

1 Short Title: GSC Unif. Electronic Estate Planning Docs Act.

2 A BILL TO BE ENTITLED

3 AN ACT TO ENACT THE UNIFORM ELECTRONIC ESTATE PLANNING DOCUMENTS

4 ACT.

5 The General Assembly of North Carolina enacts:

6

7 *[General Statutes Commission (GSC) Staff Note: Redlining in Section 1 of this draft represents*  
8 *changes to the Uniform Act, not current law. GSC staff also made non-redlined changes to*  
9 *conform to the General Statutes numbering system and capitalization conventions.]*

10

11 SECTION 1. The General Statutes are amended by adding a new chapter to read:

12 "Chapter 36G.

13 "Uniform Electronic Estate Planning Documents Act.

14 "Article 1.

15 "General Provisions and Definitions.

16 "§ 36G-1. Title.

17 This ~~act~~ Chapter may be cited as the Uniform Electronic Estate Planning Documents Act.

18 "§ 36G-2. Definitions.

19 In this ~~act~~ Chapter, the following definitions apply:

20 (1) "~~Electronic~~" ~~means relating~~ Electronic. – Relating to technology having  
21 electrical, digital, magnetic, wireless, optical, electromagnetic, or similar  
22 capabilities.

23 (2) Reserved.

24 (2)(3) "~~Electronic record~~" ~~means a~~ Electronic record. – A record created, generated,  
25 sent, communicated, received, or stored by electronic means.



- 1                                   7.     An advance directive, including a ~~{health care power of~~  
2                                   ~~attorney}~~, health care power of attorney, directive to  
3                                   physicians, natural death statement, living will, ~~and~~ medical or  
4                                   physician order for life-sustaining ~~treatment~~; treatment, and  
5                                   advance directive for a natural death.
- 6                                   8.     A record directing disposition of an individual's body after  
7                                   ~~death~~; death.
- 8                                   9.     A nomination of a guardian for the signing ~~individual~~;  
9                                   individual.
- 10                                  10.    A nomination of a guardian for a minor child or ~~disabled adult~~  
11                                  ~~child~~; an adult child with a disability.
- 12                                  11.    A mental health treatment ~~declaration~~; declaration.
- 13                                  12.    A community property survivorship ~~agreement~~; agreement.
- 14                                  13.    A disclaimer ~~under {cite to Uniform Disclaimer of Property~~  
15                                  ~~Interests Act Section 2(3)}~~; and or renunciation under Chapter  
16                                  31B of the General Statutes.
- 17                                  14.    Any other record intended to carry out an individual's intent  
18                                  regarding property or health care while incapacitated or on  
19                                  ~~death~~; and death.
- 20                                  b.     ~~Does~~ The term does not include a deed of real ~~property~~[,], ~~or~~  
21                                  property, certificate of title for a motor vehicle, watercraft, or ~~aircraft~~;  
22                                  aircraft, or ~~{list other documents the state intends to exclude from~~  
23                                  ~~Article 2}~~; any document that other law prohibits from being executed  
24                                  in electronic form.

1           ~~(6)(8)~~ "Person" means an individual, estate, business or nonprofit entity, government  
2           or governmental subdivision, agency, or instrumentality, or other legal entity.

3           Person. – Defined in G.S. 36C-1-103.

4           ~~(7)(9)~~ "Power of attorney" means a Power of attorney. – A record that grants  
5           authority to an agent to act in place of the principal, even if the term is not  
6           used in the record.

7           ~~(8)(10)~~ "Record" means ~~information:~~ Record. – Information inscribed on a  
8           tangible medium or stored in an electronic or other medium and retrievable in  
9           perceivable form.

10          a. ~~Inscribed on a tangible medium;~~ or

11          b. ~~Stored in an electronic or other medium and retrievable in perceivable~~  
12          ~~form.~~

13          ~~(9)(11)~~ "Security procedure" means a Security procedure. – A procedure to verify  
14          that an electronic signature, record, or performance is that of a specific person  
15          or to detect a change or error in an electronic record. The term includes a  
16          procedure that uses an algorithm, code, identifying word or number,  
17          encryption, or callback or other acknowledgment procedure.

18          ~~(10)(12)~~ "Settlor" means a Settlor. – A person, including a testator, that creates or  
19          contributes property to a trust.

20          ~~(11)(13)~~ "Sign" means, with Sign. – With present intent to authenticate or adopt a  
21          ~~record:~~ record, to do either of the following:

22          a.       Execute or adopt a tangible ~~symbol;~~ or symbol.

23          b.       Attach to or logically associate with the record an electronic signature.

24          ~~(12)(14)~~ "State" means a State. – Consists of the following:

1           a.     A state of the United States, the District of Columbia, Puerto Rico, the  
2                     United States Virgin Islands, or other territory or insular possession  
3                     subject to the jurisdiction of the United States. ~~The term includes a~~  
4                     ~~federally recognized Indian tribe.~~

5           b.     An Indian tribe or band or Alaskan native village that is recognized by  
6                     federal law or formally acknowledged by an entity listed in  
7                     sub-subdivision a. of this subdivision.

8           (13)(15) ~~"Terms of a trust" means:~~ Terms of a trust. – Defined in G.S. 36C-1-103.

9           a.-    ~~Except as provided in subparagraph (B), the manifestation of the~~  
10                   ~~settlor's intent regarding a trust's provisions as:~~

11                   1.-    ~~Expressed in the trust instrument; or~~

12                   2.-    ~~Established by other evidence that would be admissible in a~~  
13                   ~~judicial proceeding; or~~

14           b.-    ~~The trust's provisions as established, determined, or amended by:~~

15                   1.-    ~~A trustee or other person in accordance with applicable law;~~  
16                   ~~{or}~~

17                   2.-    ~~A court order[; or~~

18                   3.-    ~~A nonjudicial settlement agreement under [cite to Uniform~~  
19                   ~~Trust Code Section 111]].~~

20           (14)(16) ~~"Trust instrument" means an instrument executed by the settlor that~~  
21                   ~~contains terms of the trust, including any amendments.~~ Trust instrument. –  
22                   Defined in G.S. 36C-1-103.

23           (15) ~~"Will" includes a codicil and a testamentary instrument that merely appoints~~  
24                   ~~an executor, revokes or revises another will, nominates a guardian, or~~

~~expressly excludes or limits the right of an individual or class to succeed to  
property of the decedent passing by intestate succession.~~

*[Uniform Law Commission (ULC) Legislative Note: In paragraph (5), the definition of "non-testamentary estate planning document" may be expanded or contracted to conform with the state's substantive, administrative, or regulatory law or practices. A signature on a non-testamentary estate planning document and on a document excluded from the definition may still be effective under other state law. Likewise, an audio or audio-visual record still may be effective under other state law. This act is designed to validate a signature that is in electronic form when other state law has not addressed the issue.*

*In paragraph (5), a state should conform the name of the documents to match other state law. For example, in subparagraph (A)(vii), a state that uses the term "medical power of attorney", "health-care proxy", or other term should revise the bracketed text accordingly.*

*In paragraph (5), if a state does not authorize a particular non-testamentary estate planning document, that document should be omitted from the enumerated list. For example, a state following a common-law marital property system would delete subparagraph (A)(xii) referring to a community property survivorship agreement.]*

*[GSC Staff Note: In the definition of "non-testamentary estate planning document," this draft uses the term "health care power of attorney" in conformity with Article 3 of Chapter 32A of the General Statutes.*

*In its Uniform Electronic Wills Act draft, the Estate Planning & Fiduciary Law Section of the North Carolina Bar Association (NCBA) chose not to include the definition of "will" as unnecessary.*

