



January 16, 2026

DEEDS BETWEEN SPOUSES NO LONGER WAIVES EQUITABLE DISTRIBUTION RIGHTS

The NC Legislature updated NCGS § 50-20 and § 41-63(4)b to prohibit the waiver of equitable distribution rights in a conveyance of property. It is important to understand that a spouse can no longer deed a property to the other spouse including language to waive their equitable distribution rights. The waiver must be in a separate document with explicit language.

The effective date means this applies to conveyances signed after October 1, 2025.

NCGS § 50-20(d) requires a document separate from the deed to distribute property between spouses to waive or release equitable distribution rights.

The new language in § 50-20(d):

(d) Before, during, or after marriage the parties may by written agreement, duly executed and acknowledged in accordance with G.S. 52-10 and G.S. 52-10.1, or by a written agreement valid in the jurisdiction where executed, provide for distribution of the marital property or divisible property, or both, in a manner deemed by the parties to be equitable. The agreement is binding on the parties. **As provided in G.S. 39-13.3(a)(2) and G.S. 41-63(4)b., the parties shall not provide for this distribution in an instrument of conveyance of real property.**

NCGS § 41-63(4) changes include similar language for termination of tenancy by the entirety requiring a similar non-deed conveyance.

The new language in § 41-63(4):

(4) The conveyance from one spouse to the other spouse of his or her interest in property held as tenants by the entirety. The conveyance vests the property or interest formerly held as tenants by the entirety in the other spouse. The joinder of a spouse in a conveyance made by the grantor pursuant to this subdivision is not necessary.

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:

a. 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).

b. 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.

To waive equitable distribution rights you need a document separate from the deed that explicitly waives the interest. This could be a court order, a free trader agreement, a separation agreement, or other recorded document (signed and notarized) that waives equitable distribution rights.

The Family Law section of the NC Bar did a blog post about the changes to NCGS § 50-20, if you are interested in a family law perspective: <https://www.ncbarblog.com/fl-updates-to-50-20/>

The NC School of Government did a review on many of the family law changes in the statutory amendments, if you are interested in more information about what else changed: <https://civil.sog.unc.edu/family-law-legislation-effective-on-or-before-october-1-2025/>

There were additional changes to the general statutes concerning joint tenancy and tenants by the entirety, as recommended by the NC Bar Association, and some technical corrections. Though nothing as dramatic as the prohibition on waiving equitable distribution rights in deeds, please review to make sure these changes do not impact your practice.

These are included in SL 2020-50, and can be found here: <https://www.ncleg.gov/Sessions/2019/Bills/Senate/PDF/S595v6.pdf>

As always, **contact our North Carolina Chicago Title Counsel** if you have any questions.

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