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**TO: North Carolina Chicago Title Approved Attorneys**  
**FROM: Chicago Title, North Carolina State Office**  
**DATE: July 11, 2020 – REVISED, CLARIFIED AND UPDATED 7-17-2020**  
**RE: 2020 Legislative Update, including COVID-19 related information**

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The 2020 Legislative Session has been another busy time for issues related to practitioners and clients, including real property attorneys. So read on, and share any comments with members of our Chicago Title counsel team, with your representatives on the Real Property Section Council ([www.ncbar.org](http://www.ncbar.org)) and the Real Estate Lawyers of North Carolina ([www.relanc.org](http://www.relanc.org)) or with your Senators and Representatives!

NOTE: All bills can be accessed, along with Bill Digests and Bill Summaries on the North Carolina General Assembly website, <https://www.ncleg.gov/Legislation> as well as statutes, legislators and other useful information.

Bills are in no particular order, either numerical or priority, primarily because of changes in Senate vs House bills and versions that have passed to this point.

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**Foreclosure moratoria and postponements in a Pandemic:**

Foreclosure moratoria and postponements are a moving target, the subject of federal, regulatory and state action. The federal Coronavirus Aid, Relief and Economic Security Act (“CARES” Act), § 4022(c)(2), imposed a moratorium on foreclosures on 1-to-4 family residential properties (including condominiums and cooperatives but not abandoned or vacant properties) for 60 days which has been extended through August 31, 2020, and may continue to be extended. These are implemented through FHA, FHFA, HUD, Fannie Mae, Freddie Mac, the Veterans Administration, U.S. Department of Agriculture and others. H.R. 748 is on-line at: <https://www.congress.gov/116/bills/hr748/BILLS-116hr748enr.pdf>

A good national overview is on-line and updated at the National Consumer Law Center, <https://library.nclc.org/major-consumer-protections-announced-response-covid-19>.

The UNC School of Government continues to post updates on their blog “On the Civil Side”, including the June 23, 2020 update on “Expiration and Extension of Federal and State Limits on Foreclosures in North Carolina,” <https://civil.sog.unc.edu/expiration-and-extension-of-federal-and-state-limits-on-foreclosures-in-north-carolina/>. The North Carolina courts are in a continued state of postponements with regular updates and posts, updated on-line at <https://www.nccourts.gov/covid-19>.

**Payoffs and Forbearances in a Pandemic:**

**CLARIFICATION:**

Under the CARES Act, § 4023, lenders on federally-backed multi-family mortgage loans which were current on payments as of February 1, 2020, are required to provide forbearances for 30 days with 2 possible additional 30-day extensions. During the forbearance period, the borrower may not evict tenants solely

for nonpayment of rent or other fees or other changes or charge late fees or penalties for late rent payments.

Under the CARES Act, § 4022, lenders on federally-backed mortgage loans on 1-to-4 family residential properties (including condominiums and cooperatives but not vacant or abandoned property) are required to provide forbearances of up to 180 days, with a potential 180-day extension, upon request of qualified borrowers with COVID-related financial difficulties during the pandemic. NOTE: Forbearances are deferrals of payments for a period, and waiver of penalties and late fees, but *not* forgiveness or waiver of accruing additional interest under the loan documents.

**BEWARE OF FORBEARANCES!!**

**CAUTION: ATTORNEYS MUST BE VERY CAREFUL TO VERIFY AND RE-VERIFY WHETHER THE SELLER OR REFINANCING OWNER WHOSE DEBT MAY BE PAID IN A TRANSACTION HAS REQUESTED A FORBEARANCE, AND THEN VERIFY AND RE-VERIFY WITH THE LENDER TO BE PAID OFF THAT ALL PAYOFF INFORMATION INCLUDES ANY INFORMATION ABOUT FORBEARANCES!** Unlike the HAMP and HARP modifications and second mortgages during previous economic hard times, which were documented of record (and sometimes still missed!), **THESE ARE NOT OF RECORD SO MUST BE VERIFIED INDIVIDUALLY AND DIRECTLY WITH THE BORROWER AND THE LENDER.** Since they may be in a different department of the lender, and borrowers may not realize that forbearances do still create additional interest costs and procedures, sometimes communication is lacking without this extra attention. Red flags include, for example, that the next due date is far more than the next month away, odd entries like “interest refund” or even notations in the pre-printed language to reconfirm even if the payoff letter otherwise appears normal. Claims are already appearing nationally.

