



SENATE BILL 429: Comm. Receivership and Real Property Amends.

2021-2022 General Assembly

Committee: Senate Rules and Operations of the Senate	Date: May 6, 2021
Introduced by: Sens. Galey, Edwards	Prepared by: Bill Patterson
Analysis of: First Edition	Staff Attorney

OVERVIEW: *Senate Bill 429 would make a number of technical and clarifying changes to the law governing receiverships, notaries, and real property.*

BILL ANALYSIS:

Section 1 would amend G.S. 1-502 to delete references to provisions made obsolete by S.L. 2020-75.

Section 2 would amend G.S. 1-507.20 as follows:

- In subdivision (b)(27), in defining "receivership property," would add a reference to G.S. 131E-91(d)(5) to a nonexclusive list of statutes that exempt certain property from the claims of creditors. This section also would replace legalese with plain English in this definition.
- In the introductory language of subsection (b), would remove unnecessary words.
- In subdivision (b)(5), would update an obsolete reference to the former partition chapter (Chapter 46 of the General Statutes) with a reference to the successor provision in the current partition chapter (Chapter 46A of the General Statutes).
- In subdivisions (b)(16) and (b)(24), would replace legalese with plain English.

Section 3 would amend G.S. 1-507.24 as follows:

- In subsection (a), would replace "may not" with "shall not" to conform to this State's drafting conventions.
- In subsection (b), would replace "senior district judge" with "chief district court judge" to conform to the rest of the section and would replace legalese with plain English.
- In subsections (e) and (k), would replace legalese with plain English.

Section 4 would amend G.S. 1-507.30 as follows:

- In subdivision (a)(2), would add the phrase "and demand" to provide that a debtor shall deliver receivership property to the receiver upon the receiver's appointment and demand.
- Elsewhere in subsection (a), would replace legalese with plain English, fix punctuation, and make a stylistic change for greater clarity.
- In subsection (c), would fix punctuation.

Section 5 would amend G.S. 1-507.40 to correct the format of an internal citation and to replace "may not" with "shall not" to conform to this State's drafting conventions.

Section 6 would amend G.S. 1-507.42 to correct a typographical error in a reference to the U.S. Bankruptcy Code and to fix punctuation.

Jeffrey Hudson
Director



Legislative Analysis
Division
919-733-2578

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Section 7 would amend G.S. 46A-28 to add back a reference to G.S. 1-502(6) that was deleted by S.L. 2020-75. This reference complements a reciprocating reference in G.S. 1-502(6) to G.S. 46A-28 that provides that a court may appoint a receiver in a partition proceeding of real property.

Section 8 would amend G.S. 53C-9-401 to update an obsolete reference with a reference to the N.C. Commercial Receivership Act and make a conforming change in the section catchline. It also would replace legalese with plain English.

Section 9 would update various savings provisions in Chapters 10B (Notaries) and 47 (Probate and Registration) of the General Statutes that cure defects in notary acknowledgments, last updated in 2013, and make technical corrections.

Section 10 would repeal a statutory section superseded by G.S. 10B-71.

Section 11 would make technical corrections to G.S. 47-2.2.

Section 12 would provide for other forms of probate or acknowledgment approved for Notaries in the Electronic Notary Act, as revised.

Section 13 would make technical corrections to the law governing creation of a tenancy by the entireties.

Section 14 would correct statutory cross-references.

Section 15 would amend G.S. 47-18 to provide that rights of first refusal, rights of first offer, and options to purchase must be recorded in order to be valid to pass any property interest as against lien creditors or purchasers for a valuable consideration from the donor.

Section 16 would replace references to a licensed real estate broker or attorney with "an escrow agent," defined as a real estate broker, a title insurance company or title insurance agent, or an attorney. This would allow title insurance companies and their agents to interplead entrusted funds under the amended statute.

Section 17 would make a technical correction to the effective date of S.L. 2017-110.

EFFECTIVE DATE: Parts II and III of this act become effective October 1, 2021. The remainder of this act is effective when it becomes law.

David Unwin, counsel to the General Statutes Commission, substantially contributed to this summary.