

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1991

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HOUSE BILL 289
Senate Judiciary I Committee Substitute Adopted 6/20/91

Short Title: Validate Conveyances.

(Public)

Sponsors:

Referred to:

March 21, 1991

A BILL TO BE ENTITLED

1 AN ACT TO VALIDATE CERTAIN CONVEYANCES WHERE SEALS WERE
2 OMITTED OR NOTARY WAS NOT QUALIFIED, CERTAIN NOTICES TO
3 CREDITORS OF DECEDENTS WHERE THE DEADLINE FOR SUBMITTING
4 CLAIMS WAS OMITTED, AND CERTAIN FORECLOSURE SALES.
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6 The General Assembly of North Carolina enacts:

7 Section 1. G.S. 45-20.1 reads as rewritten:

8 "**§ 45-20.1. Validation of trustees' deeds where seals omitted.**

9 All deeds executed prior to ~~April 1, 1989~~, January 1, 1991, by any trustee or
10 substitute trustee in the exercise of the power of sale vested in him under any deed, deed
11 of trust, mortgage, will, or other instrument in which the trustee or substitute trustee has
12 omitted to affix his seal after his signature are validated."

13 Sec. 1.1. Article 2 of Chapter 45 of the General Statutes is amended by
14 adding a new section to read:

15 "**§ 45-20.3. Validation of deeds where seal omitted on power of attorney.**

16 All deeds and other conveyances executed prior to January 1, 1991, by any attorney-
17 in-fact in the exercise of a power of attorney are valid even though the signature of the
18 principal was not affixed under seal on the instrument creating the power of attorney."

19 Sec. 2. G.S. 47-51 reads as rewritten:

20 "**§ 47-51. Official deeds omitting seals.**

21 All deeds executed prior to ~~April 1, 1989~~, January 1, 1991, by any sheriff,
22 commissioner, receiver, executor, executrix, administrator, administratrix, or other
23 officer authorized to execute a deed by virtue of his office or appointment, in which the

1 officer has omitted to affix his seal after his signature, shall not be invalid on account of
2 the omission of such seal."

3 Sec. 3. G.S. 47-53 reads as rewritten:

4 **"§ 47-53. Probates omitting official seals, etc.**

5 In all cases where the acknowledgment, private examination, or other proof of the
6 execution of any deed, mortgage, or other instrument authorized or required to be
7 registered has been taken or had by or before any commissioner of affidavits and deeds
8 of this State, or clerk or deputy clerk of a court of record, or notary public of this or any
9 other state, territory, or district, and such deed, mortgage, or other instrument has
10 heretofore been recorded in any county in this State, but such commissioner, clerk,
11 deputy clerk, or notary public has omitted to attach his or her official or notarial seal
12 thereto, or if omitted, to insert his or her name in the body of the certificate, or if
13 omitted, to sign his or her name to such certificate, if the name of such officer appears
14 in the body of said certificate or is signed thereto, or it does not appear of record that
15 such seal was attached to the original deed, mortgage, or other instrument, or such
16 commissioner, clerk, deputy clerk, or notary public has certified the same as under his
17 or her 'official seal,' or 'notarial seal,' or words of similar import, and no such seal
18 appears of record or where the officer uses 'notarial' in his or her certificate and
19 signature shows that 'C.S.C.,' or 'clerk of superior court,' or similar exchange of
20 capacity, and the word 'seal' follows the signature, then all such acknowledgments,
21 private examinations or other proofs of such deeds, mortgages, or other instruments, and
22 the registration thereof, are hereby made in all respects valid and binding. The
23 provisions of this section apply to acknowledgments, private examinations, or proofs
24 taken prior to ~~April 1, 1989~~; January 1, 1991: Provided, this section does not apply to
25 pending litigation."

26 Sec. 4. G.S. 47-53.1 reads as rewritten:

27 **"§ 47-53.1. Acknowledgment omitting seal of notary public.**

28 Where any person has taken an acknowledgment as a notary public and has failed to
29 affix his seal and such acknowledgment has been otherwise duly probated and recorded
30 then such acknowledgment is hereby declared to be sufficient and valid: Provided this
31 shall apply only to those deeds and other instruments acknowledged prior to ~~April 1,~~
32 1989; January 1, 1991."