SUGGESTION: Payoff request / demand letters to lenders should include additional language, such as:

Please furnish to us a statement of the amount necessary to pay in full including any amounts deferred due to a forbearance or modification agreement said Note and Deed of Trust/Mortgage. Please calculate interest to [date for payoff] and provide a per diem.

If the borrower entered into a forbearance agreement and you are not the entity servicing any deferred amounts, please provide the contact information for the entity who is.

SUGGESTION: Verification from borrower of their loan should include a provision specifically addressing forbearances with regard to each mortgage to be paid and canceled at closing, such as the following query:

Have you entered into a forbearance^ agreement or loan modification with this lender? \_\_\_\_ Yes \_\_\_\_ No

Or the following borrowers' certification:

The undersigned Borrower and Co-Borrower (if any) hereby certify and agree that:

- i. They have not entered into a forbearance agreement on the loan being paid off by this transaction; and
- ii. They have not inquired into the possibility of being granted forbearance on the loan being paid off by this transaction.

SUGGESTION: Ideally verification should be obtained from the lender for your file, such as that below, though different lenders may have their own forms:

As an Authorized Agent of [lender to be paid], I attest that the loan referenced above is not currently in “Active” forbearance and that I have no knowledge that the Borrower (s) have requested forbearance.

**Remote notarization, video witnessing and waiver of Good Funds Settlement Act:**

The COVID-19 Omnibus bill, SB 704, S.L 2020-3, provided for two critical *temporary* real estate related issues:

- (1) Remote audio/visual notarization and video witnessing (temporarily substituting audio-visual meeting for physical presence notarization) are temporarily authorized, under certain conditions in North Carolina and other states. A few states have permanent remote notarization statutes, either purely electronic or with “papering out” provisions. So any attorney contemplating using a version should contact their title insurance underwriting counsel prior to attempting it and follow strict protocols. See *our related Chicago Title Bulletins on Remote Notarization*.

NOTE: Lender and GSE requirements, professional responsibility issues of confidentiality and data security, as well as title insurer requirements will impose additional security measures which the closing attorney must confirm

**REMINDER: The North Carolina remote notarization legislation is only for principals appearing before a North Carolina commissioned notary, both of whom are located in North Carolina at the time of the notarial ceremony. So any signer located outside of North Carolina must follow the laws of another state and the notary to be retained.**

- (2) Limited authority is provided to waive the Good Funds Settlement Act requirement for recording before disbursement, with full consent of all parties, if a register of deeds is closed to all recording due to a COVID- 19 emergency.

***See separate Chicago Title Bulletins for specific detailed information regarding these important matters.***

Both of these North Carolina provisions were originally only effective through August 1, 2020, under S.L. 2020-3, but both have now been extended until March 1, 2021 under S.L. 2020-80, H1023, § 2.9 and § 2.8, respectively, and the remote notarization bill under H308, S.L. 2020-74, § 27, as well.

**UPDATE AND CLARIFICATION: The temporary waiver of witnesses for health care powers of attorney and advanced directives for natural death** under S.L. 2020-3, § 4.10, which added G.S. 32A-16.1 and G.S. 90-321.1, would have been extended under SB 474, § 22.1(a) and (b) (once approved by the Senate and signed by the Governor) and would then expire on March 1, 2021. However, it has not yet passed, but is eligible for reconsideration when the Legislature reconvenes September 2, 2020, if not before.

