

## TRUSTS: CONVEYANCES TO AND FROM A TRUST- NEW STATUTE

**Ed Urban, Vice President and State Counsel**  
**Attorneys Title, a division of United General Title Insurance Company**

Earlier, we discussed relatively new Chapter 36C pertaining to trusts and called the North Carolina Uniform Trust Code. That article is entitled, *Trusts- Conveyance Aspects Including The New North Carolina Uniform Trust Code*, and can be found at <http://www.attorneytitle.com/articles/legal/TrustsConveyanceAspects.pdf>. In that article, we discussed, and proposed fixing, the problems inherent in the situation where title is conveyed to a trust instead of to a trustee (or trustees) of that trust.

New G.S. 39-6.7 was signed into law on June 25, 2007 as part of Senate Bill 947.

As to applicability, the act provides that:

This act becomes effective October 1, 2007, and applies to (i) all trusts created, and to all conveyances, devises, beneficiary designations, or other transfers occurring before, on, or after that date; (ii) all judicial proceedings concerning trusts or transfers to or by trusts commenced on or after that date; and (iii) all judicial proceedings concerning trusts or transfers to or by trusts commenced before that date unless the court finds that application of a particular provision of this act would substantially interfere with the effective conduct of the judicial proceedings or prejudice the rights of the parties, in which case the law as it existed on September 30, 2007, shall apply.

G.S. 36-6.7 reads as follows:

### **"§ 39-6.7. Construction of conveyances to or by trusts.**

- a) A deed, will, beneficiary designation, or other instrument that purports to convey, devise, or otherwise transfer any ownership or security interest in real or personal property to a trust shall be deemed to be a transfer to the trustee or trustees of that trust.
- b) A deed or other instrument which purports to convey or otherwise transfer any ownership or security interest in real or personal property by a trust shall be deemed to be a transfer by the trustee or trustees of that trust. This rule of construction shall apply:
  - 1) Regardless of whether the instrument is signed by the trustee or trustees as such, or by the trustee or trustees purportedly for or on behalf of the trust; and
  - 2) Regardless of whether the instrument by which the trustee or trustees acquired title transferred that title to the trustee or trustees as such, or purportedly to the trust.
- c) A deed or other instrument by which the trustee or trustees of a trust convey or otherwise transfer any ownership or security interest in real or personal property shall be deemed sufficient:
  - 1) Regardless of whether the instrument is signed by the trustee or trustees as such, or by the trustee or trustees purportedly for or on behalf of the trust; and
  - 2) Regardless of whether the instrument by which the trustee or trustees acquired title transferred that title to the trustee or trustees as such, or purportedly to the trust.
- d) The trustee or trustees of a trust may convey or otherwise transfer any ownership or security interest in real or personal property as trustee or trustees even though the deed or instrument by which the trustee or trustees acquired title purported to convey or transfer that title to the trust.
- e) Nothing in this section shall be construed to limit the manner in which title to real or personal property may be conveyed or transferred to or by trustees."

G.S. 36C-11-1104 has been added with the same effective date and applicability of G.S. 39-6.7. It provides that the signature of a trustee of a trust who signs a document for or on behalf of the trust shall be deemed to be the signature of the trustee as such. A document which identifies a trust shall be deemed to include the trustee or the trustees as such.