

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2011

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HOUSE BILL 707  
Committee Substitute Favorable 6/3/11  
PROPOSED SENATE COMMITTEE SUBSTITUTE H707-PCS90247-TG-44

Short Title: Register of Deeds/Directed Trustees/Estates.

(Public)

Sponsors:

Referred to:

April 7, 2011

1 A BILL TO BE ENTITLED  
2 AN ACT TO ELIMINATE OBSOLETE REGISTER OF DEEDS PROVISIONS FROM THE  
3 GENERAL STATUTES, TO AMEND LOCAL AGENCY CHARGES FOR VITAL  
4 RECORDS SEARCHES, TO CLARIFY THE LAW GOVERNING PERSONS HOLDING  
5 THE POWER TO DIRECT TRUSTEES, TRUST PROTECTORS, AND DIRECTED  
6 TRUSTEES AND OTHER FIDUCIARIES, TO MAKE TECHNICAL CHANGES IN THE  
7 LAW GOVERNING TRUSTS AND DECEDENTS' ESTATES, AND TO AUTHORIZE  
8 THE REVISOR OF STATUTES TO PRINT OFFICIAL COMMENTS TO THE  
9 UNIFORM TRUST CODE.

10 The General Assembly of North Carolina enacts:

11  
12 **PART I. OBSOLETE REGISTER OF DEEDS PROVISIONS**

13 **SECTION 1.1.** G.S. 9-4 reads as rewritten:

14 **"§ 9-4. Preparation and custody of list.**

15 As the jury list is prepared, the name and address of each qualified person selected for the  
16 list shall be recorded and alphabetically arranged. ~~written on a separate card. The cards shall~~  
17 ~~then be alphabetized and permanently numbered, the numbers running consecutively with a~~  
18 ~~different number on each card. These cards shall constitute the jury list for the county. They~~  
19 The list shall be filed with the office of the clerk of court, register of deeds of the county,  
20 together with a statement of the sources used and procedures followed in preparing the list. The  
21 list shall be kept under lock and key, but shall be available for public inspection during regular  
22 office hours. ~~The register of deeds clerk of court~~ may elect to store an electronic copy of the  
23 jury list for the county."

24 **SECTION 1.2.** G.S. 45-16 is repealed.

25 **SECTION 1.3.** G.S. 45-21.17A(b) reads as rewritten:

26 **"§ 45-21.17A. Requests for copies of notice.**

27 ...

28 (b) Register of Deeds' Duties. – Upon the filing for record of such request, the register  
29 of deeds shall index in the general index of grantors the names of the trustors (mortgagors)  
30 recited therein, and the names of the persons requesting copies, with a reference in the index of  
31 the book and page of the recorded security instrument to which the request ~~refers.~~ refers; ~~or~~  
32 ~~upon the filing for record of such request, the register of deeds may, instead of indexing such~~



\* H 7 0 7 - P C S 9 0 2 4 7 - T G - 4 4 \*

1 request on the general index of grantors, stamp upon the face of the security instrument referred  
2 to in the request the book and page of each request for notice thereunder."

3 **SECTION 1.4.** G.S. 47-14(e) reads as rewritten:

4 "**§ 47-14. Register of deeds to verify the presence of proof or acknowledgement and**  
5 **register instruments and electronic documents; order by judge; instruments to**  
6 **which register of deeds is a party.**

7 ...

8 (e) Register of Deeds as Party. – Any instrument required or permitted by law to be  
9 registered in which the register of deeds of the county of registration is a party may be proved  
10 or acknowledged before any magistrate or any notary public. ~~The clerk of superior court of the~~  
11 ~~county of registration shall examine any instrument presented for registration. If it appears that~~  
12 ~~the execution and acknowledgment are in due form, the clerk shall so certify and the instrument~~  
13 ~~shall then be recorded in the office of the register of deeds."~~

14 **SECTION 1.5.** G.S. 47C-2-101(a) reads as rewritten:

15 "**§ 47C-2-101. Execution and recordation of declaration.**

16 (a) A declaration creating a condominium shall be executed in the same manner as a  
17 deed, shall be recorded in every county in which any portion of the condominium is  
18 ~~located.~~located, and shall be indexed in the Grantee index in the name of the condominium and  
19 in the Grantor index in the name of each person executing the declaration."

20 **SECTION 1.6.** G.S. 47C-2-109(a) reads as rewritten:

21 "**§ 47C-2-109. Plats and plans.**

22 (a) The declarant shall file with the register of deeds in each county where the  
23 condominium is located the condominium's plat or plan prepared in accordance with this  
24 section. The plat or plan shall be considered a part of the declaration but shall be recorded  
25 separately, and the declaration shall refer by number to the file where such plat or plan is  
26 recorded. ~~Each plat or plan shall be kept by the register of deeds in a separate file, indexed in~~  
27 ~~the same manner as a conveyance entitled to be recorded, numbered serially in the order of~~  
28 ~~receipt, and designated "Condominium" with the name of the building, if any, and shall contain~~  
29 ~~a reference to the book and page numbers and date of the recording of the declaration. Each~~  
30 ~~plat or plan must contain a certification by an architect licensed under the provisions of Chapter~~  
31 ~~83A of the General Statutes or an engineer registered under the provisions of Chapter 89C of~~  
32 ~~the General Statutes that it contains all of the information required by this section."~~

33 **SECTION 1.7.** G.S. 47F-2-101 reads as rewritten:

34 "**§ 47F-2-101. Creation of the planned community.**

35 A declaration creating a planned community shall be executed in the same manner as a  
36 ~~deed, deed and~~ shall be recorded in every county in which any portion of the planned  
37 community is ~~located.~~located, and shall be indexed in the Grantee index in the name of the  
38 ~~planned community and the association and in the Grantor index in the name of each person~~  
39 ~~executing the declaration."~~

40 **SECTION 1.8.** G.S. 47F-2-117(c) reads as rewritten:

41 "**§ 47F-2-117. Amendment of declaration.**

42 ...

43 (c) Every amendment to the declaration shall be recorded in every county in which any  
44 portion of the planned community is located and is effective only upon recordation. ~~An~~  
45 ~~amendment shall be indexed in the Grantee index in the name of the planned community and~~  
46 ~~the association and in the Grantor index in the name of each person executing the amendment."~~

47 **SECTION 1.9.** G.S. 58-72-50 reads as rewritten:

48 "**§ 58-72-50. Approval, acknowledgment and custody of bonds.**

49 The approval of all official bonds taken or renewed by the board of commissioners shall be  
50 recorded by the clerk to the board. Every such bond shall be acknowledged by the parties  
51 thereto or proved by a subscribing witness, before the chairman of the board of commissioners,

1 or before the clerk of the superior court, ~~registered in the register's office in a separate book to~~  
2 ~~be kept for the registration of official bonds,~~ and the original bond, with the approval of the  
3 commissioners endorsed thereon and certified by their chairman, shall be deposited with the  
4 clerk of the superior court for safekeeping. Provided that an official bond executed as surety by  
5 a surety company authorized to do business in this State need not be acknowledged upon behalf  
6 of the surety when such bond is executed under seal in the name of the surety by an agent or  
7 attorney-in-fact by authority of a power of attorney duly recorded in the office of the register of  
8 deeds of such county, county and such bond may be recorded by the register of deeds without  
9 an order of probate entered by the clerk of the superior court."

10 **SECTION 1.10.** G.S. 68-18.1 reads as rewritten:

11 **"§ 68-18.1. Notice when owner not known.**

12 If the owner of the impounded livestock is not known or cannot be found, the impounder  
13 shall inform the ~~register of deeds that he has impounded the livestock and provide the register~~  
14 ~~of deeds with a description of the livestock. The register of deeds shall record the information~~  
15 ~~in a book kept for that purpose, and shall charge the impounder a fee of ten dollars (\$10.00).~~  
16 ~~The register of deeds shall immediately publish a notice of the impoundment of the animal by~~  
17 ~~posting a notice on the courthouse door. The notice on the courthouse door shall be posted for~~  
18 ~~30 days, and shall contain~~ sheriff of the county in which the livestock was found of the  
19 impoundment, giving a full description of the livestock impounded, including all marks or  
20 brands on the livestock, and shall state when and where the animal was taken up. ~~The~~  
21 ~~impounder shall publish once, in some newspaper published and distributed in the county, a~~  
22 ~~notice containing the same information as the notice posted by the register of deeds. The fees~~  
23 ~~for publishing the notice shall be paid by the impounder."~~

24 **SECTION 1.11.** G.S. 80-16 reads as rewritten:

25 **"§ 80-16. How adopted, registered and published.**

26 Every such dealer desiring to adopt a trademark may do so pursuant to the provisions of  
27 Article 1 of Chapter 80 of the General Statutes. Nothing in this section invalidates or otherwise  
28 alters the legal effect of any timber mark registered according to the law in effect at the time of  
29 registration. by the execution of a writing in form and effect as follows:

30 Notice is hereby given that I (or we, etc., as the case may be) have adopted the following  
31 trademark, to be used in my (or our, etc.) business as timber dealer (or dealers), to wit: (Here  
32 insert the words, letters, figures, etc., constituting the trademark, or if it be any device other  
33 than words, letters or figures, insert a facsimile thereof).

34 Dated this \_\_\_\_ day of \_\_\_\_, \_\_\_\_ A \_\_\_\_ B \_\_\_\_

35 Such writing shall be acknowledged or proved for record in the same manner as deeds are  
36 acknowledged or proved, and shall be registered in the office of the register of deeds of the  
37 county in which the principal office or place of business of such timber dealer may be, in a  
38 book to be kept for that purpose marked Registry of Timber Marks, also in office of Secretary  
39 of State, and a copy thereof shall be published at least once in each week for four successive  
40 weeks in some newspaper printed in such county, or if there be no such newspaper printed  
41 therein, then in some newspaper of general circulation in such county."

