR PRIVATE PARTITION SALES**

34 **SECTION 2.(a)** G.S. 1-339.36 reads as rewritten:

35 **"§ 1-339.36. Private sale; upset bid; subsequent ~~procedure.~~ procedure; defaulting bidder.**



* S 1 9 6 - C S B K - 1 2 *

(a) Every private sale of real or personal property, except a sale of personal property as provided by G.S. 1-339.34, is subject to an upset bid on the same conditions and in the same manner as is provided by G.S. 1-339.25.

(b) When an upset bid is made for property sold at private sale, subsequent procedure with respect to the upset bid is the same as for upset bids submitted in connection with real property sold at public sale, except that the notice of any resale of personal property held pursuant to an order granted under G.S. 1-339.27A need not be published in a newspaper but shall be posted as provided by G.S. 1-339.17.

(c) Subsections (e) and (f) of G.S. 1-339.30 apply to a defaulting bidder in a private sale."

SECTION 2.(b) Part 3 of Article 2 of Chapter 46A of the General Statutes is amended by adding a new section to read:

"§ 46A-84.5. Petition for revocation based on default bid.

If a purchaser in a partition sale defaults on the purchaser's bid, any party to the partition proceeding or the officer or person designated to make the sale may at any time petition the court to revoke its order confirming the partition sale. The petitioner for revocation shall serve all parties required to be served under G.S. 1A-1, Rule 5, and, if the purchaser is not a party, serve the purchaser under G.S. 1A-1, Rule 4(j). If the court finds that the purchaser defaulted on the purchaser's bid and is unable to cure the default, the court shall revoke its order of confirmation and order a resale."

SECTION 2.(c) G.S. 46A-83 reads as rewritten:

"§ 46A-83. Petition for revocation of confirmation order.

(a) Grounds for Revocation. – Notwithstanding G.S. 46A-76 or any other provision of law, within 15 days of entry of the order confirming the partition sale of real property, the purchaser or any party to the partition proceeding may petition the court to revoke its order of confirmation and to order the withdrawal of the purchaser's offer to purchase the property upon the following grounds:

- (1) In the case of a purchaser, a lien remains unsatisfied on the property to be conveyed.
- (2) In the case of any party to the partition proceeding, any of the following:
 - a. Notice of the partition was not served on the petitioner for revocation as required by G.S. 1A-1, Rule 4.
 - b. Notice of the sale was not mailed to the petitioner for revocation as required by G.S. 46A-76(d).
 - c. The amount bid or price offered is inadequate and inequitable and will result in irreparable damage to the owners of the real property.

In no event shall the confirmation order become final during the pendency of a petition under this section. No upset bid shall be permitted after the entry of the confirmation order.

...

(c) Service; Notice of Hearing. – The party petitioning for revocation shall ~~deliver a copy of the petition to~~ serve all parties required to be served under G.S. 1A-1, Rule 5, and shall serve the officer or person designated to make the sale under G.S. 1A-1, Rule 4(j). The court shall schedule a hearing on the petition within a reasonable time and shall cause a notice of the hearing to be served on the petitioner, the officer or person designated to make the sale, and all parties required to be served under G.S. 1A-1, Rule 5.

...."

SECTION 2.(d) This section is effective when it becomes law and applies to actions or proceedings pending on or commenced on or after that date.

PART III. AMENDMENTS REGARDING COMMISSIONER'S FEES IN TAX FORECLOSURE ACTIONS AND REMOVAL OF OBSOLETE LANGUAGE

SECTION 3.(a) G.S. 105-374 reads as rewritten:

"§ 105-374. Foreclosure of tax lien by action in nature of action to foreclose a mortgage.

(a) General Nature of Action. – The foreclosure action authorized by this section is in the nature of an action to foreclose a mortgage and shall be instituted in the appropriate division of the General Court of Justice in the county in which the real property is situated and shall be an action in the nature of an action to foreclose a mortgage situated.

(b) Tax Lien. – Taxing units may proceed under this section, ~~either section on the original tax lien created by G.S. 105-355(a) or on the lien acquired at a tax lien sale held under former G.S. 105-369 before July 1, 1983, with or without a lien sale certificate; and the amount of recovery in either case shall be the same. To this end, it is hereby declared that the original attachment of the tax lien under G.S. 105-355(a) is sufficient to support a tax foreclosure action by a taxing unit, that the issuance of a lien sale certificate to the taxing unit for lien sales held before July 1, 1983, is a matter of convenience in record keeping within the discretion of the governing body of the taxing unit, and that issuance of such certificates is not a prerequisite to perfection of the tax lien.~~ G.S. 105-355(a).

(c) Parties; Summonses. ~~The owner of record as of the date the taxes became delinquent and spouse (if any), any subsequent owner, all other taxing units having tax liens, all other lienholders of record, and all persons who would be entitled to be made parties to a court action (in which no deficiency judgment is sought) to foreclose a mortgage on such property.~~ Summons. – Each of the following persons shall be made parties and shall be served with ~~summonses a summons~~ in the manner provided by ~~G.S. 1A-1, Rule 4.~~ G.S. 1A-1, Rule 4:

(1) The owner of record and the owner's spouse, if any.

(2) All other taxing units having tax liens.

(3) All other lienholders of record.

(4) All persons that would be entitled to be made parties to a court action to foreclose a mortgage on the property in which no deficiency judgment is sought.

A trustee in a deed of trust shall not be made a party and shall not be served.

The fact that the owner of record ~~as of the date the taxes became delinquent, any subsequent owner, or any other defendant is a minor, is incompetent, or is under any other disability shall not prevent or delay the tax lien sale or the foreclosure of the tax lien; and all such~~ each of these persons shall be made parties and shall be served with a summons in the same manner as in other civil actions.

Persons ~~who have disappeared or who that cannot be located and located, persons whose names and whereabouts are unknown, and all possible heirs or assignees of such persons, these~~ persons may be served by publication; and ~~such these~~ these persons, their heirs, and assignees may be designated by general description or by fictitious names in ~~such an the~~ the action.

(c1) Lienholders Separately Designated. – The word "lienholder" shall appear immediately after the name of each lienholder ~~(including trustees and beneficiaries in deeds of trust, and holders of judgment liens)~~ whose name appears in the caption of any action instituted under the provisions of this section. ~~Such This~~ This designation is intended to make clear to the public the capacity of ~~such these~~ these persons ~~which that~~ which necessitated their having been made parties to ~~such the~~ the action. Failure to add ~~such this~~ this designation to captions ~~shall does~~ does not constitute grounds for attacking the validity of ~~actions an action~~ an action brought under this ~~section, section or titles the title~~ section to real property derived from ~~such actions the action.~~ the action.

(d) Complaint as Lis Pendens. – The complaint in an action brought under this section shall, from the time it is filed in the office of the clerk of superior court, serve as notice of the pendency of the foreclosure action, and every person whose interest in the real property is subsequently acquired or whose interest ~~therein in the property~~ in the property is subsequently registered or recorded shall be bound by all proceedings taken in the foreclosure action after the filing of the complaint in the same manner as if those persons had been made parties to the action. It ~~shall not~~

1 ~~be is not~~ necessary to have the complaint cross-indexed as a notice of action pending to have the
2 effect prescribed by this ~~subsection (d).~~subsection.

