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Presenters	
<p><b>Kit Anderson</b> Underwriting Counsel and VP Chicago Title</p> 	<p><b>David Milling</b> Underwriting Counsel and VP Chicago Title</p> 
<p>Kit Anderson is Vice President and State Underwriting Counsel in the Charlotte office. Kit's prior experience in private practice with a law firm in the Charlotte area was with a concentration in residential and commercial real estate.</p> <p>As a cum laude graduate, from both undergraduate and law school, Kit received his Bachelor of Science in Economics from Wake Forest University and his Juris Doctor from the University of Georgia School of Law.</p>	<p>David Milling is a Vice President and Agency Underwriting Counsel for Chicago Title. David received his undergraduate degree from New York University and his JD from Tulane University Law School. He has worked in the title insurance industry since 2011. His prior experience in private practice includes a concentration in commercial real estate development and finance transactions.</p> <p>In his spare time, David composes music and plays piano/keyboards for the Contemporary Band at Christ Episcopal Church in Charlotte.</p>

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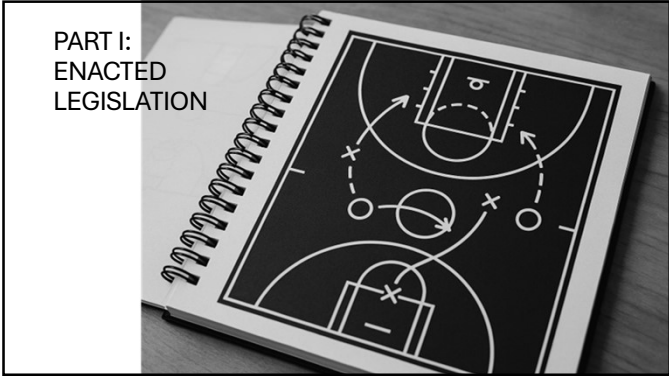
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**PART I:  
ENACTED  
LEGISLATION**

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**SB690 –  
Appraiser and  
Landlord/Tenant**

**SECTION 3(a)** G.S. 42-46(i) reads as rewritten:  
 (i) Out-of-Pocket Expenses and Litigation Costs. – In addition to the late fees referenced in subsections (a) and (b) of this section and the administrative fees of a landlord referenced in subsections (g) through (j) of this section, a landlord also is permitted to charge and recover from a tenant the following actual out-of-pocket expenses:  
 (1) Filing fees charged by the court.  
 (2) Costs for service of process pursuant to G.S. 1A-1, Rule 4 of the North Carolina Rules of Civil Procedure and G.S. 42-29.  
 (3) If the landlord is the prevailing party, reasonable attorneys' fees actually paid or owed, pursuant to a written lease, not to exceed fifteen percent (15%) of the amount owed by the tenant, or fifteen percent (15%) of the monthly rent stated in the lease if the eviction is based on a default other than the nonpayment of rent.  
 (4) In cases where a tenant appeals a summary eviction to district court, court and the landlord is the prevailing party, a landlord is entitled to an award of all actual reasonable attorneys' fees paid or owed if a court determines that the tenant knew, or should have known, the appeal was frivolous, unreasonable, without foundation, or in bad faith or solely for the purpose of delay.  
**SECTION 3(b)** This section, being a clarifying amendment, has a retroactive effective date of September 9, 2024.

- Modifies Appraiser Licensing Standards (GS 93E)
- Modifies Recovery fees for a Landlord

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**SB690 – Buyer's Agent Compensation**

- SECTION 4. (a) Definitions. – For purposes of this section, "Offer and Sales Contracts Rule" means 21 NCAC 58A. 0112 (Offer and Sales Contracts).
- SECTION 4. (b) Offer and Sales Contracts Rule. – Until the effective date of the revised permanent rule that the Commission is required to adopt pursuant to subsection (d) of this section, the Commission shall implement the Offer and Sales Contracts Rule as provided in subsection (c) of this section.
- SECTION 4. (c) Implementation. – A broker acting as an agent in a real estate transaction may use a preprinted offer or sales contract form containing provisions concerning the payment of a commission or compensation, including the forfeiture of earnest money, to a broker or firm.
- SECTION 4. (d) Additional Rulemaking Authority. – The Commission shall adopt a rule to amend the Offer and Sales Contracts Rule consistent with subsection (c) of this section. Notwithstanding G.S. 150B-19(4), the rule adopted by the Commission pursuant to this section shall be substantively identical to the provisions of subsection (c) of this section. Rules adopted pursuant to this section shall become effective as provided in G.S. 150B-21.3(b1), as though 10 or more written objections had been received as provided in G.S. 150B-21.3(b2).
- SECTION 4. (e) Sunset. – This section expires when permanent rules adopted as required by subsection (d) of this section become effective.

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# Impact

The changes to chapter 42 will require minor modifications in drafting of lease agreements to make sure that it's in line with these "new" recoverable amounts.

Follow the Statutory List as far as what is includable for recovery.

Don't over or under plead recoverable amounts in an eviction action.

Should the contracts be updated by the attorney prior to the Commission's modifications of the forms to comply with the new rules?



