Article 4.

Registration and Effect.

§ 43-13. Manner of registration.

(a) The register of deeds shall register and index, as hereinafter provided, the decree of title before mentioned and all subsequent transfers of title, and note all voluntary and involuntary transactions in any wise affecting the title to the land, authorized to be entered thereon in the real property records and indexes. The certificate of title and the entries for voluntary and involuntary transactions shall be indexed on the grantor index in the name "Registered estate no. _____" and on the grantee index in the name of the registered owner. If the title be subject to trust, condition, encumbrance or the like, the words "in trust," "upon condition," "subject to encumbrance," "life estate," or like appropriate insertion shall indicate the fact and fix any person dealing with such certificate with notice of the particulars of such limitations upon the title as appears upon the registry, and no new or additional certificate number shall be issued in such circumstances. No erasure, alteration, or amendment shall be made upon the registry after entry and issuance of a certificate of title except by order of a court of competent jurisdiction.

(b) When a voluntary or involuntary transaction is entered on a certificate of title, the certificate with the new entry shall be copied and recorded and indexed in the real property records and indexes. The copied certificate shall be indexed on the grantor index in the name "Registered estate no. _____" and on the grantee index in the name of the registered owner. (1913, c. 90, s. 10; 1919, c. 236, s. 1; C.S., s. 2389; 1999-59, s. 2.)

§ 43-14. Cross-indexing of lands by registers of deeds.

Where any land is brought into the Torrens System and under said System is registered in the public records of the register's office, said register shall cross-index the registration in the general cross index for deeds in his office. (1931, c. 286, s. 2.)

§ 43-15. Certificate issued.

Upon the registration of such decree the register of deeds shall issue an owner's certificate of title, under the seal of his office, which shall be delivered to the owner or his agent duly authorized, and shall be substantially as follows:

State of North Carolina – County of _____

The certificate of _____

I hereby certify that the title is registered in the name of _____ to and situate in said county and State, described as follows: (Here describe land as in decree.)

Estate_____ (here name the estate and any limitation or encumbrance thereon, as fee simple, upon condition, in trust, subject to encumbrance, and the like).

Under decree of the land court of _____county, entitled _____.

Registered No. ____, Book No. ____, page ____.

Witness my hand and seal, at office at _____ this _____ day of _____, A.D. _____

(Seal)_____

Register of Deeds

(1913, c. 90, s. 10; C.S., s. 2390; 1999-456, s. 59.)

§ 43-16. Certificates numbered; entries thereon.

All certificates of title to land in the county shall be numbered consecutively, which number shall be retained as long as the boundaries of the land remain unchanged, and a separate page or more, with appropriate space for subsequent entries, shall be devoted to each title in the registration of titles book for the county. Every entry made upon any certificate of title in such book or upon the owner's certificate, under any of the provisions of this Chapter, shall be signed by the register of deeds and minutely dated in conformity with the dates shown by the entry book. (1913, c. 90, s. 11; C.S., s. 2391.)

§ 43-17. New certificate issued, if original lost.

Whenever an owner's certificate of title is lost or destroyed, the owner or his personal representative may petition the court for the issuance of a new certificate. Notice of such petition shall be published once a week for four successive weeks, under the direction of the court, in some convenient newspaper, and noted upon the registry of titles, and upon satisfactory proof having been exhibited before it that the certificate has been lost or destroyed the court may direct the issuance of a new certificate, which shall be appropriately designated and take the place of the original, but at least 30 full days shall elapse between the filing of the petition and making the decree for such new certificate. (1913, c. 90, s. 24; C.S., s. 2392.)

§ 43-17.1. Issuance of certificate upon death of registered owner; petition and contents; dissolution of corporation; certificate lost or not received by grantee.