3 (e) Subsequent Taxes. – The complaint in a tax foreclosure action brought under this
4 section by a taxing unit shall, in addition to alleging the tax lien on which the action is based,
5 include a general allegation of subsequent taxes ~~which that~~ are or may become a lien on the same
6 real property in favor of the plaintiff unit. Thereafter it shall not be necessary to amend the
7 complaint to incorporate the subsequent taxes by specific allegation. In case of redemption before
8 confirmation of the foreclosure sale, the person redeeming shall be required to pay, before the
9 foreclosure action is discontinued, at least all taxes on the real property ~~which that~~ have at the
10 time of discontinuance become due to the plaintiff unit, plus penalties, interest, and ~~costs thereon.~~
11 costs. Immediately prior to judgment ordering sale in a foreclosure ~~action (if action, if there has~~
12 ~~been no redemption prior to that time); time,~~ the tax collector or the attorney for the plaintiff unit
13 shall file in the action a certificate setting forth all taxes ~~which that~~ are a lien on the real property
14 in favor of the plaintiff ~~unit (other unit, other~~ than taxes the amount of which has not been
15 definitely ~~determined).~~determined.

16 (e1) Taxes Paid by Plaintiff. – Any plaintiff in a tax foreclosure ~~action (other action, other~~
17 ~~than a taxing unit) unit,~~ may include in ~~his the~~ complaint, originally or by amendment, all other
18 taxes and special assessments paid by ~~him which the plaintiff that~~ were liens on the same real
19 property.

20 (f) Joinder of Parcels. – All real property within the taxing unit subject to liens for taxes
21 levied against the same taxpayer for the first year involved in the foreclosure action may be joined
22 in one action. However, if real property is transferred by the listing taxpayer subsequent to the
23 first year involved in the foreclosure action, all subsequent taxes, penalties, interest, and costs
24 ~~(for for which the property is ordered sold under the terms of this Subchapter) this Subchapter~~
25 shall be prorated to ~~such the~~ property in the same manner as if payments were being made to
26 release ~~such the~~ property from the tax lien under ~~the provisions of G.S. 105-356(b).~~

27 (g) Special Benefit Assessments. – A cause of action for the foreclosure of the lien of any
28 special benefit assessments may be included in any complaint filed under this section.

29 (h) Joint Foreclosure by Two or More Taxing Units. – Liens of different taxing units on
30 the same parcel of real property, representing taxes in the hands of the same tax collector, shall
31 be foreclosed in one action. Liens of different taxing units on the same parcel of real property,
32 representing taxes in the hands of different tax collectors, may be foreclosed in one action in the
33 discretion of the governing bodies of the taxing units.

34 The lien of any taxing unit made a party defendant in any foreclosure action shall be alleged
35 in an answer filed by the taxing unit, and the tax collector of each answering unit shall, prior to
36 judgment ordering sale, file a certificate of subsequent taxes similar to that filed by the tax
37 collector of the plaintiff unit, and the taxes of each answering unit shall be of equal dignity with
38 the taxes of the plaintiff unit. Any answering unit may, in case of payment of the plaintiff unit's
39 taxes, continue the foreclosure action until all taxes due to it have been paid, and it ~~shall not be~~
40 is not necessary for any answering unit to file a separate foreclosure action or to proceed under
41 G.S. 105-375 with respect to ~~any such the~~ taxes.

42 If a taxing unit properly served as a party defendant in a foreclosure action fails to answer
43 and file the certificate of subsequent taxes provided for in ~~the preceding paragraph, this~~
44 subsection, all of its taxes shall be barred by the judgment of sale except to the extent that the
45 purchase price at the foreclosure sale ~~(after sale, after~~ payment of costs and of the liens of all
46 taxing units whose liens are properly alleged by complaint or answer and ~~certificates) may be~~
47 certificates, is sufficient to pay such the taxes. However, if a defendant taxing unit is plaintiff in
48 another foreclosure action pending against the same property, or if it has begun a proceeding
49 under G.S. 105-375, its answer may allege that fact in lieu of alleging its liens, and the court, in
50 its discretion, may order consolidation of ~~such the~~ actions or such other disposition ~~thereof (and~~
51 ~~such disposition of the costs therein) of the actions, including disposition of the costs, as it may~~

1 ~~deem~~-deems advisable. ~~Any such~~-The order may be made by the clerk of the superior court,
2 subject to appeal as provided in G.S. 1-301.1.

3 (i) Costs. – ~~Subject to the provisions of this subsection (i),~~ Except as modified by this
4 subsection, costs may be taxed in any foreclosure action brought under this section in the same
5 manner as in other civil actions. When costs are collected, either by payment prior to the sale or
6 upon payment of the purchase price at the foreclosure sale, the fees allowed officers shall be paid
7 to those entitled to receive them. In foreclosure actions in which the plaintiff is a taxing unit, no
8 prosecution bond shall be required.

9 The word "costs," as used in this ~~subsection (i), shall be construed to include one subsection,~~
10 includes a reasonable attorney's fee for the plaintiff in such amount as the court shall, in its
11 discretion, determine and allow. When a taxing unit is made a party defendant in a tax foreclosure
12 action and files ~~answer therein, there may be included an answer, the court may include in the~~
13 costs an attorney's fee for the defendant unit in such amount as the court shall, an amount that
14 the court, in its discretion, determine and allow. ~~determines and allows.~~ The governing body of
15 any taxing unit may, in its discretion, pay a smaller or greater sum than that allowed as costs to
16 its attorney as a suit fee, and the governing body may allow a reasonable commission to its
17 attorney on taxes collected by ~~him after they have been placed in his hands; or the attorney.~~
18 Alternatively, the governing body may arrange with its attorney for the handling of tax
19 foreclosure suits on a salary basis or may make any other reasonable agreement with its ~~attorney~~
20 ~~or attorneys.~~ attorney. Any arrangement made between a taxing unit and its attorney may provide
21 that attorneys' fees collected as costs in foreclosure actions shall be collected for the use of the
22 taxing unit.

23 In any foreclosure action in which real property is actually sold after judgment, costs shall
24 include a commissioner's fee to be fixed by the court, not exceeding five percent (5%) of the
25 purchase price; and in case of redemption between the date of sale and the order of confirmation,
26 the fee shall be added to the amount otherwise necessary for redemption. In case more than one
27 sale is made of the same property in any action, the commissioner's fee may be based on the
28 highest amount bid, but the commissioner shall not be allowed a separate fee for each such sale.
29 The governing body of any plaintiff unit may request the court to appoint as commissioner a
30 salaried official, attorney, or employee of the unit and, when the requested appointment is made,
31 may require that the commissioner's fees, when collected, be paid to the plaintiff unit for its use.

32 (j) Contested Actions. – Any action brought under this section in which an answer raising
33 an issue requiring trial is filed within the time allowed by law ~~shall be~~ is entitled to a preference
34 as to time of trial over all other civil actions.

35 (k) Judgment of Sale. – Any judgment in favor of the plaintiff or any defendant taxing
36 unit in an action brought under this section shall order the sale of the real property or as much as
37 may be necessary for the satisfaction of all of the following:

- 38 (1) Taxes adjudged to be liens in favor of the ~~plaintiff (other plaintiff, other than~~
39 ~~taxes the amount of which has not been definitely determined)-determined,~~
40 together with penalties, interest, and costs thereon-costs.
- 41 (2) Taxes adjudged to be liens in favor of other taxing ~~units (other units, other~~
42 ~~than taxes the amount of which has not yet been definitely determined)-~~
43 determined, if those taxes have been alleged in answers filed by the other
44 taxing units, together with penalties, interest, and costs thereon-costs.

45 The judgment shall appoint a commissioner to conduct the sale and shall order that the property
46 be sold in fee simple, free and clear of all interests, rights, claims, and liens whatever, except that
47 the sale shall be subject to (i) taxes the amount of which cannot be definitely determined at the
48 time of the judgment, (ii) taxes and special assessments of taxing units which are not parties to
49 the action, ~~and, and~~ (iii) in the discretion of the court, taxes alleged in other tax foreclosure actions
50 or proceedings pending against the same real property.

1 In all cases in which no answer is filed within the time allowed by law, and in cases in which
2 answers filed do not seek to prevent sale of ~~said the~~ property, the clerk of the superior court may
3 enter the judgment, subject to appeal as provided in G.S. 1-301.1.