42 **SECTION 1.12.** G.S. 80-33 through G.S. 80-37 are repealed.

43 **SECTION 1.13.** G.S. 80-38 reads as rewritten:

44 **"§ 80-38. When transfer of farm carries name.**

45 When any owner of a farm, the name of which has been recorded in the office of the  
46 register of deeds of the county in which the farm is located according to the law in effect at the  
47 time of recording, as provided in this Article, transfers by deed or otherwise the whole of such  
48 farm, such transfer may include the registered name thereof; but if the owner shall transfer only  
49 a portion of such farm, then, in the event, the registered name thereof shall not be transferred to  
50 the purchaser unless so stated in the deed or conveyance."

51 **SECTION 1.14.** G.S. 80-39 reads as rewritten:

1 **"§ 80-39. Cancellation of registry; fee.**

2 When any owner of a ~~registered~~ farm name that has been registered in the office of the  
3 register of deeds of the county in which the farm is located desires to cancel the registered  
4 name thereof, such owner may record a duly signed and acknowledged instrument to that effect  
5 in the register of deeds real estate records.~~he shall state on the margin of the record of the~~  
6 ~~register of such name the following: "This name is canceled and I hereby release all rights~~  
7 ~~thereunder," which shall be signed by the person canceling such name, and attested by the~~  
8 ~~register of deeds. For such latter service the register of deeds shall charge a fee of twenty five~~  
9 ~~cents (25¢), which shall be paid to the county treasurer as other fees are paid to the county~~  
10 ~~treasurer by him."~~

11 **SECTION 1.15.** G.S. 87-110(d) reads as rewritten:

12 **"§ 87-110. Recording requirements for utility owners.**

13 ...

14 (d) ~~Upon receipt of the documents recorded pursuant to subsections (a), (b), or (c) of~~  
15 ~~this section, the Register of Deeds shall place the documents in the Grantor's Index under the~~  
16 ~~heading "Underground Utilities". The registration fee imposed by Chapter 161 of the General~~  
17 ~~Statutes shall apply to these documents."~~

18 **SECTION 1.16.** G.S. 104-7(c) reads as rewritten:

19 **"§ 104-7. Acquisition of lands by the United States for customhouses, courthouses, post**  
20 **offices, forts, arsenals, or armories; cession of jurisdiction; exemption from**  
21 **taxation.**

22 ...

23 (c) The jurisdiction ceded shall not vest until the United States has acquired title to the  
24 land by purchase, condemnation, or otherwise; accepted the cession of jurisdiction in writing;  
25 and filed a certified copy of the acceptance in the office of the register of deeds in the county or  
26 counties in which the land is located. ~~The acceptance of jurisdiction shall be made by an~~  
27 ~~authorized official of the United States and shall include a precise description of the land~~  
28 ~~involved and a statement of the extent to which cession of jurisdiction is accepted. The register~~  
29 ~~of deeds shall record the acceptance of jurisdiction and index it in both the grantor and the~~  
30 ~~grantee index under the name of the United States and, if title to the land over which~~  
31 ~~jurisdiction is ceded is vested in any entity other than the United States, then the register of~~  
32 ~~deeds shall also index the acceptance of jurisdiction in both the grantor and the grantee index~~  
33 ~~under the name of that entity."~~

34 **SECTION 1.17.** G.S. 130A-301 reads as rewritten:

35 **"§ 130A-301. Recordation of permits for disposal of waste on land and Notice of Open**  
36 **Dump.**

37 (a) Whenever the Department approves a permit for a sanitary landfill or a facility for  
38 the disposal of hazardous waste on land, the owner of the facility shall be granted both an  
39 original permit and a copy certified by the Secretary. The permit shall include a legal  
40 description of the site that would be sufficient as a description in an instrument of conveyance.

41 (b) The owner of a facility granted a permit for a sanitary landfill or a facility for the  
42 disposal of hazardous waste on land shall file the certified copy of the permit in the office of  
43 the register of deeds in the county or counties in which the land is located.

44 (e) ~~The register of deeds shall record the certified copy of the permit and index it in the~~  
45 ~~grantor index under the name of the owner of the land.~~

46 (d) The permit shall not be effective unless the certified copy is filed as required under  
47 subsection (b) of this section.

48 (e) When a sanitary landfill or a facility for the disposal of hazardous waste on land is  
49 sold, leased, conveyed or transferred, the deed or other instrument of transfer shall contain in  
50 the description section in no smaller type than that used in the body of the deed or instrument a

1 statement that the property has been used as a sanitary landfill or a disposal site for hazardous  
 2 waste and a reference by book and page to the recordation of the permit.

3 (f) When the Department determines that an open dump exists, the Department shall  
 4 notify the owner or operator of the open dump of applicable requirements to take remedial  
 5 action at the site of the open dump to protect public health and the environment. If the owner or  
 6 operator fails to take remedial action, the Department may record a Notice of Open Dump in  
 7 the office of the register of deeds in the county or counties where the open dump is located. Not  
 8 less than 30 days before recording the Notice of Open Dump, the Department shall notify the  
 9 owner or operator of its intention to file a Notice of Open Dump. The Department may notify  
 10 the owner or operator of its intention to file a Notice of Open Dump at the time it notifies the  
 11 owner or operator of applicable requirements to take remedial action. An owner or operator  
 12 may challenge a decision of the Department to file a Notice of Open Dump by filing a  
 13 contested case under Article 3 of Chapter 150B of the General Statutes. If an owner or operator  
 14 challenges a decision of the Department to file a Notice of Open Dump, the Department shall  
 15 not file the Notice of Open Dump until the contested case is resolved, but may file a notice of  
 16 pending litigation under Article 11 of Chapter 1 of the General Statutes. This power is  
 17 additional and supplemental to any other power granted to the Department. This subsection  
 18 does not repeal or supersede any statute or rule requiring or authorizing record notice by the  
 19 owner.

- 20 (1) The Department shall file the Notice of Open Dump in the office of the  
 21 register of deeds in substantially the following form:

22  
 23 **"NOTICE OF OPEN DUMP**

24 The Division of Waste Management of the North Carolina Department of  
 25 Environment and Natural Resources has determined that an open dump  
 26 exists on the property described below. The Department provides the  
 27 following information regarding this open dump as a public service. This  
 28 Notice is filed pursuant to G.S. 130A-301(f).

29 Name(s) of the record owner(s): \_\_\_\_\_

30 Description of the real property: \_\_\_\_\_

31 Description of the particular area where the open dump is located: \_\_\_\_\_

32 Any person who has questions regarding this Notice should contact the  
 33 Division of Waste Management of the North Carolina Department of  
 34 Environment and Natural Resources. The contact person for this Notice is:

35 \_\_\_\_\_ who may be reached by telephone at \_\_\_\_\_ or

36 by mail at \_\_\_\_\_. Requests for inspection and copying of public

37 records regarding this open dump may be directed to \_\_\_\_\_ who

38 may be reached by telephone at \_\_\_\_\_ or by mail at

39 \_\_\_\_\_.

40 \_\_\_\_\_

41 Secretary of Environment and Natural Resources by \_\_\_\_\_

42 Date: \_\_\_\_\_."

- 43 (2) The description of the particular area where the open dump is located shall  
 44 be based on the best information available to the Department but need not be  
 45 a survey plat that meets the requirements of G.S. 47-30 unless a survey plat  
 46 that meets those requirements and that is approved by the Department is  
 47 furnished by the owner or operator.

- 48 (3) ~~The register of deeds shall record the Notice of Open Dump and index it in~~  
 49 ~~the grantor index under the name of the record owner or owners. After~~  
 50 ~~recording the Notice of Open Dump, the register of deeds shall return the~~

1                    ~~Notice of Open Dump to the Department in care of the person listed as the~~  
2                    ~~contact person in the Notice of Open Dump.~~

- 3                    (4)    When the owner removes all solid waste from the open dump site to the  
4                    satisfaction of the Department, the Department shall file a Cancellation of  
5                    the Notice of Open Dump. The Cancellation shall be in a form similar to the  
6                    original Notice of Open Dump and shall state that all the solid waste that  
7                    constituted the open dump has been removed to the satisfaction of the  
8                    Department. ~~The Cancellation shall be filed and indexed in the same manner~~  
9                    ~~as the original Notice of Open Dump."~~

10                   **SECTION 1.18.** G.S. 130A-310.8 reads as rewritten:

11                   **"§ 130A-310.8. Recordation of inactive hazardous substance or waste disposal sites.**

12                   (a)    After determination by the Department of the existence and location of an inactive  
13                   hazardous substance or waste disposal site, the owner of the real property on which the site is  
14                   located, within 180 days after official notice to the owner to do so, shall submit to the  
15                   Department a survey plat of areas designated by the Department that has been prepared and  
16                   certified by a professional land surveyor, and entitled "NOTICE OF INACTIVE  
17                   HAZARDOUS SUBSTANCE OR WASTE DISPOSAL SITE". Where an inactive hazardous  
18                   substance or waste disposal site is located on more than one parcel or tract of land, a composite  
19                   map or plat showing all parcels or tracts may be recorded. The Notice shall include a legal  
20                   description of the site that would be sufficient as a description in an instrument of conveyance,  
21                   shall meet the requirements of G.S. 47-30 for maps and plats, and shall identify:

- 22                   (1)    The location and dimensions of the disposal areas and areas of potential  
23                   environmental concern with respect to permanently surveyed benchmarks.  
24                   (2)    The type, location, and quantity of hazardous substances known by the  
25                   owner of the site to exist on the site.  
26                   (3)    Any restrictions approved by the Department on the current or future use of  
27                   the site.