<https://www.ncleg.gov/BillLookup/2019/s474>

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**Condominium Act Curative Provisions & Revisions, S.L. 2020-52, H920:**

This legislation, negotiated between a large group industry-wide, is intended as a curative bill for the many defectively formed condominiums and not a re-write of the Condominium Act. The key provisions include:

- A change to plat certification requirements under G.S. 47C-2-109, with more definite requirements consistent with platting such as tie-lines, horizontal and vertical unit limiting boundaries and unit numbers, and architect, engineer and surveyor certifications more consistent with their licensing authority and in compliance with G.S. 47-30(a) and either G.S. 47-30(b) or G.S. 47-30(o). Monuments may serve as boundaries, under revised G.S. 47C-2-114(a).
- A savings provision under G.S. 47C-2-109(g), that documents would be “liberally construe[d] in favor of the valid establishment of a condominium.” A curative amendment by the owners’ association executive board

is authorized upon following the procedures of G.S. 47C-2-117(f) for the following purposes:

1. To cure any ambiguity, to establish marketable title to units, or to correct or supplement any provision of the declaration, including plats or plans, that is defective, missing, or inconsistent with any other provision of the declaration or with this Chapter.
  2. To conform to the requirements of any agency or entity that has established national or regional standards with respect to loans secured by mortgages or deeds of trust on units in condominium projects, such as the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation.
  3. To comply with any statute, regulation, code, or ordinance which may be applicable to the condominium or association.
  4. To make a reasonable accommodation or permit a reasonable modification in favor of persons with disabilities, as may be defined by federal or State laws or regulations applicable to the association or its employees, unit owners, residents, or tenants.
- A 7-year sunset of development rights, absent 67% vote to extend within 1 year *prior* to their expiration, under revised G.S. 47C-2-105(a)(8), and execution of amendment under G.S. 47C-2-117(b)
  - Provision sanctioning “land condominiums” by defining units by elevation, pursuant to G.S. 47C-2-105(a)(5) and G.S. 47C-2-101(b).
  - New G.S. 47C-1-110 provides a 4-year presumptive marketability curative.
  - Judicial reformation by the Association without vote of membership based on notice provisions and allowing lienholders standing, under G.S. 47C-2-117.1, with a one year statute of limitations from entry of final judgment, applicable only to actions filed on or after October 1, 2020.
  - G.S. 47C-3-103(a) imposes standards for officers and directors consistent with nonprofit corporation requirements, allows for the executive board to fill unexpired vacancies on the board, for removal of a board member by majority vote of a duly called meeting of unit owners with quorum, for 10-60 days’ notice of proposed budget for approval, 10-60 days’ notice of meetings and postponements of meetings where quorum not met with reduced quorums requirement at the subsequent meeting.

Other than the judicial reformation provisions under G.S. 47C-2-117.1, this act is effective as of June 30, 2020, when signed into law by the Governor. <https://www.ncleg.gov/BillLookup/2019/H920>

### **NC Bar Association Property Law changes, S.L. 2020-50, S595:**

This bill includes the following:

- Tenancy-by-Entireties provisions would codify existing statutory and case law in a single new article, effective June 30, 2020. NOTE: This does *not* remove the continuing inchoate marital right (spousal elective share) under G.S. 29-30(a); joinder of the spouse of any grantor is still required for good title, absent statutory waiver as defined and referenced therein. (*See SB 729 further below*)
- Joint Tenancy with right-of-survivorship would update the current statute, effective June 30, 2020.
- Real Property Section Technical corrections would clarify issues which arose under S.L. 2018-80:
  - GS 47-17.1 (requirement to name draftsman), effective August 1, 2020, is amended to provide:  
**§ 47-17.1. Documents registered or ordered to be registered in certain counties to designate draftsman; exceptions.**  
*The register of deeds of any county in North Carolina shall not accept for registration, nor shall any judge order registration pursuant to G.S. 47-14, of any deeds or deeds of trust, executed after January 1, 1980, unless the first page of the deeds or deeds of trust bears an entry showing the name of the drafter of the deed or deed of trust. The register of deeds shall not be required to verify or make inquiry concerning the capacity or authority of the person or entity shown as the drafter on the instrument.*