4 (l) Advertisement of Sale. – The sale ~~shall be advertised,~~ and all necessary resales shall
5 be ~~advertised,~~ advertised in the manner provided by Article 29A of Chapter 1 of the General
6 ~~Statutes or by any statute enacted in substitution therefor.~~ Statutes.

7 (m) Sale. – The sale shall be by public auction to the highest bidder and shall, in
8 accordance with the judgment, be held at the courthouse door on any day of the week except a
9 Sunday or legal holiday when the courthouse is closed for transactions. ~~(In In actions brought by~~
10 ~~a municipality that is not a county seat, the court may, in its discretion, direct that the sale be held~~
11 ~~at the city or town hall door.)~~ door.

12 (m1) Deposit from Bidder. – The commissioner conducting the sale may, in ~~his the~~
13 commissioner's discretion, require from any successful bidder a deposit equal to not more than
14 twenty percent (20%) of ~~his bid, which deposit, in the bid.~~ In the event that the bidder refuses to
15 take title and a resale becomes necessary, the deposit shall be applied to pay the costs of sale and
16 any loss resulting. ~~(However, this provision shall not deprive~~ Nothing in this subsection deprives
17 the commissioner of his the commissioner's right to sue for specific performance of the contract.)
18 contract. No deposit shall be required of a taxing unit that has made the highest bid at the
19 foreclosure sale.

20 (n) Report of Sale. – Within three days following the foreclosure ~~sale sale,~~ the
21 commissioner shall report the sale to the court giving full particulars thereof of the sale.

22 (o) Exceptions and Increased Bids. – At any time within 10 days after the commissioner
23 files ~~his the~~ report of the foreclosure sale, any person having an interest in the real property may
24 file exceptions to the report, and at any time within that 10-day ~~period period,~~
25 may be filed in the amount specified by and subject to the provisions ~~(other than provisions in~~
26 ~~conflict herewith)~~ of Article 29A of Chapter 1 of the General Statutes or the provisions (other
27 than provisions in conflict herewith) of any law enacted in substitution therefor. Statutes, except
28 as otherwise provided by this section. In the absence of exceptions or increased bids, the court
29 may, whenever it deems ~~such action it~~ necessary for the best interests of the parties, order resale
30 of the property.

31 (p) Judgment of Confirmation. – At any time after the expiration of 10 days from the time
32 the commissioner files ~~his the~~ report, if no exception or increased bid has been filed, the
33 commissioner may apply for judgment of confirmation, and in like manner ~~he the commissioner~~
34 may apply for ~~such a~~ judgment of confirmation after the court has passed upon exceptions filed,
35 or after any necessary resales have been held and reported and 10 days have elapsed. The
36 judgment of confirmation shall direct the commissioner to deliver the deed upon payment of the
37 purchase price. This judgment may be entered by the clerk of superior court subject to appeal as
38 provided in G.S. 1-301.1. This judgment shall bear interest at the same rate as a judgment entered
39 under G.S. 105-375.

40 (q) Application of Proceeds; Commissioner's Final Report. – After delivery of the deed
41 and collection of the purchase price, the commissioner shall apply the proceeds as follows:

- 42 (1) First, to payment of all costs of the action, including the commissioner's fee
43 and the attorney's ~~fee, which costs fee.~~ The costs shall be paid to the officials
44 or funds entitled thereto; to them.
- 45 (2) Then to the payment of taxes, penalties, and interest for which the real
46 property was ordered to be sold, and in case the funds remaining are
47 insufficient for this purpose, they shall be distributed pro rata to the various
48 taxing units for whose taxes the property was ordered ~~sold; sold.~~
- 49 (3) Then pro rata to the payment of any special benefit assessments for which the
50 property was ordered sold, together with interest and ~~costs thereon; costs.~~

- (4) Then pro rata to payment of taxes, penalties, interest, and costs of taxing units that were parties to the foreclosure action but ~~which that~~ filed no answers therein; in the action.
- (5) Then pro rata to payment of special benefit assessments of taxing units that were parties to the foreclosure action but ~~which that~~ filed no answers therein, in the action, together with interest and ~~costs thereon; costs.~~
- (6) And any balance then remaining shall be paid in accordance with any directions given by the court and, in the absence of ~~such~~ directions, shall be paid into court for the benefit of the persons entitled ~~thereto.~~ (If to it. If the clerk is in doubt as to ~~who~~ which person is entitled to the surplus or if any adverse claims are asserted thereto, to the surplus, the clerk shall hold the surplus until rights ~~thereto to it~~ are established in a special proceeding pursuant to ~~G.S. 1-339.71.)~~ G.S. 1-339.71.

Within five days after delivering the deed, the commissioner shall make a full report to the court showing delivery of the deed, receipt of the purchase price, and the disbursement of the proceeds, accompanied by receipts evidencing all ~~such the~~ disbursements.

(r) Purchase and Resale by Taxing Unit. – The rights of a taxing unit to purchase real property at a foreclosure sale and resell it are governed by G.S. 105-376."

SECTION 3.(b) G.S. 105-375 reads as rewritten:

"§ 105-375. In rem method of foreclosure.

(a) Intent of Section. – ~~It is hereby declared to be the intention of this section that proceedings brought under it shall be this section are strictly in rem. It is further declared to be the intention of this section to provide.~~ This section provides, as an alternative to G.S. 105-374, a simple and inexpensive method of enforcing payment of taxes necessarily levied, to the knowledge of all persons, for the requirements of local governments in this State; ~~and to recognize, State and recognizes,~~ in authorizing this proceeding, that all persons owning interests in real property know or should know that the tax lien on their real property may be foreclosed and the property sold for failure to pay taxes.

(b) Docketing Certificate of Taxes as Judgment. – In lieu of following the procedure set forth in G.S. 105-374, the governing body of any taxing unit may direct the tax collector to file with the clerk of superior court, no earlier than 30 days after the tax liens were advertised, a certificate showing the following: the name of the ~~taxpayer taxpayer,~~ as defined in ~~G.S. 105-273(17),~~ G.S. 105-273, for each parcel on which the taxing unit has a lien for unpaid taxes, together with the amount of taxes, penalties, interest, and costs that are a lien ~~thereon; on it;~~ the year or years for which the taxes are due; and a description of the property sufficient to permit its identification by parol testimony. The fees for docketing and indexing the certificate assessed pursuant to G.S. 7A-308(a)(11) ~~shall be~~ are payable to the clerk of superior court at the time the taxes are collected or the property is sold.

(c) Notice to Taxpayer and Others. –

- (1) Notice required. – The tax collector filing the certificate provided for in subsection (b) of this section, shall, at least 30 days prior to docketing the judgment, send notice of the tax lien foreclosure to the taxpayer, as defined in ~~G.S. 105-273(17),~~ G.S. 105-273, at the taxpayer's last known ~~address, address~~ and to all lienholders of record ~~who have a lien against the taxpayer (including any liens referred to in the conveyance of the property to the taxpayer);~~ required to be served under G.S. 105-374(c).

- (2) Contents of notice. – ~~All The~~ The notice required by this subsection shall state that a judgment will be docketed and the proposed date of the docketing, state that execution will be issued as provided by law, provide a brief description of the real property affected, and state that the lien may be satisfied prior to judgment being entered.