28                   (b)    After the Department approves and certifies the Notice, the owner of the site shall  
29                   file the certified copy of the Notice in the register of deeds' office in the county or counties in  
30                   which the land is located within 15 days of the date on which the owner receives approval of  
31                   the Notice from the Department.

32                   ~~(c)    The register of deeds shall record the certified copy of the Notice and index it in the~~  
33                   ~~grantor index under the names of the owners of the lands.~~

34                   (d)    In the event that the owner of the site fails to submit and file the Notice required by  
35                   this section within the time specified, the Secretary may prepare and file such Notice. The costs  
36                   thereof may be recovered by the Secretary from any responsible party. In the event that an  
37                   owner of a site who is not a responsible party submits and files the Notice required by this  
38                   section, he may recover the reasonable costs thereof from any responsible party.

39                   (e)    When an inactive hazardous substance or waste disposal site is sold, leased,  
40                   conveyed, or transferred, the deed or other instrument of transfer shall contain in the  
41                   description section, in no smaller type than that used in the body of the deed or instrument, a  
42                   statement that the property has been used as a hazardous substance or waste disposal site and a  
43                   reference by book and page to the recordation of the Notice.

44                   (f)    A Notice of Inactive Hazardous Substance or Waste Disposal Site filed pursuant to  
45                   this section may, at the request of the owner of the land, be cancelled by the Secretary after the  
46                   hazards have been eliminated. If requested in writing by the owner of the land and if the  
47                   Secretary concurs with the request, the Secretary shall send to the register of deeds of each  
48                   county where the Notice is recorded a statement that the hazards have been eliminated and  
49                   request that the Notice be cancelled of record. The Secretary's statement shall contain the  
50                   names of the owners of the land as shown in the Notice and reference the plat book and page  
51                   where the Notice is recorded. ~~The register of deeds shall record the Secretary's statement in the~~

1 deed books and index it on the grantor index in the names of the owners of the land as shown in  
2 the Notice and on the grantee index in the name "Secretary of Environment and Natural  
3 Resources". The register of deeds shall make a marginal entry on the Notice showing the date  
4 of cancellation and the book and page where the Secretary's statement is recorded, and the  
5 register of deeds shall sign the entry. If a marginal entry is impracticable because of the method  
6 used to record maps and plats, the register of deeds shall not be required to make a marginal  
7 entry.

8 (g) Recordation under this section is not required for any inactive hazardous substance  
9 or waste disposal site that is undergoing voluntary remedial action pursuant to this Part unless  
10 the Secretary determines that either:

11 (1) A concentration of a hazardous substance or hazardous waste that poses a  
12 danger to public health or the environment will remain following  
13 implementation of the voluntary remedial action program.

14 (2) The voluntary remedial action program is not being implemented in a  
15 manner satisfactory to the Secretary and in compliance with the agreement  
16 between the Secretary and the owner, operator, or other responsible party.

17 (h) The Secretary may waive recordation under this section with respect to any  
18 residential real property that is contaminated solely because a hazardous substance or  
19 hazardous waste migrated to the property from other property by means of groundwater flow if  
20 disclosure of the contamination is required under Chapter 47E of the General Statutes. An  
21 owner of residential real property whose recordation requirement is waived by the Secretary  
22 under this subsection and who fails to disclose contamination as required by Chapter 47E of the  
23 General Statutes is subject to both the penalties and remedies under this Chapter applicable to a  
24 person who fails to comply with the recordation requirements of this section as though those  
25 requirements had not been waived and to the remedies available under Chapter 47E of the  
26 General Statutes."

27 **SECTION 1.19.** G.S. 130A-310.35 reads as rewritten:

28 "**§ 130A-310.35. Notice of Brownfields Property; land-use restrictions in deed.**

29 (a) In order to reduce or eliminate the danger to public health or the environment posed  
30 by a brownfields property being addressed under this Part, a prospective developer who desires  
31 to enter into a brownfields agreement with the Department shall submit to the Department a  
32 proposed Notice of Brownfields Property. A Notice of Brownfields Property shall be entitled  
33 "Notice of Brownfields Property", shall include a survey plat of areas designated by the  
34 Department that has been prepared and certified by a professional land surveyor and that meets  
35 the requirements of G.S. 47-30, shall include a legal description of the brownfields property  
36 that would be sufficient as a description of the property in an instrument of conveyance, and  
37 shall identify all of the following:

38 (1) The location and dimensions of the areas of potential environmental concern  
39 with respect to permanently surveyed benchmarks.

40 (2) The type, location, and quantity of regulated substances and contaminants  
41 known to exist on the brownfields property.

42 (3) Any restrictions on the current or future use of the brownfields property or,  
43 with the owner's permission, other property that are necessary or useful to  
44 maintain the level of protection appropriate for the designated current or  
45 future use of the brownfields property and that are designated in the  
46 brownfields agreement. These land-use restrictions may apply to activities  
47 on, over, or under the land, including, but not limited to, use of groundwater,  
48 building, filling, grading, excavating, and mining. Where a brownfields  
49 property encompasses more than one parcel or tract of land, a composite  
50 map or plat showing all parcels or tracts may be recorded.

1 (b) After the Department approves and certifies the Notice of Brownfields Property  
2 under subsection (a) of this section, a prospective developer who enters into a brownfields  
3 agreement with the Department shall file a certified copy of the Notice of Brownfields Property  
4 in the register of deeds' office in the county or counties in which the land is located. The  
5 prospective developer shall file the Notice of Brownfields Property within 15 days of the  
6 prospective developer's receipt of the Department's approval of the notice or the prospective  
7 developer's entry into the brownfields agreement, whichever is later.

8 ~~(c) The register of deeds shall record the certified copy of the notice and index it in the~~  
9 ~~grantor index under the names of the owners of the land, and, if different, also under the name~~  
10 ~~of the prospective developer conducting the redevelopment of the brownfields property.~~

11 (d) When a brownfields property is sold, leased, conveyed, or transferred, the deed or  
12 other instrument of transfer shall contain in the description section, in no smaller type than that  
13 used in the body of the deed or instrument, a statement that the brownfields property has been  
14 classified and, if appropriate, cleaned up as a brownfields property under this Part.

15 (e) A Notice of Brownfields Property filed pursuant to this section may, at the request  
16 of the owner of the land, be cancelled by the Secretary after the hazards have been eliminated.  
17 If requested in writing by the owner of the land and if the Secretary concurs with the request,  
18 the Secretary shall send to the register of deeds of each county where the notice is recorded a  
19 statement that the hazards have been eliminated and request that the notice be cancelled of  
20 record. The Secretary's statement shall contain the names of the owners of the land as shown in  
21 the notice and reference the plat book and page where the notice is recorded. ~~The register of~~  
22 ~~deeds shall record the Secretary's statement in the deed books and index it on the grantor index~~  
23 ~~in the names of the owners of the land as shown in the Notice of Brownfields Property and on~~  
24 ~~the grantee index in the name "Secretary of Environment and Natural Resources". The register~~  
25 ~~of deeds shall make a marginal entry on the Notice of Brownfields Property showing the date~~  
26 ~~of cancellation and the book and page where the Secretary's statement is recorded, and the~~  
27 ~~register of deeds shall sign the entry. If a marginal entry is impracticable because of the method~~  
28 ~~used to record maps and plats, the register of deeds shall not be required to make a marginal~~  
29 ~~entry.~~

30 (f) Any land-use restriction filed pursuant to this section shall be enforced by any  
31 owner of the land. Any land-use restriction may also be enforced by the Department through  
32 the remedies provided in Part 2 of Article 1 of this Chapter or by means of a civil action. The  
33 Department may enforce any land-use restriction without first having exhausted any available  
34 administrative remedies. A land-use restriction may also be enforced by any unit of local  
35 government having jurisdiction over any part of the brownfields property by means of a civil  
36 action without the unit of local government having first exhausted any available administrative  
37 remedy. A land-use restriction may also be enforced by any person eligible for liability  
38 protection under this Part who will lose liability protection if the land-use restriction is violated.  
39 A land-use restriction shall not be declared unenforceable due to lack of privity of estate or  
40 contract, due to lack of benefit to particular land, or due to lack of any property interest in  
41 particular land. Any person who owns or leases a property subject to a land-use restriction  
42 under this section shall abide by the land-use restriction.

43 (g) This section shall apply in lieu of the provisions of G.S. 130A-310.8 for brownfields  
44 properties remediated under this Part."

45 **SECTION 1.20.** G.S. 143-215.85A reads as rewritten:

46 **"§ 143-215.85A. Recordation of oil or hazardous substance discharge sites.**

47 (a) The owner of the real property on which a site is located that is subject to current or  
48 future use restrictions approved as provided in G.S. 143-215.84(f) shall submit to the  
49 Department a survey plat as required by this section within 180 days after the owner is notified  
50 to do so. The survey plat shall identify areas designated by the Department, shall be prepared  
51 and certified by a professional land surveyor, and shall be entitled "NOTICE OF OIL OR



1 HAZARDOUS SUBSTANCE DISCHARGE SITE". Where an oil or hazardous substance  
2 discharge site is located on more than one parcel or tract of land, a composite map or plat  
3 showing all parcels or tracts may be recorded. The Notice shall include a legal description of  
4 the site that would be sufficient as a description in an instrument of conveyance, shall meet the  
5 requirements of G.S. 47-30 for maps and plats, and shall identify:

- 6 (1) The location and dimensions of the disposal areas and areas of potential  
7 environmental concern with respect to permanently surveyed benchmarks.
- 8 (2) The type, location, and quantity of oil or hazardous substances known to the  
9 owner of the site to exist on the site.
- 10 (3) Any restrictions approved by the Department on the current or future use of  
11 the site.