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# Timeshare Foreclosure

- HB922, Article 4 of G.S. 93A
- Timeshare foreclosure challenges
  - Numerous owners/parties
  - Generally small financial investment on the part of the owners
  - The lack of interest in long "dormant" owners in being involved. Either through payment of assessments or the like, and getting title out of their name
  - Some owners don't realize they have an interest in the timeshare
  - Most foreclosure costs of timeshare are relatively costly as compared to the value of the timeshare
- This new bill modifies the statute such that it creates a non-judicial, trustee-based power of sale process.

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# Timeshare Foreclosure

- Delinquent assessments and authority for collection
  - Assessments can accrue interest at the maximum legal rate
  - "Reasonable" administrative late fees
  - Collection costs, attorney fees, and collection agency fees
  - All a direct lien on the timeshare interest
- Delinquent owners
  - Can be denied access
  - May be refused reservations and/or cancellation of reservations already made

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# Timeshare Foreclosure

- Mandatory 30-day written notice
  - Amount owed
  - Interest and Late Fees
  - Per-diem accrual amounts
  - List of the potential consequences
- Trustee based foreclosure
  - Draws a lot from power of sale foreclosures, but unlike many of the other types of foreclosure (see HOA), has some concerning omissions
  - Not requiring reasonable efforts to locate the owner
  - Relying on the books and records of the managing entity rather than the public record
  - Allowing a trustee who is neutral but also not an NC lawyer effectively *pro se* for an entity
  - Allowing a "certificate" by a non-attorney/non-fiduciary to become a "judgment" without court order

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# Practical Considerations

Fortunately, not many of us deal in timeshares on a regular basis.

HB 992 allows timeshare liens enforcement outside judicial foreclosure, requiring detailed trustee foreclosure documentation review.

The procedure feels like power of sale "light," so are there due process concerns?

Unfamiliar format to some extent, with a pro-se feel to foreclosure. Firms working on titles that come out of foreclosures under this statute need to update internal checklists to include lien reviews, notice verifications, and sale validation.



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# NC S.A.F.E Act Modernization (HB 762)

- The 2009 NC SAFE Act established licensing rules to protect mortgage consumers and ensure accountability
- Created some difficulty for small family/friend lenders
- The 2025 update was passed in order to bring NC in closer alignment with federal standards
- Expands the coverage of the Act and increases/enhances some oversight



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## Expands the definition of engaging in the mortgage business

(11) ~~"Engaging in the mortgage business" means~~ Engaging in the mortgage business. — Any of the following:

a. For compensation or gain, or in the expectation of compensation or gain, either directly or indirectly, to accept or offer to accept, accept, or to solicit or offer to solicit, an application for a residential mortgage loan from prospective borrowers, ~~solicit or offer to solicit a residential mortgage loan from prospective borrowers, loan to negotiate the~~

Session Law 2025-43      House Bill 762

terms or conditions of a residential mortgage loan with prospective borrowers; ~~loan to issue residential mortgage loan commitments or commitments to issue interest rate guarantee agreements to prospective borrowers, agreements for residential mortgage loans, or to engage in tablefunding of residential mortgage loans, whether any such of these acts are done through contact by telephone, by electronic means, by mail, or in person with the borrowers or prospective borrowers.~~

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## Mortgage Servicer Definitions

- Collect or receive payments the borrower already owes: principal, interest, escrow, and any other amounts due.
- Collect any fees owed to the mortgage lender or servicer.
- Work with the borrower and the lender/servicer to gather information and make decisions about adjusting the loan terms, either short term or permanently.
- Handle the final steps of collection, including foreclosure under Chapter 45 of the North Carolina General Statutes, forfeiture under Chapter 47H, or repossession.
- Manage and service a reverse mortgage loan.



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## US Based Principal office

- § 53-244.050. License and registration application; claim of exemption.
- (a) Applicants shall have a principal office located in the United States and shall apply through the NMLS on a form acceptable to the Commissioner. An application shall include the following information:
  - Name, Address, etc.
  - Form and place of organization
  - Methods and locations of doing business
  - Qualifications
  - Financial conditions
  - Consent to criminal history check



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## Mandatory Registration for Origination Support

- Except as provided in subdivision (c1) of this section, no person shall act as a mortgage origination support registrant with respect to any dwelling located in this State without first obtaining and maintaining a registration under this Article. It is unlawful for any person, other than an exempt person, to act as a mortgage origination support registrant without registration that authorizes a registrant to sponsor and employ licensed mortgage loan originators to control and supervise the registrant's loan processors or underwriters in accordance with this Article, 12 U.S.C. § 5102(5), and 12 U.S.C. § 5103(b).



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## Seller Exemption

- G.S. 53-244.040 - A person, as defined in 12 C.F.R. § 1026.2(a)(22), that as seller, receives in one calendar year no more than three residential mortgage loans as security for purchase money obligations, as specified in 12 C.F.R. § 1026.36(a)(4).
- Reduced from five per year

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## “Squatters” Bill

### S55 / S.L. 2025-88

General Assembly enacted a new, fast-track process for removing unauthorized occupants (“squatters”).

- New “Article 22D” in GS Chapter 14. Took effect on December 1, 2025.
- New procedure aims to resolve conundrum for law enforcement, judicial officials, and citizens regarding how to remove an occupant from residential property when the occupant is not a tenant.

