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SENATE BILL DRS35012-MVz-2

Short Title: GSC Conveyances Between Spouses.

(Public)

Sponsors: Senator Galey (Primary Sponsor).

Referred to:

1 A BILL TO BE ENTITLED  
2 AN ACT TO PROVIDE FOR THE EFFECT THAT CONVEYANCES OF REAL PROPERTY  
3 BETWEEN SPOUSES HAVE ON CERTAIN MARITAL PROPERTY RIGHTS AND TO  
4 MAKE TECHNICAL CORRECTIONS, AS RECOMMENDED BY THE GENERAL  
5 STATUTES COMMISSION.

6 The General Assembly of North Carolina enacts:

7 **SECTION 1.(a)** G.S. 29-30 reads as rewritten:

8 **"§ 29-30. Election of surviving spouse to take life interest in lieu of intestate share provided.**

9 (a) Except as provided in this subsection, in lieu of the intestate share provided in  
10 G.S. 29-14 or G.S. 29-21, or of the elective share provided in G.S. 30-3.1, the surviving spouse  
11 of an intestate or the surviving spouse who has petitioned for an elective share is entitled to take  
12 as the surviving spouse's intestate share or elective share a life estate in one third in value of all  
13 the real estate of which the deceased spouse was seised and possessed of an estate of inheritance  
14 at any time during coverture. The surviving spouse is not entitled to take a life estate in any of  
15 the following circumstances:

- 16 (1) The surviving spouse has waived the surviving spouse's rights by joining with  
17 the other spouse in a conveyance of the real estate.
- 18 (1a) The surviving spouse has waived the right to take a life estate in lieu of an  
19 intestate or elective share by an express written waiver.
- 20 (2) The surviving spouse has waived, released, or conveyed the surviving spouse's  
21 interest in the real estate in accordance with G.S. 52-10.
- 22 (2a) The surviving spouse has conveyed the surviving spouse's interest in the real  
23 estate to the other spouse pursuant to G.S. 39-13.3 or G.S. 41-63(4) and has  
24 expressly waived or released the surviving spouse's right to take a life estate  
25 in the real estate in the instrument of conveyance.
- 26 (3) The surviving spouse was not required by law to join in a conveyance of the  
27 real estate in order to bar the elective life estate.
- 28 (3a) The surviving spouse has executed a written declaration permitting the  
29 deceased spouse to convey or encumber the real estate without the consent or  
30 joinder of the surviving spouse.
- 31 (3b) The real estate in which the deceased spouse had an interest was either  
32 apportioned to or sold to another person in a partition proceeding initiated  
33 before the deceased spouse's death.
- 34 (4) The surviving spouse is otherwise not legally entitled to the election provided  
35 in this section.



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1 (b) The surviving spouse may elect to take a life estate in the usual dwelling house  
 2 occupied by the surviving spouse at the time of the death of the deceased spouse if the dwelling  
 3 house was owned by the deceased spouse at the time of the deceased spouse's death, together  
 4 with the outbuildings, ~~improvements~~ improvements, and ~~easements thereunto belonging or~~  
 5 ~~appertaining, easements, and lands~~ land upon which the dwelling house is situated and that is  
 6 reasonably necessary to ~~the its use and enjoyment thereof, as well as enjoyment.~~ The surviving  
 7 spouse may also elect to take a fee simple ownership in the household furnishings therein, despite  
 8 the fact that a life estate ~~therein in the dwelling house~~ might exceed the fractional limitation  
 9 provided for in subsection (a) of this section. If the value of a life estate in the dwelling house is  
 10 less than the value of a life estate in one-third in value of all the real estate, the surviving spouse  
 11 may elect to take a life estate in the dwelling and a life estate in such other real estate as to make  
 12 the aggregate life estate of the surviving spouse equal to a life estate in one-third in value of all  
 13 the real estate.