12 (b) After the Department approves and certifies the Notice, the owner of the site shall  
13 file the certified copy of the Notice in the register of deeds office in the county or counties in  
14 which the land is located within 15 days of the date on which the owner receives approval of  
15 the Notice from the Department.

16 ~~(c) The register of deeds shall record the certified copy of the Notice and index it in the~~  
17 ~~grantor index under the names of the owners of the lands.~~

18 (d) In the event that the owner of the site fails to submit and file the Notice required by  
19 this section within the time specified, the Secretary may prepare and file the Notice. The costs  
20 thereof may be recovered by the Secretary from any responsible party. In the event that an  
21 owner of a site who is not a responsible party submits and files the Notice required by this  
22 section, he may recover the reasonable costs thereof from any responsible party.

23 (e) When an oil or hazardous substance discharge site that is subject to current or future  
24 land-use restrictions under this section is sold, leased, conveyed, or transferred, the deed or  
25 other instrument of transfer shall contain in the description section, in no smaller type than that  
26 used in the body of the deed or instrument, a statement that the property has been used as an oil  
27 or hazardous substance discharge site and a reference by book and page to the recordation of  
28 the Notice.

29 (f) A Notice of Oil or Hazardous Substance Discharge Site filed pursuant to this section  
30 may, at the request of the owner of the land, be cancelled by the Secretary after the hazards  
31 have been eliminated. If requested in writing by the owner of the land and if the Secretary  
32 concurs with the request, the Secretary shall send to the register of deeds of each county where  
33 the Notice is recorded a statement that the hazards have been eliminated and request that the  
34 Notice be cancelled of record. The Secretary's statement shall contain the names of the owners  
35 of the land as shown in the Notice and reference the plat book and page where the Notice is  
36 recorded. ~~The register of deeds shall record the Secretary's statement in the deed books and~~  
37 ~~index it on the grantor index in the names of the owners of the land as shown in the Notice and~~  
38 ~~on the grantee index in the name "Secretary of Environment and Natural Resources". The~~  
39 ~~register of deeds shall make a marginal entry on the Notice showing the date of cancellation~~  
40 ~~and the book and page where the Secretary's statement is recorded, and the register of deeds~~  
41 ~~shall sign the entry. If a marginal entry is impracticable because of the method used to record~~  
42 ~~maps and plats, the register of deeds shall not be required to make a marginal entry."~~

43 **SECTION 1.21.** G.S. 143-215.104M reads as rewritten:

44 **"§ 143-215.104M. (Expires January 1, 2022 – see notes) Notice of Dry-Cleaning Solvent**  
45 **Remediation; land-use restrictions in deeds.**

46 (a) Land-Use Restriction. – In order to reduce or eliminate the danger to public health  
47 or the environment posed by a dry-cleaning solvent contamination site, the owner of property  
48 upon which dry-cleaning solvent contamination has been discovered may file a Notice of  
49 Dry-Cleaning Solvent Remediation approved by the Commission identifying the site on which  
50 the contamination has been discovered and providing for current or future restrictions on the  
51 use of the property. If a petitioner requests that a contamination site be remediated to standards

1 that require land-use restrictions, the owner of the property must file a Notice of Dry-Cleaning  
2 Solvent Remediation for the remediation agreement to become effective.

3 (b) Notice of Restriction. – A Notice of Dry-Cleaning Solvent Remediation shall  
4 include:

- 5 (1) A survey plat of the contamination site that has been prepared and certified  
6 by a professional land surveyor and that meets the requirements of  
7 G.S. 47-30.
- 8 (2) A legal description of the property that would be sufficient as a description  
9 in an instrument of conveyance.
- 10 (3) A description of the location and dimensions of the areas of potential  
11 environmental concern with respect to permanently surveyed benchmarks.
- 12 (4) The type, location, and quantity of dry-cleaning solvent contamination  
13 known to exist on the property.
- 14 (5) Any restrictions on the current or future use of the property or other property  
15 that are necessary to assure adequate protection of public health and the  
16 environment as provided in rules adopted pursuant to  
17 G.S. 143-215.104D(b)(3). These land-use restrictions may apply to activities  
18 on, over, or under the land, including, but not limited to, use of groundwater,  
19 building, filling, grading, excavating, and mining. Where a contamination  
20 site encompasses more than one parcel or tract of land, a composite map or  
21 plat showing all parcels or tracts may be recorded.

22 (c) Recordation of Notice. – After the Commission approves and certifies the Notice of  
23 Dry-Cleaning Solvent Remediation under subsection (a) of this section, a certified copy of a  
24 Notice of Dry-Cleaning Solvent Remediation shall be filed in the office of the register of deeds  
25 of the county or counties in which the property described is located. The owner of the property  
26 shall file the Notice of Dry-Cleaning Solvent Remediation within 15 days of the property  
27 owner's receipt of the Commission's approval of the notice or the effective date of the  
28 dry-cleaning solvent remediation agreement, whichever is later. ~~The register of deeds shall  
29 record the certified copy of the Notice of Dry-Cleaning Solvent Remediation and index it in the  
30 grantor index under the names of the owners of the land.~~

31 (d) Notice of Transfer. – When property for which a Notice of Dry-Cleaning Solvent  
32 Remediation has been filed is sold, leased, conveyed, or transferred, the deed or other  
33 instrument of transfer shall contain in the description section, in no smaller type than that used  
34 in the body of the deed or instrument, a statement that the property has been contaminated with  
35 dry-cleaning solvent and, if appropriate, cleaned up under this Part.

36 (e) Cancellation of Notice. – A Notice of Dry-Cleaning Solvent Remediation filed  
37 pursuant to this Part may, at the request of the owner of the property subject to the Notice of  
38 Dry-Cleaning Solvent Remediation, be canceled by the Secretary after the risk to public health  
39 and the environment associated with the dry-cleaning solvent contamination and any other  
40 contaminants included in the dry-cleaning solvent remediation agreement has been eliminated  
41 as a result of remediation of the property. The Secretary shall forward notice of cancellation to  
42 the register of deeds of the county or counties where the Notice of Dry-Cleaning Solvent  
43 Remediation is recorded and request that the Notice of Dry-Cleaning Solvent Remediation be  
44 canceled. The notice of cancellation shall contain the names of the landowners as shown in the  
45 Notice of Dry-Cleaning Solvent Remediation. ~~The register of deeds shall record the notice of  
46 cancellation in the deed books and index it on the grantor index in the name of the landowner  
47 as shown in the Notice of Dry-Cleaning Solvent Remediation and on the grantee index in the  
48 name "Secretary of Environment and Natural Resources". The register of deeds shall make a  
49 marginal entry on the Notice of Dry-Cleaning Solvent Remediation showing the date of  
50 cancellation and the book and page where the notice of cancellation is recorded, and the  
51 register of deeds shall sign the entry. If a marginal entry is impracticable because of the method~~

1 ~~used to record maps and plats, the register of deeds shall not be required to make a marginal~~  
2 ~~entry.~~

3 (f) Enforcement. – Any restriction on the current or future use of property subject to a  
4 Notice of Dry-Cleaning Solvent Remediation filed pursuant to this section shall be enforced by  
5 any owner of the property or by any other potentially responsible party. Any land-use  
6 restriction may also be enforced by the Commission through the remedies provided in this Part  
7 or by means of a civil action in the superior court. The Commission may enforce any land-use  
8 restriction without first having exhausted any available administrative remedies. Restrictions  
9 also may be enforced by any unit of local government having jurisdiction over any part of the  
10 property by means of a civil action without the unit of local government having first exhausted  
11 any available administrative remedy. A land-use restriction may also be enforced by any person  
12 eligible for liability protection under this Part who will lose liability protection if the land-use  
13 restriction is violated. A restriction shall not be declared unenforceable due to lack of privity of  
14 estate or contract, due to lack of benefit to particular land, or due to lack of privity of any  
15 property interest in particular land. Any person who owns or leases a property subject to a  
16 land-use restriction under this section shall abide by the land-use restriction. Failure to submit  
17 an annual certification that land-use restrictions are properly recorded and followed shall result  
18 in a notice from the Commission to the property owner. The notice shall inform the person of  
19 the actions that need to be taken in order for the person to come into compliance and specify a  
20 date by which the person must comply, which shall not be less than 30 calendar days from the  
21 date the notice is mailed. Any person who fails to comply within the time specified shall then  
22 be subject to enforcement procedures as provided in this Part.

23 (g) Relation to Brownfields Notice. – Unless the Commission decertifies a previously  
24 certified facility or a previously certified abandoned site, this section shall apply in lieu of the  
25 provisions of Article 9 of Chapter 130A of the General Statutes and Parts 1 and 2 of Article  
26 21A of Chapter 143 of the General Statutes for properties remediated under this Part."

27 **SECTION 1.22.** G.S. 143B-279.10 reads as rewritten:

28 **"§ 143B-279.10. Recordation of contaminated sites.**

29 (a) The owner of the real property on which a site is located that is subject to current or  
30 future use restrictions approved as provided in G.S. 143B-279.9(a) shall submit to the  
31 Department a survey plat as required by this section within 180 days after the owner is notified  
32 to do so. The survey plat shall identify areas designated by the Department, shall be prepared  
33 and certified by a professional land surveyor, and shall be entitled "NOTICE OF  
34 CONTAMINATED SITE". Where a contaminated site is located on more than one parcel or  
35 tract of land, a composite map or plat showing all parcels or tracts may be recorded. The Notice  
36 shall include a legal description of the site that would be sufficient as a description in an  
37 instrument of conveyance, shall meet the requirements of G.S. 47-30 for maps and plats, and  
38 shall identify:

- 39 (1) The location and dimensions of any disposal areas and areas of potential  
40 environmental concern with respect to permanently surveyed benchmarks.
- 41 (2) The type, location, and quantity of contamination known to the owner of the  
42 site to exist on the site.
- 43 (3) Any restriction approved by the Department on the current or future use of  
44 the site.