- 1 (3) Service of notice. – The notice required by this subsection shall be sent to the
2 ~~taxpayer~~ by registered or certified mail, return receipt requested.
- 3 (4) Additional efforts may be required. – If within 10 days following the mailing
4 of ~~the~~ a notice, a return receipt has not been received by the tax collector
5 indicating receipt of the notice, then the tax collector shall do both of the
6 following:
- 7 a. Make reasonable efforts to locate and notify the ~~taxpayer~~ taxpayer, if
8 not yet notified, and all unnotified lienholders of record prior to the
9 docketing of the judgment and the issuance of the execution.
10 Reasonable efforts may include posting the notice in a conspicuous
11 place on the property, or, if the property has an address to which mail
12 may be delivered, mailing the notice by first-class mail to the attention
13 of the occupant.
- 14 b. Have a notice published in a newspaper of general circulation in the
15 county once a week for two consecutive weeks directed to, and
16 naming, all unnotified lienholders and the taxpayer that a judgment
17 will be docketed against the taxpayer.
- 18 (5) Costs of notice added to lien. – All costs of mailing and publication, plus a
19 charge of two hundred fifty dollars (\$250.00) to defray administrative costs,
20 shall be added to the amount of taxes that are a lien on the real property and
21 shall be paid by the taxpayer to the taxing unit at the time the taxes are
22 collected or the property is sold.
- 23 (d) Effect of Docketing Certificate of Taxes Due. – Immediately upon the docketing and
24 indexing of a certificate as provided in subsection ~~(b), above, (b)~~ of this section, the taxes,
25 penalties, interest, and costs ~~shall constitute~~ constitute a valid judgment against the real property
26 described ~~therein, in the judgment~~, with the priority provided for tax liens in G.S. 105-356. The
27 judgment, except as expressly provided in this section, ~~shall have~~ has the same force and effect
28 as a duly rendered judgment of the superior court directing sale of the property for the satisfaction
29 of the tax lien, and it shall bear interest at an annual rate of eight percent (8%).
- 30 (e) Special Assessments. – Street, sidewalk, and other special assessments may be
31 included in any judgment for taxes taken under this section, or the special assessments may be
32 included in a separate judgment docketed under this section. The tax collector may use ~~such a~~
33 the judgment as a method of foreclosing the lien of special assessments. When used to foreclose
34 the lien of special assessments, the procedure may be instituted at any time after the assessment
35 or installment falls due and remains unpaid; the waiting period required by subsection (b) of this
36 section does not apply to the foreclosure of special assessments.
- 37 (f) Motion to Set Aside. – At any time prior to the issuance of execution, any person
38 having an interest in the real property to be foreclosed may appear before the clerk of superior
39 court and move to set aside the judgment on the ground that the tax has been paid or that the tax
40 lien on which the judgment is based is invalid.
- 41 (g) Cancellation upon Payment. – Upon payment in full of any judgment docketed under
42 this section, together with interest ~~thereon~~ and costs accrued to the date of payment, the tax
43 collector receiving payment shall certify the fact ~~thereof~~ of the payment to the clerk of superior
44 court and cancel the judgment.
- 45 (h) Relationship between G.S. 105-374 and This Section. – If, before the issuance of
46 execution on the judgment under subsection ~~(i), below, (i)~~ of this section, the taxing unit is made
47 a defendant in a foreclosure action brought against the property under G.S. 105-374, it shall file
48 an answer in that proceeding and thereafter all proceedings shall be governed by order of the
49 court in accordance with that section.
- 50 (i) Issuance of Execution. – At any time after three months and before two years from
51 the indexing of the judgment as provided in subsection ~~(b), above, (b)~~ of this section, execution

shall be issued at the request of the tax collector in the same manner as executions are issued upon other judgments of the superior court, and the real property shall be sold by the sheriff in the same manner as other real property is sold under execution with the following exceptions:

(1) No debtor's exemption shall be allowed.

(2) ~~In lieu of personal service of notice on the taxpayer, the sheriff shall send notice by registered or certified mail, return receipt requested, to the taxpayer at the taxpayer's last known address at least 30 days prior to the day fixed for the sale.~~ At least 30 days prior to the day fixed for the sale, the sheriff shall send notice by registered or certified mail, return receipt requested, to the taxpayer at the taxpayer's last known address, in lieu of personal service, and to all lienholders of record. If within 10 days following the mailing of the a notice, a return receipt has not been received by the sheriff indicating receipt of the notice, then the sheriff shall make additional efforts to locate and notify the taxpayer-taxpayer, if not yet notified, and all unnotified lienholders of record of the sale under execution in accordance with subdivision (4) of subsection (c) of this section.

(3) The sheriff shall add to the amount of the judgment as costs of the sale any postage expenses incurred by the tax collector and the sheriff in foreclosing under this section.

(4) In any advertisement or posted notice of sale under execution, the sheriff may (and at the request of the governing body shall) combine the advertisements or notices for properties to be sold under executions against the properties of different taxpayers in favor of the same taxing unit or group of units; however, the property included in each judgment shall be separately described and the name of the taxpayer specified in connection with ~~each~~ each property.

The purchaser at the execution sale ~~shall acquire~~ acquires title to the property in fee simple free and clear of all claims, rights, interests, and liens except the liens of other taxes or special assessments not paid from the purchase price and not included in the judgment.

(i1) Fee. – The fee assessed in G.S. 7A-308(a)(1a) ~~shall be~~ is payable to the clerk of superior court out of the sale proceeds at the time the property is sold.

(j) Attorney's Fee. – The governing body of the taxing unit may make whatever arrangement it deems satisfactory for compensating an attorney rendering assistance or advice in foreclosure proceedings brought under this section, but the attorney's fee shall not be added to the judgment as part of the costs of the action.

(k) Consolidation of Liens. – By agreement between the governing bodies, two or more taxing units may consolidate their tax liens for the purpose of docketing a judgment, or may have one execution issued for separate judgments, against the same property. In like manner, one execution may issue for separate judgments in favor of one or more taxing units against the same property for different years' taxes.

(l) Purchase and Resale by Taxing Unit. – The rights of a taxing unit to purchase real property at a foreclosure sale and resell it are governed by G.S. 105-376.

(m) Procedure if Section Declared Unconstitutional. – If any provisions of this section are declared invalid or unconstitutional by the Supreme Court of North Carolina, a United States district court of three judges, the United States Circuit Court of Appeals, or the United States Supreme Court, all taxing units that have proceeded under this section shall have five years from the date of the filing of the opinion (or, in the case of appeal, from the date of the filing of the opinion on appeal) in which to institute foreclosure actions under G.S. 105-374 for all taxes included in judgments taken under this section and for subsequent taxes due or which, but for purchase of the property by the taxing unit, would have become due; and ~~such the~~ judicial decision shall not have the effect of invalidating the tax lien or disturbing its priority."

SECTION 3.(c) G.S. 105-373 reads as rewritten:

"§ 105-373. Settlements.

(a) Annual Settlement of Tax Collector. –

(1) Preliminary Report. – After July 1 and before ~~he~~a tax collector is charged with taxes for the current fiscal year, the tax collector shall make a sworn report to the governing body of the taxing unit ~~showing~~showing all of the following:

a. A list of the persons owning real property whose taxes for the preceding fiscal year remain unpaid and the principal amount owed by each ~~person~~and person.

b. A list of the persons not owning real property whose personal property taxes for the preceding fiscal year remain unpaid and the principal amount owed by each person. ~~(To~~To this list the tax collector shall append ~~his~~a statement under oath that ~~he~~the tax collector has made diligent efforts to collect the taxes due from the persons listed out of their personal property and by other means available ~~to him~~for collection, and ~~he~~the tax collector shall report ~~such~~any other information concerning these taxpayers ~~as that~~as that may be of interest to or required by the governing body, including a report of ~~his~~the tax collector's efforts to make collection outside the taxing unit under ~~the provisions of G.S. 105-364.)~~G.S. 105-364. The governing body of the taxing unit may publish this list in any newspaper in the taxing unit. The cost of publishing this list shall be paid by the taxing unit.