33 Sec. 5. G.S. 47-71.1 reads as rewritten:

34 **"§ 47-71.1. Corporate seal omitted prior to ~~April 1, 1989~~; January 1, 1991.**

35 Any corporate deed, or conveyance of land in this State, made prior to ~~April 1, 1989~~,
36 January 1, 1991, which is defective only because the corporate seal is omitted therefrom
37 is hereby declared to be a good and valid conveyance by such corporation for all
38 purposes and shall be sufficient to pass title to the property therein conveyed as fully as
39 if the said conveyance were executed according to the provisions and forms of law in
40 force in this State at the date of the execution of such conveyance."

41 Sec. 6. G.S. 47-108.5 reads as rewritten:

42 **"§ 47-108.5. Validation of certain deeds executed in other states where seal omitted.**

43 All deeds to lands in North Carolina, executed prior to ~~April 1, 1989~~; January 1,
44 1991, without seal attached to the maker's name, which deeds were acknowledged in

1 another state, the laws of which do not require a seal for the validity of a conveyance of
2 real property located in that state, and which deeds have been duly recorded in this
3 State, shall be as valid to all intents and purposes as if the same had been executed
4 under seal."

5 Sec. 7. G.S. 47-108.11 reads as rewritten:

6 **"§ 47-108.11. Validation of recorded instruments where seals have been omitted.**

7 In all cases of any deed, deed of trust, mortgage, lien or other instrument authorized
8 or required to be registered in the office of the register of deeds of any county in this
9 State where it appears of record or it appears that from said instrument, as recorded in
10 the office of the register of deeds of any county in the State, there has been omitted from
11 said recorded or registered instrument the word 'seal,' 'notarial seal' and that any of said
12 recorded or registered instruments shows or recites that the grantor or grantors 'have
13 hereunto fixed or set their hands and seals' and the signature of the grantor or grantors
14 appears without a seal thereafter or on the recorded or registered instrument or in all
15 cases where it appears there is an attesting clause which recites 'signed, sealed and
16 delivered in the presence of,' and the signature of the grantor or grantors appears on the
17 recorded or registered instrument without any seal appearing thereafter or of record,
18 then all such deeds, mortgages, deeds of trust, liens or other instruments, and the
19 registration of same in the office of the register of deeds, are hereby declared to be in all
20 respects valid and binding and are hereby made in all respects valid and binding to the
21 same extent as if the word 'seal' or 'notarial seal' had not been omitted, and the
22 registration and recording of such instruments in the office of the register of deeds in
23 any county in this State are hereby declared to be valid, proper, legal and binding
24 registrations.

25 This section shall not apply in any respect to any instrument recorded or registered
26 subsequent to ~~April 1, 1989~~, January 1, 1991, or to pending litigation or to any such
27 instruments now directly or indirectly involved in pending litigation."

28 Sec. 8. G.S. 28A-14-1.1(b) reads as rewritten:

29 "(b) This section applies to all notices published and posted between October 1,
30 1975, and ~~March 16, 1989~~, January 1, 1991, except that it does not affect any pending
31 litigation or any litigation instituted within 90 days of ~~March 16, 1989~~, January 1, 1991."

32 Sec. 9. G.S. 10-12(d) reads as rewritten:

33 "(d) This section shall apply to notarial acts prior to ~~April 1, 1989~~, January 1,
34 1991."

35 Sec. 10. G.S. 45-21.47 reads as rewritten:

36 **"§ 45-21.47. Validation of foreclosure sales when trustee is officer of owner of debt.**

37 All sales of real property made prior to ~~June 1, 1989~~, January 1, 1991, under a power
38 of sale contained in a mortgage or deed of trust for which the trustee was an officer,
39 director, attorney, agent, or employee of the owner of all or part of the debt secured by
40 the mortgage or deed of trust are validated and have the same effect as if the trustee had
41 not been an officer, director, attorney, agent, or employee of the owner of the debt
42 unless an action to set aside the foreclosure is commenced within one year after ~~June 1,~~
43 1989, January 1, 1991."

44 Sec. 11. This act is effective upon ratification.