14 (c) The election provided for in subsection (a) of this section ~~shall be is~~ made by ~~the filing~~  
 15 ~~of a~~ petition in accordance with Article 2 of Chapter 28A of the General Statutes (i) with the  
 16 clerk of the superior court of the county in which the administration of the estate is pending or  
 17 (ii) if no administration is pending, then with the clerk of the superior court of any county in  
 18 which the administration of the estate could be commenced, together with ~~the recording of a~~  
 19 notice indicating the county and file number of the clerk's filing with the register of deeds in  
 20 every county where real property ~~to be~~ claimed under the filing is located. The election shall be  
 21 made prior to the following applicable periods:

- 22 (1) In case of testacy, the shorter of (i) within 12 months of the date of death of  
 23 the deceased spouse if letters testamentary are not issued within that period,  
 24 or (ii) within one month after the expiration of the time limit for filing a claim  
 25 for elective share if letters have been issued.
- 26 (2) In case of intestacy, the shorter of (i) within 12 months after the date of death  
 27 of the deceased spouse if letters of administration are not issued within that  
 28 period, or (ii) within one month after the expiration of the time limit for filing  
 29 claims against the estate, if letters have been issued.
- 30 (3) Repealed by Session Laws 2011-344, s. 5, effective January 1, 2012.
- 31 (4) If litigation that affects the share of the surviving spouse in the estate is  
 32 pending, including a pending petition for determination of an elective share,  
 33 then within such a reasonable time ~~as may be~~ allowed by written order of the  
 34 clerk of the superior court.

35 Nothing in this subsection extends the period of time for a surviving spouse to petition for an  
 36 elective share under Article 1A of Chapter 30 of the General Statutes.

37 (c1) The petition described in subsection (c) of this section shall do all of the following:

- 38 (1) Be directed to the clerk with whom it is filed.
- 39 (2) State that the surviving spouse making the petition elects to take under this  
 40 section rather than under ~~the provisions of~~ G.S. 29-14, 29-21, or 30-3.1, as  
 41 applicable.
- 42 (3) Set forth the names of all heirs, devisees, personal ~~representatives~~  
 43 representatives, and all other persons in possession of or claiming an estate or  
 44 an interest in the property described in subsection (a) of this section.
- 45 (4) Request the allotment of the life estate provided for in subsection (a) of this  
 46 section.

47 (c2) The petition described in subsection (c) of this section may be filed in ~~person, person~~  
 48 or by attorney authorized in a writing executed and duly acknowledged by the surviving spouse  
 49 and attested by at least one witness. If the surviving spouse is a minor or an incompetent, the  
 50 petition may be executed and filed by a general guardian or by the guardian of the person or  
 51 estate of the minor or incompetent spouse. If the minor or incompetent spouse has no guardian,

1 the petition may be executed and filed by a guardian ad litem appointed by the clerk. The petition,  
2 whether in person or by attorney, shall be filed as a record of the court, and a summons together  
3 with a copy of the petition shall be served upon each of the interested persons named in the  
4 petition, in accordance with G.S. 1A-1, Rule 4.

5 (d) In case of election to take a life estate in lieu of an intestate share or elective share, as  
6 provided in either G.S. 29-14, 29-21, or 30-3.1, the clerk of superior court, with whom the  
7 petition has been filed, shall summon and appoint a jury of three disinterested persons who being  
8 first duly sworn shall promptly allot and set apart to the surviving spouse the life estate provided  
9 for in subsection (a) of this section and make a final report of this action to the clerk.

10 (e) The final report shall be filed by the jury not more than 60 days after ~~the~~their  
11 summoning and ~~appointment thereof, appointment,~~ shall be signed by all jurors, and shall  
12 describe by metes and bounds the real estate in which the surviving spouse ~~shall have~~has been  
13 allotted and set aside a life estate. It shall be filed as a record of court and a certified copy ~~thereof~~  
14 of it shall be filed and recorded in the office of the register of deeds of each county in which any  
15 part of the real property of the deceased spouse, affected by the allotment, is located.

16 (f) In the election and procedure to have the life estate allotted and set apart provided for  
17 in this section, the rules of procedure relating to partition proceedings apply except insofar as the  
18 rules would be inconsistent with ~~the provisions of~~ this section. A determination of the life estate  
19 under this section may be appealed in accordance with G.S. 1-301.3.

20 (g) Neither the household furnishings in the dwelling house nor the life ~~estates~~estate  
21 taken by election under this section are subject to the payment of debts due from the estate of the  
22 deceased spouse, except those debts secured by ~~such~~the property as follows:

23 (1) By a mortgage or deed of trust in which the surviving spouse has waived the  
24 surviving spouse's rights by joining with the other ~~spouse in the making~~  
25 ~~thereof,~~spouse.

26 (2) By a mortgage or deed of trust given by the deceased spouse to secure a loan,  
27 the proceeds of which were used to pay all or a portion of the purchase price  
28 of the encumbered real property, regardless of whether the secured party is the  
29 seller of the real property or a third-party ~~lender, or by~~lender.