(2) Insolvents. – Upon receiving the report required by subdivision ~~(a)(1)~~(a)(1) of this section, the governing body of the taxing unit shall enter upon its minutes the names of persons owing ~~taxes (but who taxes, but that listed no real property) whom property, that~~ it finds to be insolvent, and it shall by resolution designate the list entered in its minutes as the insolvent list to be credited to the tax collector in ~~his~~the tax collector's settlement.

(3) Settlement for Current Taxes. – After July 1 and before ~~he~~a tax collector is charged with taxes for the current fiscal year, the tax collector shall make full settlement with the governing body of the taxing unit for all taxes in ~~his~~the tax collector's hands for collection for the preceding fiscal year. The following charges and credits apply:

a. In the settlement the tax collector shall be charged ~~with~~with all of the following:

1. The total amount of all taxes in ~~his~~the tax collector's hands for collection for the year, including amounts originally charged to ~~him~~the tax collector and all amounts subsequently charged on account of ~~discoveries~~discoveries.

2. All penalties, interest, and costs collected by ~~him~~the tax collector in connection with taxes for the current ~~year~~and year.

3. All other sums collected by ~~him~~the tax collector.

b. The tax collector shall be credited ~~with~~with all of the following:

1. All sums representing taxes for the year deposited by ~~him~~the tax collector to the credit of the taxing unit or receipted for by a proper official of the ~~unit~~unit.

2. Releases duly allowed by the governing ~~body~~body.

3. The principal amount of taxes constituting liens on real ~~property~~property.

4. The principal amount of taxes included in the insolvent list determined in accordance with subdivision ~~(a)(2), above;~~ (a)(2) of this section.
5. Discounts allowed by ~~law;~~ law.
6. ~~Commissions (if any)~~ Commissions, if any, lawfully payable to the tax collector as ~~compensation; and~~ compensation.
7. The principal amount of taxes for any assessment appealed to the Property Tax Commission when the appeal has not been finally adjudicated.

The tax collector shall be liable on ~~his~~ the tax collector's bond for both honesty and faithful performance of duty; for any deficiencies; and, in addition, for all criminal penalties provided by law.

The settlement, together with the action of the governing body with respect ~~thereto,~~ to it, shall be entered in full upon the minutes of the governing body.

- (4) Disposition of Tax Receipts after Settlement. – Uncollected taxes allowed as credits in the settlement prescribed in subdivision ~~(a)(3), above,~~ (a)(3) of this section, whether represented by tax liens held by the taxing unit or included in the list of insolvents, shall, for purposes of collection, be recharged to the tax collector or charged to some other person designated by the governing body of the taxing unit under statutory authority. The person charged with uncollected taxes ~~shall;~~ shall take the following actions:

- a. Give bond satisfactory to the governing ~~body;~~ body.
- b. Receive the tax receipts and tax records representing the uncollected ~~taxes;~~ taxes.
- c. Have and exercise all powers and duties conferred or imposed by law upon tax ~~collectors; and~~ collectors.
- d. Receive compensation as determined by the governing body.

(b) Settlements for Delinquent Taxes. – Annually, at the time prescribed for the settlement provided in subdivision ~~(a)(3), above,~~ (a)(3) of this section, all persons having in their hands for collection any taxes for years prior to the year involved in the settlement shall settle with the governing body of the taxing unit for collections made on each ~~such~~ prior year's taxes. The settlement for the taxes for prior years shall be made in whatever form is satisfactory to the chief accounting officer and the governing body of the taxing unit, and it shall be entered in full upon the minutes of the governing body.

(c) Settlement at End of Term. – ~~Whenever any tax collector fails to succeed himself at~~ At the end of his ~~a tax collector's last term of office, he~~ the tax collector shall, on the last business day of ~~his~~ the term, make full and complete settlement for all ~~taxes (current taxes, current or delinquent) delinquent,~~ in his ~~the tax collector's hands and deliver the tax records, tax receipts, tax sale certificates, and accounts to his~~ the successor in office. The settlement shall be made in whatever form is satisfactory to the chief accounting officer and the governing body of the taxing unit, and it shall be entered in full upon the minutes of the governing body.

(d) Settlement upon Vacancy during Term. – When a tax collector voluntarily resigns, ~~he~~ the tax collector shall, upon ~~his~~ the last day in office, make full settlement ~~(in in the manner~~ (in the manner provided in subsection ~~(e), above,~~ (c) of this section for all taxes in ~~his~~ the tax collector's hands for collection. In default of ~~such~~ a settlement, or in case of a vacancy occurring during a term for any reason, it shall be the duty of the chief accounting officer or, in the discretion of the governing body, of some other qualified person appointed by it immediately to prepare and submit to the governing body a report in the nature of a settlement made on behalf of the former tax collector. The report, together with the governing body's action with respect ~~thereto,~~ to it, shall be entered in full upon the minutes of the governing body. Whenever a settlement ~~must be~~ is made in on

1 behalf of a former tax collector, ~~as provided in this subsection (d),~~ the governing body may
2 deliver the ~~tax receipts, tax records, and tax sale certificates~~ tax receipts and tax records to a
3 successor collector immediately upon the occurrence of the vacancy, or it may make whatever
4 temporary arrangements for the collection of taxes as may be expedient, but in no event shall any
5 person be permitted to collect taxes until ~~he~~ the person has given bond satisfactory to the
6 governing body.

7 (e) Effect of Approval of Settlement. – Approval of any settlement by the governing body
8 does not relieve the tax collector or ~~his~~ the tax collector's bondsmen of liability for any shortage
9 actually existing at the time of the settlement and thereafter discovered; nor does it relieve the
10 collector of any criminal liability.

11 (f) Penalties. – In addition to any other civil or criminal penalties provided by law, any
12 member of a governing body of a taxing unit, tax collector, or chief accounting officer who fails
13 to perform any duty imposed ~~upon him~~ by this section ~~shall be~~ is guilty of a Class 1 misdemeanor.

14 (g) Relief from Collecting Insolvents. – The governing body of any taxing unit may, in
15 its discretion, relieve the tax collector of the charge of taxes owed by persons on the insolvent
16 list that are five or more years past due when it appears to the governing body that ~~such~~ the taxes
17 are uncollectible.

18 (h) Relief from Collecting Taxes on Classified Motor ~~Vehicles.~~ Vehicles. – The board of
19 county commissioners may, in its discretion, relieve the tax collector of the charge of taxes on
20 classified motor vehicles listed pursuant to ~~G.S. 105-330.3(a)(1)~~ G.S. 105-330.3(a) that are one
21 year or more past due when it appears to the board that the taxes are uncollectible. This relief,
22 when granted, shall include municipal and special district taxes charged to the collector."

23 **SECTION 3.(d)** G.S. 105-378 reads as rewritten:

24 **"§ 105-378. Limitation on use of remedies.**

25 (a) Use of Remedies Barred. – No county or municipality ~~may~~ shall maintain an action
26 or procedure to enforce any remedy provided by law for the collection of taxes or the enforcement
27 of any tax ~~liens (whether liens, whether the taxes or tax liens are evidenced by the original tax~~
28 ~~receipts, tax sales certificates, tax receipts or otherwise)~~ otherwise, unless the action or procedure
29 is instituted within 10 years from the date the taxes became due.

30 (b) Not Applicable to Special Assessments. – ~~The provisions of subsection (a), above,~~
31 ~~shall not be construed to~~ Subsection (a) of this section does not apply to the lien of special
32 assessments.

33 (c) Repealed by Session Laws 1998-98, s. 26, effective August 14, 1998.

34 (d) Enforcement and Collection Delayed Pending Appeal. – When the board of county
35 commissioners or municipal governing body delivers a tax receipt to a tax collector for any
36 assessment that has been or is subsequently appealed to the county board of equalization and
37 review or the Property Tax Commission, the tax collector ~~may~~ shall not seek collection of taxes
38 or enforcement of a tax lien resulting from the assessment until the appeal has been finally
39 adjudicated. The tax collector, however, may send an initial bill or notice to the taxpayer."