45 (b) The Department shall review the proposed Notice to determine whether the Notice  
46 meets the requirements of this section and rules adopted to implement this section, and shall  
47 provide the owner of the site with a notarized copy of the approved Notice. After the  
48 Department approves the Notice, the owner of the site shall file a notarized copy of the  
49 approved Notice in the register of deeds office in the county or counties in which the land is  
50 located within 15 days of the date on which the owner receives approval of the Notice from the  
51 Department.

1       ~~(e) The register of deeds shall record the notarized copy of the approved Notice and~~  
2 ~~index it in the grantor index under the names of the owners of the land.~~

3       (d) In the event that the owner of the site fails to submit and file the Notice required by  
4 this section within the time specified, the Secretary may prepare and file the Notice. The costs  
5 thereof may be recovered by the Secretary from any responsible party. In the event that an  
6 owner of a site who is not a responsible party submits and files the Notice required by this  
7 section, the owner may recover the reasonable costs thereof from any responsible party.

8       (e) When a contaminated site that is subject to current or future land-use restrictions is  
9 sold, leased, conveyed, or transferred, the deed or other instrument of transfer shall contain in  
10 the description section, in no smaller type than that used in the body of the deed or instrument,  
11 a statement that the property is a contaminated site and a reference by book and page to the  
12 recordation of the Notice.

13       (f) A Notice of Contaminated Site filed pursuant to this section shall, at the request of  
14 the owner of the land, be cancelled by the Secretary after the contamination has been  
15 eliminated or remediated to unrestricted use standards. If requested in writing by the owner of  
16 the land and if the Secretary concurs with the request, the Secretary shall send to the register of  
17 deeds of each county where the Notice is recorded a statement that the contamination has been  
18 eliminated, or that the contamination has been remediated to unrestricted use standards, and  
19 request that the Notice be cancelled of record. The Secretary's statement shall contain the  
20 names of the owners of the land as shown in the Notice and reference the plat book and page  
21 where the Notice is recorded. ~~The register of deeds shall record the Secretary's statement in the~~  
22 ~~deed books and index it on the grantor index in the names of the owners of the land as shown in~~  
23 ~~the Notice and on the grantee index in the name "Secretary of Environment and Natural~~  
24 ~~Resources". The register of deeds shall make a marginal entry on the Notice showing the date~~  
25 ~~of cancellation and the book and page where the Secretary's statement is recorded, and the~~  
26 ~~register of deeds shall sign the entry. If a marginal entry is impracticable because of the method~~  
27 ~~used to record maps and plats, the register of deeds shall not be required to make a marginal~~  
28 ~~entry.~~

29       (g) This section does not apply to the cleanup pursuant to a remedial action plan that  
30 addresses environmental damage resulting from a discharge or release of petroleum from an  
31 underground storage tank pursuant to Part 2A of Article 21A of Chapter 143 of the General  
32 Statutes.

33       (h) The definitions set out in G.S. 143B-279.9 apply to this section."

34       **SECTION 1.23.** G.S. 143B-279.11 reads as rewritten:

35       **"§ 143B-279.11. Recordation of residual petroleum from an underground storage tank.**

36       (a) The definitions set out in G.S. 143-215.94A and G.S. 143B-279.9 apply to this  
37 section. This section applies only to a cleanup pursuant to a remedial action plan that addresses  
38 environmental damage resulting from a discharge or release of petroleum from an underground  
39 storage tank pursuant to Part 2A of Article 21A of Chapter 143 of the General Statutes.

40       (b) The owner, operator, or other person responsible for a discharge or release of  
41 petroleum from an underground storage tank shall prepare and submit to the Department a  
42 proposed Notice that meets the requirements of this section. The proposed Notice shall be  
43 submitted to the Department (i) before the property is conveyed, or (ii) when the owner,  
44 operator, or other person responsible for the discharge or release requests that the Department  
45 issue a determination that no further action is required under the remedial action plan,  
46 whichever first occurs. The Notice shall be entitled "NOTICE OF RESIDUAL PETROLEUM".  
47 The Notice shall include a description that would be sufficient as a description in an instrument  
48 of conveyance of the (i) real property on which the source of contamination is located and (ii)  
49 any real property on which contamination is located at the time the remedial action plan is  
50 approved and that was owned or controlled by any owner or operator of the underground  
51 storage tank or other responsible party at the time the discharge or release of petroleum is

1 discovered or reported or at any time thereafter. The Notice shall identify the location of any  
2 residual petroleum known to exist on the real property at the time the Notice is prepared. The  
3 Notice shall also identify the location of any residual petroleum known, at the time the Notice  
4 is prepared, to exist on other real property that is a result of the discharge or release. The Notice  
5 shall set out any restrictions on the current or future use of the real property that are imposed by  
6 the Secretary pursuant to G.S. 143B-279.9(b) to protect public health, the environment, or users  
7 of the property.

8 (c) If the contamination is located on more than one parcel or tract of land, the  
9 Department may require that the owner, operator, or other person responsible for the discharge  
10 or release prepare a composite map or plat that shows all parcels or tracts. If the contamination  
11 is located on one parcel or tract of land, the owner, operator, or other person responsible for the  
12 discharge or release may prepare a map or plat that shows the parcel but is not required to do  
13 so. A map or plat shall be prepared and certified by a professional land surveyor, shall meet the  
14 requirements of G.S. 47-30, and shall be submitted to the Department for approval. When the  
15 Department has approved a map or plat, it shall be recorded in the office of the register of  
16 deeds and shall be incorporated into the Notice by reference.

17 (d) The Department shall review the proposed Notice to determine whether the Notice  
18 meets the requirements of this section and rules adopted to implement this section and shall  
19 provide the owner, operator, or other person responsible for the discharge or release of  
20 petroleum from an underground storage tank with a notarized copy of the approved Notice.  
21 After the Department approves the Notice, the owner, operator, or other person responsible for  
22 the discharge or release of petroleum from an underground storage tank shall file a notarized  
23 copy of the approved Notice in the register of deeds office in the county or counties in which  
24 the real property is located (i) before the property is conveyed or (ii) within 30 days after the  
25 owner, operator, or other person responsible for the discharge or release receives notice from  
26 the Department that no further action is required under the remedial action plan, whichever first  
27 occurs. If the owner, operator, or other person responsible for the discharge or release fails to  
28 file the Notice as required by this section, any determination by the Department that no further  
29 action is required is void. The owner, operator, or other person responsible for the discharge or  
30 release, may record the Notice required by this section without the agreement of the owner of  
31 the real property. The owner, operator, or other person responsible for the discharge or release  
32 shall submit a certified copy of the Notice as filed in the register of deeds office to the  
33 Department.

34 ~~(e) The register of deeds shall record the notarized copy of the approved Notice and~~  
35 ~~index it in the grantor index under the names of the owners of the real property.~~

36 (f) In the event that the owner, operator, or other person responsible for the discharge  
37 or release fails to submit and file the Notice required by this section within the time specified,  
38 the Secretary may prepare and file the Notice. The costs thereof may be recovered by the  
39 Secretary from any responsible party. In the event that an owner of the real property who is not  
40 a responsible party submits and files the Notice required by this section, the owner may recover  
41 the reasonable costs thereof from any responsible party.

42 (g) A Notice filed pursuant to this section shall, at the request of the owner of the real  
43 property, be cancelled by the Secretary after the residual petroleum has been eliminated or  
44 remediated to unrestricted use standards. If requested in writing by the owner of the land, the  
45 Secretary shall send to the register of deeds of each county where the Notice is recorded a  
46 statement that the residual petroleum has been eliminated, or that the residual petroleum has  
47 been remediated to unrestricted use standards, and request that the Notice be cancelled of  
48 record. The Secretary's statement shall contain the names of the owners of the land as shown in  
49 the Notice and reference the plat book and page where the Notice is recorded. ~~The register of~~  
50 ~~deeds shall record the Secretary's statement in the deed books and index it on the grantor index~~  
51 ~~in the names of the owners of the real property as shown in the Notice and on the grantee index~~

1 in the name "Secretary of Environment and Natural Resources". The register of deeds shall  
2 make a marginal entry on the Notice showing the date of cancellation and the book and page  
3 where the Secretary's statement is recorded, and the register of deeds shall sign the entry. If a  
4 marginal entry is impracticable because of the method used to record, the register of deeds shall  
5 not be required to make a marginal entry."

6 **SECTION 1.24.** G.S. 160A-400.6 reads as rewritten:

7 **"§ 160A-400.6. Required landmark designation procedures.**

8 As a guide for the identification and evaluation of landmarks, the commission shall  
9 undertake, at the earliest possible time and consistent with the resources available to it, an  
10 inventory of properties of historical, architectural, prehistorical, and cultural significance within  
11 its jurisdiction. Such inventories and any additions or revisions thereof shall be submitted as  
12 expeditiously as possible to the Office of Archives and History. No ordinance designating a  
13 historic building, structure, site, area or object as a landmark nor any amendment thereto may  
14 be adopted, nor may any property be accepted or acquired by a preservation commission or the  
15 governing board of a municipality, until all of the following procedural steps have been taken:

16 ...

