

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2011

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SENATE BILL 519

Short Title: Memo of Contract/Deeds & Deeds of Trust. (Public)

Sponsors: Senators Vaughan, Stein, and Newton.

Referred to: Judiciary II.

April 6, 2011

1 A BILL TO BE ENTITLED  
2 AN ACT TO ALLOW THAT A CONTRACT TO CONVEY REAL ESTATE MAY BE  
3 REGISTERED BY REGISTERING A MEMORANDUM OF CONTRACT AND TO  
4 REQUIRE THAT DEEDS AND DEEDS OF TRUST PREPARED IN OTHER STATES  
5 AND PRESENTED FOR REGISTRATION TO THE REGISTER OF DEEDS OF ANY  
6 COUNTY IN THIS STATE SHALL BEAR AN ENTRY SHOWING THE NAME OF  
7 EITHER THE PERSON OR LAW FIRM WHO DRAFTED THE INSTRUMENT.

8 The General Assembly of North Carolina enacts:

9 SECTION 1. Article 8 of Chapter 47 of the General Statutes is amended by adding  
10 a new section to read as follows:

11 "**§ 47-119.1. Form of memorandum for contract to purchase real estate.**

12 A contract to convey real estate may be registered by registering a memorandum thereof  
13 which shall set forth all of the following:

- 14 (1) The names of the parties thereto.  
15 (2) A description of the property which is subject to the contract.  
16 (3) The expiration date of the contract.  
17 (4) Reference sufficient to identify the complete agreement between the parties.

18 The memorandum may be in substantially the following form:

19 NORTH CAROLINA

20 \_\_\_\_\_ COUNTY

21 \_\_\_\_\_  
22 \_\_\_\_\_  
23 (Name and address of person contracting to sell real estate)

24 and

25 \_\_\_\_\_  
26 (Name and address of person contracting to purchase real estate)

27 have entered into a contract to sell and purchase the following property:

28 \_\_\_\_\_  
29 (Here describe property)

30 This contract provides for a closing date of the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

31 The provisions set forth in a written contract to convey real estate between the parties dated  
32 the day of \_\_\_\_\_, \_\_\_\_\_, are hereby incorporated in this memorandum.

33 Witness our hand(s) and seal(s) this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_

34 (Seal)

35 (Seal)

36 [Acknowledgement notarial certificate by all parties, as provided by applicable law in order  
37 to register in the office of the register of deeds of the county in which the property is located.]



1        The titles of the contract and the parties thereto, as contained in the original written  
2 contract, may be substituted in lieu of the above references."

3                **SECTION 2.** G.S. 47-120 reads as rewritten:

4        **"§ 47-120. Memorandum as notice.**

5        Such memorandum of an option to purchase real estate, or lease a lease, an option to  
6 purchase real estate, or a contract to convey real estate as proposed by G.S. 47-118 or  
7 47-119, G.S. 47-118, 47-119, or 47-119.1 when executed, acknowledged, delivered and  
8 registered as required by law, shall be as good and sufficient notice, and have the same force  
9 and effect as if the written lease or lease, option to purchase real estate estate, or contract to  
10 convey had been registered in its entirety. However, it shall be conclusively presumed that the  
11 conditions of any contract to purchase that is the subject of a recorded memorandum under this  
12 section have been complied with or have expired and are no longer enforceable as against  
13 creditors or purchasers for valuable consideration who have recorded their interests after the  
14 memorandum from and after the expiration of 60 days from whichever of the following events  
15 occurs last:

16                (1)        The closing date stated in the memorandum, or any recorded extension or  
17 renewal of the memorandum, signed by the parties and acknowledged before  
18 an officer authorized to take acknowledgements.

19                (2)        The date when the conditions of the contract to convey, including payment  
20 of the last installment of earnest money or balance of purchase price (other  
21 than a purchase money note or deed of trust), and delivery of the deed from  
22 the seller to buyer were required by the terms of the recorded memorandum  
23 to have been performed, or the date of any recorded extension or renewal  
24 thereof signed by the parties and acknowledged before an officer authorized  
25 to take acknowledgements."

26                **SECTION 3.** G.S. 47-17.1 reads as rewritten:

27        **"§ 47-17.1. Documents registered or ordered to be registered in certain counties to**  
28 **designate draftsman; exceptions.**

29        The register of deeds of any county in North Carolina shall not accept for registration, nor  
30 shall any judge order registration pursuant to G.S. 47-14, of any deeds or deeds of trust,  
31 executed after January 1, 1980, unless the first page of the deeds or deeds of trust bears an  
32 entry showing the name of either the person or law firm who drafted the instrument, except that  
33 papers or documents prepared in other states may be registered or ordered to be registered  
34 without having the name of either the person or law firm who drafted the instrument designated  
35 thereon instrument."

36                **SECTION 4.** This act is effective when it becomes law. Sections 2 and 3 of this act  
37 apply to all memoranda of contracts to purchase real estate recorded prior to and on or after the  
38 date this act becomes effective.