

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2021

S

2

SENATE BILL 196  
House Committee Substitute Favorable 6/29/21

Short Title: GSC Sale of Property Amendments.

(Public)

Sponsors:

Referred to:

March 9, 2021

A BILL TO BE ENTITLED

AN ACT TO (I) UPDATE THE MAILING METHOD OF NOTICE TO A JUDGMENT DEBTOR OF AN EXECUTION SALE OF REAL PROPERTY, (II) CLARIFY THE EFFECTS OF A DEFAULT BID IN PRIVATE JUDICIAL SALES AND PUBLIC OR PRIVATE PARTITION SALES, (III) AMEND THE TAX FORECLOSURE STATUTES AND MAKE TECHNICAL CHANGES, (IV) MAKE AMENDMENTS AFFECTING THE VALIDITY OF NOTARIAL ACTS, AND (V) MAKE AMENDMENTS AFFECTING REAL PROPERTY, AS RECOMMENDED BY THE GENERAL STATUTES COMMISSION.

The General Assembly of North Carolina enacts:

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

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

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

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

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

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

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

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

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



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

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

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

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

12 **"§ 46A-84.5. Petition for revocation based on default bid.**

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

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

21 **"§ 46A-83. Petition for revocation of confirmation order.**

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

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

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

38 ...

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

45 ...."

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

48  
49 **PART III. AMENDMENTS REGARDING COMMISSIONER'S FEES IN TAX**  
50 **FORECLOSURE ACTIONS AND REMOVAL OF OBSOLETE LANGUAGE**

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

1 **"§ 105-374. Foreclosure of tax lien by action in nature of action to foreclose a mortgage.**

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

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

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

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

22 (2) All other taxing units having tax liens.

23 (3) All other lienholders of record.

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

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

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

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

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

45 (d) Complaint as Lis Pendens. – The complaint in an action brought under this section  
46 shall, from the time it is filed in the office of the clerk of superior court, serve as notice of the  
47 pendency of the foreclosure action, and every person whose interest in the real property is  
48 subsequently acquired or whose interest ~~therein in the~~ property is subsequently registered or  
49 recorded shall be bound by all proceedings taken in the foreclosure action after the filing of the  
50 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, an increased bid  
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.

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

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

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

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

20 "**§ 105-375. In rem method of foreclosure.**

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

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

39 (c) Notice to Taxpayer and Others. –

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

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



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

- 4 (1) No debtor's exemption shall be allowed.
- 5 (2) ~~In lieu of personal service of notice on the taxpayer, the sheriff shall send~~  
 6 ~~notice by registered or certified mail, return receipt requested, to the taxpayer~~  
 7 ~~at the taxpayer's last known address at least 30 days prior to the day fixed for~~  
 8 ~~the sale. At least 30 days prior to the day fixed for the sale, the sheriff shall~~  
 9 ~~send notice by registered or certified mail, return receipt requested, to the~~  
 10 ~~taxpayer at the taxpayer's last known address, in lieu of personal service, and~~  
 11 ~~to all lienholders of record. If within 10 days following the mailing of the a~~  
 12 ~~notice, a return receipt has not been received by the sheriff indicating receipt~~  
 13 ~~of the notice, then the sheriff shall make additional efforts to locate and notify~~  
 14 ~~the taxpayer-taxpayer, if not yet notified, and all unnotified lienholders of~~  
 15 ~~record of the sale under execution in accordance with subdivision (4) of~~  
 16 ~~subsection (c) of this section.~~
- 17 (3) The sheriff shall add to the amount of the judgment as costs of the sale any  
 18 postage expenses incurred by the tax collector and the sheriff in foreclosing  
 19 under this section.
- 20 (4) In any advertisement or posted notice of sale under execution, the sheriff may  
 21 (and at the request of the governing body shall) combine the advertisements  
 22 or notices for properties to be sold under executions against the properties of  
 23 different taxpayers in favor of the same taxing unit or group of units; however,  
 24 the property included in each judgment shall be separately described and the  
 25 name of the taxpayer specified in connection with ~~each~~each property.

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

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

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

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

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

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

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

1 **"§ 105-373. Settlements.**

2 (a) Annual Settlement of Tax Collector. –

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

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

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

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

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

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

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

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

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

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

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

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

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



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.

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

3 (1) The date of the expiration of the notary's commission is stated, whether  
4 correctly or erroneously.

5 (2) The notarial seal does not contain a readable impression of the notary's name,  
6 contains an incorrect spelling of the notary's name, or does not bear the name  
7 of the notary exactly as it appears on the commission, as required under  
8 G.S. 10B-37.

9 (3) The notary's signature does not comport exactly with the name on the notary  
10 commission or on the notary seal, as required by G.S. 10B-20.

11 (4) The notarial seal contains typed, printed, drawn, or handwritten material  
12 added to the seal, fails to contain the words "North Carolina" or the  
13 abbreviation "NC", or contains correct information except that instead of the  
14 abbreviation for North Carolina contains the abbreviation for another state.

15 (5) The date of the acknowledgement, the verification or proof, or the oath or  
16 affirmation states the correct day and month but lacks a year or states an  
17 incorrect year.

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

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

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

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

24 **"§ 10B-69. Official forms cured.**

25 (a) The notarial certificate contained in a form issued by a State agency prior to April 1,  
26 ~~2013, 2021,~~ is deemed to be a valid certificate ~~provided so long as~~ the certificate complied with  
27 the law at the time the form was issued.