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**“Squatters”  
Bill**

**Expedited Removal  
Proceeding**

- **Complaint (AOC-CVM-407).** Owner (or authorized representative) initiating proceeding must use this specific affidavit to verify the required facts (e.g., that the person is not a tenant and has never paid rent).
- **Service.** Once filed, the Sheriff is mandated to serve the summons **within 24 hours** (personally or by posting it on the door).
- **Hearing.** The court is required to schedule expedited hearing within 48 hours of service.
- **Removal Action.** Law enforcement is required to serve a 24-hour notice to vacate (no more than 4 hours after service of the order).
- **Appeal.** Bond for appeal is a **minimum** of \$10,000 and sufficient for valid rental and damage deposit.
- **Vacate / Violation.** If unauthorized person fails to remove personal property within timeframe in the order, owner / authorized representative may remove from premises. Failure to vacate in accordance with the order constitutes criminal trespass.
- **Immunity.** Property owners and law enforcement are protected from liability when acting in good faith.
- **Remedy for wrongful removal.** Actual damages for wrongful removal and recovery of possession of the property.

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**HB40 / S.L. 2025-25**

**Marital Property Rights**

Part VI of the Bill: Conveyances Between Spouses

- Updates GS § 39-13.3, § 50-20 and § 41-63(4)b.
- Primary goals were:
  1. Clarify the basis for presumption of what is treated as marital property and what is treated as separate property.
  2. Clarify the rules for how certain marital rights are waived.
- Concerns about intent of the changes and the implications for practitioners.

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**G.S. Chapter 52 –  
Brief Review, cont.**

**SECTION 1.69** G.S. 52-10 reads as revised:


§ 52-10. Contracts between husband and wife generally; releases.

(a) Contracts between husband and wife not inconsistent with public policy are valid, and any persons of full age about to be married and married persons may, with or without a valuable consideration, release and quitclaim such rights ~~which they might respectively acquire or may have acquired by marriage in the property of each other and such other. These releases may be granted in bar of any action or proceeding for the recovery of the right and estate so released.~~ No contract or release between husband and wife made during their cohabitation shall be void as ~~affected or change any part of the real estate of either spouse; or the accruing income thereof for a longer term than three years next following the making of such contract or release. **Nothing affects either of the following, unless it is in writing and is acknowledged by both parties before a certifying officer-gift:**~~

(1) ~~Either spouse's real property.~~

(2) ~~Income from other spouse's real property accruing more than three years after the execution of the contract or release.~~

Revised by H40. No material change, just cleaner.



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## Revision of GS 50-20 / Marital v. Separate Property

NCGS § 50-20(d) revised to require a separate instrument (from a deed conveying real property between spouses) to waive or release equitable distribution rights.  
The new language in § 50-20(d):

### "§ 50-20. Distribution by court of marital and divisible property.

...

(d) Before, ~~during~~ during or after marriage the parties may by written agreement, duly executed and acknowledged in accordance with the provisions of G.S. 52-10 and ~~52-10-1~~ G.S. 52-10-1, or by a written agreement valid in the jurisdiction where executed, provide for distribution of the marital property or divisible property, or both, in a manner deemed by the parties to be equitable and the equitable. The agreement shall be binding on the parties. ~~As provided in G.S. 39-13.3(a)(2) and G.S. 41-63(4)b, the parties shall not provide for this distribution in an instrument of conveyance of real property.~~

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## GS 39-13.3, revised

### SECTION 48.(a) G.S. 39-13.3 reads as revised:

#### § 39-13.3. Conveyance between husband and wife.

(a) A conveyance from a husband or wife to the other spouse of real property or any interest therein and property owned by the grantor does not waive the property or interest in the grantor. The conveyance does not waive or release any of the following rights or claims that the grantor may have acquired by marriage in the property conveyed:

- (1) A right to an elective life estate under G.S. 29-30, unless the instrument of conveyance expressly waives the right as provided in G.S. 29-30A(2)(a).
- (2) A right or claim to an equitable distribution with respect to the property under G.S. 50-20. A right or claim for equitable distribution shall not be waived or released in the instrument of conveyance.
- (b) Recodified as G.S. 41-63(b) by Session Laws 2020-50, s. 10, effective June 30, 2020.
- (c) Recodified as G.S. 41-63(4) by Session Laws 2020-50, s. 10, effective June 30, 2020.

(d) The joinder of the spouse of the grantor in any conveyance made by a husband or a wife pursuant to the foregoing provisions of this section is not necessary.

(e) "Any conveyance authorized by this section is subject to the provisions of G.S. 52-10 or 52-10-1, except that action is deemed by the spouse of the grantor is not necessary."



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## GS 41-63, revised

NCGS § 41-63(4) changes include similar language for termination of tenancy by the entirety.

4(a) – elective life estate, must have express waiver

4(b) – requires separate agreement (not by instrument of conveyance)



### SECTION 48.(b) G.S. 41-63 reads as revised:

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

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

...