30 (2a) By a conditional sales contract of personal property in which title is retained  
31 by the vendor, made prior to or during the marriage.

32 (3) By a mortgage or deed of trust made prior to the marriage.

33 (4) By a mortgage or deed of trust constituting a lien on the property at the time  
34 of its acquisition by the deceased spouse either before or during the marriage.

35 (5) By a mortgage or deed of trust on property with respect to which the elective  
36 life estate provided for in this section does not apply as provided in subsection  
37 (a) of this section.

38 (h) If no election is made in the manner and within the time provided for in subsection  
39 (c) of this section, the surviving spouse ~~shall be~~is conclusively deemed to have waived the  
40 surviving spouse's right to elect to take under ~~the provisions of~~ this section, and any interest  
41 ~~which that~~ the surviving spouse may have had in the real estate of the deceased spouse by virtue  
42 of this section ~~shall terminate.~~is terminated."

43 **SECTION 1.(b)** This section applies to conveyances executed before, on, or after  
44 the effective date of this act.

45 **SECTION 2.(a)** G.S. 39-13.3 reads as rewritten:

46 "**§ 39-13.3. Conveyances between husband and wife.**

47 (a) A conveyance from a husband or wife to the other spouse of real property or any  
48 interest ~~therein in real property~~ owned by the grantor alone vests ~~such~~the property or interest in  
49 the grantee. The conveyance does not waive or release any of the following rights or claims that  
50 the grantor may have acquired by marriage in the property conveyed:

- 1           (1) A right to an elective life estate under G.S. 29-30, unless the instrument of  
2           conveyance expressly waives the right, as provided in G.S. 29-30(a)(2a).  
3           (2) A right or claim to an equitable distribution with respect to the property under  
4           G.S. 50-20. A right or claim for equitable distribution shall not be waived or  
5           released in the instrument of conveyance.  
6       (b) Recodified as G.S. 41-56(b) by Session Laws 2020-50, s. 1(b), effective June 30,  
7       2020.  
8       (c) Recodified as G.S. 41-63(4) by Session Laws 2020-50, s. 1(b), effective June 30,  
9       2020.  
10       (d) The joinder of the spouse of the grantor in any conveyance made by a husband or a  
11       wife pursuant to ~~the foregoing provisions of this section~~ is not necessary.  
12       (e) ~~Any conveyance authorized by this section is subject to the provisions of G.S. 52-10~~  
13       ~~or 52-10.1, except that acknowledgment by the spouse of the grantor is not necessary."~~

14           **SECTION 2.(b)** G.S. 41-63 reads as rewritten:

15       **"§ 41-63. Termination of tenancy by the entirety other than upon death of a spouse; effects**  
16       **of termination.**

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

- 19           (1) The voluntary sale and conveyance of property held as tenants by the entirety  
20           to a third party, including a foreclosure sale pursuant to a power of sale in a  
21           deed of trust. Proceeds of the sale, including surplus funds generated from a  
22           foreclosure sale, are personal property held by the spouses as tenants in  
23           common.  
24           (2) The voluntary partition between ~~the~~ spouses executing a joint instrument  
25           conveying the property held as tenants by the entirety to themselves as tenants  
26           in common or in severalty.  
27           (3) The involuntary transfer of title of property held by spouses as tenants by the  
28           entirety. The proceeds resulting from the transfer are held by the spouses as  
29           tenants by the entirety. An involuntary transfer of title includes:  
30           a. A sale pursuant to Article 15 of Chapter 35A of the General Statutes  
31           as to an incompetent spouse.  
32           b. An appropriation in a condemnation proceeding by the North Carolina  
33           State Highway Commission.  
34           (4) The conveyance from one spouse to the other spouse of his or her interest in  
35           property held as tenants by the entirety. The conveyance vests the property or  
36           interest formerly held as tenants by the entirety in the other spouse. The  
37           joinder of a spouse in a conveyance made by the grantor pursuant to this  
38           subdivision is not necessary, ~~but the conveyance is subject to the provisions~~  
39           ~~of G.S. 52-10 or G.S. 52-10.1, except that an acknowledgment by the spouse~~  
40           ~~of the grantor is not necessary-necessary.~~ The conveyance does not waive or  
41           release any of the following rights or claims that the grantor may have  
42           acquired by marriage in the property conveyed:  
43           a. A right to an elective life estate under G.S. 29-30, unless the  
44           instrument of conveyance expressly waives the right, as provided in  
45           G.S. 29-30(a)(2a).  
46           b. A right or claim to an equitable distribution with respect to the  
47           property under G.S. 50-20. A right or claim for equitable distribution  
48           shall not be waived or released in the instrument of conveyance.  
49           (5) An absolute divorce of the spouses. An absolute divorce converts property  
50           held as tenants by the entirety to a tenancy in common.