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

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

31 **"§ 10B-71. Certain notarial acts validated when recommissioned notary failed to again take**  
32 **oath.**

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

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

39 **"§ 47-48. Clerks' and registers of deeds' certificate failing to pass on all prior certificates.**

40 When it appears that the clerk of the superior court, register of deeds, or other officer having  
41 the power to probate or certify deeds, in passing upon deeds or other instruments, and ~~the~~  
42 ~~certificates thereto, having related certificates, consisting of~~ more than one certificate of the same  
43 or a different ~~date, by date by~~ other officer or officers taking acknowledgment or probating the  
44 ~~same, certificates,~~ has in his or her certificate or order mentioned only one or more of the  
45 preceding or foregoing certificates or orders, but not all of them, but has admitted the same deed  
46 or other instrument to probate or recordation, it ~~shall be~~-is conclusively presumed that all the  
47 certificates of ~~said the~~ deed or instrument necessary ~~to the admission of same to for~~ probate or  
48 recordation have been passed upon, and the certificate of ~~said the~~ clerk, register of deeds, or other  
49 probating or certifying officer ~~shall be~~-is deemed sufficient and the probate, ~~certification~~  
50 ~~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:

1 "§ 47-2.2. Notary public of sister state; lack of seal or stamp or expiration date of  
2 commission.

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

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

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

32 "**§ 47-37.1. Other forms of proof.**

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

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

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



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

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

## 7 PART V. AMENDMENTS AFFECTING REAL PROPERTY

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

### 9 "§ 41-56. Creation of tenancy by the entirety.

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

13 ...

14 (b) A conveyance by a grantor of real property, or any interest ~~therein, to an individual~~  
15 in real property, to the grantor and his or her spouse vests the property in ~~the grantees them~~ as  
16 tenants by the entirety, unless a contrary intention is expressed in the conveyance. The joinder of  
17 a spouse in a conveyance made by the grantor under this subsection is not necessary, but the  
18 conveyance is subject to the provisions of G.S. 52-10 or ~~G.S. 52-11, G.S. 52-10.1,~~ except  
19 acknowledgement of the spouse of the grantor is not necessary.

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

24 (1) In a division by crossdeed or deeds between or among the tenants in ~~common-~~  
25 common, if the instrument contains both of the following:

- 26 a. The intent of the tenant in common to create a tenancy by the entirety  
27 with his or her spouse in this exchange of deeds is clearly stated in the  
28 granting clause of the deed or deeds to the tenant in common and his  
29 or her spouse.  
30 b. The deed or deeds to the tenant in common and his or her spouse is  
31 signed by the tenant in common and is acknowledged before a  
32 certifying officer in accordance with G.S. 52-10.

33 ...

34 (d) When spouses become co-owners of a mobile home, in the absence of a contrary  
35 intention appearing in the instrument of title, the spouses become tenants by the entirety with all  
36 the incidents of an estate by the entirety in real property, including the right of survivorship in  
37 the case of death of either spouse. For the purposes of this subsection, it is immaterial whether  
38 the property at any particular time ~~shall be~~ is classified for any purpose as either real or personal.  
39 Nothing in this subsection ~~shall be~~ is deemed to limit or prohibit any other type of ownership  
40 otherwise authorized by law. For the purposes of this subsection, the term "mobile home" means  
41 a portable manufactured housing unit designed for transportation on its own chassis and  
42 placement on a temporary or semipermanent foundation having a measurement of over 32 feet  
43 in length and over eight feet in width. As used in this subsection, the term "mobile home" also  
44 means a double-wide mobile home ~~which is consisting of two or more portable manufactured~~  
45 housing units that are designed for transportation on their own ~~chassis, which connect chassis~~  
46 and are connected on site for placement on a temporary or semipermanent foundation having a  
47 measurement of over 32 feet in length and over eight feet in width."

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

### 49 "§ 41-75. Inapplicability of Article.

50 This Article does not apply to any of the following:

- 51 (1) Executors or trustees in their representative capacity.

- 1 (2) Partnerships governed by Chapter 59 of the General Statutes.
- 2 (3) Business entities.
- 3 (4) Accounts established under ~~G.S. 42-2.1~~—G.S. 41-2.1 or ~~G.S. 42-2.2~~  
4 G.S. 41-2.2 to the extent inconsistent with the provisions of this Article.
- 5 (5) Life estates."

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

7 **"§ 47-18. Conveyances, contracts to convey, ~~options~~ options, and leases of land.**

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

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

22 The presumption created by this subsection is rebuttable.

23 ...."

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

25 **"§ 93A-12. Disputed monies.**

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

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

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

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

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

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

- 1           (1)    A real estate broker licensed under this Chapter.
- 2           (2)    An attorney licensed to practice law in this State.
- 3           (3)    A title insurance company or title insurance agent licensed to conduct business
- 4                    in this State."

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

6           **"SECTION 5.** This act becomes effective August 31, 2018, and applies to ~~curative affidavits~~  
7 instruments filed on or after that date."  
8

9           **PART VI. EFFECTIVE DATE**

10           **SECTION 13.** Parts IV and V of this act become effective October 1, 2021. Except  
11 as otherwise provided, the remainder of this act is effective when it becomes law.