Article 2.

Conveyances by Husband and Wife.

§ 39-7. Instruments affecting married person's title; joinder of spouse; exceptions.

(a) In order to waive the elective life estate of either husband or wife as provided for in G.S. 29-30, every conveyance or other instrument affecting the estate, right or title of any married person in lands, tenements or hereditaments must be executed by such husband or wife, and due proof or acknowledgment thereof must be made and certified as provided by law.

(b) A married person may bargain, sell, lease, mortgage, transfer and convey any of his or her separate real estate without joinder or other waiver by his or her spouse if such spouse is incompetent and a guardian or trustee has been appointed as provided by the laws of North Carolina, and if the appropriate instrument is executed by the married person and the guardian or trustee of the incompetent spouse and is probated and registered in accordance with law, it shall convey all the estate and interest as therein intended of the married person in the land conveyed, free and exempt from the elective life estate as provided in G.S. 29-30 and all other interests of the incompetent spouse.

(c) Subsection (a) shall not be construed to require the spouse's joinder or other waiver of the elective life estate of such spouse as provided for in G.S. 29-30 where a different provision is made or provided for in the General Statutes including, but not limited to, G.S. 39-13, 39-13.3, 39-13.4, 31A-1(d), and 52-10. (C.C.P., s. 429; subsec. 6; 1868-9, c. 277, s. 15; Code, s. 1256; 1899, c. 235, s. 9; Rev., s. 952; C.S., s. 997; 1945, c. 73, s. 4; 1957, c. 598, s. 3; 1965, c. 855.)

§ 39-7.1. Certain instruments affecting married woman's title not executed by husband validated.

No conveyance, power of attorney, or other instrument affecting the estate, right or title of any married woman in lands, tenements or hereditaments which was executed by such married woman prior to June 8, 1965, shall be invalid for the reason that the instrument was not also executed by the husband of such married woman. (1965, c. 857; 1973, c. 853, s. 1.)

§ 39-8. Acknowledgment at different times and places; before different officers; order immaterial.

In all cases of deeds, or other instruments executed by husband and wife and requiring registration, the probate of such instruments as to the husband and due proof or acknowledgment of the wife may be taken before different officers authorized by law to taken probate of deeds, and at different times and places, whether both of said officials reside in this State or only one in this State and the other in another state or country. And in taking the probate of such instruments executed by husband and wife, it is immaterial whether the execution of the instrument was proven as to or acknowledged by the husband before or after due proof as to or acknowledgment of the wife. (1895, c. 136; 1899, c. 235, s. 9; Rev., s. 953; C.S., s. 998; 1945, c. 73, s. 5.)

§ 39-9. Absence of wife's acknowledgment does not affect deed as to husband.

When an instrument purports to be signed by a husband and wife the instrument may be ordered registered, if the acknowledgment of the husband is duly taken, but no such instrument shall be the act or deed of the wife unless proven or acknowledged by her according to law. (1889, c. 235, s. 8; 1901, c. 637; Rev., s. 954; C.S., s. 999; 1945, c. 73, s. 6.)

§ 39-10: Repealed by Session Laws 1977, c. 375, s. 16.

§ 39-11. Certain conveyances not affected by fraud if acknowledgment or privy examination regular.

No deed conveying lands nor any instrument required or allowed by law to be registered, executed by husband and wife since the eleventh of March, 1889, if the acknowledgment or private examination of the wife is thereto certified as prescribed by law, shall be invalid because its execution or acknowledgment was procured by fraud, duress or undue influence, unless it is shown that the grantee or person to whom the instrument was made participated in the fraud, duress or undue influence, or had notice thereof before the delivery of the instrument. Where such participation or notice is shown, an innocent purchaser for value under the grantee or person to whom the instrument was made shall not be affected by such fraud, duress or undue influence. (1889, c. 389; 1899, c. 235, s. 10; Rev., s. 956; C.S., s. 1001; 1945, c. 73, s. 7.)

§ 39-12. Power of attorney of married person.