*G.S. 36C-1-103 provides:*

**§ 36C-1-103. Definitions.**

*The following definitions apply in this Chapter:*

- (1) Action. – When applicable to an act of a trustee, includes a failure to act.*
- (2) Ascertainable standard. – A standard relating to an individual's health, education, support, or maintenance within the meaning of section 2041(b)(1)(A) or 2514(c)(1) of the Internal Revenue Code.*
- (3) Beneficiary. – A person who:
  - a. Has a present or future beneficial interest in a trust, vested or contingent, including the owner of an interest by assignment or transfer, but excluding a permissible appointee of a power of appointment; or*
  - b. In a capacity other than that of trustee, holds a power of appointment over trust property.**
- (4) Charitable trust. – A trust, including a split-interest trust as described in section 4947 of the Internal Revenue Code, created for a charitable purpose described in G.S. 36C-4-405(a).*
- (5) Environmental law. – A federal, state, or local law, rule, regulation, or ordinance relating to protection of the environment.*
- (6) General guardian. – As defined in G.S. 35A-1202(7).*
- (7) Guardian of the estate. – As defined in G.S. 35A-1202(9).*
- (8) Guardian of the person. – As defined in G.S. 35A-1202(10).*

- 1 (9) *Interests of the beneficiaries.* – *The beneficial interests provided in the terms*  
2 *of the trust.*
- 3 (10) *Internal Revenue Code.* – *The Internal Revenue Code of 1986, as amended*  
4 *from time to time. Each reference to a provision of the Internal Revenue Code*  
5 *shall include any successor to that provision.*
- 6 (11) *Jurisdiction.* – *When applicable to a geographic area, includes a state or*  
7 *country.*
- 8 (12) *Person.* – *An individual, corporation, business trust, estate, trust, partnership,*  
9 *limited liability company, association, joint venture, government;*  
10 *governmental subdivision, agency, or instrumentality; public corporation, or*  
11 *any other legal or commercial entity.*
- 12 (13) *Power of withdrawal.* – *A presently exercisable general power of appointment*  
13 *other than a power:*
- 14 a. *Exercisable by a trustee and limited by an ascertainable standard; or*  
15 b. *Exercisable by another person only upon consent of the trustee or a*  
16 *person holding an adverse interest.*
- 17 (13a) *Principal place of administration.* – *The trustee's usual place of business*  
18 *where the records pertaining to the trust are kept or the trustee's residence if*  
19 *the trustee has no usual place of business. In the case of cotrustees, the*  
20 *principal place of administration is one of the following:*
- 21 a. *The usual place of business of the corporate trustee if there is a*  
22 *corporate cotrustee.*
- 23 b. *The usual place of business or residence of any of the cotrustees if*  
24 *there is no corporate cotrustee.*
- 25 (14) *Property.* – *Anything that may be the subject of ownership, whether real or*  
26 *personal, legal or equitable, or any interest therein.*
- 27 (15) *Qualified beneficiary.* – *A living beneficiary to whom, on the date the*  
28 *beneficiary's qualification is determined, any of the following apply:*
- 29 a. *Is a distributee or permissible distributee of trust income or principal.*  
30 b. *Would be a distributee or permissible distributee of trust income or*  
31 *principal if the interests of the distributees described in*  
32 *sub-subdivision a. of this subdivision terminated on that date without*  
33 *causing the trust to terminate.*
- 34 c. *Would be a distributee or permissible distributee of trust income or*  
35 *principal if the trust terminated on that date.*
- 36 (16) *Revocable.* – *When applicable to a trust, means revocable by the settlor*  
37 *without the consent of the trustee or a person holding an adverse interest.*
- 38 (17) *Settlor.* – *Except as otherwise provided in G.S. 36C-8B-25, a person,*  
39 *including a testator, who creates, or contributes property to, a trust. If more*  
40 *than one person creates or contributes property to a trust, each person is a*  
41 *settlor of the portion of the trust property attributable to that person's*  
42 *contribution except to the extent another person has the power to revoke or*  
43 *withdraw that portion.*
- 44 (18) *Spendthrift provision.* – *A term of a trust that restrains both voluntary and*  
45 *involuntary transfer of a beneficiary's interest.*
- 46 (19) *State.* – *A state of the United States, the District of Columbia, Puerto Rico, the*  
47 *United States Virgin Islands, or any territory or insular possession subject to*  
48 *the jurisdiction of the United States. The term includes an Indian tribe or band*  
49 *recognized by federal law or formally acknowledged by a state.*



- 1           (1)    ~~{cite to Uniform Electronic Transactions Act}; [or] Article 40 of Chapter 66~~  
2                    ~~of the General Statutes.~~
- 3           (2)    ~~[[Article] 3] {cite to other state law governing creation and execution of an~~  
4                    ~~electronic will, codicil, or testamentary trust}]; or Article 3 of this Chapter.~~
- 5           (3)- ~~{cite to other state law relating to non-testamentary estate planning documents~~  
6                    ~~the state excludes from this [article]]].~~

7    **"§ 36G-12. Principles of law and equity.**

8           The law of this ~~state~~State and principles of equity applicable to a non-testamentary estate  
9    planning document apply to an electronic non-testamentary estate planning document except as  
10   modified by this ~~{article}~~. Article.

11   **"§ 36G-13. Use of electronic record or signature not required.**

12       (a)    This ~~{article}~~Article does not require a non-testamentary estate planning document  
13    or signature on a non-testamentary estate planning document to be created, generated, sent,  
14    communicated, received, stored, or otherwise processed or used by electronic means or in  
15    electronic form.

16       (b)    A person is not required to have a non-testamentary estate planning document in  
17    electronic form or signed electronically even if the person previously created or signed a  
18    non-testamentary estate planning document by electronic means.

19       (c)    A person ~~may~~shall not waive the provisions of this section.

20   **"§ 36G-14. Recognition of electronic non-testamentary estate planning document and**  
21                    **electronic signature.**

22       (a)    A non-testamentary estate planning document or a signature on a non-testamentary  
23    estate planning document ~~may~~shall not be denied legal effect or enforceability solely because it  
24    is in electronic form.

1 (b) If other law of this ~~state~~State requires a non-testamentary estate planning document  
2 to be in writing, an electronic record of the document satisfies the requirement.

3 (c) If other law of this ~~state~~State requires a signature on a non-testamentary estate  
4 planning document, an electronic signature satisfies the requirement.

5 **"§ 36G-15. Attribution and effect of electronic record and electronic signature.**

6 (a) An electronic non-testamentary estate planning document or electronic signature on  
7 an electronic non-testamentary estate planning document is attributable to a person if it was the  
8 act of the person. The act of the person may be shown in any manner, including by showing the  
9 efficacy of a security procedure applied to determine the person to which the electronic record  
10 or electronic signature was attributable.

11 (b) The effect of attribution of a document or signature to a person under subsection (a)  
12 of this section ~~of a document or signature~~ is determined from the context and surrounding  
13 circumstances at the time of its creation, execution, or adoption and as provided by other law.

14 **"§ 36G-16. Notarization and acknowledgment.**

15 If other law of this ~~state~~State requires a signature or record to be notarized, acknowledged,  
16 verified, or made under oath, the requirement is satisfied with respect to an electronic  
17 non-testamentary estate planning document if an individual authorized to perform the  
18 notarization, acknowledgment, verification, or oath attaches or logically associates the  
19 individual's electronic signature on the document together with all other information required to  
20 be included under the other law.

21 **"§ 36G-17. Witnessing and attestation.**

22 ~~{(a)}~~ (a) If other law of this ~~state~~State bases the validity of a non-testamentary estate  
23 planning document on whether it is signed, witnessed, or attested by another individual, the  
24 signature, witnessing, or attestation of that individual may be electronic.



1 (c) A person may satisfy subsection (a) of this section by using the services of another  
2 person.

3 (d) If other law of this ~~state~~ State requires a non-testamentary estate planning document  
4 to be presented or retained in its original form, or provides consequences if a non-testamentary  
5 estate planning document is not presented or retained in its original form, an electronic record  
6 retained in accordance with subsection (a) of this section satisfies the other law.