Upon the death of any person who is the registered owner of any estate or interest in land which has been brought under this Chapter, a petition may be filed with the clerk of the superior court of the county in which the title to such land is registered by anyone having any estate or interest in the land, or any part thereof, the title to which has been registered under the terms of this Chapter, attaching thereto the registered certificate of title issued to the deceased holder and setting forth the nature and character of the interest or estate of such petitioner in said land, the manner in which such interest or estate was acquired by the petitioner from the deceased person – whether by descent, by will, or otherwise, and setting forth the names and addresses of any and all other persons, firms or corporations which may have any interest or estate therein, or any part thereof, and the names and addresses of all persons known to have any claims or liens against the said land; and setting forth the changes which are necessary to be made in the registered certificate of title to land in order to show the true owner or owners thereof occasioned by the death of the registered owner of said certificate. Such petition shall contain all such other information as is necessary to fully inform the court as to the status of the title and the condition as to all liens and encumbrances against said land existing at the time the petition is filed, and shall contain a prayer for such relief as the petitioner may be entitled to under the provisions hereof. Such petition shall be duly verified.

Like procedure may be followed as herein set forth upon the dissolution of any corporation which is the registered owner of any estate or interest in the land which has been brought under this Chapter.

In the event the registered certificate of title has been lost and after due diligence cannot be found, and this fact is made to appear by allegation in the petition, such registered certificate of title need not be attached to the petition as hereinabove required, but the legal representatives of the deceased registered owner shall be made parties to the proceeding. If such persons are unknown or, if known cannot after due diligence be found within the State, service of summons upon them may be made by publication of the notice prescribed in G.S. 43-17.2. In case the registered owner is a

corporation which has been dissolved, service of summons upon such corporation and any others who may have or claim any interest in such land thereunder shall be made by publication of the notice containing appropriate recitals as required by G.S. 43-17.2.

If any registered owner has by writing conveyed or attempted to convey a title to any registered land without the surrender of the certificate of title issued to him, the person claiming title to said lands under and through said registered owner by reason of his or its conveyance may file a petition with the clerk of the superior court of the county in which the land is registered and in the proceeding under which the title was registered praying for the cancellation of the original certificate and the issuance of the new certificate. Upon the filing of such petition notice shall be published as prescribed in G.S. 43-17.2. The clerk of the superior court with whom said petition is filed shall by order determine what additional notice, if any, shall be given to registered owners. If the registered owner is a natural person, deceased, or a corporation dissolved the court may direct what additional notice, if any, shall be given. The clerk shall hear the evidence, make findings of fact, and if found as a fact that the original certificate of the registered owner has been lost and cannot be found, shall enter his order directing the register of deeds to cancel the same and to issue a new certificate to such person or persons as may be entitled thereto, subject to such claims or liens as the court may find to exist.

Any party within 10 days from the rendition of such judgment or order by the clerk of superior court of the county in which said land is registered may appeal to the superior court during a session of court, where the cause shall be heard de novo by the judge, unless a jury trial be demanded, in which event the issues of fact shall be submitted to a jury. From any order or judgment entered by the superior court during a session of court an appeal may be taken to the appellate division in the manner provided by law. (1943, c. 466, s. 1; 1945, c. 44; 1969, c. 44, s. 49; 1971, c. 1185, s. 2.)

§ 43-17.2. Publication of notice; service of process.

Upon the filing of such duly verified petition, the petitioner shall cause to be published once a week for four weeks, in some newspaper having a general circulation in the county in which the land is situated, a notice signed by the clerk of the superior court, setting forth in substance the nature of the petition, a description of the land affected thereby, and the relief therein prayed for, and notifying all persons having or claiming any interest or estate in the land to appear at a time therein specified, which shall be at least 30 days after the first publication of said notice, to show cause, if any exists, why the relief prayed for in the petition should not be granted. An affidavit shall be filed by the publisher with the clerk of the court, showing a full compliance of this requirement. Upon a filing of said petition, the petitioner shall cause the summons, with a copy of the petition, to be served upon all persons, firms or corporations known to have any interest or estate in the lands referred to in the petition, and the personal representative, the devisees, if any, and all heirs at law of the deceased registered owner of said land. In the event any of the persons upon whom service of summons is to be made are nonresidents of the State of North Carolina, service may be made by publication in the manner prescribed by law for the service of summons in special proceedings. (1943, c. 466, s. 1.)