- 17 (6) Upon adoption of the ordinance, the owners and occupants of each  
18 designated landmark shall be given written notification of such designation  
19 insofar as reasonable diligence permits. One copy of the ordinance and all  
20 amendments thereto shall be filed by the preservation commission in the  
21 office of the register of deeds of the county in which the landmark or  
22 landmarks are located. ~~Each designated landmark shall be indexed according~~  
23 ~~to the name of the owner of the property in the grantee and grantor indexes~~  
24 ~~in the register of deeds office, and the preservation commission shall pay a~~  
25 ~~reasonable fee for filing and indexing.~~ In the case of any landmark property  
26 lying within the zoning jurisdiction of a city, a second copy of the ordinance  
27 and all amendments thereto shall be kept on file in the office of the city or  
28 town clerk and be made available for public inspection at any reasonable  
29 time. A third copy of the ordinance and all amendments thereto shall be  
30 given to the city or county building inspector. The fact that a building,  
31 structure, site, area or object has been designated a landmark shall be clearly  
32 indicated on all tax maps maintained by the county or city for such period as  
33 the designation remains in effect.

34 ...."

## 36 **PART II. LOCAL AGENCY CHARGES FOR VITAL RECORDS SEARCHES**

37 **SECTION 2.1.** G.S. 130A-93.1(a)(1) reads as rewritten:

38 **"§ 130A-93.1. Fees for vital records copies or search; automation fund.**

- 39 (a) The State Registrar shall collect, process, and utilize fees for services as follows:

- 40 (1) A fee not to exceed twenty-four dollars (\$24.00) shall be charged for issuing  
41 a first copy of a vital record or for conducting a routine search of the files for  
42 the record when no copy is made. A fee of fifteen dollars (\$15.00) shall be  
43 charged for each additional certificate copy requested from the same search.  
44 When certificates are issued or searches conducted for statewide issuance by  
45 local agencies using databases maintained by the State Registrar, the local  
46 agency shall charge ~~these fees and shall retain ten dollars (\$10.00) of these~~  
47 ~~fees to cover local administrative costs and forward the remaining fees to the~~  
48 State Registrar for the purposes established in subsection (b) of this  
49 ~~section.~~ section fourteen dollars (\$14.00) and shall charge and retain ten  
50 dollars (\$10.00) if a copy of the record is made. Provided, however, that a

1 local agency may waive the ten dollar (\$10.00) charge for its retention when  
2 the copy is issued to a person over the age of 62 years."

3 SECTION 2.2. G.S. 161-10(8a) is repealed.  
4

5 **PART III. CHANGES TO THE LAWS GOVERNING TRUSTS AND DECEDENTS'**  
6 **ESTATES**  
7

8 **SUBPART A. Uniform TRUST CODE AMENDMENTS RELATING TO PERSONS HOLDING THE**  
9 **POWER TO Direct Trustees, TRUST PROTECTORS, DIRECTED TRUSTEES AND OTHER**  
10 **FIDUCIARIES**

11 SECTION 3.1. G.S. 36C-8-808 reads as rewritten:

12 "**§ 36C-8-808. Powers to direct of a settlor to take certain actions with respect to the trust.**

13 ~~(a)~~ While a trust is revocable, the settlor of a revocable trust has, at all times, the power  
14 to direct or consent to the actions of the trustee whether or not the power is conferred upon the  
15 settlor by the terms of the trust. The duty and liability of the trustee subject to the direction and  
16 consent of the settlor is as follows:

17 (1) The trustee may follow a direction of the settlor that is not authorized by or  
18 is contrary to the terms of the trust, even if by doing so (i) the trustee  
19 exceeds the authority granted to the trustee under the terms of the trust, or  
20 (ii) the trustee would otherwise violate a duty the trustee owes under the  
21 trust.

22 (2) The trustee is not liable, individually or as a fiduciary, for any loss resulting  
23 directly or indirectly from compliance with the direction. If the settlor  
24 requires the settlor's consent to certain actions of the trustee, and the settlor  
25 does not provide consent within a reasonable time after the trustee has made  
26 a timely request for the settlor's consent, the trustee is not liable, individually  
27 or as a fiduciary, for any loss resulting directly or indirectly from the  
28 trustee's failure to take any action that required the settlor's consent.

29 ~~(b) If the terms of a trust confer upon a person other than the settlor of a revocable trust~~  
30 ~~power to direct certain actions of the trustee, the trustee must act in accordance with an exercise~~  
31 ~~of the power unless the attempted exercise is manifestly contrary to the terms of the trust, or the~~  
32 ~~trustee knows the attempted exercise would constitute a serious breach of a fiduciary duty that~~  
33 ~~the person holding the power owes to the beneficiaries of the trust.~~

34 ~~(c) The terms of a trust may confer upon a trustee or other person a power to direct the~~  
35 ~~modification or termination of the trust.~~

36 ~~(d) A person, other than a beneficiary, who holds a power to direct is presumptively a~~  
37 ~~fiduciary who, as such, is required to act in good faith with regard to the purposes of the trust~~  
38 ~~and the interests of the beneficiaries. The holder of a power to direct is liable for any loss that~~  
39 ~~results from breach of a fiduciary duty."~~

40 SECTION 3.2. G.S. 36C-7-703 is amended by adding the following new subsection  
41 to read:

42 "**§ 36C-7-703. Cotrustees.**

43 ...

44 (e1) If the terms of a trust confer upon a cotrustee, to the exclusion of another cotrustee,  
45 the power to take certain actions with respect to the trust, including the power to direct or  
46 prevent certain actions of the trustees, the following apply:

47 (1) The duty and liability of the excluded trustee is as follows:

48 a. If the terms of a trust confer upon the cotrustee the power to direct  
49 certain actions of the excluded trustee, the excluded trustee must act  
50 in accordance with the direction and is not liable, individually or as a  
51 fiduciary, for any loss resulting directly or indirectly from

1 compliance with the direction unless compliance with the direction  
 2 constitutes intentional misconduct on the part of the directed  
 3 cotrustee.

4 b. If the terms of the trust confer upon the cotrustee any other power,  
 5 the excluded trustee is not liable, individually or as a fiduciary, for  
 6 any loss resulting directly or indirectly from the action taken by the  
 7 cotrustee.

8 c. The excluded trustee has no duty to monitor the conduct of the  
 9 cotrustee, provide advice to the cotrustee, or consult with or request  
 10 directions from the cotrustee. The excluded trustee is not required to  
 11 give notice to any beneficiary of any action taken or not taken by the  
 12 cotrustee whether or not the excluded trustee agrees with the result.  
 13 Administrative actions taken by the excluded trustee for the purpose  
 14 of implementing directions of the cotrustee, including confirming  
 15 that the directions of the cotrustee have been carried out, do not  
 16 constitute monitoring of the cotrustee nor do they constitute  
 17 participation in decisions within the scope of the cotrustee's  
 18 authority.

19 (2) Except as otherwise provided in sub-subdivision a. of subdivision (1) of this  
 20 subsection, the cotrustee holding the power to take certain actions with  
 21 respect to the trust shall be liable to the beneficiaries with respect to the  
 22 exercise of the power as if the excluded trustee were not in office and has the  
 23 exclusive obligation to account to the beneficiaries and defend any action  
 24 brought by the beneficiaries with respect to the exercise of the power."

25 **SECTION 3.3.** G.S. 32-72(d) reads as rewritten:

26 **"§ 32-72. Terms of creating instrument.**

27 ...

28 (d) ~~Whenever an instrument reserves to the settlor or vests in any person, including an~~  
 29 ~~advisory or investment committee or one or more co-fiduciaries, the authority to direct the~~  
 30 ~~making or retention of any investment to the exclusion of the fiduciary or to the exclusion of~~  
 31 ~~one or more of several co-fiduciaries, the excluded fiduciary or co-fiduciary who has no~~  
 32 ~~discretion in selecting the person authorized to make or retain investments is not liable to the~~  
 33 ~~beneficiaries or to the trust for the decisions or actions of the settlor or other person authorized~~  
 34 ~~to direct the making or retention of investments. As used in this subsection, the term "person"~~  
 35 ~~includes an individual, a corporation, or any legal or commercial entity authorized to hold~~  
 36 ~~property or do business in the State. The following provisions apply to an instrument creating a~~  
 37 fiduciary relationship other than a trust instrument to which Chapter 36C of the General  
 38 Statutes applies and to a fiduciary other than a trustee:

39 (1) The terms of the instrument may confer upon a person the power to direct or  
 40 consent to certain actions of the fiduciary with respect to the following:

41 a. Investments, including retention, purchase, sale, exchange, or other  
 42 transaction affecting the ownership of investments with respect to all  
 43 or any one or more assets.

44 b. Any other administrative matter.

45 (2) When the terms of the instrument confer upon a person the power to direct  
 46 or consent to certain actions of the fiduciary, the duty and liability of the  
 47 fiduciary are as follows:

48 a. If the terms of the instrument confer upon the person the power to  
 49 direct certain actions of the fiduciary, the fiduciary must act in  
 50 accordance with the direction and is not liable, individually or as a  
 51 fiduciary, for any loss resulting directly or indirectly from



1 compliance with the direction unless compliance with the direction  
2 constitutes intentional misconduct on the part of the fiduciary.

3 b. If the terms of the instrument confer upon a person the power to  
4 consent to certain actions of the fiduciary, and the power holder does  
5 not provide consent within a reasonable time after the fiduciary has  
6 made a timely request for the power holder's consent, the fiduciary is  
7 not liable, individually or as a fiduciary, for any loss resulting  
8 directly or indirectly from the fiduciary's failure to take any action  
9 that required the power holder's consent.

10 c. The fiduciary has no duty to monitor the conduct of the power  
11 holder, provide advice to the power holder, or consult with the power  
12 holder. The fiduciary is not required to give notice to any beneficiary  
13 of any action taken or not taken by the power holder whether or not  
14 the fiduciary agrees with the result. Administrative actions taken by  
15 the fiduciary for the purpose of implementing directions of the power  
16 holder, including confirming that the directions of the power holder  
17 have been carried out, do not constitute monitoring of the power  
18 holder or other participation in decisions within the scope of the  
19 power holder's authority.