- GS 47-18.3, as amended by S.L. 2018-80 to extent to both corporations and limited liability companies as well as an extended list of officers and representatives, would apply both to mortgages and deeds of trust as of October 1, 2018 (under S.L. 2018-80) but also to “*other instruments under G.S. 47-18.3 executed before on or after August 1, 2020*” (entity presumptive authority) would clear up effective date and misinterpretations of S.L. 2018-80.
- DELETED -- Notice of Settlement Act (NOSA), would have allowed for priority to be established by voluntary recording of a notice of settlement, for an anticipated closing within 60 days, subject to matters discoverable on-line. This was intended to facilitate on-line title updates and e-recording, protecting against the gaps in ability to search real-time.

<https://www.ncleg.gov/BillLookup/2019/S595> Also enacted as HB1072, § 6, Enacted as S.L. 2020-69

### **NC Commercial Receivership Act Revisions, S364, S.L. 2020-75:**

This bill, drafted and recommended by the Bankruptcy Section of the NC Bar Association, would provide for various changes to the current Receivership Act, and should better address receivership issues with regard to real property. This legislation creates a new Article 38A of Chapter 1 of the North Carolina General Statutes. Key provisions would provide for the following:

- Applicable to statutory, common law and equitable receiverships in which debtor is an entity or individual business debtor (i.e. consumer personal, family or household debt is less than half of debtor’s total debt), but not state agencies, trusts (other than business trusts), decedent’s estates, missing persons or absentees in military service, or personal residence or consumer goods.
- Two types of receiverships: limited (only property with security interest or liens) or general (includes other debts), appointed by court (Superior Court for entities, District or Superior Court for individual business debtor), administered as a complex business case if assets over \$5,000,000 or disputed claim over \$25,000.
- A single judge is assigned to oversee the receivership.
- The filing of the receivership creates an automatic stay for 60 days, subject to exceptions, extensions and requirements.
- Receiver may sell, lease, license, exchange, mortgage or otherwise dispose of property, subject to court order.
- An individual business debtor can still claim his or her exemptions under G.S. 1C-1603, but allowances are made by the court in the receivership proceeding not the Clerk.
- Additional powers and procedures are included.

Effective January 1, 2021, for commercial receiverships commenced on or after that date. More details, including the Bill Summaries, are available on-line at:

<https://www.ncleg.gov/BillLookup/2019/S364>

### **NC Farm Act of 2019, S.L. 2020-18, S315:**

This bill includes two important provisions to real property practitioners:

- § 1 contains new G.S. 62-193 which provides that any property owner can petition for removal of utility easements unused after 20 years upon payment of fair market value, if the utility cannot provide evidence the easement is necessary for a long-term need. However, the effective date limits the applicability to easement *acquired* on or after October 1, 2020, and thus would appear not to allow for terminating old easements existing prior to that time.
- § 8 requires a notice and hearing for termination of present use value under G.S. 105-277.4(b1).

Initially it contained controversial provisions regarding hemp and shooting range zoning, which were deleted in an effort to pass the balance of the bill. <https://www.ncleg.gov/BillLookup/2019/S315>

### **Land Use Regulatory Changes, S.L. 2019-111, S355, and S720, S.L. 2020-25:**

The 2019 legislation includes a massive re-write of city and county regulations into a new Chapter 160D, to take effect January 1, 2021, and with some additional provisions taking effect at varying times beginning on the date it became law, July 11, 2019. <https://www.ncleg.gov/BillLookup/2019/s355> Enacted as Session Law 2019-111. Several technical corrections, conforming changes and extensions are included in General Statutes Commission Technical Corrections bill, S720, enacted as S.L. 2020-25. Important provisions include: vested rights provisions, appeal rights, notice and procedural aspects, performance guarantees and bonds, prohibition against family care home restrictions void in residential use areas (void as against public policy), among other things. <https://www.ncleg.gov/BillLookup/2019/S720>

### **Misc. changes to estate and trust statutes, S.L. 2019-113, S394:**

Supported by the NC Bar Association, this legislation includes:

- (1) Clarifications regarding encumbered assets (G.S. 28A-15-4),
- (2) Clerk's original jurisdiction on guardianships (G.S. 35A-1103),
- (3) Amendment regarding spousal allowance that either the decedent or spouse must be resident of North Carolina (G.S. 30-15),
- (4) No statute of limitations on trust reformation (G.S. 1-56 and 1-56.1),
- (5) Jurisdiction of Superior Court for trusts (G.S. 36C-2-203), and
- (6) No trust amendments allowed for removal or replacement of trustee of a non-charitable irrevocable trust (G.S. 36C-4-411(h)).