40 **SECTION 3.(e)** This section becomes effective October 1, 2021. Subsections (a)
41 and (b) of this section apply to tax foreclosure actions or proceedings commenced on or after that
42 date.

43 44 **PART IV. AMENDMENTS AFFECTING THE VALIDITY OF NOTARIAL ACTS**

45 **SECTION 4.(a)** G.S. 10B-65 reads as rewritten:

46 **"§ 10B-65. Acts of notaries public in certain instances validated.**

47 (a) Any acknowledgment taken and any instrument notarized by a person prior to
48 qualification as a notary public but after commissioning or recommissioning as a notary public,
49 or by a person whose notary commission has expired, is ~~hereby~~ validated. The acknowledgment
50 and instrument ~~shall~~ have the same legal effect as if the person qualified as a notary public at the
51 time the person performed the act.

(b) All documents bearing a notarial seal and ~~which that~~ contain any of the following errors are validated and given the same legal effect as if the errors had not occurred:

- (1) The date of the expiration of the notary's commission is stated, whether correctly or erroneously.
- (2) The notarial seal does not contain a readable impression of the notary's name, contains an incorrect spelling of the notary's name, or does not bear the name of the notary exactly as it appears on the commission, as required under G.S. 10B-37.
- (3) The notary's signature does not comport exactly with the name on the notary commission or on the notary seal, as required by G.S. 10B-20.
- (4) The notarial seal contains typed, printed, drawn, or handwritten material added to the seal, fails to contain the words "North Carolina" or the abbreviation "NC", or contains correct information except that instead of the abbreviation for North Carolina contains the abbreviation for another state.
- (5) The date of the acknowledgement, the verification or proof, or the oath or affirmation states the correct day and month but lacks a year or states an incorrect year.

(c) All deeds of trust in which the notary was named in the document as a trustee only are validated.

(d) All notary acknowledgments performed before ~~December 1, 2005, July 1, 2013,~~ bearing a notarial seal are ~~hereby~~-validated.

(e) This section applies to notarial acts performed on or before April 1, ~~2013-2021.~~"

SECTION 4.(b) G.S. 10B-69 reads as rewritten:

"§ 10B-69. Official forms cured.

(a) The notarial certificate contained in a form issued by a State agency prior to April 1, ~~2013-2021,~~ is deemed to be a valid certificate ~~provided so long as~~ the certificate complied with the law at the time the form was issued.

(b) The notarization using a certificate under subsection (a) of this section ~~shall be~~ is deemed valid if executed in compliance with the law at the time the form was issued."

SECTION 4.(c) G.S. 10B-71 reads as rewritten:

"§ 10B-71. Certain notarial acts validated when recommissioned notary failed to again take oath.

Any acknowledgment taken and any instrument notarized by a person who after recommissioning failed to again take the oath as a notary public is ~~hereby~~-validated. The acknowledgment and instrument ~~shall~~ have the same legal effect as if the person qualified as a notary public at the time the person performed the act. This section ~~shall apply~~ applies to notarial acts performed on or after May 15, 2004, and before April 1, ~~2013-2021.~~"

SECTION 4.(d) G.S. 47-48 reads as rewritten:

"§ 47-48. Clerks' and registers of deeds' certificate failing to pass on all prior certificates.

When it appears that the clerk of the superior court, register of deeds, or other officer having the power to probate or certify deeds, in passing upon deeds or other instruments, and ~~the certificates thereto, having related certificates, consisting of~~ more than one certificate of the same or a different ~~date, by date by~~ other officer or officers taking acknowledgment or probating the ~~same, certificates,~~ has in his or her certificate or order mentioned only one or more of the preceding or foregoing certificates or orders, but not all of them, but has admitted the same deed or other instrument to probate or recordation, it ~~shall be~~ is conclusively presumed that all the certificates of ~~said the~~ deed or instrument necessary to the admission of ~~same to for~~ probate or recordation have been passed upon, and the certificate of ~~said the~~ clerk, register of deeds, or other probating or certifying officer ~~shall be~~ is deemed sufficient and the probate, ~~certification~~ certification, and recordation of ~~said the~~ deed or instrument is ~~hereby made and declared~~ valid

1 for all intents and purposes. ~~The provisions of this~~ This section shall apply ~~applies~~ to all
2 instruments recorded in any county of this State prior to April 1, ~~2013-2021.~~"

3 **SECTION 4.(e)** G.S. 47-51 reads as rewritten:

4 **"§ 47-51. Official deeds omitting seals.**

5 All deeds executed prior to April 1, ~~2013-2021,~~ by any sheriff, commissioner, receiver,
6 executor, executrix, administrator, administratrix, or other officer authorized to execute a deed
7 by virtue of ~~his~~ office or appointment, in which the officer has omitted to affix ~~his~~ a seal after ~~his~~
8 the officer's signature, shall are not be invalid on account of the omission of such the seal."

9 **SECTION 4.(f)** G.S. 47-53 reads as rewritten:

10 **"§ 47-53. Probates omitting official seals, etc.**

11 ~~In all cases where~~ If the acknowledgment, private examination, or other proof of the
12 execution of any deed, mortgage, or other instrument authorized or required to be registered has
13 been taken ~~or had~~ by or before any commissioner of affidavits and deeds of this State, ~~or~~ clerk
14 or deputy clerk of a court of record, or notary public of this or any other state, territory, or district,
15 and ~~such the~~ deed, mortgage, or other instrument has ~~heretofore~~ been recorded in any county in
16 this State, but ~~such the~~ commissioner, clerk, deputy clerk, or notary public ~~has~~ omitted to attach
17 his or her official or notarial ~~seal thereto,~~ seal to it, or if omitted, to insert his or her name in the
18 body of the certificate, or if omitted, to sign his or her name to ~~such the~~ certificate, if the name
19 of ~~such the~~ officer appears in the body of ~~said the~~ certificate or is signed ~~thereto,~~ to it, or it does
20 not appear of record that ~~such the~~ seal was attached to the original deed, mortgage, or other
21 instrument, or ~~such the~~ commissioner, clerk, deputy clerk, or notary public has certified the ~~same~~
22 certificate as under his or her "official seal," or "notarial seal," or words of similar import, and
23 no such seal appears of record or where the officer uses "notarial" in his or her certificate and
24 signature shows that "C.S.C.," or "clerk of superior court," or similar exchange of capacity, and
25 the word "seal" follows the signature, then all such acknowledgments, private examinations or
26 other proofs of such deeds, mortgages, or other instruments, and ~~the their registration thereof, are~~
27 hereby made are in all respects valid and binding. ~~The provisions of this~~ This section apply
28 applies to acknowledgments, private examinations, or proofs taken prior to April 1, ~~2013-~~
29 Provided, this 2021. This section does not apply to pending litigation."

30 **SECTION 4.(g)** G.S. 47-53.1 reads as rewritten:

31 **"§ 47-53.1. Acknowledgment omitting seal of clerk or notary public.**

32 ~~Where~~ If any person has taken an acknowledgment as either a notary public or a clerk of a
33 superior court, deputy clerk of a superior court, or assistant clerk of a superior court and has
34 failed to affix his or her seal and this acknowledgment has been otherwise duly probated and
35 ~~recorded recorded,~~ then this acknowledgment is ~~hereby declared to be~~ sufficient and valid. This
36 section applies only to those deeds and other instruments acknowledged prior to April 1,
37 ~~2013-2021."~~

38 **SECTION 4.(h)** G.S. 47-72 reads as rewritten:

39 **"§ 47-72. Corporate name not affixed, but signed otherwise prior to April 1, ~~2013-2021.~~**

40 In all cases prior to April 1, ~~2013-2021,~~ where any deed conveying lands purported to be
41 executed by a corporation, but the corporate name was in fact not affixed to ~~said the~~ deed, but
42 ~~same the deed~~ was signed by the president and secretary of ~~said the~~ corporation, or by the
43 president and two members of the governing body of ~~said the~~ corporation, and ~~said the~~ deed has
44 been registered in the county where the land conveyed by ~~said the~~ deed is located, ~~said the~~
45 defective execution ~~above described shall be and the same is hereby declared to be~~ is in all
46 respects valid, and ~~such the deed shall be is~~ deemed ~~to be~~ in all respects the deed of ~~said the~~
47 corporation."