7 (e) This section does not preclude a governmental agency from specifying requirements  
8 for the retention of a record subject to the agency's jurisdiction in addition to those in this section.  
9 In this section, "governmental agency" means an executive, legislative, or judicial agency,  
10 department, board, commission, authority, institution, or instrumentality of the federal  
11 government or of a state or of a county, municipality, or other political subdivision of a state.

12 **"§ 36G-19. Certification of paper copy.**

13 An individual may create a certified paper copy of an electronic non-testamentary estate  
14 planning document by ~~affirming under penalty of perjury~~ certifying that the paper copy is a  
15 complete and accurate copy of the document. The certification shall be in the form of an affidavit  
16 sworn to or affirmed before an officer authorized to administer oaths. The certified paper copy  
17 of the electronic non-testamentary estate planning document may be created at any time after the  
18 electronic non-testamentary estate planning document is executed.

19

20 *[GSC Staff Note: GSC staff made changes to the section above to mirror proposed language*  
21 *from the Estate Planning & Fiduciary Law Section for the Uniform Electronic Wills Act draft.]*  
22

23 **"§ 36G-20. Admissibility in evidence.**

24 Evidence relating to an electronic non-testamentary estate planning document or an electronic  
25 signature on the document ~~may~~ shall not be excluded in a proceeding solely because it is in  
26 electronic form.

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"Article 3.

"Uniform Electronic Wills Act.

*[ULC Legislative Note: A state that wishes to expand state law to include electronic creation and execution of a testamentary document, including a will, testamentary trust, or codicil, has two options:*

*(1) The state may insert the Uniform Electronic Wills Act or similar statute as Article 3 in this act, making adjustments to this act or to the incorporated act as appropriate. If the Uniform Electronic Wills Act is the statute being included, the only definition in Section 2 of that act necessary is "electronic will." If remote witnessing is desired for an electronic will, the definition of "electronic presence" in Section 207(b) of this act also is necessary in this article. Sections 10 (uniformity of application and construction), 11 (transitional provision), and 12 (effective date) should be deleted from the Uniform Electronic Wills Act.*

*(2) The state may omit Article 3 and enact the Uniform Electronic Wills Act as a freestanding act.]*

**"§ 36G-31. Short title.**

This ~~act~~ Article may be cited as the **Uniform Electronic Wills Act**.

**"§ 36G-32. Law applicable to electronic will; principles of equity.**

An electronic will is a will for all purposes of the law of this ~~state~~. State. The law of this ~~state~~ State applicable to wills and principles of equity apply to an electronic will, except as modified by this ~~act~~. Article.

~~"§ #. Choice of law regarding execution.~~

~~A will executed electronically but not in compliance with Section 5(a) is an electronic will under this [act] if executed in compliance with the law of the jurisdiction where the testator is:~~

- ~~(1) Physically located when the will is signed; or~~
- ~~(2) Domiciled or resides when the will is signed or when the testator dies.~~

**"§ 36G-33. Execution of electronic will.**

~~(a) Subject to Section 8(d)[and except as provided in Section 6], an electronic will must be:~~

- ~~(1) A record that is readable as text at the time of signing under paragraph (2);~~

- 1           ~~(2)~~   Signed by:
- 2                   a. ~~The testator; or~~
- 3                   b. ~~Another individual in the testator’s name, in the testator’s physical~~  
4                         ~~presence and by the testator’s direction; and~~
- 5           ~~(3)~~   ~~{Either:~~
- 6                   a.} ~~Signed in the physical [or electronic] presence of the testator by at least~~  
7                         ~~two individuals[, each of whom is a resident of a state and physically~~  
8                         ~~located in a state at the time of signing and] within a reasonable time~~  
9                         ~~after witnessing:~~
- 10                   ~~{a.} [1.]   The signing of the will under paragraph (2); or~~
- 11                   ~~{b.} [2.]   The testator’s acknowledgment of the signing of the will~~  
12                                 ~~under paragraph (2) or acknowledgement of the will[; or~~
- 13                   b. ~~Acknowledged by the testator before and in the physical [or electronic]~~  
14                         ~~presence of a notary public or other individual authorized by law to~~  
15                         ~~notarize records electronically}.~~

16       ~~(b)    Intent of a testator that the record under subsection (a)(1) be the testator’s electronic~~  
17       ~~will may be established by extrinsic evidence.~~

18       (a)    Subject to G.S. 36G-35(b), an electronic will shall be a record that is readable as text  
19       at the time of signing, shall be signed by the testator, and shall be attested by at least two  
20       competent witnesses, as provided by G.S. 31-3.3.

21       (b)    The validity of a will executed electronically but not in compliance with subsection  
22       (a) of this section is governed by G.S. 31-46.

23

24       *[ULC Legislative Note: A state should conform Section 5 to its will-execution statute.*  
25       *A state that enacts Section 6 (harmless error) should include the bracketed language at the*  
26       *beginning of subsection (a).*

1       A state that permits an electronic will only when the testator and witnesses are in the same  
2 physical location, and therefore prohibits remote attestation, should omit the bracketed words  
3 "or electronic" from subsection (a)(3) and Section 8(c).

4       A state that has enacted Uniform Probate Code Section 2-502 or otherwise validates an  
5 unattested but notarized will should include subsection (a)(3)(B).]

6  
7 [GSC Staff Note: G.S. 31-3.3 and G.S. 31-46 provide:

8  
9 **§ 31-3.3. Attested written will.**

10       (a) An attested written will is a written will signed by the testator and attested by at least  
11 two competent witnesses as provided by this section.

12       (b) The testator must, with intent to sign the will, do so by actually signing the will or by  
13 having someone else in the testator's presence and at the testator's direction sign the testator's  
14 name thereon.

15       (c) The testator must signify to the attesting witnesses that the instrument is the testator's  
16 instrument by signing it in their presence or by acknowledging to them the testator's signature  
17 previously affixed thereto, either of which may be done before the attesting witnesses separately.

18       (d) The attesting witnesses must sign the will in the presence of the testator but need not  
19 sign in the presence of each other. (1953, c. 1098, s. 2; 2011-344, s. 8.)

20  
21 **§ 31-46. Validity of will; which laws govern.**

22       A will is valid if it meets the requirements of the applicable provisions of law in effect in this  
23 State either at the time of its execution or at the time of the death of the testator, or if any of the  
24 following apply:

25           (1) The will's execution complied with the law of the jurisdiction in which the  
26 testator was physically present at the time of execution.

27           (2) Its execution complied with the law of the place where the testator was  
28 domiciled at the time of execution or at the time of death.

29           (3) It is a military testamentary instrument executed in accordance with the provisions of  
30 10 U.S.C. § 1044d or any successor or replacement statute. (1953, c. 1098, s. 14; 2013-91, s.  
31 1(g); 2019-178, s. 3(b).)]

32  
33 ~~"[§ #. Harmless error.~~

34 **~~Alternative A~~**

35 ~~A record readable as text not executed in compliance with Section 5(a) is deemed to comply~~  
36 ~~with Section 5(a) if the proponent of the record establishes by clear and convincing evidence that~~  
37 ~~the decedent intended the record to be:~~

38           ~~(1) The decedent's will;~~

39           ~~(2) A partial or complete revocation of the decedent's will;~~

40           ~~(3) An addition to or modification of the decedent's will; or~~





1 ~~expressed in this instrument, and I am [18] years of age or older, of sound mind, and under no~~  
2 ~~constraint or undue influence.~~

3 \_\_\_\_\_

4 ~~Testator~~

5 We, \_\_\_\_\_ and \_\_\_\_\_,

6 (name)

(name)

7 ~~witnesses, being sworn, declare to the undersigned officer that the testator signed this~~  
8 ~~instrument as the testator's electronic will, that the testator willingly signed it or willingly~~  
9 ~~directed another individual to sign for the testator, and that each of us, in the physical [or~~  
10 ~~electronic] presence of the testator, signs this instrument as witness to the testator's signing, and~~  
11 ~~to the best of our knowledge the testator is [18] years of age or older, of sound mind, and under~~  
12 ~~no constraint or undue influence.~~

13 \_\_\_\_\_

14 ~~Witness~~

15 \_\_\_\_\_

16 ~~Witness~~

17 ~~Certificate of officer:~~

18 State of \_\_\_\_\_

19 [County] of \_\_\_\_\_

20 Subscribed, \_\_\_\_\_ sworn to, \_\_\_\_\_ and \_\_\_\_\_ acknowledged before me by

21 \_\_\_\_\_,

22 (name)

23 the testator, and subscribed and sworn to before me by \_\_\_\_\_ and

24 (name)

25 \_\_\_\_\_, witnesses, this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_.