<https://www.ncleg.gov/BillLookup/2019/s394> Enacted as Session Law 2019-113, with Section 1, 2 and 3 effective July 11, 2019, Section 4 retroactively as a curative clarification (unless the act would substantially interfere with judicial proceedings or prejudice a party's rights), and Sections 5 and 6 applicable to trusts formed before on or after the effective date of July 11, 2019 and to pleadings filed on or after that date.

### **Partition Act Re-write, including timber, oil and gas interests, abandoned rights-of-way and other Technical Corrections, SB 729, S.L. 2020-23, Parts I, II and III:**

After several years of discussion and redrafts, the General Statutes Commission proposal was introduced as SB729, and enacted as S.L. 2020-23.

- Part I provides for a new Chapter 46A replacing existing Chapter 46, which applies to partition proceedings filed on or after October 1, 2020. Part I of the Session Law contains, in effect, a cross-index of old (Ch. 46) to new (Ch. 46A) provisions by legal issue covered. The statutory provisions are then also in legislative markup language from the old Ch. 46 provision to the new Ch. 46A provision, for clarity in comparing the changes. *See attached Chart.*
- Part II addresses transfer to court and appeals (G.S. 1-301.2), contested proceedings (G.S. 1-394), Receiverships (G.S. 1-502) and attorneys' fees (G.S. 6-21). Part II applies to partition proceedings *filed* on or after October 1 2020, and thus not to existing proceedings in process.
- Part III, effective October 1, 2020:
  - contains technical corrections and conforming amendments to G.S. 1-394, G.S. 1-502, G.S. 6-21, as well as G.S. 11-11 (commissioners' oaths), G.S. 31A-6 (slayer statute), G.S. 39-13.5 (tenancy-by-entireties on *actual* partition versus partition by deed), G.S. 93A-43 (timeshares), and G.S. 136-96 (declaration of withdrawal of abandoned right-of-way), and
  - enacts G.S. 41-11.2 regarding **sale of standing timber by lifetenants**.

The Bill Summaries contain more comparative information about the changes made by the new statute. *See* <https://www.ncleg.gov/BillLookup/2019/S729>

**Spousal Elective Life Estate Statute, SB 729, S.L. 2020-23, Part IV, § 17:**

Part IV of S.L. 2020-23 makes several significant changes to G.S. 29-30, effective October 1, 2020, regarding the spousal election of a life estate in one-third of real property held by decedent during coverture (the “inchoate marital interests” of most concern to real estate attorneys), if these rights have not been waived or lost (as defined in G.S. 29-30(a)) in lieu of their intestate share (G.S. 29-14 or G.S. 29-21) or elective share (G.S. 29-30.1).

The revision of G.S. 29-30(a) includes new items (1a), (3a) and (3b) below, and provides specifically:

The surviving spouse is not entitled to take a life estate in any of the following circumstances:

(1) The surviving spouse has waived the surviving spouse's rights by joining with the other spouse in a conveyance of the real estate.

*(1a) The surviving spouse has waived the right to take a life estate in lieu of an intestate or elective share by an express written waiver.*

(2) The surviving spouse has waived, released, or conveyed the surviving spouse's interest in the real estate in accordance with G.S. 52-10.

(3) The surviving spouse was not required by law to join in a conveyance of the real estate in order to bar the elective life estate.