Every competent married person of lawful age is authorized to execute, without the joinder of his or her spouse, instruments creating powers of attorney affecting the real and personal property of such married person naming either third parties or, subject to the provisions of G.S. 52-10 or 52-10.1, his or her spouse as attorney-in-fact. When such a married person executes a power of attorney authorized by the preceding sentence naming his or her spouse as attorney in fact the acknowledgment by the spouse of the grantor is not necessary. Such instruments may confer upon the attorney, and the attorney may exercise, any and all powers which lawfully can be conferred upon an attorney-in-fact, including, but not limited to, the authority to join in conveyances of real property for the purpose of waiving or quitclaiming any rights which may be acquired as a surviving spouse under the provisions of G.S. 29-30. (1798, c. 510; R.C., c. 37, s. 11; Code, s. 1257; Rev., s. 957; C.S., s. 1002; 1965, c. 856; 1977, c. 375, s. 7; 1979, c. 528, s. 8.)

§ 39-13. Spouse need not join in purchase-money mortgage.

A mortgage or deed of trust given by the purchaser of real property to secure a loan, the proceeds of which were used to pay all or a portion of the purchase price of the encumbered real property, regardless of whether the secured party is the seller of the real property or a third-party lender, shall be good and effectual against the purchaser's spouse as well as the purchaser, without requiring the spouse to join in the execution of the mortgage or deed of trust. (1868-9, c. 204; Code, s. 1272; Rev., s. 958; 1907, c. 12; C.S., s. 1003; 1965, c. 852; 2018-80, s. 1.1; 2020-50, s. 3(a); 2020-69, s. 6(a).)

§ 39-13.1. Validation of certain deeds, etc., executed by married women without private examination.

(a) No deed, contract, conveyance, leasehold or other instrument executed since the seventh day of November, 1944, shall be declared invalid because of the failure to take the private examination of any married woman who was a party to such deed, contract, conveyance, leasehold or other instrument.

(b) Any deed, contract, conveyance, lease or other instrument executed prior to February 7, 1945, which is in all other respects regular except for the failure to take the private examination of a married woman who is a party to such deed, contract, conveyance, lease or other instrument is hereby validated and confirmed to the same extent as if such private examination had been taken,

provided that this section shall not apply to any instruments now involved in any pending litigation. (1945, c. 73, s. 21 1/2; 1969, c. 1008, s. 1.)

§ 39-13.2. Married persons under 18 made competent as to certain transactions; certain transactions validated.

(a) Any married person under 18 years of age is authorized and empowered and shall have the same privileges as are conferred upon married persons 18 years of age or older to:

(1) Waive, release or renounce by deed or other written instrument any right or interest which he or she may have in the real or personal property (tangible or intangible) of the other spouse; or

(2) Jointly execute with his or her spouse, if such spouse is 18 years of age or older, any note, contract of insurance, deed, deed of trust, mortgage, lien of whatever nature or other instrument with respect to real or personal property (tangible or intangible) held with such other spouse either as tenants by the entirety, joint tenants, tenants in common, or in any other manner.

(b) Any transaction between a husband and wife pursuant to this section shall be subject to the provisions of G.S. 52-10 or 52-10.1 whenever applicable.

(c) No renunciation of dower or curtesy or of rights under G.S. 29-30(a) by a married person under the age of 21 years after June 30, 1960, and until April 7, 1961, shall be invalid because such person was under such age. No written assent by a husband under the age of 21 years to a conveyance of the real property of his wife after June 30, 1960, and until April 7, 1961, shall be invalid because such husband was under such age. (1951, c. 934, s. 1; 1955, c. 376; 1961, c. 184; 1965, c. 851; c. 878, s. 2; 1971, c. 1231, s. 1; 1977, c. 375, s. 8.)

§ 39-13.3. Conveyances between husband and wife.

(a) A conveyance from a husband or wife to the other spouse of real property or any interest in real property owned by the grantor alone vests the property or interest in the grantee. The conveyance does not waive or release any of the following rights or claims that the grantor may have acquired by marriage in the property conveyed:

(1) A right to an elective life estate under G.S. 29-30, unless the instrument of conveyance expressly waives the right, as provided in G.S. 29-30(a)(2a).