1 for him), and that each of us, in the presence and hearing of the testator, hereby signs this will  
2 as witness to the testator's signing, and to the best of our knowledge the testator is eighteen years  
3 of age or older, of sound mind, and under no constraint or undue influence.

4 \_\_\_\_\_  
5 Witness

6 \_\_\_\_\_  
7 Witness

8 THE STATE OF \_\_\_\_\_.  
9 COUNTY OF \_\_\_\_\_.

10 Subscribed, sworn to and acknowledged before me by \_\_\_\_\_, the testator and subscribed  
11 and sworn to before me by \_\_\_\_\_ and \_\_\_\_\_, witnesses, this \_\_\_\_ day of

12 \_\_\_\_\_  
13 (SEAL)

14 (SIGNED) \_\_\_\_\_  
15 (OFFICIAL CAPACITY OF OFFICER)"

16 (b) An attested written will executed as provided by G.S. 31-3.3 may at any time  
17 subsequent to its execution be made self-proved, by the acknowledgment thereof by the testator  
18 and the affidavits of the attesting witnesses, each made before an officer authorized to administer  
19 oaths under the laws of this State, and evidenced by the officer's certificate, under official seal,  
20 attached or annexed to the will in form and content substantially as follows:

21 "STATE OF NORTH CAROLINA  
22 "COUNTY/CITY OF \_\_\_\_\_

23 "Before me, the undersigned authority, on this day personally appeared \_\_\_\_\_, and  
24 \_\_\_\_\_, known to me to be the testator and the witnesses, respectively, whose names are signed  
25 to the attached or foregoing instrument and, all of these persons being by me first duly sworn.  
26 The testator, declared to me and to the witnesses in my presence: That said instrument is his last  
27 will; that he had willingly signed or directed another to sign the same for him, and executed it in  
28 the presence of said witnesses as his free and voluntary act for the purposes therein expressed;  
29 or, that the testator signified that the instrument was his instrument by acknowledging to them  
30 his signature previously affixed thereto.

31 The said witnesses stated before me that the foregoing will was executed and acknowledged  
32 by the testator as his last will in the presence of said witnesses who, in his presence and at his  
33 request, subscribed their names thereto as attesting witnesses and that the testator, at the time of  
34 the execution of said will, was over the age of 18 years and of sound and disposing mind and  
35 memory.

36 \_\_\_\_\_  
37 Testator

38 \_\_\_\_\_  
39 Witness

40 \_\_\_\_\_  
41 Witness

42 \_\_\_\_\_  
43 Witness

44 Subscribed, sworn and acknowledged before me by \_\_\_\_\_, the testator, subscribed and sworn  
45 before me by \_\_\_\_\_, \_\_\_\_\_ and \_\_\_\_\_ witnesses, this \_\_\_\_ day of \_\_\_\_\_, A.D. \_\_\_\_

46 (SEAL)

47 (SIGNED) \_\_\_\_\_  
48 (OFFICIAL CAPACITY OF OFFICER)"

49 (c) The sworn statement of any such witnesses taken as herein provided shall be accepted  
50 by the court as if it had been taken before such court.

1 (d) Any will recognized as valid under G.S. 31-46(1) or (2) and shown by the propounder  
2 to have been made self-proved under the laws of the jurisdiction in which the testator was  
3 physically present at the time of execution or the place where the testator was domiciled at the  
4 time of execution or at the time of death shall be considered as self-proved.

5 (e) A military testamentary instrument executed in accordance with the provisions of 10  
6 U.S.C. § 1044d(d) or any successor or replacement statute shall be considered as self-proved.  
7 (1977, c. 795, s. 1; 1979, c. 536, s. 1; 1981, c. 599, s. 8; 1999-456, s. 59; 2013-91, s. 1(f);  
8 2019-178, s. 3(a).)]  
9

10 **"§ 36G-36. Certification of paper copy.**

11 (a) An individual may create a certified paper copy of an electronic will by ~~affirming~~  
12 ~~under penalty of perjury certifying~~ that a paper copy of the electronic will is a complete, true,  
13 and accurate copy of the electronic will. The certification shall be in the form of an affidavit  
14 sworn to or affirmed before an officer authorized to administer oaths. If the electronic will is  
15 made self-proving, self-proved, the certified paper copy of the will ~~must~~ shall include the self-  
16 ~~proving~~ affidavits. The certified paper copy of the electronic will may be created at any time after  
17 the electronic will is executed in accordance with G.S. 36G-33(a).

18 (b) A certified paper copy of an electronic will, but not the electronic will itself, may be  
19 probated under G.S. 28A-2A-8(a1).

20  
21 *[ULC Legislative Note: A state may need to change its probate court rules to expand the*  
22 *definition of what may be filed with the court to include electronic filings.*

23 *Court procedural rules may require that a certified paper copy be filed within a prescribed*  
24 *number of days of the filing of the application for probate. A state may want to include procedural*  
25 *rules specifically for electronic wills.]*  
26

27 "Article 4.

28 "Miscellaneous Provisions.

29 **"§ 36G-45. Uniformity of application and construction.**

30 In applying and construing this ~~uniform act, Chapter,~~ a court shall consider the promotion of  
31 uniformity of the law among jurisdictions that enact ~~it,~~ the Uniform Electronic Estate Planning  
32 Documents Act.

1    "**§ 36G-46. Relation to Electronic Signatures in Global and National Commerce Act.**

2       This ~~act~~ Chapter modifies, limits, or supersedes the Electronic Signatures in Global and  
3    National Commerce Act, 15 U.S.C. ~~Section § 7001 et seq.~~ ~~[, as amended]~~, et seq., but does not  
4    modify, limit, or supersede ~~15 U.S.C. Section 7001(e)~~, 15 U.S.C. § 7001(c) or authorize  
5    electronic delivery of any of the notices described in 15 U.S.C. ~~Section § 7003(b)~~."

6

7    *[ULC Legislative Note: It is the intent of this act to incorporate future amendments to the cited*  
8    *federal law. A state in which the constitution or other law does not permit incorporation of future*  
9    *amendments when a federal statute is incorporated into state law should omit the phrase ", as*  
10   *amended". A state in which, in the absence of a legislative declaration, future amendments are*  
11   *incorporated into state law also should omit the phrase.]*

12

13    *[GSC Staff Note: 15 U.S.C. §§ 7001 through 7003 provide:*

14

15    **§ 7001. General rule of validity**

16

17    *(a) In general*

18    *Notwithstanding any statute, regulation, or other rule of law (other than this subchapter and*  
19    *subchapter II), with respect to any transaction in or affecting interstate or foreign commerce—*

20       *(1) a signature, contract, or other record relating to such transaction may not be denied legal*  
21       *effect, validity, or enforceability solely because it is in electronic form; and*

22       *(2) a contract relating to such transaction may not be denied legal effect, validity, or*  
23       *enforceability solely because an electronic signature or electronic record was used in its*  
24       *formation.*

25

26    *(b) Preservation of rights and obligations*

27    *This subchapter does not—*

28       *(1) limit, alter, or otherwise affect any requirement imposed by a statute, regulation, or rule*  
29       *of law relating to the rights and obligations of persons under such statute, regulation, or rule*  
30       *of law other than a requirement that contracts or other records be written, signed, or in*  
31       *nonelectronic form; or*