- (4) The conveyance from one spouse to the other spouse of his or her interest in property held as tenants by the entirety. The conveyance vests the property or interest formerly held as tenants by the entirety in the other spouse. The joinder of a spouse in a conveyance made by the grantor pursuant to this subdivision is not necessary but the conveyance is subject to the provisions of G.S. 52-10 or G.S. 52-10-1, except that an acknowledgment by the spouse of the grantor is not necessary. The conveyance does not waive or release any of the following rights or claims that the grantor may have acquired by marriage in the property conveyed:
  - a. A right to an elective life estate under G.S. 29-30, unless the instrument of conveyance expressly waives the right as provided in G.S. 29-30A(2)(a).
  - b. A right or claim to an equitable distribution with respect to the property under G.S. 50-20. A right or claim for equitable distribution shall not be waived or released in the instrument of conveyance.
- (5) An absolute divorce of the spouses. An absolute divorce converts property held as tenants by the entirety to a tenancy in common.
- (6) A judgment of forfeiture ordering divestment of an interest in tenancy by the entirety pursuant to Chapter 75D of the General Statutes. The effect of a judgment when one spouse is an innocent person as defined in G.S. 75D-5(d) is governed by G.S. 75D-8(a)."

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## GS 50-20, revised

2) ~~"Separate property" means all Separate property. All real and personal property acquired by a spouse before marriage or acquired by a spouse by devise, descent, or gift during the course of the marriage. However, property property, other than real property, acquired by gift from the other spouse during the course of the marriage shall be considered separate property only if such an intention to this intent is expressly stated in the conveyance in writing. Real property acquired by gift from the other spouse during the course of the marriage is considered separate property only if this intent is expressly stated in a written agreement separate from the conveyance in accordance with subsection (d) of this section. The act of conveying property from one spouse to the other does not in itself state this intent. Property acquired in exchange for separate property shall remain separate property regardless of whether the title is in the name of the husband or wife or both or both spouses and shall not be considered to be marital property unless a conveyance intention to the intent for the property to become marital property is expressly stated in the conveyance in writing. The act of acquiring the property does not in itself state this intent. The increase in value of separate property and the income derived from separate property shall be considered separate property. All professional licenses and business licenses which that would terminate on transfer shall be considered separate property.~~

For real property, the writing must be in a document separate from the conveyance.



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## Practical Considerations

To waive equitable distribution rights, spouses must execute a separate agreement (not a deed of conveyance) which explicitly waives the interest. This could be a court order, a free trader agreement, a separation agreement, or other recorded document (signed and notarized) that waives equitable distribution rights.

What about title insurance requirements?

If all other marital rights have been properly waived *other than* equitable distribution rights, will a separate agreement (waiving ED rights) be required to avoid the need for joinder of non-owning spouse in the deed or deed of trust?



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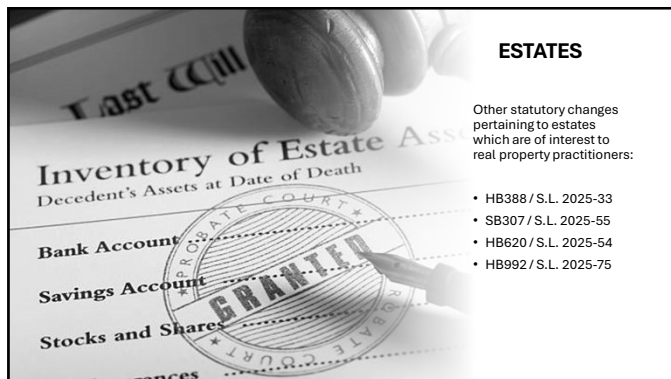
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## ESTATES

Other statutory changes pertaining to estates which are of interest to real property practitioners:

- HB388 / S.L. 2025-33
- SB307 / S.L. 2025-55
- HB620 / S.L. 2025-54
- HB992 / S.L. 2025-75



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## H388 / S.L. 2025-33

- Creates a new Article 11 under G.S. Chapter 31 to allow for the electronic storage of an attested written will by an attorney. The amendment allows attorneys to keep **electronic versions of their clients' wills and to paper them out.**
  - Quick review: GS 31-3.3 review – states:
  - An **attested written will** is a written will signed by the testator and attested by at least two competent witnesses as provided by this section.
- Storage of attested written will (electronic record) requirements:
  - *During the life of the testator at testator's direction.*
  - Electronic record requires a certification, signed by attorney, in the form of an affidavit that (i) the electronic record of the attested written will is a complete, true, and accurate copy of the attested written will, (ii) the testator authorized the attorney to create the electronic record of the attested written will, and (iii) the testator has been advised that the creation of the electronic record eliminates the ability of the testator to revoke the attested written will by physical act.

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## H388 / S.L. 2025-33, cont.

- New Article 11 under G.S. Chapter 31 also provides method for attorney to certify a paper copy of the electronic record and a true, complete and accurate copy of the electronic record.
- New G.S. 31-73 to provide that North Carolina licensed attorney may create a certified paper copy of an attested written will stored in an electronic record by certifying in an affidavit that the paper copy is a complete, true, and accurate copy of the electronic record. The certified paper copy may be created at any time after the attested written will has been stored as an electronic record.
  - Compliance allows for such a paper copy to be admitted to probate.
  - The bill amends GS Ch. 28A accordingly, accounting for method of probating an attested written will inclusive of the certified paper copy contemplated in New GS 31-73.