*(3a) The surviving spouse has executed a written declaration permitting the deceased spouse to convey or encumber the real estate without the consent or joinder of the surviving spouse.*

*(3b) The real estate in which the deceased spouse had an interest was either apportioned to or sold to another person in a partition proceeding initiated before the deceased spouse's death.*

(4) The surviving spouse is otherwise not legally entitled to the election provided in this section. G.S. 29-30(c) requires, as amended, “the recording of a notice indicating the county and file number of the clerk’s filing with the register of deeds in every county where real property to be claimed under the filing is located.”

G.S. 29-30(g), as amended, also provides affirmative protection to purchase money mortgagees and those to whom to which the surviving spouse’s elective share does not apply under revised subsection (a) above. <https://www.ncleg.gov/BillLookup/2019/S729>

**Homeowners’ Association – cap on assessment statement fees and community pool liability, H902, Enacted as S.L. 2020-90:**

This legislation addresses two concerns of homeowners’ associations, for condominiums under Ch. 47C and planned communities under Ch. 47F:

- Limited liability protection if a privately owned community swimming pool owned and operated by a multiunit apartment complex, homeowners association or condominium unit owners association is reopened, under new Article 99E, Article 8 of the N.C. General Statutes (Part VI, § 6, effective July 2, 2020); and
- Cap on charges by owners’ associations (or servicers) for assessment statements (\$200 maximum, plus up to \$100 additional fee for expedited statements, i.e. within 48 hours of closing) under G.S. 47C-3-102(a)(12a), G.S. 47C-3-118(b), G.S. 47F-3-102(13a) and G.S. 47F-3-118(b). (Part IV, § 4, effective July 2, 2020)

<https://www.ncleg.gov/BillLookUp/2019/h902>. For restrictions on Community Pools, see DHHS Interim Guidance for Public Pools and Spas (May 22, 2020):

<https://files.nc.gov/covid/documents/guidance/NCDHHS-Interim-Guidance-for-Public-Pools-and-Spas-Phase-2.pdf>

**Electronic Notification and service, HB679, Enacted as S.L. 2020-46:**

This legislation allows electronic filing (e-mail) in civil actions on parties who are registered as willing to receive notices via e-mail, to apply to filings and service effected on or after October 1, 2020.

<https://www.ncleg.gov/BillLookup/2019/H679>

**Spousal Share change, S.L. 2020-60, H736:**

For calculation of the spousal share under G.S. 30-3.2, "Total assets" will include one-half of property held as tenancy-by-entireties with surviving spouse and presumed contribution based on percentage ownership for property held as joint tenancy with others, applicable to decedents dying on or after June 30, 2020 and estate proceedings for which elective share was not finalized by that date

<https://www.ncleg.gov/BillLookup/2019/H736>

**Sewer system development fees, S.L. 2020-61, H873:**

The legislation contains detailed information regarding system development fees, assessment and payment, depending on type of development. <https://www.ncleg.gov/BillLookup/2019/H873>