48 **SECTION 4.(i)** G.S. 47-97 reads as rewritten:

49 **"§ 47-97. Validation of corporate deed with mistake as to officer's name.**

50 In all cases where the deed of a corporation executed before April 1, ~~2013-2021,~~ is properly
51 executed, properly recorded and there is error in the probate of ~~said the~~ corporation's deed as to

1 the name or names of the officers in ~~said the~~ probate, ~~said the~~ deed ~~shall be construed to be a~~
2 ~~deed of~~ has the same force and effect as if ~~said the~~ probate were in every way proper."

3 **SECTION 4.(j)** G.S. 47-97.1 reads as rewritten:

4 **"§ 47-97.1. Validation of corporate deeds containing error in acknowledgment or probate.**

5 In all cases where the deed of a corporation executed and filed for registration prior to April
6 1, ~~2013, 2021~~, is properly executed and properly ~~recorded~~ recorded, and there is error in the
7 acknowledgment or probate of ~~said the~~ corporation's deed as to the name or names of the officer
8 or officers named ~~therein~~ and error as to the title or titles of the officer or officers ~~named therein~~,
9 ~~said deed shall be construed to be a deed of~~ named, the deed has the same force and effect as if
10 ~~said the~~ probate or acknowledgment were in every way proper."

11 **SECTION 4.(k)** G.S. 47-108.6 reads as rewritten:

12 **"§ 47-108.6. Validation of certain conveyances of foreign dissolved corporations.**

13 In all cases when, prior to April 1, ~~2013, 2021~~, any dissolved foreign corporation has, prior
14 to its dissolution, by deed of conveyance purported to convey real property in this State, and ~~said~~
15 ~~the~~ instrument recites a consideration, is signed by the proper officers in the name of ~~said the~~
16 corporation, sealed with the corporate seal and duly registered in the office of the register of
17 deeds of the county where the land described in ~~said the~~ instrument is located, but there is error
18 in the attestation clause and acknowledgment in failing to identify the officers signing ~~said the~~
19 deed and to recite that authority was duly given and that ~~the same~~ it was the act of ~~said the~~
20 corporation, ~~said the~~ deed ~~shall be construed to be a deed of~~ has the same force and effect as if
21 ~~said the~~ attestation clause and acknowledgment were in every way proper."

22 **SECTION 4.(l)** G.S. 47-108.11 reads as rewritten:

23 **"§ 47-108.11. Validation of recorded instruments where seals have been omitted.**

24 In all cases of any deed, deed of trust, mortgage, ~~lien~~ lien, or other instrument authorized or
25 required to be registered in the office of the register of deeds of any county in this ~~State~~ State,
26 where it appears of record or it appears that from ~~said the~~ instrument, as recorded in the office of
27 the register of deeds of any county in the State, that there has been omitted from ~~said the~~ recorded
28 or registered instrument the word "~~seal~~," "seal" or "notarial seal" and that any of ~~said the~~ recorded
29 or registered instruments shows or recites that the grantor or grantors "have hereunto fixed or set
30 their hands and seals" and the signature of the grantor or grantors appears without a seal thereafter
31 or on the recorded or registered instrument or in all cases where it appears there is an attesting
32 clause ~~which that~~ recites "signed, sealed and delivered in the presence of," and the signature of
33 the grantor or grantors appears on the recorded or registered instrument without any seal
34 appearing thereafter or of record, then all such deeds, mortgages, deeds of trust, ~~liens~~ liens, or
35 other instruments, and ~~the their~~ registration ~~of same~~ in the office of the register of deeds, are
36 ~~hereby declared to be~~ in all respects valid and binding and are ~~hereby made~~ in all respects valid
37 and binding to the same extent as if the word "seal" or "notarial seal" had not been omitted, and
38 the registration and recording of ~~such the~~ instruments in the office of the register of deeds in any
39 county in this State are ~~hereby declared to be~~ valid, proper, ~~legal~~ legal, and binding registrations.

40 This section ~~shall does~~ not apply in any respect to any instrument recorded or registered
41 subsequent to April 1, ~~2013, 2021~~, or to pending litigation or to any ~~such~~ instruments now directly
42 or indirectly involved in pending litigation."

43 **SECTION 4.(m)** G.S. 47-108.20 reads as rewritten:

44 **"§ 47-108.20. Validation of certain recorded instruments that were not acknowledged.**

45 All instruments recorded before April 1, ~~2013, 2021~~, that were not reexecuted and
46 reacknowledged and that correct an obvious typographical or other minor error in a recorded
47 instrument that was previously properly executed and acknowledged are ~~declared to be~~ valid
48 instruments."

49 **SECTION 5.** G.S. 10B-72 is repealed.

50 **SECTION 6.** G.S. 47-2.2 reads as rewritten:

"§ 47-2.2. Notary public of sister state; lack of seal or stamp or expiration date of commission.

(a) If the proof or acknowledgment of any instrument is had before a notary public of any state other than North Carolina and the instrument does not (i) show the seal or stamp of the notary public, (ii) provide evidence pursuant to subsection (b) of this section that a seal or stamp is not required and the expiration date of the commission of the notary public, or (iii) ~~state state, as part of the proof or acknowledgement or as part of the notary's seal,~~ that the notary's commission does not expire or is a lifetime appointment, then the certificate of proof or acknowledgment made by ~~such the~~ notary public shall be accompanied by the certificate of the county official before whom the notary qualifies for office or of a state officer authorized to issue certificates regarding notary commission status, stating that ~~such the~~ notary public was at the time ~~his the~~ certificate bears date an acting notary public of ~~such that~~ state, and that ~~such the~~ notary's genuine signature is set to ~~his the~~ certificate. The certificate of the official ~~herein provided for~~ shall be under ~~his the~~ official's hand and official seal.

(b) A proof or acknowledgement ~~which that~~ does not require a seal or stamp of the notary to be effective in the jurisdiction issuing the notary's commission shall include either (i) a statement by the notary within the proof or acknowledgement area of the instrument that the notary is not required to utilize a seal or stamp or (ii) a reference that purports to be the statute of the commissioning state which provides that no seal or stamp is required together with a statement that the notary is not required to utilize a seal or stamp. The register of deeds may rely upon this statement and is not responsible for confirming its validity or the authority of the person making it. A register of deeds ~~may shall~~ not refuse to accept a record for registration because a notarial seal or stamp is omitted from the proof or acknowledgement if ~~the provisions of this subsection have has~~ been complied with in the proof or acknowledgement. The acceptance of a record for registration under this subsection ~~shall give gives~~ rise to a presumption that the seal or stamp was not required to be affixed by the notary. This presumption is rebuttable and ~~shall apply applies~~ to all instruments whenever recorded. However, a court order finding the lack of a valid seal ~~shall does~~ not affect the rights of a person ~~who that~~ (i) records an interest in the real property described in the instrument before the finding of a lack of a valid seal and (ii) would otherwise have an enforceable interest in the real property."

SECTION 7. G.S. 47-37.1 reads as rewritten:

"§ 47-37.1. Other forms of proof.