32       *(2) require any person to agree to use or accept electronic records or electronic signatures,*  
33       *other than a governmental agency with respect to a record other than a contract to which it*  
34       *is a party.*

35

36    *(c) Consumer disclosures*

37       *(1) Consent to electronic records*

38       *Notwithstanding subsection (a), if a statute, regulation, or other rule of law requires that*  
39       *information relating to a transaction or transactions in or affecting interstate or foreign*  
40       *commerce be provided or made available to a consumer in writing, the use of an electronic*  
41       *record to provide or make available (whichever is required) such information satisfies the*  
42       *requirement that such information be in writing if—*

43           *(A) the consumer has affirmatively consented to such use and has not withdrawn such*  
44           *consent;*

1 (B) the consumer, prior to consenting, is provided with a clear and conspicuous statement—  
2 (i) informing the consumer of (I) any right or option of the consumer to have the record  
3 provided or made available on paper or in nonelectronic form, and (II) the right of the  
4 consumer to withdraw the consent to have the record provided or made available in an  
5 electronic form and of any conditions, consequences (which may include termination of  
6 the parties' relationship), or fees in the event of such withdrawal;  
7 (ii) informing the consumer of whether the consent applies (I) only to the particular  
8 transaction which gave rise to the obligation to provide the record, or (II) to identified  
9 categories of records that may be provided or made available during the course of the  
10 parties' relationship;  
11 (iii) describing the procedures the consumer must use to withdraw consent as provided  
12 in clause (i) and to update information needed to contact the consumer electronically;  
13 and  
14 (iv) informing the consumer (I) how, after the consent, the consumer may, upon request,  
15 obtain a paper copy of an electronic record, and (II) whether any fee will be charged  
16 for such copy;

17 (C) the consumer—

18 (i) prior to consenting, is provided with a statement of the hardware and software  
19 requirements for access to and retention of the electronic records; and  
20 (ii) consents electronically, or confirms his or her consent electronically, in a manner  
21 that reasonably demonstrates that the consumer can access information in the  
22 electronic form that will be used to provide the information that is the subject of the  
23 consent; and

24 (D) after the consent of a consumer in accordance with subparagraph (A), if a change in  
25 the hardware or software requirements needed to access or retain electronic records  
26 creates a material risk that the consumer will not be able to access or retain a subsequent  
27 electronic record that was the subject of the consent, the person providing the electronic  
28 record—

29 (i) provides the consumer with a statement of (I) the revised hardware and software  
30 requirements for access to and retention of the electronic records, and (II) the right to  
31 withdraw consent without the imposition of any fees for such withdrawal and without  
32 the imposition of any condition or consequence that was not disclosed under  
33 subparagraph (B)(i); and  
34 (ii) again complies with subparagraph (C).

35 (2) Other rights

36 (A) Preservation of consumer protections

37 Nothing in this subchapter affects the content or timing of any disclosure or other record  
38 required to be provided or made available to any consumer under any statute, regulation,  
39 or other rule of law.

40 (B) Verification or acknowledgment

41 If a law that was enacted prior to this chapter expressly requires a record to be provided  
42 or made available by a specified method that requires verification or acknowledgment of  
43 receipt, the record may be provided or made available electronically only if the method  
44 used provides verification or acknowledgment of receipt (whichever is required).

45 (3) Effect of failure to obtain electronic consent or confirmation of consent

46 The legal effectiveness, validity, or enforceability of any contract executed by a consumer  
47 shall not be denied solely because of the failure to obtain electronic consent or confirmation  
48 of consent by that consumer in accordance with paragraph (1)(C)(ii).

49 (4) Prospective effect

1 *Withdrawal of consent by a consumer shall not affect the legal effectiveness, validity, or*  
2 *enforceability of electronic records provided or made available to that consumer in*  
3 *accordance with paragraph (1) prior to implementation of the consumer's withdrawal of*  
4 *consent. A consumer's withdrawal of consent shall be effective within a reasonable period of*  
5 *time after receipt of the withdrawal by the provider of the record. Failure to comply with*  
6 *paragraph (1)(D) may, at the election of the consumer, be treated as a withdrawal of consent*  
7 *for purposes of this paragraph.*

8 *(5) Prior consent*

9 *This subsection does not apply to any records that are provided or made available to a*  
10 *consumer who has consented prior to the effective date of this subchapter to receive such*  
11 *records in electronic form as permitted by any statute, regulation, or other rule of law.*

12 *(6) Oral communications*

13 *An oral communication or a recording of an oral communication shall not qualify as an*  
14 *electronic record for purposes of this subsection except as otherwise provided under*  
15 *applicable law.*

16  
17 *(d) Retention of contracts and records*

18 *(1) Accuracy and accessibility*

19 *If a statute, regulation, or other rule of law requires that a contract or other record relating*  
20 *to a transaction in or affecting interstate or foreign commerce be retained, that requirement*  
21 *is met by retaining an electronic record of the information in the contract or other record*  
22 *that—*

23 *(A) accurately reflects the information set forth in the contract or other record; and*

24 *(B) remains accessible to all persons who are entitled to access by statute, regulation, or*  
25 *rule of law, for the period required by such statute, regulation, or rule of law, in a form*  
26 *that is capable of being accurately reproduced for later reference, whether by*  
27 *transmission, printing, or otherwise.*

28 *(2) Exception*

29 *A requirement to retain a contract or other record in accordance with paragraph (1) does not*  
30 *apply to any information whose sole purpose is to enable the contract or other record to be*  
31 *sent, communicated, or received.*

32 *(3) Originals*

33 *If a statute, regulation, or other rule of law requires a contract or other record relating to a*  
34 *transaction in or affecting interstate or foreign commerce to be provided, available, or*  
35 *retained in its original form, or provides consequences if the contract or other record is not*  
36 *provided, available, or retained in its original form, that statute, regulation, or rule of law is*  
37 *satisfied by an electronic record that complies with paragraph (1).*

38 *(4) Checks*

39 *If a statute, regulation, or other rule of law requires the retention of a check, that requirement*  
40 *is satisfied by retention of an electronic record of the information on the front and back of the*  
41 *check in accordance with paragraph (1).*

42  
43 *(e) Accuracy and ability to retain contracts and other records*

44 *Notwithstanding subsection (a), if a statute, regulation, or other rule of law requires that a*  
45 *contract or other record relating to a transaction in or affecting interstate or foreign commerce*  
46 *be in writing, the legal effect, validity, or enforceability of an electronic record of such contract*  
47 *or other record may be denied if such electronic record is not in a form that is capable of being*  
48 *retained and accurately reproduced for later reference by all parties or persons who are entitled*  
49 *to retain the contract or other record.*

50

1 (f) *Proximity*

2 *Nothing in this subchapter affects the proximity required by any statute, regulation, or other rule*  
3 *of law with respect to any warning, notice, disclosure, or other record required to be posted,*  
4 *displayed, or publicly affixed.*

5  
6 (g) *Notarization and acknowledgment*

7 *If a statute, regulation, or other rule of law requires a signature or record relating to a*  
8 *transaction in or affecting interstate or foreign commerce to be notarized, acknowledged,*  
9 *verified, or made under oath, that requirement is satisfied if the electronic signature of the person*  
10 *authorized to perform those acts, together with all other information required to be included by*  
11 *other applicable statute, regulation, or rule of law, is attached to or logically associated with the*  
12 *signature or record.*

13  
14 (h) *Electronic agents*

15 *A contract or other record relating to a transaction in or affecting interstate or foreign commerce*  
16 *may not be denied legal effect, validity, or enforceability solely because its formation, creation,*  
17 *or delivery involved the action of one or more electronic agents so long as the action of any such*  
18 *electronic agent is legally attributable to the person to be bound.*