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## S307 / S.L. 2025-55

### Rights of Estate and Fiduciary in an LLC

Modifies GS Chapter 57D (Limited Liability Company Act) to deal with the cessation of membership when a member dies or is adjudicated incompetent (57D-3-02).

1. Creates a new term "special economic interest owner" and revises definitions of "economic interest owner" and "interest owner" to include a special economic interest owner as part of those definitions.
2. The estate (or fiduciary) becomes a special economic interest owner entitled to (i) the economic interest attributable to their ownership interest, (ii) information rights set out in G.S. 57D-3-04, and (iii) standing to seek judicial dissolution under G.S. 57D-6-02(2) or an alternative remedy set out in the operating agreement unless standing is expressly waived in the operating agreement.
3. The special economic interest owner remains liable to the LLC for obligations under G.S. 57D-4-02, 57D-4-06, and 57D-6-12(a)(2) to all persons who cease to be a member under G.S. 57D-3-02(a).

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## H620 / S.L. 2025-54

This bill included a number of modifications to provisions affecting NC courts and the Administrative Office of the Courts. Section 6 provides a number of modifications to Estates of a Decedent which are of note. We'll cover two here (Effective Dec 1, 2025):

**Summary administration.** Amends G.S. 28A-28-2(a) applicable to summary administration to revise the requirement that the petition for summary administration state that a certified copy of the probate will from "has been recorded" in each county in which real property owned by the decedent at death is located and to "will be recorded." This change makes clear that the surviving spouse may petition for summary administration and probate of the will simultaneously and then subsequently record the certified copy of the will in each county where real property is located.

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## HB620 / S.L. 2025-54, cont.

**Wills deposited for safekeeping.** Revisions to G.S. 31-11 applicable to the procedure to deposit a will for safekeeping with the clerk.

- New subsection (a) provides that:
  - i. A "testator" may deposit the testator's original "paper" will for safekeeping. (Replaces prior provisions allowing "any person" to file a will for safekeeping and limits the clerk's depository to paper wills, excluding electronic wills.)
  - ii. Clerk may only receive the will from the testator or an agent or an attorney of the testator during the testator's lifetime.
- New subsection (c) concerns inspection of the contents of a will:
  - i. While the will is in the clerk's receptacle or depository, the contents of the will may not be made public or open to inspection of anyone other than the testator or the testator's agent or attorney until the testator dies.
  - ii. Once the clerk receives proof of the testator's death, the clerk is authorized to allow the will to be made open to public inspection by any person interested in the testator's estate.
  - iii. The will remains in the clerk's receptacle or depository until the will is offered for probate.
- New subsection (d) requires the clerk to retain the original paper will until:
  - i. the will is withdrawn,
  - ii. the will is filed in the deceased testator's estate file, or
  - iii. once 60 years have passed since the will was originally deposited with the clerk. (If after 60 years the will has not been withdrawn or filed in the deceased testator's estate file, the clerk is authorized to comply with records retention rules for deposited wills set by the AOC Director.)

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## HB992 / S.L. 2025-75

Changes process for establishing paternity of children born out of wedlock (revises G.S. 29-19, G.S. 130A-101(f)) – became effective on December 1, 2025, and only applies to decedents dying on or after that date.

- Amends G.S. 29-19(b)(2) to modify the requirements for a child born out of wedlock to take by, through and from a person who, in a written instrument acknowledged before a certifying officer, acknowledged himself during his own lifetime and the child's lifetime to be the father of the child. The amendment deletes the requirement that the writing be filed in the office of the clerk of the county where the father or the child resides during both of their lifetimes.
- Amends G.S. 130A-101(f) applicable to affidavit's acknowledging paternity to remove the statement that the affidavit does not affect rights of inheritance unless the affidavit is filed with the clerk.

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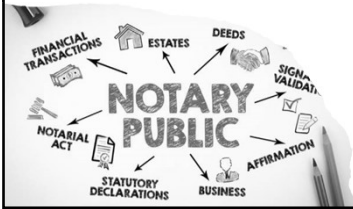
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### HB388 / S.L. 2025-33

#### Modification of Emergency Video Sunsets



Extends Emergency video notarization (GS 10B-25) and Emergency video witnessing (G.S. 10B-200(b))

- Extended to the earlier of 12:01A.M. on July 1, 2026, or the date the Secretary issues the first license in accordance with G.S. 10B-134.19.
- Provides that if the Secretary issues the first license in accordance with G.S. 10B-134.19 before 12:01 a.m. July 1, 2026, the Secretary must file that date with the Codifier of Rules to be published in the North Carolina Register as the expiration date of this section.
- SOS continues to work towards the approval of the first platform for Remote Electronic Notarization and on the various regulatory and logistical requirements for implementation (e.g., technology provider rules, training materials, procedures, etc.).