§ 43-17.3. Answer by person claiming interest.

Any person asserting a claim or any interest in such registered land may, at any time prior to the hearing provided for in G.S. 43-17.4, file such answer or other pleadings as may be proper, asserting his rights or claims to the property referred to in the petition. (1943, c. 466, s. 1.)

§ 43-17.4. Hearing by clerk of superior court; orders and decrees; cancellation of old certificate and issuance of new certificate.

The clerk of the superior court shall hear and determine all matters presented upon the petition and such pleadings as may be filed in this proceeding, and shall make such orders and decrees therein as may be found to be proper from the facts as ascertained and determined by the court. The court is authorized and empowered to order and direct that the outstanding registered certificate of title to the land shall be surrendered and cancelled in the office of the register of deeds, and that a new certificate of title shall be issued, showing therein the owner or owners of the land described in the original certificate and the nature and character of such ownership: Provided, the clerk of the superior court shall not authorize the issuance of the new certificate of title until the fees provided in G.S. 43-49 have been paid. Upon the surrender and cancellation by the register of deeds of the outstanding certificate of title, the new certificate of title shall be registered and cross-indexed in the same manner provided for the registration of the original certificate, and the register of deeds shall issue a new certificate of title in the same manner and form as provided for the original certificate. The said new certificate shall have the same force and effect as the original certificate of title and shall be subject to the same provisions of law with reference thereto. (1943, c. 466, s. 1.)

§ 43-17.5. Issuance of new certificate validated.

Whenever heretofore any registered certificate of title has been surrendered by the heirs or devisees of any deceased registered owner of any registered title and the registered certificate of title of such deceased owner has been surrendered and canceled and a new certificate of title issued to a purchaser or to such heirs or devisees, the same is hereby validated and confirmed and made effectual to the same extent as though such new certificate had been issued in compliance with the provisions of this Chapter. (1943, c. 466, s. 1.)

§ 43-18. Registered owner's estate free from adverse claims; exceptions.

Every registered owner of any estate or interest in land brought under this Chapter shall, except in cases of fraud to which he is a party or in which he is a privy, without valuable consideration paid in good faith, and except when any registration has been procured through forgery, hold the land free from any and all adverse claims, rights or encumbrances not noted on the certificate of title, except

(1) Liens, claims or rights arising or existing under the laws or Constitution of the United States which the statutes of this State cannot require to appear of record under registry laws;
(2) Taxes and assessments thereon due the State or any county, city or town therein, but not delinquent;
(3) Any lease for a term not exceeding three years, under which the land is actually occupied. (1913, c. 90, s. 25; C.S., s. 2393.)

§ 43-19. Adverse claims existing at initial registry; affidavit; limitation of action.

Any person making any claim to or asserting any lien or charge upon registered land, existing at the initial registry of the same and not shown upon the register or adverse to the title of the registered owner, and for which no other provision is herein made for asserting the same in the registry of titles, may make an affidavit thereof setting forth his interest, right, title, lien or demand, and how and under whom derived, and the character and nature thereof. The affidavit shall state

his place of residence and designate a place at which all notices relating thereto may be served. Upon the filing of such affidavit in the office of the clerk of the superior court, the clerk shall order a note thereof as in the case of charges or encumbrances, and the same shall be entered by the register of deeds. Action shall be brought upon such claim within six months after the entry of such note, unless for cause shown the clerk shall extend the time. Upon failure to commence such action within the time prescribed therefor, the clerk shall order a cancellation of such note. If any person shall wantonly or maliciously or without reasonable cause procure such notation to be entered upon the registry of titles, having the effect of a cloud upon the registered owner's title, he shall be liable for all damages the owner may suffer thereby. (1913, c. 90, s. 25; C.S., s. 2394.)

§ 43-20. Decree and registration run with the land.