**Revised Partition Statute, S729, S.L. 2020-23, effective October 1, 2020**

**Comparison chart**

<https://www.ncleg.gov/BillLookup/2019/S729>

<b>Legal issue</b>	<b>Existing</b>	<b>New</b>	<b>Substantive change notes (only)</b>
Partition is special proceeding	G.S. 46-1	G.S. 46A-1	Except as herein, governed by Ch. 1 Subch. XII
Venue in Partition	G.S. 46-2	G.S. 46A-20	File Special Proceeding in county of property; lis pendens in other counties with affected properties
Summons; Notice included in Petition	G.S. 46-2.1	G.S. 46A-2	
Attorneys' fees	----	G.S. 46A-3	NEW -- Court allocate reasonable attorneys' fees, for common benefit, not for disputes
Petition by cotenant or personal representative of cotenant; necessary and proper parties; joinder of spouses	G.S. 46-3	G.S. 46A-21	Tenant in common or joint tenant may file, must join all other tenants in common and joint tenants, may serve and join other persons with an interest, lessees and mortgagees, but is not required to join spouses unless they are also a co-tenant. Deceased co-tenant's personal representative may seek partition to sell to pay debts and taxes under G.S. 28A-17-3.
Court's authority to make orders pending final determination of proceeding	G.S. 46-3.1	G.S. 46A-28	NEW - Adds procedure for application by party for access to property for inspection, survey, appraisal or sale, service of that application on all parties and, if opposition, hearing on 10 days' notice. G.S. 1-502(6) regarding appointment of a receiver was amended to reference G.S. 46A-28.
Surface and <i>oil, gas and</i> minerals in separate owners; partitions distinct	G.S. 46-4	G.S. 46A-24	Includes oil and gas as well as mineral rights as separate interests, not required to be partitioned in partition of surface interests.
Petition by judgment creditor of cotenant; assignment of homestead	G.S. 46-5	G.S. 46A-23	
Unknown or unlocatable parties; summons, notice and representation	G.S. 46-6	G.S. 46A-22	Requires a guardian ad litem for unknown or unlocatable persons who petitioner is required to or chooses to serve under G.S. 46A-21, in addition to Rule 4 service by publication. (See also G.S. 46A-25)
Commissioners appointed	G.S. 46-7	G.S. 46A-50(a)	
Compensation of commissioners	G.S. 46-7.1	G.S. 46A-50(b)	
Oath of commissioners	G.S. 46-8	G.S. 46A-50(c)	Pursuant to Chapter 11 of the General Statutes. See G.S. 11-11
Delay or neglect of commissioner penalized	G.S. 46-9	G.S. 46A-50(d)	Removal of commissioners for delays or neglect of duties by court (rather than contempt and \$50 penalty)

Commissioners to meet and make partition; equalizing shares	G.S. 46-10	G.S. 46A-51(a)	Apportion proportionate to cotenants' proportionate interests, or disproportionate shares with owelty to redress disproportionately lesser value, and/or for court order for contribution.
Owelty to bear interest	G.S. 46-11	G.S. 46A-51(b)	Owelty at legal rate under G.S. 24-1
Owelty from infant's share due at majority	G.S. 46-12	G.S. 46A-51(c)	
Partition where cotenants unknown or title disputed; apportionment of shares in common	G.S. 46-13	G.S. 46A-52, G.S. 46A-53	
Partition of real property subject to a contingent future interest; requirements	G.S. 46-14	G.S. 46A-25	Clarification of mandatory joinder of all interest holders, present and future, vested and contingent, and guardian ad litem for unborn individuals, parties not in being. minors or incompetents who do not have a guardian of the estate or general guardian and unknown or unlocatable parties.
Method of Partition	G.S. 46-16	G.S. 46A-26	Clarification of methods of partition - in kind, by sale or partial partition. NEW Provides the court shall not order a cotenant to continue to hold property in cotenancy over the cotenant's objection.
Report of commissioners; contents; filing	G.S. 46-17	G.S. 46A-55(a)	Adds that report must be served on all parties.
Carrying Costs, property taxes, improvements; right to contribution		G.S. 46A-27	NEW - Cotenant can apply for contribution for carrying costs and improvements (lesser of value or actual cost), including property taxes (last 10 years), homeowner's insurance, repairs and loan payments
Dedication of Streets	G.S. 46-17.1	G.S. 46A-54	Superior Court judge has final determination of dedication, including interests of incompetent adults.
Map embodying survey to accompany report	G.S. 46-18	G.S. 46A-55(b)	Disinterested professional land surveyor prepares map.
Confirmation <del>and</del> <del>impeachment</del> of report; appeal; motion for relief	G.S. 46-19	G.S. 46A-56	Clarify 10-day period from date of <i>service</i> (not filing) before confirmation, relief if exception is filed, and ability to seek relief from the order of confirmation for mistake, fraud, or collusion by a motion in the proceeding (rather than impeachment, as in prior statute). Continued protection of innocent purchaser for value and without notice.