- 1 (6) A judgment of forfeiture ordering divestment of an interest in tenancy by the  
2 entirety pursuant to Chapter 75D of the General Statutes. The effect of a  
3 judgment when one spouse is an innocent person as defined in G.S. 75D-5(i)  
4 is governed by G.S. 75D-8(a)."

5 **SECTION 2.(c)** Subdivisions (b)(1), (b)(3), and (b)(4) of G.S. 50-20 are recodified  
6 as subdivisions (b)(1b), (b)(1), and (b)(1a) of that section, respectively.

7 **SECTION 2.(d)** G.S. 50-20, as amended by subsection (c) of this section, reads as  
8 rewritten:

9 **"§ 50-20. Distribution by court of marital and divisible property.**

10 (a) Upon application of a party, the court shall determine what is the marital property and  
11 divisible property and shall provide for an equitable distribution of the marital property and  
12 divisible property between the parties in accordance with ~~the provisions of this section.~~

13 (b) For purposes of this ~~section~~section, the following definitions apply:

14 (1) ~~"Distributive award" means payments~~Distributive award. – Payments that are  
15 payable either in a lump sum or over a period of time in fixed amounts, but  
16 ~~shall the term does not include alimony payments or other similar payments~~  
17 ~~for support and maintenance which are treated as ordinary income to the~~  
18 ~~recipient under the Internal Revenue Code, or maintenance of a spouse or~~  
19 ~~child.~~

20 (1a) ~~"Divisible property" means all~~Divisible property. – All real and personal  
21 property as set forth below:

- 22 a. All appreciation and diminution in value of marital property and  
23 divisible property of the parties occurring after the date of separation  
24 and prior to the date of distribution, except that appreciation or  
25 diminution in value ~~which that~~ is the result of postseparation actions  
26 or activities of a spouse ~~shall not be~~is not treated as divisible property.  
27 b. All property, property rights, or any portion thereof received after the  
28 date of separation but before the date of distribution that was acquired  
29 as a result of the efforts of either spouse during the marriage and before  
30 the date of separation, including, but not limited to, commissions,  
31 bonuses, and contractual rights.  
32 c. Passive income from marital property received after the date of  
33 separation, including, but not limited to, interest and dividends.  
34 d. Passive increases and passive decreases in marital debt and financing  
35 charges and interest related to marital debt.

36 (1b) ~~"Marital property" means all~~Marital property. – All real and personal property  
37 acquired by either spouse or both spouses during the course of the marriage  
38 and before the date of the separation of the parties, and presently owned,  
39 except property determined to be separate property or divisible property in  
40 accordance with ~~subdivision (2) or (4) of this subsection.~~ Marital property  
41 includes all vested and nonvested ~~pension, retirement, and other pension and~~  
42 ~~retirement rights and benefits, vested and nonvested deferred compensation~~  
43 ~~rights, rights and benefits,~~ and vested and nonvested military pensions eligible  
44 under the federal Uniformed Services Former Spouses Protection Act. It is  
45 presumed that all property acquired after the date of marriage and before the  
46 date of separation is marital property except property ~~which that~~ is separate  
47 property under ~~subdivision (2) of this subsection.~~ It is presumed that all real  
48 property creating a tenancy by the entirety acquired after the date of marriage  
49 and before the date of separation is marital property. Either presumption may  
50 be rebutted by the greater weight of the evidence.

(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 is considered separate property only if ~~such an intention is~~ 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~~ remains separate property regardless of whether the title is in the name of ~~the husband or wife or both~~ one or both spouses and ~~shall is~~ not be considered ~~to be~~ marital property unless ~~a contrary intention~~ 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~~ is considered separate property. All professional licenses and business licenses ~~which that~~ would terminate on transfer ~~shall be~~ are considered separate property.~~

(c) There shall be an equal division by using net value of marital property and net value of divisible property unless the court determines that an equal division is not equitable. If the court determines that an equal division is not equitable, the court shall divide the marital property and divisible property equitably. The court shall consider all of the following factors under this subsection:

- (1) The income, property, and liabilities of each party at the time the division of property is to become effective.
- (2) Any obligation for support arising out of a prior marriage.
- (3) The duration of the marriage and the age and physical and mental health of both parties.
- (4) The need of a parent with custody of a child or children of the marriage to occupy or own the marital residence and to use or own its household effects.
- (5) The expectation of pension, retirement, or other deferred compensation rights that are not marital property.
- (6) Any equitable claim to, interest in, or direct or indirect contribution made to the acquisition of ~~such the~~ marital property by the party not having title, including joint efforts or expenditures and contributions and services, or lack thereof, as a spouse, parent, wage ~~earner~~ earner, or homemaker.
- (7) Any direct or indirect contribution made by one spouse to help educate or develop the career potential of the other spouse.
- (8) Any direct contribution to an increase in value of separate property ~~which that~~ occurs during the course of the marriage.
- (9) The liquid or nonliquid character of all marital property and divisible property.
- (10) The difficulty of evaluating any component asset or any interest in a business, ~~corporation~~ corporation, or profession, and the economic desirability of retaining ~~such the~~ asset or interest, intact and free from any claim or interference by the other party.
- (11) The tax consequences to each party, including those federal and State tax consequences that would have been incurred if the marital and divisible property had been sold or liquidated on the date of valuation. The trial court may, however, in its discretion, consider whether or when ~~such the~~ tax

- 1 consequences are reasonably likely to occur in determining the equitable value  
2 deemed appropriate for this factor.
- 3 (11a) Acts of either party to maintain, preserve, develop, or expand; or to waste,  
4 neglect, ~~devalue~~ devalue, or convert the marital property or divisible property,  
5 or both, during the period after separation of the parties and before the time of  
6 distribution.
- 7 (11b) In the event of the death of either party prior to the entry of any order for the  
8 distribution of property made pursuant to this subsection:
- 9 a. Property passing to the surviving spouse by will or through intestacy  
10 due to the death of a spouse.
- 11 b. Property held as tenants by the entirety or as joint tenants with rights  
12 of survivorship passing to the surviving spouse due to the death of a  
13 spouse.
- 14 c. Property passing to the surviving spouse from life insurance,  
15 individual retirement accounts, pension or profit-sharing plans, any  
16 private or governmental retirement plan or annuity of which the  
17 decedent controlled the designation of beneficiary (excluding any  
18 benefits under the federal social security system), or any other  
19 retirement accounts or contracts, due to the death of a spouse.
- 20 d. The surviving spouse's right to claim an "elective share" pursuant to  
21 G.S. 30-3.1 through ~~G.S. 30-33~~, G.S. 30-31.2, unless otherwise  
22 waived.
- 23 (12) Any other factor ~~which that~~ the court finds ~~to be~~ just and proper.
- 24 (c1) Notwithstanding any other provision of law, a second or subsequent spouse acquires  
25 no interest in the marital property and divisible property of his or her spouse from a former  
26 marriage until a final determination of equitable distribution is made in the marital property and  
27 divisible property of the spouse's former marriage.
- 28 (d) Before, ~~during~~ during, or after marriage the parties may by written agreement, duly  
29 executed and acknowledged in accordance with ~~the provisions of G.S. 52-10 and 52-10.1,~~  
30 G.S. 52-10.1, or by a written agreement valid in the jurisdiction where executed, provide for  
31 distribution of the marital property or divisible property, or both, in a manner deemed by the  
32 parties to be ~~equitable and the equitable~~. ~~The agreement shall be is~~ binding on the parties. As  
33 provided in G.S. 39-13.3(a)(2) and G.S. 41-63(4)b., the parties shall not provide for this  
34 distribution in an instrument of conveyance of real property.
- 35 (e) Subject to the presumption of subsection (c) of this section that an equal division is  
36 equitable, it shall be presumed in every action that an in-kind distribution of marital or divisible  
37 property is equitable. This presumption may be rebutted by the greater weight of the evidence,  
38 or by evidence that the property is a closely held business entity or is otherwise not susceptible  
39 of division in-kind. In any action in which the presumption is rebutted, the court in lieu of in-kind  
40 distribution shall provide for a distributive award in order to achieve equity between the parties.  
41 The court may provide for a distributive award to facilitate, ~~effectuate~~ effectuate, or supplement  
42 a distribution of marital or divisible property. The court may provide that any distributive award  
43 payable over a period of time be secured by a lien on specific property.
- 44 (f) The court shall provide for an equitable distribution without regard to alimony for  
45 either party or support of the children of both parties. After the determination of an equitable  
46 distribution, the court, upon request of either party, shall consider whether an order for alimony  
47 or child support should be modified or vacated pursuant to G.S. 50-16.9 or ~~50-13.7~~ G.S. 50-13.7.
- 48 (g) If the court orders the transfer of real or personal property or an interest ~~therein, in~~  
49 real or personal property, the court may also enter an order ~~which shall transfer~~ transferring title,  
50 as provided in G.S. 1A-1, ~~Rule 70~~ Rule 70, and G.S. 1-228.