20 (3) A person who holds a power to direct or consent is a fiduciary who, as such,  
21 is required to act in good faith with regard to the purposes of the estate, or  
22 other relationship between the fiduciary and beneficiaries, and the interests  
23 of the beneficiaries, except that if a beneficiary is a person with a power to  
24 direct or consent, the beneficiary is not a fiduciary with respect to the  
25 following:

26 a. A power that constitutes a power of appointment.

27 b. A power the exercise or nonexercise of which affects only the  
28 interests of the beneficiary holding the power and no other  
29 beneficiary.

30 The holder of the power to direct or consent is liable for any loss that results  
31 from breach of a fiduciary duty occurring as a result of the exercise or  
32 nonexercise of the power.

33 **SECTION 3.4.** Chapter 36C of the General Statutes is amended by adding a new  
34 Article to read:

35 "Article 8A.

36 "Powers, Duties, and Liability of a Power Holder Other Than a Trustee;

37 Duty and Liability of a Trustee With Respect to Power Holder's Actions.

38 **"§ 36C-8A-801. Definition.**

39 For purposes of this Article, the term "power holder" means a person who under the terms  
40 of a trust has the power to take certain actions with respect to a trust and who is not a trustee or  
41 a settlor with a power to direct or consent pursuant to G.S. 36C-8-808.

42 **"§ 36C-8A-802. Powers of a power holder.**

43 (a) The terms of a trust may confer upon a power holder a power to direct or consent to  
44 a duty that would normally be required of a trustee, including, but not limited to, a power to  
45 direct or consent to the following:

46 (1) Investments, including any action relating to investment of all or any one or  
47 more of the trust assets that a trustee is authorized to take under this Chapter.

48 (2) Discretionary distributions of trust assets, including distributions to one or  
49 more beneficiaries, distribution of one or more trust assets, and termination  
50 of the trust by distribution of all of the trust assets.

- 1           (3) Any other matter regarding trust administration, including the transfer of the  
2           principal place of administration of the trust.
- 3       (b) The terms of a trust may also confer upon the power holder any other power,  
4 including, but not limited to, the power to do the following:
- 5           (1) Modify or amend the trust to do any of the following:  
6           a. Achieve favorable tax status under applicable law.  
7           b. Take advantage of laws governing restraints on alienation or other  
8           State laws restricting the terms of the trust, distribution of trust  
9           property, or the administration of the trust.
- 10          (2) Remove and appoint trustees and power holders.
- 11          (3) Increase or decrease the interests of any beneficiary.
- 12          (4) Grant a power of appointment to one or more beneficiaries of the trust or  
13 modify the terms of or terminate a power of appointment granted to a  
14 beneficiary by the governing instrument, except that a grant or modification  
15 of a power of appointment may not grant a beneficial interest to any of the  
16 following:  
17           a. Any individual or class of individuals not specifically provided for in  
18           the trust instrument.  
19           b. The person having the power to grant, modify, or terminate the  
20           power of appointment.  
21           c. The estate and creditors of the person having the power to grant,  
22           modify, or terminate the power of appointment.
- 23          (5) Change the governing law of the trust.

24 **"§ 36C-8A-803. Duty and liability of power holder.**

25       (a) A power holder is a fiduciary with respect to the powers conferred upon the power  
26 holder who, as such, is required to act in good faith and in accordance with the purposes and  
27 terms of a trust and the interests of the beneficiaries, except a power holder is not a fiduciary  
28 with respect to the following:

- 29           (1) A power to remove and appoint a trustee or power holder.
- 30           (2) A power that constitutes a power of appointment held by a beneficiary of a  
31 trust.
- 32           (3) A power the exercise or nonexercise of which may affect only the interests  
33 of the power holder and no other beneficiary.

34       (b) A power holder is liable for any loss that results from breach of fiduciary duty  
35 occurring as a result of the exercise or nonexercise of the power.

36       (c) The following provisions applicable to a trustee shall also be applicable to a power  
37 holder with respect to powers conferred upon the power holder as a fiduciary:

- 38           (1) The provisions of G.S. 36C-8-814 regarding discretionary powers and tax  
39 savings.
- 40           (2) The provisions of G.S. 36C-10-1001 through G.S. 36C-10-1012 regarding  
41 liability of trustees and rights of third persons dealing with trustees.
- 42           (3) The provisions of Article 9 of this Chapter regarding the uniform prudent  
43 investor rule.

44 **"§ 36C-8A-804. Duty and liability of trustee.**

45       (a) If the terms of a trust confer upon a power holder the power to direct certain actions  
46 of the trustee, the trustee must act in accordance with the direction and is not liable,  
47 individually or as a fiduciary, for any loss resulting directly or indirectly from compliance with  
48 the direction unless compliance with the direction constitutes intentional misconduct on the part  
49 of the trustee.

50       (b) If the terms of a trust confer upon the power holder the power to consent to certain  
51 actions of the trustee, and the power holder does not provide consent within a reasonable time

1 after the trustee has made a timely request for the power holder's consent, the trustee is not  
2 liable, individually or as a fiduciary, for any loss resulting directly or indirectly from the  
3 trustee's failure to take any action that required the power holder's consent.

4 (c) If the terms of a trust confer upon the person a power other than the power to direct  
5 or consent to actions of the trustee, the trustee is not liable, individually or as a fiduciary, for  
6 any loss resulting directly or indirectly from the exercise or nonexercise of the power.

7 (d) The trustee has no duty to monitor the conduct of the power holder, provide advice  
8 to the power holder, or consult with the power holder. The trustee is not required to give notice  
9 to any beneficiary of any action taken or not taken by the power holder whether or not the  
10 trustee agrees with the result. Administrative actions taken by the trustee for the purpose of  
11 implementing directions of the power holder, including confirming that the directions of the  
12 power holder have been carried out, do not constitute monitoring of the power holder nor do  
13 they constitute participation in decisions within the scope of the power holder's authority.

14 **"§ 36C-8A-805. Compensation and reimbursement of expenses of power holder.**

15 A power holder as a fiduciary is entitled to compensation and reimbursement of expenses as  
16 provided in G.S. 32-59.

17 **"§ 36C-8A-806. Jurisdiction over power holder.**

18 (a) By accepting appointment to serve as a power holder with respect to a trust having  
19 its principal place of business in this State, or by moving the principal place of administration  
20 to this State, the power holder submits personally to the jurisdiction of the courts of this State  
21 regarding any matter involving action or inaction of the power holder.

22 (b) This section does not preclude other methods of obtaining jurisdiction over a power  
23 holder.

24 **"§ 36C-8A-807. Accepting or declining the appointment as power holder.**

25 (a) A person designated as a power holder accepts the appointment to serve as a power  
26 holder:

27 (1) By substantially complying with a method of acceptance provided in the  
28 terms of a trust; or

29 (2) If the terms of a trust do not provide a method or the method provided in the  
30 terms of a trust is not expressly made exclusive, by exercising powers or  
31 performing duties as a power holder or otherwise indicating acceptance of  
32 the appointment to serve as a power holder.

33 (b) A person designated as a power holder may reject the appointment to serve as a  
34 power holder. A trustee may give written notice to a power holder requesting acceptance of the  
35 appointment as power holder. A power holder who does not accept such appointment within  
36 120 days after receipt of such notice is considered to have rejected the appointment to serve as  
37 a power holder.

38 **"§ 36C-8A-808. Powers of trustee in the absence of a power holder.**

39 The trustee shall be vested with any fiduciary power or duty conferred upon a power holder  
40 by the terms of a trust that are described in G.S. 36C-8A-802(a) during the time when no power  
41 holder is available to exercise such power or perform such duty because of absence, illness, or  
42 other cause.

43 **"§ 36C-8A-809. More than one power holder.**

44 When there is more than one power holder authorized to act, and they are unable to reach a  
45 unanimous decision, they may act by majority decision. Unanimity is required when only two  
46 are authorized to act.

47 **"§ 36C-8A-810. Resignation of power holder.**

48 (a) A power holder may resign upon either of the following conditions:

49 (1) Upon at least 30 days' notice in writing to the qualified beneficiaries, the  
50 settlor, if living, and all trustees.

51 (2) With the approval of the court.

1       (b) In approving a resignation, the court may issue orders and impose conditions  
2 reasonably necessary for the protection of the trust property.

3 **"§ 36C-8A-811. Removal of power holder.**

4       (a) For the reasons set forth in subsection (b) of this section, the settlor of an  
5 irrevocable trust, a trustee of an irrevocable trust, or a beneficiary of an irrevocable trust may  
6 request the court to remove a power holder, or a power holder may be removed by the court on  
7 its own initiative.

8       (b) The court may remove a power holder under any of the following circumstances:

9           (1) The power holder has committed a serious breach of trust.

10          (2) Lack of cooperation with the trustee substantially impairs the administration  
11 of the trust.

12          (3) Because of unfitness, unwillingness, or a persistent failure of the power  
13 holder to exercise effectively the duties and powers conferred upon the  
14 power holder the court determines that removal of the power holder best  
15 serves the interests of the beneficiaries.

16          (4) There has been a substantial change of circumstances, the court finds that  
17 removal of the power holder best serves the interests of all of the  
18 beneficiaries and is consistent with a material purpose of the trust, and a  
19 suitable successor power holder is available.

20       (c) Pending a final decision on a request to remove a power holder, or in lieu of or in  
21 addition to removing a power holder, the court may order appropriate relief under  
22 G.S. 36C-10-1001(b) as may be necessary to protect the trust property or the interests of the  
23 beneficiaries."