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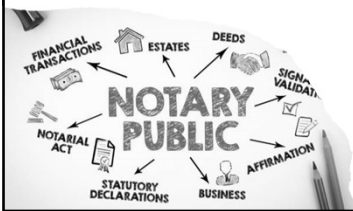
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### SB391 / S.L. 2025-47

#### Section 18 – Moratorium on Expiration of Class C Driver's License



NC DOT Omnibus bill

- **Effective 6/30/2025**, Section 18 of the bill establishes a moratorium on the expiration of a Class C Driver's License. This is due to a backlog of drivers unable to renew their driver's license in person.
- What it does –
- SECTION 18.(b) Notwithstanding G.S. 20-7, or any other State law to the contrary, a Class C regular drivers license shall remain valid for purposes of establishing the license holder's driving privilege for a period of up to two years after its expiration. This section shall not apply to any drivers license that is currently canceled, revoked, or suspended.
- **What it doesn't do:** Allow for a notary to rely upon an expired license!

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### S391/ S.L. 2025-47

(NC DOT Omnibus bill)

Section 14 of the Bill revises Article 2A of GS Chapter 136 concerning the Department of Transportation.

Where is the boundary of the right of way?

Effective July 1, 2025.



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## S391/ S.L. 2025-47, Section 14

- GS 136, Article 2A concerns State Transportation Generally, i.e., the DOT's authority to develop and maintain a statewide system of roads, highways, and other transportation systems commensurate with the needs of the State as a whole. This entails the formulation of general policies and plans for the statewide transportation system, as well as for the construction, improvement and maintenance of those roads, highways and other transportation systems.
- New Section 136-44.18 is added to codify the boundaries of rights-of-way and easements for roadways where NCDOT has maintenance responsibility, but no recorded instrument of conveyance (deed or plat) exists.

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## S391/ S.L. 2025-47, Section 14, cont.

The law clarifies that the official right-of-way shall match the limits of the NCDOT maintenance, determined by physical, existing markers.

- **Definition Factors:** These limits are based on typical NCDOT practices, including:
  - The back of drainage ditches.
  - The location of existing utilities.
  - Other physical markers indicating the extent of maintained areas (even when this is not in property records).

**SECTION 14(a)** Article 2A of Chapter 136 of the General Statutes is amended by adding a new section to read:  
**§ 136-44.18. Define boundaries of certain rights-of-way and easements.**  
(a) **Right-of-Way Boundaries.** — Notwithstanding any provision of law to the contrary, for any roadway for which the Department has responsibility for maintenance, but there is no instrument of conveyance describing the boundaries of the right-of-way, the boundary of the right-of-way shall be defined according to the typical maintenance limits that are Department practice.  
(b) **Easement Boundaries.** — Notwithstanding any provision of law to the contrary, for any roadway for which the Department has responsibility for maintenance, but there is no instrument of conveyance describing the boundaries of the easement, the boundary of the easement shall be defined according to the typical maintenance limits that are Department practice.

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## S391/ S.L. 2025-47, Section 14, cont.

This law aims to speed up construction projects by reducing delays caused by inconsistent or non-existent documentation of ROW limits.

(c) **Conditions Imposed on Developers.** — If the Department, as a condition of granting a permit, requires a developer to construct offsite improvements, and by constructing offsite improvements there is a need for the developer to acquire a right-of-way or easement and the developer is unable to do so, the Department shall coordinate with the developer to revise the development or development access such that no additional right-of-way or easement is needed. The Department shall comply with the requirement set forth in this subsection within a reasonable amount of time after the developer provides evidence to the Department that the developer made a good-faith effort to acquire the required right-of-way or easement. For purposes of this subsection, the term "good faith effort" includes providing a copy of a certified letter to all affected property owners and all requests received from those property owners.  
(d) **Construction.** — Nothing in this section shall be construed as allowing (i) the Department to require a Hold Harmless declaration from a developer or (ii) the Department to take any action that would constitute a taking of property in violation of the Constitution of this State or of the United States.

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## A few more...

### H173 (S.L. 2025-30) – Lincoln and Catawba Counties / Boundary Reestablished

On February 2, 2025, the boundary line between Catawba and Lincoln counties shifted to the south, increasing the territory recognized as being in Catawba, and reducing the territory in Lincoln accordingly. The counties estimate that this boundary shift affected approximately 900 properties.

This bill de-annexes affected properties and re-establishes the line to be consistent with the 2020 Census geography, effective June 30, 2025. Requires, for parcels of real property affected by the establishment of the Catawba/Lincoln County boundary, the counties to record a Notice of Affected Parcel in the office of the register of deeds in each county. Prohibits collecting a fee or tax for the Notice of Affected Parcel. Sets out information that must be included in the Notice of Affected Parcel, including a reference to this act, the names of the record owners of the affected parcel according to the tax records of the counties as of June 30, 2025, and a source deed reference for the affected parcel, if available.

### H926 / S.L. 2025-94 – Surveyor's Right of Entry

- G.S. 89C-19.2 (Limited right of entry by professional land surveyors) is repealed, however it's merely been moved. The new statute is a revision of the prior statute (for clarity) and is found in Chapter 14 of the General Statutes (Criminal Law).
- So now G.S. § 14-159.15 is the statute that grants licensed professional land surveyors a limited right of entry onto private property to perform surveys, ensuring such entry is not considered criminal trespass. Surveyors may enter to locate corners, boundaries, and easements, but cannot enter critical infrastructure or railroad property. Surveyors must notify landowners when "practicable". Landowners are generally held harmless for injuries to surveyors on their property, unless the injury results from willful or malicious acts.