The obtaining of a decree of registration and the entry of a certificate of title shall be construed as an agreement running with the land, and the same shall ever remain registered land, subject to the provisions of this Chapter and all amendments thereof. (1913, c. 90, s. 26; C.S., s. 2395.)

§ 43-21. No right by adverse possession.

No title to nor right or interest in registered land in derogation of that of the registered owner shall be acquired by prescription or adverse possession. (1913, c. 90, s. 27; C.S., s. 2396.)

§ 43-22. Jurisdiction of courts; registered land affected only by registration.

Except as otherwise specially provided by this Chapter, registered land and ownership therein shall be subject to the jurisdiction of the courts in the same manner as if it had not been registered; but the registration shall be the only operative act to transfer or affect the title to registered land, and shall date from the time the writing, instrument or record to be registered is duly filed in the office of the register of deeds, subject to the provisions of this Chapter; no voluntary or involuntary transaction shall affect the title to registered lands until registered in accordance with the provisions of this Chapter: Provided, that all mortgages, deeds, surrendered and canceled certificates, when new certificates are issued for the land so deeded, the other paper-writings, if any, pertaining to and affecting the registered estate or estates herein referred to, shall be filed by the register of deeds for reference and information, but the consolidated real property records shall be and constitute sole and conclusive legal evidence of title, except in cases of mistake and fraud, which shall be corrected in the methods now provided for the correction of papers authorized to be registered. (1913, c. 90, s. 28; C.S., s. 2397; 2000-140, s. 42(a).)

§ 43-23. Priority of right.

In case of conflicting claims between the registered owners the right, title or estate derived from or held under the older certificate of title shall prevail. (1913, c. 90, s. 29; C.S., s. 2398.)

§ 43-24. Compliance with this Chapter due registration.

When the provisions of this Chapter have been complied with, all conveyances, deeds, contracts to convey or leases shall be considered duly registered, as against creditors and purchasers, in the same manner and as fully as if the same had been registered in the manner heretofore provided by law for the registration of conveyances. (1913, c. 90, s. 32; C.S., s. 2399.)

§ 43-25. Release from registration.

Whenever the record owner of any estate in lands, the title to which has been registered or attempted to be registered in accordance with the provisions of this Chapter, desires to have such estate released from the provisions of said Chapter insofar as said Chapter relates to the form of conveyance, so that such estate may ever thereafter be conveyed, either absolutely or upon condition or trust, by the use of any desired form of conveyance other than the certificate of title prescribed by said Chapter, such owner may present his owner's certificate of title to such registered estate to the register of deeds of the county wherein such land lies, with a memorandum or statement written by him on the margin thereof in the words following, or words of similar import, to wit: "I (or we),_____ , being the owner (or owners) of the registered estate evidenced by this certificate of title, do hereby release said estate from the provisions of Chapter 43 of the General Statutes of North Carolina insofar as said Chapter relates to the form of conveyance, so that hereafter the said estate may, and shall be forever until again hereafter registered in accordance with the provisions of said Chapter and acts amendatory thereof, conveyed, either absolutely or upon condition or trust, by any form of conveyance other than the certificate of title prescribed by said Chapter, and in the same manner as if said estate had never been registered." Which said memorandum or statement shall further state that it is made pursuant to the provisions of this section, and shall be signed by such record owner and attested by the register of deeds under his hand and official seal, and a like memorandum or statement so entered, signed and attested upon the margin of the record of the said owner's certificate of title in the consolidated real property records in said register's office, with the further notation made and signed by the register of deeds on the margin of the certificate of title in the consolidated real property records showing that such entry has been made upon the owner's certificate of title; and thereafter any conveyance of such registered estate, or any part thereof, by such owner, his heirs or assigns, by means of any desired form of conveyance other than such certificate of title shall be as valid and effectual to pass such estate of the owner according to the tenor and purport of such conveyance in the same manner and to the same extent as if such estate had never been so registered. (Ex. Sess. 1924, c. 40; 2000-140, s. 42(b).)