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Land Records and Registers of Deeds

Several significant bills affecting the office of the register of deeds were enacted by the 2002 Session of the General Assembly. One of these is a statewide act that removes certain information from the public records.

Removal of Discharge Documents and Redacting of Certain Information on Discharge Documents

For many years veterans of the armed forces have recorded a copy of their discharge documents, such as the DD-214, with the register of deeds. Because many of these records contain the veteran's social security number, there is a risk that they could be used for fraudulent purposes. S.L. 2002-96 (H 1627) is an attempt to deal with this problem. The bill was enacted as a local act applicable to three counties—Craven, Nash, and Pamlico—but a later bill, S.L. 2002-162 (H 1245), made the act's provisions applicable statewide. Yet another bill, S.L. 2002-159 (S 1217), created two effective dates: The act was effective with regard to Craven, Nash, and Pamlico Counties when it became law (August 28, 2002), but it becomes effective in the other ninety-seven counties on July 1, 2003. The actual effective date language reads as follows: "This act becomes effective July 1, 2003, in all other counties of the State, except that it may be implemented at an earlier date in any county by the Register of Deeds of that county." This language is likely to cause confusion. An act of the General Assembly becomes the law of the state only on its effective date. The language allowing registers to implement the act earlier than July 1, 2003, appears to be unenforceable surplusage, and registers should not implement the law before July 1, 2003.

S.L. 2002-162 enacts new G.S. 47-113.1, which establishes two procedures for dealing with veterans' discharge records. The first procedure allows certain persons to request that the documents be removed from the register of deeds' recorded instruments. The records subject to removal are the following: DD 214, DD 215, WD AGO 53, WD AGO 55, WD AGO 53-55, NAVMC 78-PD, and NAVPERS 553. The persons authorized to request removal are: any veteran,

a veteran's widow or widower, a veteran's attorney-in-fact, personal representative, executor, or court-appointed guardian. The request must be made in person and must identify the page number of the record to be removed. To determine a person's eligibility under the statute to make the request, the register of deeds is required to ask persons making the request to identify themselves. The register is not required, however, to verify the identity. To facilitate the removal procedure, registers may wish to prepare and make available a Request for Removal form. This form would include blanks for the name of the person requesting removal, a statement that the person is eligible to request removal, the book and page number of the record to be removed, and the requester's signature. The register need not record these completed forms but may wish to file them for reference purposes. In addition, the register must:

- Provide a written notice to the requester that the document has been permanently removed from the records and that only an archived copy remains. The register may want to include space for this notice of removal on the Request for Removal form and provide a copy to the person making the request.
- Note on any index of the archived copy of the document that the document has been removed from the records.
- Notify the Division of Archives and History each time a record is removed so that the division can take appropriate actions regarding its records. The statute applies to discharge records held by the division as well as those held locally.

The register may not charge a fee for removing a record.

The second procedure relating to veterans' discharge records provides for *redacting* (in this context, deleting or covering) personal information in the record. This redaction procedure applies only to requests for certified copies of discharge documents that have been removed from the public records pursuant to G.S. 47-113.1(a). New G.S. 47-113.1(b) provides that if any person, other than a person authorized to request removal under subsection (a), requests a certified copy of any of the discharge records listed in subsection (a) and there is a notation of removal on the index for that record, the register is to prepare a paper copy of the record and redact the personal information in the record before certifying and distributing the copy. The statute states that "personal information" "includes" the veteran's Social Security number, but it does not say what other information on the record can be considered personal information. Registers should probably redact only the social security number and not attempt to determine what other personal information should be removed. A request for a certified copy of a record by a person authorized to request removal of the record must be made in person to the register of deeds so that the register can determine that person's identity and eligibility to make the request. Requests for certified copies of discharge documents not made in person are to be treated as made by persons ineligible under subsection (a), and in filling such requests the register is required to redact the personal information. Although the statute does not say so explicitly, apparently if a person authorized to request removal under subsection (a) makes a request for a certified copy pursuant to subsection (b), the certified copy furnished to that person is not to have the personal information—that is, the Social Security number—redacted. The register may charge the regular fee for making a certified copy and add the additional cost of making the redaction, except no fee may be charged if a veteran requests a certified copy of his or her own record (G.S. 47-113).

Registers of deeds need to be aware of what this new statute does not do.

