

Property, Trusts, and Estates

See full summary documents for additional detail

H308 - Regulatory Reform Act of 2020.

Sec. 30: Broadband Easements. (SL 2020-74)

Section 30 of S.L. 2020-74 clarifies that with regard to easements held by electric membership corporations and their subsidiaries for electrification and to supply high-speed broadband, the corporations and subsidiaries must comply with applicable requirements related to notice, safety, and permitting requirements when constructing or maintaining lines or broadband fiber on, over, under, or across property owned by a railroad company.

This section became effective July 1, 2020.

H736 - Elective Share-Joint Accounts. (SL 2020-60)

Session Law 2020-60 changes the calculation of the amount of property subject to a surviving spouse's elective share as follows:

- Treat property held by a deceased spouse and surviving spouse as joint tenants with right of survivorship the same as property held by other persons.
- Treat all property held as joint tenants with right of survivorship as owned by the decedent only to the extent of the decedent's pro rata share of property. Contributions are presumed to equal the share owned. The presumption can be overcome by clear and convincing evidence.

The Act became effective June 30, 2020, and applies to estates of decedents dying on or after that date and applies to estate proceedings to determine the elective share which are not final on that date because the proceeding is subject to further judicial review. The Act also imposes a new \$200 fee for filing a claim for an elective share, and the new fee is effective December 1, 2020.

H902 - Purchases & Contracts Changes/Global Transpark/Prison Pilot.

Part IV: Association Charges for Statements of Unpaid Assessments. (SL 2020-90)

Part IV of S.L. 2020-90 authorizes owners' associations in planned communities and condominiums to charge a reasonable fee for providing owners or their authorized agents with a statement of unpaid assessments and other charges, not to exceed \$200 per statement or request. Part IV of the act also authorizes owners' associations to charge an additional expedite fee not exceeding \$100 if the request is made within 48 hours of closing.

This part became effective on July 2, 2020.

H920 - Condominium Association Changes. (SL 2020-52)

S.L. 2020-52 amends the North Carolina Condominium Act to:

- Specify what must be contained in an architect/engineer's certification of what the condominium plat/plan depicts, and in a professional land surveyor's certification of the statutory requirements that have been met by the plat.
- Amend the statutory requirements for the contents of a condominium declaration.
- Limit the time within which any development or declarant rights must be exercised if not specified in the declaration.
- Permit the time limit for exercising any development or declarant right as set forth in the declaration to be extended for a period of not more than 10 years by consent of owners of units to which at least 67% of the association votes are allocated.
- Require liberal construction of statutory provisions governing establishment of a condominium in favor of its validity.
- Specify purposes for which the executive board may propose a corrective amendment to the declaration and provide that upon recordation in the office of the register of deeds for the county where the condominium is located, any such correction relates back to and is effective as of the date the declaration was originally recorded.
- Provide a procedure for judicial reformation of a declaration to correct certain ambiguities, errors, inconsistencies in condominium instruments, and requiring any collateral action challenging a judgment ordering reformation to be brought within one year of the entry of judgment.
- Amend provisions governing encroachment easements.
- Provide that when a declarant's failure to substantially comply with the Condominium Act in establishing a condominium is due to defects in the drafting, execution, or recordation of the declaration, plats or plans, a condominium unit's title will be deemed marketable if there is no legal challenge to the validity of the documents establishing the condominium within four years of their recordation.
- Conform provisions in the Condominium Act to corresponding provisions in the Planned Community Act relating to executive board members and officers, meeting notice and quorum requirements, and assessments against a unit for common expenses caused by a unit occupant's misconduct.

The act's provisions for judicial reformation of a declaration became effective on October 1, 2020 and apply to actions filed on or after that date. The remainder of the act became effective on June 24, 2020.

H1072 - GSC Technical Corrections 2020. (SL 2020-69)

S.L. 2020-69 contains corrections of a technical nature to the General Statutes and session laws. This act also includes an amendment to provide that the register of deeds does not need to verify the capacity or authority of the person listed as the drafter of a deed or deed of trust. This act has various effective dates. Please see the full summary for more detail.

S595 - Changes to Real Property Statutes. (SL 2020-50)

S.L. 2020-50 recodifies and clarifies existing statutory provisions governing tenancy by the entireties and joint tenancy, and codifies principles governing these subjects currently set forth in case law. The act also makes technical corrections and resolves an engrossing conflict with another 2020 session law.

The technical corrections in this act became effective on August 1, 2020. The remainder of this act became effective on June 30, 2020.

S704 - COVID-19 Recovery Act .

Sec. 4.10: Witness Requirement During State of Emergency/Health Care Power of Attorney and Advanced Directive for Natural Death. (SL 2020-3)

Sec. 4.10 of S.L. 2020-3 amends the statutes related to health care powers of attorney and advanced directives for a natural death declaration to waive the requirement that the principal's signature be executed in the presence of two qualified witnesses. This waiver applies if the document is signed by the principal, properly acknowledged before a notary, and contains a short and plain statement indicating that the instrument was executed in accordance with this section. The waiver applies to those documents executed on or after May 4, 2020, and it expired on August 1, 2020.

This section became effective May 4, 2020.

S704 - COVID-19 Recovery Act .

Sec. 4.12: Disbursement of Funds Prior to Recordation of Deed in Certain Circumstances. (SL 2020-3)

Section 4.12 of S.L. 2020-3 allows disbursement of closing funds prior to the recordation of deeds, deeds of trust, and other loan documents if certain conditions are met.

Section 4.12 of S.L. 2020-3 became effective May 4, 2020, and expired August 1, 2020.

Section 4.12(b) of S.L. 2020-3, as enacted by S.L. 2020-80, Section 2.8, changes the expiration date from August 1, 2020 to March 1, 2021.

S704 - COVID-19 Recovery Act .

Sec. 4.40: Extend Certain Local Government Approvals Affecting the Development of Real Property within the State. (SL 2020-3)

Section 4.40 of S.L. 2020-3 provided that for any development approval that was current and valid at any point during the period beginning March 10, 2020 and ending April 28, 2020, the development approval period expiration date and any associated vested rights were extended for five months.

The section became effective May 4, 2020 and expired September 28, 2020. However, Section 3.21 of S.L. 2020-97 reextends certain development approvals. See Section 3.21 of S.L. 2020-97 or its summary for more information.

S720 - GSC Conforming Amendments/2019 Land-Use Changes. (SL 2020-25)

S.L. 2020-25 incorporates amendments by the 2019 session laws to former Article 19 of Chapter 153A and former Article 18 of Chapter 160A of the General Statutes into Chapter 160D of the General Statutes. This act became effective on June 19, 2020.

S729 - GSC Modernize Partition Laws. (SL 2020-23)

S.L. 2020-23 modernizes the partition of property statutes, makes conforming and technical amendments to statutes referencing the former partition chapter, and makes technical, conforming, and modernizing amendments to the elective life estate statute. This act became effective October 1, 2020.