Report and confirmation enrolled and registered; effect	G.S. 46-20	G.S. 46A-57	Confirmed commissioners' report and order of confirmation must be certified to register of deeds in each county in which property is located. Removes requirement for probate.
Clerk to docket owelty	G.S. 46-21	G.S. 46A-58	Judgment for owelty is a lien only on the land charged with the owelty, not any other property.
Order for Possession		G.S. 46A-59	NEW – Clerk may issue order of possession for parties still in possession and not entitled to apportionment <i>if</i> : final conformation without objection or appeals confirmed; report and confirmation recorded in register of deeds office and 10 days' notice to party. Execution by sheriff by summary ejectment procedures under G.S. 42-36.2.
Sale in lieu of actual partition	G.S. 46-22	G.S. 46A-75	If any interest is disputed, the court is not required to decide the issue before ordering the partition sale.
Mediation	G.S. 46-22.1	G.S. 46A-29	Mediation would be pursuant to G.S. 7A-38.1 and G.S. 7A-38.3B (not a list of mediators). Court (not clerk) can order mediation on its own motion.
Partition sale of remainder or reversionary interest	G.S. 46-23	G.S. 46A-79	
Partition sale of real property subject to life estate	G.S. 46-24	G.S. 46A-78	Life tenant's share shall be determined under mortality tables and paid to them out of proceeds, not over time.
Sale of standing timber; valuation of life estate	G.S. 46-25	G.S. 46A-80	See also new G.S. 41-11.2 allowing partition for sale of standing timber.
Sale of oil, gas & mineral interests	G.S. 46-26	G.S. 46A-81	Adds oil and gas interests as well as mineral rights.
Sale of real property required for public purposes on cotenant's petitions	G.S. 46-27	G.S. 46A-82	Provides for attorneys' fees under new G.S. 46A-3 and other costs and expenses under G.S. 6-21, as amended.
Sale procedure	G.S. 46-28(a) and (b)	G.S. 46A-76	Eliminates separate "resale" provisions.
Cotenant credit	G.S. 46-28(c)	G.S. 46A-77	Allows credit bidding, multiple co-tenants' interests and contribution adjustments.
Petition for revocation of confirmation order	G.S. 46-28.1(a), (b), (c), (d) and (e)	G.S. 46A-83(a), (c), (d), (e) and (f)	If party seeking revocation was sent notice, they shall not prevail.
Petition for revocation based on inadequate price	G.S. 46-281.(d1)	G.S. 46A-84	Cost of appraisal allocated by the court.
Order Becoming Final; Appeal	G.S. 46-28.1(f)	G.S. 46A-85(a)	Adds to G.S. 1-301.2(e): "Under G.S. 46A-85(a), however, a party may appeal an order confirming

			the partition sale of real property within 10 days of the order becoming final.”
Purchase of Property	G.S. 46-28.2	G.S. 46A-85(b)	
Effect of deed	G.S. 46-30	G.S. 46A-85(c)	
Clerk not to appoint self, assistant clerk or deputy clerk to sell real property	G.S. 46-31	G.S. 46A-76(c)	
Sales Proceeds	G.S. 46-33	G.S. 46A-85(d)	Adds: Cotenant’s ratable share of sales proceeds shall be paid upon receipt of proceeds (rather than on confirmation). If the shares have not been determined, the court will set the matter for hearing on court’s motion or that of a party.
Sales Proceeds belonging to certain parties	G.S. 46-34	G.S. 46A-86	Adds for distribution of share of a minor or incompetent, distribution to their guardian of estate or general guardian, agent under a power of attorney, custodian, custodial trust, or trustee. Also addresses parties imprisoned.
Personal property may be partitioned; commissioners appointed	G.S. 46-42	G.S. 46A-100, G.S. 46A-101(a)	
Report of commissioners	G.S. 46-43	G.S. 46A-101(b)	
Confirmation; <del>impeachment</del>	G.S. 46-43.1	G.S. 46A-101(c) and (d)	Party may seek relief from order of confirmation (rather than impeachment) for mistake, fraud, or collusion by a motion in the proceeding. Retains protection of innocent purchaser for value and without notice.
Partition sale of personal property	G.S. 46-44	G.S. 46A-102	Adds that in a partition sale of personal property, only one commissioner is required. G.S. 46A-86 applies to sales proceeds.

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