(2) A right or claim to an equitable distribution with respect to the property under G.S. 50-20. A right or claim for equitable distribution shall not be waived or released in the instrument of conveyance.

(b) Recodified as G.S. 41-56(b) by Session Laws 2020-50, s. 1(b), effective June 30, 2020.

(c) Recodified as G.S. 41-63(4) by Session Laws 2020-50, s. 1(b), effective June 30, 2020.

(d) The joinder of the spouse of the grantor in any conveyance made by a husband or a wife pursuant to this section is not necessary.

(e) Repealed by Session Laws 2025-25, s. 48(a), effective October 1, 2025. (1957, c. 598, s. 1; 1965, c. 878, s. 3; 1977, c. 375, s. 9; 2020-50, s. 1(b); 2025-25, s. 48(a).)

§ 39-13.4. Conveyances by husband or wife under deed of separation.

Any conveyance of real property, or any interest therein, by the husband or wife who have previously executed a valid and lawful deed of separation which authorizes said husband or wife to convey real property or any interest therein without the consent and joinder of the other and which deed of separation or a memorandum of the deed of separation setting forth such authorization is

recorded in the county where the land lies, shall be valid to pass such title as the conveying spouse may have to his or her grantee and shall pass such title free and clear of all rights in such property and free and clear of such interest in property that the other spouse might acquire solely as a result of the marriage, including any rights arising under G.S. 29-30, unless an instrument in writing canceling the deed of separation or memorandum thereof and properly executed and acknowledged by said husband and wife is recorded in the office of said register of deeds. The instrument which is registered under this section to authorize the conveyance of an interest in real property or the cancellation of the deed of separation or memorandum thereof shall comply with the provisions of G.S. 52-10 or 52-10.1.

All conveyances of any interest in real property by a spouse who had previously executed a valid and lawful deed of separation, or separation agreement, or property settlement, which authorized the parties thereto to convey real property or any interest therein without the consent and joinder of the other, when said deed of separation, separation agreement, or property settlement, or a memorandum of the deed of separation, separation agreement, property settlement, setting forth such authorization, had been previously recorded in the county where the property is located, and when such conveyances were executed before October 1, 1981, shall be valid to pass such title as the conveying spouse may have to his or her grantee, and shall pass such to him free and clear of rights in such property and free and clear of such interest in such property that the other spouse might acquire solely as a result of the marriage, including any rights arising under G.S. 29-30, unless an instrument in writing canceling the deed of separation, separation agreement, or property settlement, or memorandum thereof, properly executed and acknowledged by said husband and wife, is recorded in the office of said register of deeds. The instrument which is registered under this section to authorize the conveyance of an interest in real property or the cancellation of the deed of separation, separation agreement, property settlement, or memorandum thereof shall comply with G.S. 52-10 or 52-10.1. (1959, c. 512; 1973, c. 133; 1977, c. 375, s. 10; 1981, c. 599, ss. 10, 11.)

§ 39-13.5: Recodified as G.S. 41-56(c) by Session Laws 2020-50, s. 1(b), effective June 30, 2020.

§ 39-13.6. Control of real property held in tenancy by the entirety.

(a) Recodified as G.S. 41-58 by Session Laws 2020-50, s. 1(b), effective June 30, 2020.

(b) Recodified as G.S. 41-56(a) by Session Laws 2020-50, s. 1(b), effective June 30, 2020.

(c) Recodified as G.S. 41-59(b) by Session Laws 2020-50, s. 1(b), effective June 30, 2020.

(1981 (Reg. Sess., 1982), c. 1245, s. 1; 1983, c. 449, ss. 1, 2; 2020-50, s. 1(b).)

§ 39-13.7: Recodified as G.S. 41-65 by Session Laws 2020-50, s. 1(b), effective June 30, 2020.

§ 39-14: Repealed by Session Laws 1943, c. 543.