24  
25 **SUBPART B. TECHNICAL CORRECTIONS TO LAWS GOVERNING TRUSTS AND DECEDENTS'**  
26 **ESTATES**

27 **SECTION 3.5.** G.S. 36C-7-707(b) reads as rewritten:

28 **"§ 36C-7-707. Delivery of property by former trustee.**

29 ...

30       (b) A trustee who has resigned or been removed shall proceed expeditiously to deliver  
31 the trust property within the trustee's possession to the cotrustee, successor trustee, or other  
32 person entitled to it. A former trustee shall execute those documents ~~transferring~~  
33 acknowledging the transfer of title to trust property as may be ~~appropriate~~ reasonably requested  
34 by the cotrustee, successor trustee, or other person entitled to it to facilitate administration of  
35 the trust, and in the event that the former trustee fails to do so, the clerk of superior court may  
36 order the former trustee to execute those documents, or the clerk of superior court may transfer  
37 title documents."

38 **SECTION 3.6.** G.S. 108A-70.5(c) reads as rewritten:

39 **"§ 108A-70.5. Medicaid Estate Recovery Plan.**

40 ...

41       (c) The amount the Department recovers from the estate of any recipient shall not  
42 exceed the amount of medical assistance made on behalf of the recipient and shall be  
43 recoverable only for medical care services prescribed in subsection (b) of this section. The  
44 Department is a ~~fifth-class~~ sixth-class creditor, as prescribed in G.S. 28A-19-6, for purposes of  
45 determining the order of claims against an estate; provided, however, that judgments in favor of  
46 other ~~fifth-class~~ sixth-class creditors docketed and in force before the Department seeks  
47 recovery for medical assistance shall be paid prior to recovery by the Department."

48 **SECTION 3.7.** G.S. 28A-13-3 reads as rewritten:

49 **"§ 28A-13-3. Powers of a personal representative or fiduciary.**

50 ...

1       ~~(b) Any question arising out of the powers conferred by subsections (a), (a1), and (a2)~~  
2 ~~of this section shall be determined in accordance with the provisions of Article 18 of this~~  
3 ~~Chapter.~~

4       ...

5       (d) The personal representative ~~shall have~~has the power to institute ~~an estate~~a  
6 proceeding pursuant to Article 2 of this Chapter to enforce the rights set forth in this ~~subsection~~  
7 ~~[section]-section.~~ The clerk of superior court may enter orders necessary to enforce the rights  
8 set forth in this ~~subsection [section]-section.~~ If the person occupying the real property is a  
9 tenant or lessee of the property, the personal representative may seek ejectment of the tenant or  
10 lessee only pursuant to the provisions of Article 3 of Chapter 42 of the General Statutes."

11       **SECTION 3.8.** G.S. 28A-21-6 reads as rewritten:

12       **"§ 28A-21-6. Permissive notice of final accounts.**

13       The personal representative or collector may, but is not required to, give written notice of a  
14 proposed final account pursuant to G.S. 1A-1, Rule 4, to all devisees of the estate in the case of  
15 testacy, and to all heirs of the estate in the case of intestacy, of the date and place of filing of  
16 such account. In giving written notice, the personal representative shall attach a copy of the  
17 proposed final accounting with exhibits made a part thereof, but is not required to include  
18 copies of vouchers, account statements, or other supporting evidence submitted to the clerk. If  
19 the personal representative or collector elects to provide this notice, the personal representative  
20 or collector shall file with the clerk of superior court a certificate indicating that this notice has  
21 been given to all devisees and heirs. Notwithstanding any right to appeal an order or judgment  
22 under G.S. 1-301.3, any payment, distribution, action, or other matter disclosed on such  
23 account or any annual account for the estate ~~filed by the personal representative or~~  
24 ~~collector~~attached to the written notice must be objected to by a devisee or heir within 30 days  
25 after the receipt of the written notice or will be deemed to be accepted by the devisee or heir."

26       **SECTION 3.9.** G.S. 28A-25-1.1(a) reads as rewritten:

27       **"§ 28A-25-1.1. Collection of property by affidavit when decedent dies testate.**

28       (a) When a decedent dies testate leaving personal property, less liens and encumbrances  
29 thereon, not exceeding twenty thousand dollars (\$20,000) in value, at any time after 30 days  
30 from the date of death, any person indebted to the decedent or having possession of tangible  
31 personal property or an instrument evidencing a debt, obligation, stock or chose in action  
32 belonging to the decedent shall make payment of the indebtedness or deliver the tangible  
33 personal property or an instrument evidencing a debt, obligation, stock or chose in action to a  
34 person claiming to be the public administrator appointed pursuant to G.S. 28A-12-1, a person  
35 named or designated as executor in the will, devisee, heir or creditor, of the decedent, not  
36 disqualified under G.S. 28A-4-2, upon being presented a certified copy of an affidavit filed in  
37 accordance with subsection (b) and made by or on behalf of the heir, the person named or  
38 designated as executor in the will of the decedent, the creditor, the public administrator, or the  
39 devisee, stating:

- 40           (1) The name and address of the affiant and the fact that the affiant is the public  
41           administrator, a person named or designated as executor in the will, devisee,  
42           heir or creditor, of the decedent;
- 43           (2) The name of the decedent and the decedent's residence at time of death;
- 44           (3) The date and place of death of the decedent;
- 45           (4) That 30 days have elapsed since the death of the decedent;
- 46           (5) That the decedent died testate leaving personal property, less liens and  
47           encumbrances thereon, not exceeding twenty thousand dollars (\$20,000) in  
48           value;
- 49           (6) That the decedent's will has been admitted to probate in the court of the  
50           proper county and a duly certified copy of the will has been recorded in each

1 county in which is located any real property owned by the decedent at the  
2 time of the decedent's death;

3 (7) That a certified copy of the decedent's will is attached to the affidavit;

4 (8) That no application or petition for appointment of a personal representative  
5 is pending or has been granted in any jurisdiction;

6 (9) The names and addresses of those persons who are entitled, under the  
7 provisions of the will, or if applicable, of the Intestate Succession Act, to the  
8 property of the decedent; and their relationship, if any, to the decedent; and

9 (10) A description sufficient to identify each tract of real property owned by the  
10 decedent at the time of the decedent's death.

11 In those cases in which the affiant is the surviving spouse, is entitled to all of the property  
12 of the decedent, and is not disqualified under G.S. 28A-4-2, the property described in this  
13 subsection that may be collected pursuant to this section may exceed twenty thousand dollars  
14 (\$20,000) in value but shall not exceed thirty thousand dollars (\$30,000) in ~~value~~-value, after  
15 reduction for any spousal allowance paid to the surviving spouse pursuant to G.S. 30-15. In  
16 such cases, the affidavit shall state: (i) the name and address of the affiant and the fact that the  
17 affiant is the surviving spouse and is entitled, under the provisions of the decedent's will, or if  
18 applicable, of the Intestate Succession Act, to all of the property of the decedent; (ii) that the  
19 decedent died testate leaving personal property, less liens and encumbrances thereon, not  
20 exceeding thirty thousand dollars (\$30,000); and (iii) the information required under  
21 subdivisions (2), (3), (4), (6), (7), (8), and (10) of this subsection."

22 **SECTION 3.10.** G.S. 30-31 reads as rewritten:

23 "**§ 30-31. Amount of allowance.**

24 The clerk of superior court may assign to the petitioner a value sufficient for the support of  
25 petitioner according to the estate and condition of the decedent and without regard to the  
26 limitations set forth in this Chapter; but the value allowed shall be fixed with due consideration  
27 for other persons entitled to allowances for year's support from the decedent's estate; and the  
28 total value of all allowances shall not in any case exceed the one half of the average annual net  
29 income of the deceased for three years next preceding the deceased's death. ~~This report shall be  
30 returned by the magistrate to the court."~~

31 **SECTION 3.11.** Section 14 of S. L. 2011-344 reads as rewritten:

32 "**SECTION 14.** ~~This~~ Except as provided below, this act becomes effective January 1,  
33 2012, and applies to estates of decedents dying on or after that date-date:

34 (1) Subject to subdivision (3) of this section, Section 10 of this act becomes  
35 effective January 1, 2012, and applies to health care powers of attorney  
36 executed before, on, or after that date.

37 (2) Subject to subdivision (3) of this section, Sections 11, 12, and 13 of this act  
38 become effective January 1, 2012, and apply to trust proceedings  
39 commenced before, on, or after that date.

40 (3) Notwithstanding the provisions of subdivisions (1) and (2) of this section:

41 a. In any proceeding pending before the effective date of this act, the  
42 provisions in Sections 10, 11, 12, and 13 of this act shall not apply  
43 retroactively and shall not apply prospectively if the court finds that  
44 application of a newly effective provision would substantially  
45 interfere with the effective conduct of a judicial proceeding or  
46 prejudice the rights of the parties.

47 b. An act done before the date of enactment of this act is not affected by  
48 this act, and a right that was acquired, extinguished, barred, or  
49 commenced to run prior to the date of this act is not affected by this  
50 act."

1 **PART IV. AUTHORITY OF THE REVISOR OF STATUTES TO PUBLISH**  
2 **EXPLANATORY COMMENTS**

3 **SECTION 4.** The Revisor of Statutes shall cause to be printed, as annotations to  
4 the published General Statutes, all relevant portions of the Official Comments to the North  
5 Carolina Uniform Trust Code and all explanatory comments of the drafters of this act as the  
6 Revisor may deem appropriate.

7  
8 **PART V. EFFECTIVE DATE**

9 **SECTION 5.** Sections 1.1 through 1.24 and Sections 2.1 and 2.2 of this act become  
10 effective July 1, 2012. The remaining sections of this act are effective when this act becomes  
11 law.