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## PART II: PROPOSED LEGISLATION



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## Proposed Deed Fraud Bill (S423)

- Goal is to combat real property title fraud by
  - Strengthening recording requirements and adding some gatekeeping responsibilities for the Registers of Deeds
  - Adding/enhancing identity verification
  - Creating clear criminal and civil penalties
  - Adding some expedited curatives



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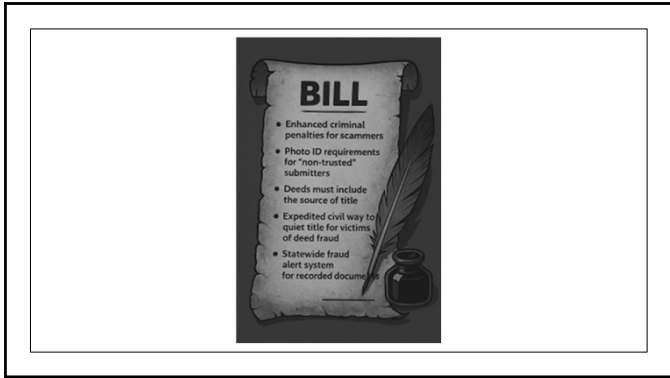
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## Recording Requirements

- **Mandatory Identity Verification for Non-Trusted Submitters**
  - **Trusted submitter** - includes all of the following:
    - A title insurance company as described in Article 26 of Chapter 28 of the General Statutes.
    - An attorney licensed to practice in this State.
    - A financial institution as defined in G.S. 53B-2.
  - **Identity Verification** - If an individual is not a trusted submitter...
    - ...presents an instrument to the register of deeds for registration in person, the register of deeds shall require that individual to produce a government-issued photographic identification card for inspection by the register of deeds before registering the instrument.
    - ...presents an instrument to the register of deeds by U.S. mail, overnight delivery, or other paid third-party delivery service, the register of deeds shall require that individual to submit a photocopy of the individual's government-issued photographic identification card before registering the instrument.
    - ...presents an instrument in the form of an electronic document, as defined in G.S. 47-16.3(2), to the register of deeds, as provided by Article 1A of Chapter 47 of the General Statutes, the register of deeds shall require the individual to submit a photocopy of that individual's government-issued photographic identification card before registering the instrument.
  - If other than a trusted submitter and an entity:
    - Corporation - Certificate of good standing and secretary's certificate
    - Trust - Certificate of trust
    - Estate - Letters testamentary/of administration
    - LLC - Resolution

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## Refusal

- **Refusing to Register.** - Notwithstanding any other provision to the contrary in this Chapter, the register of deeds shall refuse to register an instrument if one of the following occurs:
  - The register of deeds deems the instrument presented for registration a suspicious instrument as defined in this section.
    - **Suspicious instrument.** - An instrument submitted for registration for which the register of deeds has found any of the following:
      - The instrument purports not to be subject to the laws of the United States or the laws of this State.
      - The instrument does not conform to registration requirements established by the laws of this State.
      - The instrument is submitted by an individual who is not a trusted submitter and the identity verification requirements of this section are not met.
    - Upon finding that an instrument presented for registration is a suspicious instrument as defined in this section, the register of deeds may report the suspicious instrument to an appropriate law enforcement agency.
  - The individual presenting the instrument for registration is not a trusted submitter as defined in this section, and the name on the government-issued photographic identification card presented by the individual pursuant to subsection (b) of this section does not match the name of the grantor or conveying party in the instrument presented for registration.

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## Relief

- District Court Jurisdiction
- Action filed by an actual owner
- Relief available includes a request for ex parte relief, including entry of a temporary restraining order, entry of any other temporary or permanent orders necessary to protect the plaintiff's ownership or interest in the parcel of real property or to clear any color of title related to the parcel of land on the public record, and a request for attorneys' fees and costs. Upon the filing of an action under this section, the plaintiff shall also file a notice of lis pendens.
- Service is interesting, served on all parties that were conveyed the interests, or others with "ownership" interest:
  - Service on any of the following parties under either Rule shall be sufficient if made to that party's address as reflected on the face of the suspicious instrument, the tax bill for the parcel, the government-issued photographic identification card provided at the time of recording, or any other address the party has provided the court:
    - (1) The party presenting the alleged false, fictitious, or fraudulent instrument for recordation.
    - (2) The party conveying any interest in the real property through the alleged false, fictitious, or fraudulent instrument.
    - (3) The party receiving any interest in the real property through the alleged false, fictitious, or fraudulent instrument.
- If personal service of the complaint and summons on any party in subdivision (1), (2), or (3) of this subsection was attempted by the sheriff but was unable to be obtained, the sheriff may serve the individual or entity by posting the paperwork on the door of the property that is subject to the alleged false, fictitious, or fraudulent instrument.