19  
20 (i) *Insurance*

21 *It is the specific intent of the Congress that this subchapter and subchapter II apply to the*  
22 *business of insurance.*

23  
24 (j) *Insurance agents and brokers*

25 *An insurance agent or broker acting under the direction of a party that enters into a contract by*  
26 *means of an electronic record or electronic signature may not be held liable for any deficiency*  
27 *in the electronic procedures agreed to by the parties under that contract if–*

- 28 (1) *the agent or broker has not engaged in negligent, reckless, or intentional tortious conduct;*  
29 (2) *the agent or broker was not involved in the development or establishment of such*  
30 *electronic procedures; and*  
31 (3) *the agent or broker did not deviate from such procedures.*

32  
33 **§ 7002. Exemption to preemption**

34  
35 (a) *In general*

36 *A State statute, regulation, or other rule of law may modify, limit, or supersede the provisions of*  
37 *section 7001 of this title with respect to State law only if such statute, regulation, or rule of law–*

38 (1) *constitutes an enactment or adoption of the Uniform Electronic Transactions Act as*  
39 *approved and recommended for enactment in all the States by the National Conference of*  
40 *Commissioners on Uniform State Laws in 1999, except that any exception to the scope of such*  
41 *Act enacted by a State under section 3(b)(4) of such Act shall be preempted to the extent such*  
42 *exception is inconsistent with this subchapter or subchapter II, or would not be permitted*  
43 *under paragraph (2)(A)(ii) of this subsection; or*

44 (2)(A) *specifies the alternative procedures or requirements for the use or acceptance (or both)*  
45 *of electronic records or electronic signatures to establish the legal effect, validity, or*  
46 *enforceability of contracts or other records, if–*

47 (i) *such alternative procedures or requirements are consistent with this subchapter and*  
48 *subchapter II; and*

49 (ii) *such alternative procedures or requirements do not require, or accord greater legal*  
50 *status or effect to, the implementation or application of a specific technology or*

1           *technical specification for performing the functions of creating, storing, generating,*  
2           *receiving, communicating, or authenticating electronic records or electronic*  
3           *signatures; and*  
4           *(B) if enacted or adopted after June 30, 2000, makes specific reference to this chapter.*

5  
6           *(b) Exceptions for actions by States as market participants*  
7           *Subsection (a)(2)(A)(ii) shall not apply to the statutes, regulations, or other rules of law*  
8           *governing procurement by any State, or any agency or instrumentality thereof.*

9  
10           *(c) Prevention of circumvention*  
11           *Subsection (a) does not permit a State to circumvent this subchapter or subchapter II through*  
12           *the imposition of nonelectronic delivery methods under section 8(b)(2) of the Uniform Electronic*  
13           *Transactions Act.*

14  
15           **§ 7003. Specific exceptions**

16  
17           *(a) Excepted requirements*  
18           *The provisions of section 7001 of this title shall not apply to a contract or other record to the*  
19           *extent it is governed by—*

- 20           *(1) a statute, regulation, or other rule of law governing the creation and execution of wills,*  
21           *codicils, or testamentary trusts;*  
22           *(2) a State statute, regulation, or other rule of law governing adoption, divorce, or other*  
23           *matters of family law; or*  
24           *(3) the Uniform Commercial Code, as in effect in any State, other than sections 1-107 and*  
25           *1-206 and Articles 2 and 2A.*

26  
27           *(b) Additional exceptions*  
28           *The provisions of section 7001 of this title shall not apply to—*

- 29           *(1) court orders or notices, or official court documents (including briefs, pleadings, and other*  
30           *writings) required to be executed in connection with court proceedings;*  
31           *(2) any notice of—*  
32           *(A) the cancellation or termination of utility services (including water, heat, and power);*  
33           *(B) default, acceleration, repossession, foreclosure, or eviction, or the right to cure, under*  
34           *a credit agreement secured by, or a rental agreement for, a primary residence of an*  
35           *individual;*  
36           *(C) the cancellation or termination of health insurance or benefits or life insurance benefits*  
37           *(excluding annuities); or*  
38           *(D) recall of a product, or material failure of a product, that risks endangering health or*  
39           *safety; or*  
40           *(3) any document required to accompany any transportation or handling of hazardous*  
41           *materials, pesticides, or other toxic or dangerous materials.*

42  
43           *(c) Review of exceptions*

44           *(1) Evaluation required*  
45           *The Secretary of Commerce, acting through the Assistant Secretary for Communications and*  
46           *Information, shall review the operation of the exceptions in subsections (a) and (b) to*  
47           *evaluate, over a period of 3 years, whether such exceptions continue to be necessary for the*  
48           *protection of consumers. Within 3 years after June 30, 2000, the Assistant Secretary shall*  
49           *submit a report to the Congress on the results of such evaluation.*

50           *(2) Determinations*

1 *If a Federal regulatory agency, with respect to matter within its jurisdiction, determines after*  
2 *notice and an opportunity for public comment, and publishes a finding, that one or more such*  
3 *exceptions are no longer necessary for the protection of consumers and eliminating such*  
4 *exceptions will not increase the material risk of harm to consumers, such agency may extend*  
5 *the application of section 7001 of this title to the exceptions identified in such finding.*  
6

7 *[ULC Legislative Note: A state should examine its statutes to determine whether conforming*  
8 *revisions are required by provisions of this act relating to the execution of testamentary and*  
9 *non-testamentary estate planning documents.]*  
10

11 **SECTION 2.** G.S. 28A-2A-8 reads as rewritten:

12 "**§ 28A-2A-8. Manner of probate of attested written ~~will.~~ will or certified paper copy of**  
13 **electronic will.**

14 (a) An attested written ~~will,~~ will other than an electronic will, executed as provided by  
15 G.S. 31-3.3, may be probated in ~~the following manner;~~ any of the following ways:

16 (1) Upon the testimony of at least two of the attesting ~~witnesses;~~ or witnesses.

17 (2) If the testimony of only one attesting witness is available, then with all of the  
18 following:

19 a. Upon the testimony of ~~such witness,~~ and the witness.

20 b. Upon proof of the handwriting of at least one of the attesting witnesses  
21 who is dead or whose testimony is otherwise ~~unavailable,~~ and  
22 unavailable.

23 c. Upon proof of the handwriting of the testator, unless ~~he~~ the testator  
24 signed by ~~his mark,~~ and the testator's mark.

25 d. Upon proof of ~~such~~ other circumstances ~~as will~~ that satisfy the clerk  
26 of the superior court as to the genuineness and due execution of the  
27 ~~will;~~ or will.

28 (3) If the testimony of none of the attesting witnesses is available, then with both  
29 of the following:

1 a. Upon proof of the handwriting of at least two of the attesting witnesses  
2 whose testimony is ~~unavailable~~, and unavailable.

3 b. Upon compliance with ~~paragraphs~~ sub-subdivisions c. and d. of  
4 ~~subsection (a)(2) of this section~~; or subdivision (a)(2) of this section.

5 (4) Upon a showing that the will has been made self-proved in accordance with  
6 ~~the provisions of G.S. 31-11.6~~.

7 (a1) A certified paper copy of an electronic will, executed as provided by G.S. 36G-33(a)  
8 and created as provided by G.S. 36G-36(a), may be probated in any of the following ways:

9 (1) Upon the testimony of at least two of the attesting witnesses.

10 (2) If the testimony of only one attesting witness is available, then with both of  
11 the following:

12 a. Upon the testimony of the witness.

13 b. Upon proof of other circumstances that satisfy the clerk of the superior  
14 court as to the genuineness and due execution of the will.

15 (3) If the testimony of none of the attesting witnesses is available, then upon  
16 compliance with sub-subdivision b. of subdivision (a1)(2) of this section.

17 (4) Upon a showing that the will has been made self-proved in accordance with  
18 G.S. 36G-35.