- The statute does not provide that a discharge document is not public record under Chapter 132 of the General Statutes. Therefore, any person may examine the archived copy of the record in the register's office, even the archived copy of a record that has been removed.
- If a discharge document has not been removed from the records pursuant to G.S. 47-113.1(a), then any person may request and receive a certified copy of the unredacted record.
- Even if a document has been removed pursuant to G.S. 47-113.1(a), any person may request and receive an uncertified, unredacted copy of that record. Registers therefore need to retain archived copies of removed records in the office so that searchers can have access to the copies. So that persons requesting removal of the records are under no

misunderstanding about the status of the archived copies, registers may wish to include on the Request for Removal form a statement similar to the following: “Archived copies of the removed discharge record remain public records under Chapter 132 of the North Carolina General Statutes and may be viewed by members of the general public. Also, members of the public may obtain uncertified copies of these records.” An *archived* copy of the record in the context of this statute appears to include any copy of the record in the office that is on microfilm, microfiche, or other medium.

Address Confidentiality Program

Effective January 1, 2003, S.L. 2002-171 (H 1402) enacts new Chapter 15C of the General Statutes to establish a program to keep the addresses and telephone numbers of certain persons confidential. In summary, a person who is a victim of domestic violence, a sexual offense, or stalking and who has relocated may apply to the Attorney General for acceptance in the Address Confidentiality Program. When a person is accepted into the program, the Attorney General issues that person an authorization card and establishes a substitute address where the person’s mail is to be delivered. The person’s actual address, even though it may appear on public records, is no longer to be treated as public record under Chapter 132 of the General Statutes, and its use by public officials is subject to numerous restrictions. Applicants accepted into the program are certified for four years and may have their certification renewed.

The statute defines two important concepts. *Actual address* is a “residential, work, or school street address as specified on the individual’s application to be a program participant under this Chapter” [G.S. 15C-2(1)]. The second is *substitute address*, defined as “an address designated by the Attorney General under the Address Confidentiality Program” [G.S. 15C-2(9)].

Two provisions deal specifically with records in the office of the register of deeds. G.S. 15C-8(h) provides that a substitute address shall not be used as an address by any register of deeds on recorded documents or for the purpose of indexing Torrenized land under G.S. Chapter 43. The clear intent of this provision is that the register not change any actual address shown in these records. Although the statute is not entirely clear on this point, it appears that these records, with the actual addresses, remain public records. This conclusion is based on the observation that five subsections of G.S. 15C-8 deal with actual addresses of persons in the program: subsection (e) concerns records held by the board of elections; subsection (f), motor vehicle tax records; subsection (g), non-motor vehicle tax records; subsection (h), nonmarriage records and indexes in the office of the register of deeds; and subsection (i), certain school records. In three of these subsections—those dealing with elections records, motor vehicle tax records, and school records—the statute expressly provides that the actual addresses shown in those records shall be kept confidential. The subsections dealing with nonmarriage records in the office of the register of deeds and tax records other than those related to motor vehicles contain no such requirement of confidentiality. This indicates that the General Assembly intended to require that actual addresses on some records are to be kept confidential but those on others are to remain public record.

The second provision involving register of deeds’ records adds new G.S. 51-16.1, which concerns addresses on marriage licenses. This statute provides that if a person applying for a marriage license presents his or her Address Confidentiality Program authorization card to the register of deeds, the register shall use the substitute address in creating the marriage license.

Anyone who knowingly and intentionally discloses information in violation of the provisions of G.S. Chapter 15C is guilty of a Class 1 misdemeanor and may be assessed a fine not to exceed \$2,500 [G.S. 15C-9(f)].

Notary Application Fee

The budget modification act, S.L. 2002-126 (S 1115), amends G.S. 10A-4(b)(6) to increase the application fee for a notary's commission from \$30 to \$50. This increase was effective November 1, 2002.

Recording Standards

S.L. 2002-159 (S 1217) amends G.S. 161-14(b) to make it clear that the recording standards imposed by that statute do not apply to Uniform Commercial Code financing statements and amendments.

Electronic Records

S.L. 2002-15 (H 1581) amends several statutes to provide for the filing of electronic records in Cabarrus and Mecklenburg counties. The act amends G.S. 66-58.4 to provide that a document with an electronic signature may be electronically acknowledged or verified by a notary or other authorized official. It also amends G.S. 47-30(b) to provide that a map may be submitted for electronic recording. Finally, it amends G.S. 161-14 to authorize the register of deeds to accept electronic records for filing and specifies that the fees for such filings shall be based on what the number of pages and the formatting of the document would be if the register had printed the record after recording it.

Payment of Taxes before Recording Deeds

G.S. 161-31, which is applicable in only thirty-five counties, authorizes boards of county commissioners to adopt a resolution requiring the tax collector to certify that no delinquent property taxes are liens on a parcel of property before the register of deeds is allowed to record a deed conveying an interest in that property. S.L. 2002-51 (H 1533) adds the following counties to this statute: Bertie, Clay, Durham, Henderson, Hertford, Macon, Northampton, Polk, Rutherford, and Transylvania.

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