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## Relief

- If all goes well, then court can void the instrument
- Court can also
  - Grant possession/eject any other parties
  - Grant attorneys' fees
  - Stay any nonactual owner involved proceedings
  - Penalize up to \$10,000
  - Provide an injunction that prevents recording anything, anywhere without a court order
  - Rule 11 Sanctions
  - Order any necessary documents to be executed and recorded to clear up title
- Register of Deeds has to mark the document as follows:
  - THE CLAIM ASSERTED IN THIS DOCUMENT IS FALSE AND IS NOT PROVIDED FOR BY THE GENERAL LAWS OF THIS STATE.

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## Reliability

- "§ 47-108.30. No presumption of priority for certain recorded instruments.
  - An instrument as defined in G.S. 161-32 shall not have a presumption of priority based upon the time of registration and shall not constitute constructive notice or color of title if any of the following apply:
    - (1) The instrument does not comply with the provisions of G.S. 47-18, 47-20, 13 47-118, 47-119, 47-119.1, or 47-120, as applicable.
    - (2) The instrument does not contain a signature and acknowledgement duly acknowledged before an officer authorized to perform acknowledgements as required for recording of at least one record owner at the time the conveyance is made.

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## Reference

- Modifies 47-18.4
- Trusted Submitter
  - prior deed transferring title to the current grantor by reference to the book and page and the name of the grantee identified in that document
  - a duly probated will and estate file number with the clerk of superior court
  - recital of the chain of inheritance in the case of intestate succession
  - court order and court file number vesting title in the grantor
- Anyone else
  - Identity Verification
    - latest county tax listing or bill reflecting the owner on the certified tax listing matches the grantor in the document presented for registration.
    - The county officer who manages tax listings certifies that the grantor on the document presented for registration is consistent with the owner reflected on the tax listing for the real property.
  - In the event of a material inconsistency in the grantor's identity reflected on the document presented for registration and the county tax records, the document presented for registration shall not be recorded until legal verification of the source of title of the grantor reflected on the document presented for registration has been provided by one of the following methods:
    - The county officer who manages tax listings determines that the grantor reflected in the document presented for registration should be included as an owner in the tax listing for the real property.
    - A North Carolina licensed attorney provides a title certification of the grantor listed in the document presented for registration.

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## Proposed Redaction Bill (H923)

- Goal is to enhance privacy protections by limiting access to public data regarding "judicial personnel"
- Preserves public records access in-person and focuses on restricting online availability
- Confidentiality measures keep requests non-public to prevent exposing officials' personal information



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## Threats

- [www.usmarshals.gov](http://www.usmarshals.gov)



Protective Investigations, Federal Judges Threatened FY 2022 - FY 2026*			
FY	Total Investigations	Total Threats to Judges	Unique Judges
2022	1,362	403	302
2023	1,060	630	455
2024	822	509	379
2025	807	564	396
2026*	230	176	151

\*Data through 01/30/2026

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## Redaction

- Any judicial official may request, in writing, that all personal identifying information be removed from any website, online computer database, or geographical information system maintained by any public agency and available to the general public, provided the request includes all of the following:
  - The name of the judicial official.
  - Information indicating the judicial official is eligible to make the request.
  - The specific personal identifying information to be removed.
- Each public agency shall develop and make available a process by which any judicial official may request removal of that individual's personal identifying information from any website, online computer database, or geographical information system maintained by the public agency and available to the general public. The request to remove personal identifying information may also include a request to remove the personal identifying information of the individual's spouse.
- At said request, the agency must remove all the information and can't put it back "online" unless they get a request from the same judicial official that requested it removed.
- Even the request itself cannot go on the public record and must be confidential.

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## Scope of eligible parties

- Judicial official. – Any of the following individuals, while serving in that capacity:
  - A magistrate.
  - A justice or judge of the general court of justice.
  - A district attorney or assistant district attorney.
  - An assistant attorney general employed by the North Carolina Department of Justice.
  - A United States Attorney, Assistant United States Attorney, or Special Assistant United States Attorney.
  - A public defender or assistant public defender.
  - A federal judge.
  - A clerk of the superior court.
  - A resource prosecutor employed by the Conference of District Attorneys.

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## Affected Systems

- GIS
- Register of Deeds
- Tax office
- Any other agency

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## Title Issues

- Redaction could make online title searches incomplete, forcing in-person courthouse exams
- GIS, tax offices, lenders, and schools rely on full address visibility
- Creates uncertainty for proving ownership, chain of title, and lien priority
- Risk of closing delays if attorneys cannot verify property identity or owner information
- Trusted-filer or clearinghouse system not yet defined; attorney access to full records unclear

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## Potential Clarifications/Changes

- Create one statewide process rather than the potential for every county to do something different.
- Add a clear process for ending redaction when someone is no longer protected.
- Do not redact core land-records information needed for titles, loans, taxes, or GIS.
- Limit the bill to truly high-risk individuals.

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## Other Bills Under Consideration

Foreign Ownership Restrictions	SB394
Residential Wholesaling	HB797
P.A.V.E. Act	HB948 - S.L. 2025-39
NC Farmland & Military Protection Act	H133 S394

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Please submit questions or comments to:  
chicagotitlenc@ctt.com



Visit our website at [www.northcarolina.ctic.com](http://www.northcarolina.ctic.com).



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