(a) The proof and acknowledgment forms set forth in this Article are not exclusive. Without regard to whether an instrument presented for registration was signed by an individual acting in his or her own right or by an individual acting in a representative or fiduciary capacity, a notarial certificate that complies with the provisions of Part 6 of Article 1 or Part 5 of Article 2 of Chapter 10B ~~shall be of the General Statutes is~~ deemed a sufficient form of probate or acknowledgment for purposes of this Chapter. Use of a notarial certificate that satisfies the requirements of Part 6 of Article 1 or Part 5 of Article 2 of Chapter 10B ~~shall not be grounds of the General Statutes is not a ground~~ for a register of deeds to refuse to accept a record for registration.

(b) When an instrument presented for registration purports to be signed by an individual in a representative or fiduciary capacity, the acknowledgment or proof of that individual's signature ~~may may~~ do any of the following:

- (1) State that the individual signed the instrument in a representative or fiduciary capacity.
- (2) State that the individual who signed the instrument in a representative or fiduciary capacity had ~~due~~ authority to do so.
- (3) Identify the represented person or the fiduciary capacity.

(c) This section relates only to the form of proof or acknowledgment. The capacity and authority of the individual who signs an instrument presented for registration are governed by other provisions of law.

~~(d) This section applies to proofs and acknowledgments made before, on, or after December 1, 2005."~~

PART V. AMENDMENTS AFFECTING REAL PROPERTY

SECTION 8. G.S. 41-56 reads as rewritten:

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

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

...

(b) A conveyance by a grantor of real property, or any interest ~~therein, to an individual in real property, to the grantor~~ and his or her spouse vests the property in ~~the grantees them~~ as tenants by the 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, G.S. 52-10.1,~~ except acknowledgement of the spouse of the grantor is not necessary.

(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 crossdeed or deeds between or among the tenants in ~~common-~~
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 is signed by the tenant in common and is acknowledged before a certifying officer in accordance with G.S. 52-10.

...

(d) When spouses become co-owners of a mobile home, in the absence of a contrary intention appearing in the instrument of title, 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 spouse. For the purposes of this subsection, it is immaterial whether the property at any particular time ~~shall be~~ is classified for any purpose as either real or personal. Nothing in this subsection ~~shall be~~ is deemed to limit or prohibit any other type of ownership otherwise authorized by law. For the purposes of this 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 subsection, the term "mobile home" also means a double-wide mobile home ~~which is consisting of two or more portable manufactured housing units that are~~ designed for transportation on their own chassis, which connect chassis and are connected 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."

SECTION 9. G.S. 41-75 reads as rewritten:

"§ 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~~ G.S. 41-2.1 or ~~G.S. 42-2.2~~ G.S. 41-2.2 to the extent inconsistent with the provisions of this Article.
- (5) Life estates."

SECTION 10. G.S. 47-18 reads as rewritten:

"§ 47-18. Conveyances, contracts to convey, ~~options~~ options, and leases of land.

(a) No (i) conveyance of land, ~~or~~ (ii) contract to convey, ~~or~~ (iii) option to purchase or convey, ~~or~~ (iv) lease of land for more than three ~~years shall be~~ years, (v) right of first refusal, or (vi) right of first offer is valid to pass any property interest as against lien creditors or purchasers for a valuable consideration from the donor, ~~bargainor~~ bargainor, or lessor but from the time of its registration ~~thereof~~ in the county where the land lies, or if the land is located in more than one county, then in each county where any portion of the land lies to be effective as to the land in that county. Unless otherwise stated either on the registered instrument or on a separate registered instrument duly executed by the party whose priority interest is adversely affected, (i) instruments registered in the office of the register of deeds ~~shall have~~ priority based on the order of registration as determined by the time of registration, and (ii) if instruments are registered simultaneously, then the instruments ~~shall be~~ are presumed to have priority ~~as determined by~~ as follows:

- (1) The earliest document number set forth on the registered instrument.
- (2) The sequential book and page number set forth on the registered instrument if no document number is set forth on the registered instrument.

The presumption created by this subsection is rebuttable.

...."

SECTION 11. G.S. 93A-12 reads as rewritten:

"§ 93A-12. Disputed monies.

(a) ~~A real estate broker licensed under this Chapter or an attorney licensed to practice law in this State~~ An escrow agent may deposit with the clerk of court in accordance with this section monies, other than a residential security deposit, the ownership of which are in dispute and that ~~the real estate broker or attorney received~~ were received while the escrow agent was acting in a fiduciary capacity.

(b) The disputed monies shall be deposited with the clerk of court in the county in which the property for which the disputed monies are being held is located. At the time of depositing the disputed monies, the ~~real estate broker or attorney~~ escrow agent shall certify to the clerk of court that the persons ~~who are~~ claiming ownership of the disputed monies have been notified in accordance with subsection (c) of this section that the disputed monies are to be deposited with the clerk of court and that the persons may initiate a special proceeding with the clerk of court to recover the disputed monies.

(c) Notice to the persons ~~who are~~ claiming ownership to the disputed monies required under subsection (b) of this section shall be provided by delivering a copy of the notice to the person or by mailing it to the person by first-class mail, postpaid, properly addressed to the person at the person's last known address.

(d) ~~A real estate broker or attorney~~ An escrow agent shall not deposit disputed monies with the clerk of court until 90 days following notification of the persons claiming ownership of the disputed monies.

(e) Upon the filing of a special proceeding to recover the disputed monies, the clerk shall determine the rightful ownership of the monies and distribute the disputed monies accordingly. If no special proceeding is filed with the clerk of court within one year of the disputed monies being deposited with the clerk of court, the disputed monies shall be deemed unclaimed and shall be delivered by the clerk of court to the State Treasurer in accordance with the provisions of Article 4 of Chapter 116B of the General Statutes.

(f) As used in this section, "escrow agent" means any of the following:

(1) A real estate broker licensed under this Chapter.

(2) An attorney licensed to practice law in this State.

(3) A title insurance company or title insurance agent licensed to conduct business in this State."

SECTION 12. Section 5 of S.L. 2017-110 reads as rewritten:

"**SECTION 5.** This act becomes effective August 31, 2018, and applies to ~~curative affidavits~~ instruments filed on or after that date."

PART VI. DELAY THE REASSIGNMENT OF DISTRICT 36, BURKE, CALDWELL, AND CATAWBA COUNTIES, INTO TWO SEPARATE PROSECUTORIAL DISTRICTS

SECTION 13.(a) Section 3(d) of S.L. 2018-121 reads as rewritten:

"**SECTION 3.(d)** The office and term of the district attorney for Prosecutorial District 36 formerly consisting of Burke, Caldwell, and Catawba Counties is terminated upon the expiration of the term expiring ~~December 31, 2022.~~December 31, 2026. Effective ~~January 1, 2023,~~January 1, 2027. District 36 formerly consisting of Burke, Caldwell, and Catawba Counties is reassigned as provided in this section. All open investigations and pending cases for Prosecutorial District 36 formerly consisting of Burke, Caldwell, and Catawba Counties shall be transferred to either District 36 or District 44, as enacted by this section. Burke and Caldwell Counties remain in District 36, as enacted by this section, and the total number of ADAs in that district is ~~nine.~~10. Catawba County is added to District 44, and the total number of ADAs in that district is 10."

SECTION 13.(b) Section 1(d) of S.L. 2019-229 reads as rewritten:

"**SECTION 1.(d)** Subsection (a) of this section becomes effective July 1, 2019. Subsection (b) of this section becomes effective July 1, 2020. Subsection (c) of this section becomes effective ~~January 1, 2023.~~January 1, 2027."

PART VII. EFFECTIVE DATE

SECTION 14. Parts IV and V of this act become effective October 1, 2021. Except as otherwise provided, the remainder of this act is effective when it becomes law.