



SENATE BILL 332: Civil Procedure/Limitations/Land Surveyors.

2019-2020 General Assembly

Committee:		Date:	June 27, 2019
Introduced by:	Sen. Daniel	Prepared by:	Bill Patterson
Analysis of:	Third Edition		Staff Attorney

OVERVIEW: *Senate Bill 332 would clarify the statute of limitations and statute of repose for negligence claims brought against professional land surveyors, create a process for giving notice of real estate settlements that are expected to occur within 60 days of registration of the notice, and make technical corrections to requirements for identifying the drafter of an instrument of conveyance.*

CURRENT LAW: G.S. 1-47(6) requires any claim against a registered land surveyor for physical damage or for economic or monetary loss due to negligence in performing surveying and platting to be brought within 10 years after the last act or omission giving rise to the cause of action. For purposes of this provision, "surveying and platting" is defined to mean "boundary surveys, topographical surveys, surveys of property lines, and any other measurement or surveying of real property and the consequent graphic representation thereof."

G.S. 1-52(18) requires any claim against a registered land surveyor for physical damage or for economic or monetary loss due to negligence in performing surveying and platting as defined in G.S. 1-47(6) to be brought within 3 years of the time the cause of action accrues.

BILL ANALYSIS:

Statute of Limitation and Repose in Claims against Professional Land Surveyors

Section 1 of Senate Bill 332 would repeal G.S. 1-47(6) in its entirety.

Section 2 of the bill would amend G.S. 1-52(18) to:

- Change the phrase "registered land surveyor" to "professional land surveyor" to conform to the term in use since 1998 in Chapter 89C of the General Statutes governing the practice of land surveying.
- Incorporate the definition for "surveying and platting" currently used in G.S. 1-47(6).
- Provide that a claim against a professional land surveyor for physical damage due to negligence or a deficiency in surveying or platting is deemed to accrue at the time of the occurrence of the physical damage giving rise to the cause of action.
- Provide that any action for physical damage or economic or monetary loss due to negligence in surveying and platting must be brought within seven years from the specific last act of the professional land surveyor or person acting under their supervision and control giving rise to the cause of action.

Karen Cochrane-Brown
Director



Legislative Analysis
Division
919-733-2578

Senate Bill 332

Page 2

Notice of Settlement Act

Section 2.1.(a) would enact a new Chapter 47I entitled the "Notice of Settlement Act," setting forth a procedure by which a property interest in real property can be registered by filing a notice of settlement, which would establish priority in a grantee or mortgagee from the time of filing.

In new Chapter 47I:

- G.S. 47I-1 would name this Chapter the "Notice of Settlement Act."
- G.S. 47I-2 would contain a statement of the purpose of Chapter 47I.
- G.S. 47I-3 would define the terms as used in Chapter 47I. The term "notice agent" would be defined as one of the following:
 - An attorney licensed under Chapter 84 of the General Statutes who is representing any of the following: the current owner of record; the grantee in a conveyance transaction; the mortgagor in a mortgage transaction, by the current owner of record or their assignee; or the title insurance company or agent insuring the real estate title that is subject to the settlement.
 - The mortgagee for a mortgage transaction, duly authorized by the current owner of record or their agent to register a notice of settlement pursuant to this Chapter, where the mortgagee is handling the settlement and closing of the transaction, regardless of how funds are disbursed.
- G.S. 47I-4 would provide that a notice agent may register a notice of settlement with the register of deeds in the county in which the real property is situated for any settlement the notice agent believes in good faith will occur within 60 days of the registration.
- G.S. 47I-5 would specify the required contents of a notice of settlement.
- G.S. 47I-6 would provide a form to which a notice of settlement must substantially conform.
- G.S. 47I-7 would provide that registration of a notice of settlement is constructive notice of the anticipated settlement and interest of the grantee or mortgagee affecting the real property identified in the notice, and that registration would establish priority of title of the grantee or mortgagee from the time of registration as against others claiming an interest in the real property. The notice of settlement would not, however, affect the priority of:
 - Designation of a lien agent and related notices to the lien agent under Article 2 of Chapter 44A
 - Potential claims for which no lien agent is required to be appointed
 - Valid conveyances, liens, or encumbrances upon the property that are duly registered in the county where the property is located and discoverable online at least five business days prior to the registration of the deed, lease, or mortgage pursuant to Chapter 47I
 - Any interest or claim by a claimant who is the beneficiary of a valid conveyance, lien or encumbrance in the public record that attaches to the real property, for which actual notice identifying the recordation or filing information has been delivered to the notice agent at least five business days prior to the settlement, and as to which an acceptance of delivery signed by the notice agent has been registered with the register of deeds at least one business day prior to the registration of the deed, lease or mortgage pursuant to the notice of settlement.

Senate Bill 332

Page 3

- G.S. 47I-8 would provide that the notice of settlement is effective for the time stated in the notice, not to exceed 60 days from the date of registration and would provide for amendment of the notice of settlement.
- G.S. 47I-9 would provide the procedure for terminating a notice of settlement before the date stated in the notice.

G.S. 47I-10 would contain a severability clause.

Sections 2.1(b) through 2.1(d) would make conforming changes to other provisions of law relating to registration of conveyances of real property.

Section 2.2(a) would amend the effective date of a 2018 Session Law that made a technical correction to G.S. 47-14.1, which prohibits a register of deeds from accepting for registration a deed or deed of trust that does not bear on its first page the name of the person or law firm that drafted the instrument.

Section 2.2(b) would amend G.S. 47-14.1 to provide that the register of deeds is not required to verify or make inquiry concerning the capacity or authority of the person or entity shown as the drafter on the instrument.

Section 3 contains a severability clause.

EFFECTIVE DATE: Sections 1 and 2 are effective when this act becomes law and apply to actions arising on or after that date. Sections 2.1(a) through 2.1(e) of this act are effective January 1, 2020, and apply to notices of settlement registered on or after that date. The remainder of this act is effective when it becomes law.