19 (b) Due execution of a will may be established, where the evidence required by  
20 ~~subsection (a)~~ subsections (a) and (a1) of this section is unavoidably lacking or inadequate, by  
21 testimony of other competent witnesses as to the requisite facts.

22 (c) The testimony of a witness is unavailable within the meaning of this section when the  
23 witness is dead, out of the State, not to be found within the State, incompetent, physically unable  
24 to ~~testify~~ testify, or refuses to testify."

25 **SECTION 3.** G.S. 31-3.2 reads as rewritten:

1 "§ 31-3.2. Kinds of wills.

2 (a) Personal property and real property may be devised by any of the following:

3 (1) An attested written will ~~which that~~ complies with the requirements of ~~G.S.~~

4 ~~31-3.3, or~~ G.S. 31-3.3.

5 (2) A holographic will ~~which that~~ complies with the requirements of G.S. 31-3.4.

6 (3) An electronic will that complies with the requirements of G.S. 36G-33(a).

7 (b) Personal property may also be devised by a nuncupative will ~~which that~~ complies  
8 with the requirements of G.S. 31-3.5."

9

10 *[GSC Staff Note: The Trusts Drafting Committee directed staff to examine whether conforming*  
11 *changes are needed in the recording statutes. Staff does not believe conforming changes are*  
12 *necessary. Please see Article 1A of Chapter 47 of the General Statutes:*

13

14

*Article 1A.*

15

*Uniform Real Property Electronic Recording Act.*

16

**§ 47-16.1. Short title.**

17

*This Article may be cited as the Uniform Real Property Electronic Recording Act. (2005-391, s.*  
18 *1.)*

19

**§ 47-16.2. Definitions.**

20

*In this Article:*

21

(1) "Document" means information that is:

22

a. *Inscribed on a tangible medium or that is stored in an electronic or*  
23 *other medium and is retrievable in perceivable form; and*

24

b. *Eligible to be recorded in the land records maintained by the register*  
25 *of deeds.*

26

(2) "Electronic" means relating to technology having electrical, digital,  
27 *magnetic, wireless, optical, electromagnetic, or similar capabilities.*

28

(3) "Electronic document" means a document that is received by the register of  
29 *deeds in an electronic form.*

30

(4) "Electronic signature" means an electronic sound, symbol, or process  
31 *attached to or logically associated with a document and executed or adopted*  
32 *by a person with the intent to sign the document.*

33

(5) "Person" means an individual, corporation, business trust, estate, trust,  
34 *partnership, limited liability company, association, joint venture, public*  
35 *corporation, government, or governmental subdivision, agency, or*  
36 *instrumentality, or any other legal or commercial entity. (2005-391, s. 1.)*

37

**§ 47-16.3. Validity of electronic documents.**

38

(a) *If a law requires, as a condition for recording, that a document be an original, be on*  
39 *paper or another tangible medium, or be in writing, the requirement is satisfied by an electronic*  
40 *document satisfying this Article.*

1       (b) *If a law requires, as a condition for recording, that a document be signed, the*  
2 *requirement is satisfied by an electronic signature.*

3       (c) *A requirement that a document or a signature associated with a document be*  
4 *notarized, acknowledged, verified, witnessed, or made under oath is satisfied if the electronic*  
5 *signature of the person authorized to notarize, acknowledge, verify, witness, or administer the*  
6 *oath, and all other information required to be included, is attached to or logically associated*  
7 *with the document or signature. A physical or electronic image of a stamp, impression, or seal*  
8 *need not accompany an electronic signature. Nothing in this act shall prohibit the North Carolina*  
9 *Board of Examiners for Engineers and Surveyors from requiring that the image of a seal*  
10 *accompany any plat or map that is presented electronically for recording. (2005-391, s. 1.)*

11 **§ 47-16.4. Recording of documents.**

12       (a) *In this section, "paper document" means a document that is received by the register*  
13 *of deeds in a form that is not electronic.*

14       (b) *A register of deeds:*

- 15           (1) *Who implements any of the functions listed in this section shall do so in*  
16 *compliance with standards adopted by the Secretary of State.*
- 17           (2) *May receive, index, store, archive, and transmit electronic documents.*
- 18           (3) *May provide for access to, and for search and retrieval of, documents and*  
19 *information by electronic means.*
- 20           (4) *Who accepts electronic documents for recording shall continue to accept*  
21 *paper documents as authorized by law and shall place entries for both types*  
22 *of documents in the same index.*
- 23           (5) *May convert paper documents accepted for recording into electronic form.*
- 24           (6) *May convert into electronic form information recorded before the register of*  
25 *deeds began to record electronic documents.*
- 26           (7) *May accept electronically any fee or tax that the register of deeds is*  
27 *authorized to collect.*
- 28           (8) *May agree with other officials of this State or a political subdivision thereof*  
29 *on procedures or processes to facilitate the electronic satisfaction of*  
30 *conditions to recording and the electronic payment of fees and taxes.*  
31 *(2005-391, s. 1.)*

32 **§ 47-16.5. Administration and standards.**

33       (a) *Standard-Setting Agency. – The Secretary of State shall adopt standards to implement*  
34 *this Article upon recommendation of the Electronic Recording Council. The Secretary of State*  
35 *may direct the Council to revise any portion of the recommended standards the Secretary deems*  
36 *inadequate or inappropriate. Technological standards and specifications adopted by the*  
37 *Secretary of State to implement this Article are engineering standards for the purposes of*  
38 *G.S. 150B-2(8a)h.*

39       (b) *Electronic Recording Council Created. – The Electronic Recording Council is*  
40 *created in the Department of the Secretary of State to advise and assist the Secretary of State in*  
41 *the adoption of standards to implement this Article. The Council shall review the functions listed*  
42 *in G.S. 47-16.4 and shall formulate and recommend to the Secretary standards for recording*  
43 *electronic documents and implementing the other functions listed in G.S. 47-16.4. The Council*  
44 *shall report its findings and recommendations to the Secretary of State at least once each*  
45 *calendar year. The Council shall advise the Secretary of State on a continuing basis of the need*  
46 *to adopt, amend, revise, or repeal standards. The Council may advise the Secretary of State on*  
47 *any other matter the Secretary refers to the Council.*

48       (c) *Council Membership, Terms, and Vacancies. – The Council shall consist of 13*  
49 *members as follows:*

- 1 (1) Seven members appointed by the North Carolina Association of Registers of  
2 Deeds. It is the intent of the General Assembly that the North Carolina  
3 Association of Registers of Deeds shall appoint as members a representative  
4 selection of registers of deeds from large, medium, and small counties, urban  
5 and rural counties, and the different geographic areas of this State.
- 6 (2) One member appointed by the North Carolina Bar Association.
- 7 (3) One member appointed by the North Carolina Society of Land Surveyors.
- 8 (4) One member appointed by the North Carolina Bankers Association.
- 9 (5) One member appointed by the North Carolina Land Title Association.
- 10 (6) One member appointed by the North Carolina Association of Assessing  
11 Officers.
- 12 (7) The Secretary of Natural and Cultural Resources or the Secretary's designee.

13 In making appointments to the Council, each appointing authority shall select appointees  
14 with the ability and commitment to fulfill the purposes of the Council.

15 Appointed members shall serve four-year terms, except that the initial appointments by the  
16 North Carolina Bar Association, the North Carolina Bankers Association, the North Carolina  
17 Association of Assessing Officers, and three of the initial appointments by the North Carolina  
18 Association of Registers of Deeds shall be for two years. All initial terms shall commence on the  
19 effective date of this Article. Members shall serve until their successors are appointed. An  
20 appointing authority may reappoint a member for successive terms. A vacancy on the Council  
21 shall be filled in the same manner in which the original appointment was made, and the term  
22 shall be for the balance of the unexpired term.

