



HOUSE BILL 1018: GSC Bar Association Proposals/Landmark Designation.

2021-2022 General Assembly

Committee:		Date:	August 15, 2022
Introduced by:		Prepared by:	Virginia Barlow Research Assistant
Analysis of:	S.L. 2022-64		

OVERVIEW: *S.L. 2022-64 makes various changes affecting real property; strengthens the personal liability protection for limited liability partnerships; aligns the authority to transfer venue for judicial review of contested cases with other cases; makes conforming changes to account for special fiduciaries in guardianship proceedings; and clarifies and improves the landmark designation procedure, as recommended by the General Statutes Commission.*

Except as otherwise provided, the act became effective July 8, 2022.

BILL ANALYSIS:

PART I contains various changes affecting real property as requested by the Real Property Section of the North Carolina Bar Association (NCBA).

Section 1 of the act amends G.S. 47-18.1 to correct the section catchline so that it accurately reflects the substance of the statute and makes changes to align certain language in the statute with the language in G.S. 55D-26, so that both are consistent. The section makes other technical changes and removes unnecessary language.

Section 2 of the act amends G.S. 47-119 to clarify that a memorandum can be used to register numerous types of instruments described in G.S. 47-18, not just an option to purchase real estate. It also revises the required content of a memorandum to register a real estate instrument under G.S. 47-119 and G.S. 47-119.1 and makes conforming changes in G.S. 47-120 to the provisions relating to the effect of memorandums. The section also makes numerous technical and stylistic changes.

Section 3 enacts a new G.S. 41-6.5 to abolish the common-law rule against perpetuities. The new statute references the Uniform Statutory Rule Against Perpetuities and applies to property interests or powers of appointment created on or after October 1, 1995. The section repeals G.S. 41-22.

This section became effective July 8, 2022, and does not affect any rights adjudicated in a final court decision entered on or before that date.

PART II, consisting of **Section 4**, contains amendments requested by the Business Law Section of the NCBA that strengthen the personal liability protections for limited liability partnerships.

G.S. 59-45(a1) is amended to provide that a partner in a registered limited liability partnership is not individually liable, directly or indirectly, including by indemnification, contribution, assessment, or otherwise, for liabilities of the partnership incurred while it is a registered limited liability partnership.

G.S. 59-70 is amended to provide that a partner must contribute the amount necessary to satisfy any liability incurred when the partnership was not a registered limited liability partnership.

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PART III consisting of **Section 5**, contains amendments requested by the Administrative Law Section of NCBA to align the authority to transfer venue for judicial review of administrative contested cases with other types of cases. G.S. 150B-45 is amended to provide that a superior court can order a change of venue for judicial review of contested cases but cannot dismiss a petition on the ground of improper venue. The section also reorganizes G.S. 150B-45 for greater clarity.

This section became effective July 8, 2022, and applies to petitions filed on or after that date.

PART IV consisting of **Section 6**, contains conforming changes requested by the Estate Planning & Fiduciary Law Section of the NCBA to account for single protective arrangements and single transactions in guardianship proceedings, as authorized by the enactment of G.S. 35A-1121 in S.L. 2021-53. The section amends G.S. 35A-1107 to add that an attorney's representation as a guardian ad litem must end when a single protective arrangement or single transaction is ordered.

PART V consisting of **Section 7**, contains clarifying and technical changes to G.S. 160D-946 requested by the Department of Natural and Cultural Resources (DNCR), regarding the procedure a preservation commission must follow before designating historic buildings, structures, sites, areas, or objects as a landmark.

EFFECTIVE DATE: Except as otherwise provided, this act became effective July 8, 2022.

Caroline Pantoja and David Unwin, Staff Attorneys with the Bill Drafting Division, substantially contributed to this summary.