



This Bill Analysis reflects the contents of the bill as it was presented in committee.

SENATE BILL 278: Prop./Fam. Law-Reimburse Prop. Expenditures.

2021-2022 General Assembly

Committee:	House Rules, Calendar, and Operations of the House	Date:	June 15, 2022
Introduced by:	Sens. Galey, Britt	Prepared by:	Bill Patterson
Analysis of:	PCS to First Edition S278-CSTG-43		Staff Attorney

OVERVIEW: *The Proposed Committee Substitute for Senate Bill 278 would clarify the right of one spouse to reimbursement from the other spouse for expenditures made with respect to property during the time that the property is held as tenants by the entirety, as recommended by the Family Law Section of the North Carolina Bar Association.*

CURRENT LAW AND BACKGROUND: S.L. 2020-50 made changes and technical corrections to the General Statutes concerning real property law and created Article 5 of Chapter 41 of the General Statutes entitled "Tenancy by the Entirety," as recommended by the North Carolina Bar Association.

Currently G.S. 41-61 provides that neither spouse holding property as tenants by the entirety is entitled to reimbursement of expenditures made with respect to the property while the tenancy by the entirety exists, and that the law governing tenancy in common determines the allocation of responsibility for expenditures for the property when the tenancy by the entirety is converted to a tenancy in common, unless otherwise directed in a court order.

BILL ANALYSIS:

Section 1 would amend G.S. 41-61 to provide that:

- Expenses incurred by one spouse with respect to property held as tenants by the entirety for which there is no right of reimbursement from the other spouse include payments made for recurring expenses, improvements, and payments on indebtedness secured by a lien on the property.
- When the tenancy by the entirety has been terminated by death, neither the surviving spouse nor the personal representative of the deceased spouse is entitled to reimbursement from the other for expenditures made with respect to the property during the existence of the tenancy by the entirety.
- Nothing in this section:
 - Applies in an equitable distribution proceeding or limits the court's power in an equitable distribution proceeding.
 - Renders unenforceable any otherwise valid and enforceable provisions in a premarital agreement, postmarital agreement, or promissory note given by one spouse to the other.
 - Affects any otherwise valid and enforceable lien or judgment.

EFFECTIVE DATE: This act is effective when it becomes law.

LAD Staff Attorney Kristen Harris substantially contributed to this summary.

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