1 (h) If either party claims that any real property is marital property or divisible property,  
2 that party may cause a notice of lis pendens to be recorded pursuant to Article 11 of Chapter 1 of  
3 the General Statutes. Any person whose conveyance or encumbrance is recorded or whose  
4 interest is obtained by descent, prior to the filing of the lis pendens, ~~shall take~~ takes the real  
5 property free of any claim resulting from the equitable distribution proceeding. The court may  
6 cancel the notice of lis pendens upon substitution of a bond with surety in an amount determined  
7 by the court to be sufficient provided the court finds that the claim of the spouse against property  
8 subject to the notice of lis pendens can be satisfied by money damages.

9 (i) Upon filing an action or motion in the cause requesting an equitable distribution or  
10 alleging that an equitable distribution will be requested when it is timely to do so, a party may  
11 seek injunctive relief pursuant to G.S. 1A-1, ~~Rule 65~~ Rule 65, and ~~Chapter 1, Article 37, Article~~  
12 37 of Chapter 1 of the General Statutes to prevent the disappearance, ~~waste~~ waste, or conversion  
13 of property alleged to be marital property, divisible property, or separate property of the party  
14 seeking relief. The court, in lieu of granting an injunction, may require a bond or other assurance  
15 of sufficient amount to protect the interest of the other spouse in the property. Upon application  
16 by the owner of separate property ~~which that~~ was removed from the marital home or possession  
17 of its owner by the other spouse, the court may enter an order for reasonable counsel fees and  
18 costs of court incurred to regain its possession, but ~~such the~~ fees shall not exceed the fair market  
19 value of the separate property at the time it was removed.

20 (i1) Unless good cause is shown that there should not be an interim distribution, the court  
21 may, at any time after an action for equitable distribution has been filed and prior to the final  
22 judgment of equitable distribution, enter ~~orders an order~~ declaring what is separate property and  
23 may also enter ~~orders an order~~ dividing part of the marital property, divisible property or debt, or  
24 marital debt between the parties. The partial distribution may provide for a distributive award  
25 and may also provide for a distribution of marital property, marital debt, divisible property, or  
26 divisible debt. Any ~~such~~ orders entered shall be taken into consideration at trial and shall be given  
27 proper credit ~~given credit~~.

28 Hearings held pursuant to this subsection may be held at sessions arranged by the chief  
29 district court judge pursuant to G.S. 7A-146 and, if held at ~~such these~~ sessions, ~~shall are~~ not be  
30 subject to the reporting requirements of G.S. 7A-198.

31 (j) In any order for the distribution of property made pursuant to this section, the court  
32 shall make written findings of fact that support the determination that the marital property and  
33 divisible property has been equitably divided.

34 (k) The rights of the parties to an equitable distribution of marital property and divisible  
35 property are a species of common ownership, the rights of the respective parties vesting at the  
36 time of the parties' separation.

37 (l) The following applies regarding the death of a spouse:

38 (1) A claim for equitable distribution, whether an action is filed or not, survives  
39 the death of a spouse so long as the parties are living separate and apart at the  
40 time of death.

41 (2) ~~The provisions of~~ Article 19 of Chapter 28A of the General Statutes ~~shall be~~  
42 is applicable to a claim for equitable distribution against the estate of the  
43 deceased spouse.

44 (3) Any claim for equitable distribution against the surviving spouse made by the  
45 estate of the deceased spouse ~~must~~ shall be filed with the district court within  
46 one year of the date of death of the deceased spouse or be forever barred."

47 **SECTION 2.(e)** G.S. 39-13.3(a)(1) and G.S. 41-63(4)a., as enacted by this section  
48 regarding an elective life estate, apply to conveyances executed before, on, or after the effective  
49 date of this act. The remainder of this section applies to conveyances executed on or after the  
50 effective date of this act.

51 **SECTION 3.** This act becomes effective October 1, 2025.