23 (d) Council Meetings and Officers. – The Secretary of State shall call the first meeting of  
24 the Council. At the first meeting and biennially thereafter, the Council shall elect from its  
25 membership a chair and a vice-chair to serve two-year terms. Meetings may be called by the  
26 chair, the vice-chair, or the Secretary of State. Meetings shall be held as often as necessary, but  
27 at least once a year.

28 (e) Council Compensation. – None of the members of the Council shall receive  
29 compensation for serving on the Council, but Council members shall receive per diem,  
30 subsistence, and travel expenses in accordance with G.S. 138-5 and G.S. 138-6, as applicable.

31 (f) Staff and Other Assistance. – As soon as practicable and as needed thereafter, the  
32 Council shall identify the information technology expertise it needs and report its needs to the  
33 Secretary of State. The Council shall also report any other expertise needed to fulfill its  
34 responsibilities. The Secretary of State shall provide professional and clerical staff and other  
35 services and supplies, including meeting space, as needed for the Council to carry out its duties  
36 in an effective manner. The Secretary of State may appoint additional committees to advise and  
37 assist the Council in its work.

38 The Council shall consult with the North Carolina Local Government Information Systems  
39 Association, and may consult with any other person the Council deems appropriate, to advise  
40 and assist the Council in its work.

41 (g) Uniformity of Standards. – To keep the standards and practices of registers of deeds  
42 in this State in harmony with the standards and practices of recording offices in other  
43 jurisdictions that enact substantially this Article and to keep the technology used by registers of  
44 deeds in this State compatible with technology used by recording offices in other jurisdictions  
45 that enact substantially this Article, the Secretary of State and the Council shall consider all of  
46 the following in carrying out their responsibilities under this Article, so far as is consistent with  
47 its purposes, policies, and provisions:

- 48 (1) Standards and practices of other jurisdictions.
- 49 (2) The most recent standards adopted by national standard-setting bodies, such  
50 as the Property Records Industry Association.



1 **§ 130A-468. Filing of documents with the registry.**

2 (a) *When the Secretary of State receives a document that may be filed with the registry*  
3 *pursuant to this Article, the Secretary shall create a digital reproduction of that document and*  
4 *enter the reproduced document into the registry database. The Secretary is not required to review*  
5 *a document to ensure that it complies with the particular statutory requirements applicable to*  
6 *the document. Each document entered into the registry database shall be assigned a unique file*  
7 *number and password.*

8 (b) *Upon entering the reproduced document into the registry database, the Secretary*  
9 *shall return the original document and a wallet-size card containing the document's file number*  
10 *and password to the person who submitted the document.*

11 (c) *When the Secretary of State receives a revocation of a document that is filed with the*  
12 *registry and that document's file number and password, or a request to remove that document*  
13 *from the registry without its revocation, the Secretary shall delete that document from the registry*  
14 *database.*

15 (d) *The Secretary of State's entry of a document into, or removal of a document from, the*  
16 *registry database does not do any of the following:*

17 (1) *Affect the validity of the document in whole or in part.*

18 (2) *Relate to the accuracy of information contained in the document.*

19 (3) *Create a presumption regarding the validity of the document, regarding the*  
20 *accuracy of information contained in the document, or that the statutory*  
21 *requirements for the document have been met. (2001-455, s. 1; 2001-513, s.*  
22 *30(b); 2007-502, s. 16.)*

23 **§ 130A-469. Disclosure of information contained in the registry.**

24 *The registry shall be accessible only over the Internet. A document filed in the registry shall*  
25 *be accessible only if a person attempting to access the document enters both the file number and*  
26 *password of the document. Documents filed in the registry, file numbers, passwords, and any*  
27 *other information maintained by the Secretary of State under this Article shall not be subject to*  
28 *disclosure pursuant to Chapter 132 of the General Statutes. (2001-455, s. 1; 2001-513, s. 30(b).)*

29 **§ 130A-470. Fees for using the registry; other funds for the registry.**

30 (a) *The Secretary of State shall charge a fee of ten dollars (\$10.00) for filing a document,*  
31 *other than a revocation, with the registry. The Secretary of State shall not charge a fee for filing*  
32 *a revocation with the registry. The fee shall be applied to the cost of maintaining the registry and*  
33 *to promoting public education and awareness of the registry.*

34 (b) *The Secretary of State, on behalf of the State, may accept gifts, donations, devises,*  
35 *and other forms of voluntary contributions; may apply for grants from public and private*  
36 *sources; and may expend funds received under this subsection for the purpose of promoting*  
37 *public education and awareness of the registry.*

38 (c) *All fees, funds, and gifts received pursuant to this section shall be subject to audit by*  
39 *the State Auditor and shall be expended in conformity with Chapter 143C of the General Statutes.*  
40 *(2001-455, s. 1; 2001-513, s. 30(b); 2006-203, s. 70; 2011-284, s. 89.)*

41 **§ 130A-471. Limitation of liability.**

42 *The State of North Carolina, the Secretary of State, and any agent or person employed by the*  
43 *Secretary of State shall not be liable for any claims or demands arising out of the administration*  
44 *or operation of the registry authorized by this Article, except for acts of gross negligence, willful*  
45 *misconduct, or intentional wrongdoing. (2001-455, s. 1; 2001-513, s. 30(b).)]*  
46

1           ~~SECTION~~ **SECTION 4.** If a provision of this ~~act~~ act or its application to a person  
2 or circumstance is held invalid, the invalidity does not affect another provision or application  
3 that can be given effect without the invalid ~~provision.~~ provision.

4  
5           *[ULC Legislative Note: Include this section only if the state lacks a general severability statute*  
6 *or a decision by the highest court of the state adopting a general rule of severability.]*

7  
8           *[GSC Staff Note: Please see the following excerpt from Pope v. Easley, 354 N.C. 544, 548, 556*  
9 *S.E. 2d 265, 268 (2001):*

10  
11           *"The test for severability is whether the remaining portion of the legislation can stand on its own*  
12 *and whether the General Assembly would have enacted the remainder absent the offending*  
13 *portion. See, e.g., Jackson v. Guilford Cty. Bd. of Adjust., 275 N.C. 155, 168, 166 S.E.2d 78, 87*  
14 *(1969) ("When the statute, ... [can] be given effect had the invalid portion never been included,*  
15 *it will be given such effect if it is apparent that the legislative body, had it known of the invalidity*  
16 *of the one portion, would have enacted the remainder alone."). Additionally, the inclusion of a*  
17 *severability clause within legislation will be interpreted as a clear statement of legislative intent*  
18 *to strike an unconstitutional provision and to allow the balance to be enforced independently.*  
19 *Fulton Corp. v. Faulkner, 345 N.C. 419, 421, 481 S.E.2d 8, 9 (1997)."*  
20

21           **SECTION 5.** The Revisor of Statutes shall cause to be printed, as annotations to the  
22 published General Statutes, all relevant portions of the Official Comments to the Uniform  
23 Electronic Estate Planning Documents Act and Uniform Electronic Wills Act and all explanatory  
24 comments of the drafters of this act as the Revisor may deem appropriate.

25           **SECTION 6.** This act becomes effective January 1, 2025, and applies to both of the  
26 following:

27           (1) An electronic non-testamentary estate planning document created, signed,  
28 generated, sent, communicated, received, or stored before, on, or after ~~the~~  
29 ~~effective date of this [act]].~~ the effective date of this act.

30           ~~{(2) The will of a decedent who dies on or after [the effective date of this [act]].}~~

31           (2) An electronic will executed on or after the effective date of this act.

1 *[ULC Legislative Note: A state that enacts this act with optional Article 3 (Uniform Electronic*  
2 *Wills Act) should adopt this section in its entirety, including all of the bracketed text. A state that*  
3 *enacts this act without Article 3 should adopt this section omitting both the bracketed text "[a]"*  
4 *and the entirety of bracketed subsection (b).]*

5  
6 *[GSC Staff Note: Staff has combined and reorganized the transition and effective date provisions*  
7 *of the Uniform Act in accordance with this State's drafting conventions.]*