

Hoke Agricultural Extension News

by Willie Featherstone, Jr., Agricultural Extension Agent

CONTRACT BASICS

The marketing of agricultural products is a transaction which involves a contract, either written or oral. Regardless of the type of commodity being marketed (cash-grain, tobacco, cotton, other field crops, vegetables, fruits and nuts, poultry, dairy, livestock or nursery and greenhouse products), both the seller and the buyer should benefit from a contract which is legally enforceable in the event of contract breach.

In order for a contract to be valid, certain elements must be present. The first element is that all parties to a contract must be legally competent. Neither a minor nor an individual who is mentally incompetent has the legal capacity to enter into a contract. If either party lacks legal capacity to contract, then the agreement is said to be voidable at the option of the individual who lacks capacity but is binding on the other party.

The second element needed for a valid contract is that the subject matter be proper. Unlike the trafficking in marijuana or other drugs, the sale of agricultural products is a legal activity which is encouraged by the courts. Hence, the courts will enforce these contracts.

The third element relates to the willingness of all parties to consent to the agreement. This is evidenced by the acceptance of an offer made by the buyer to the seller. The acceptance suggests that a "meeting of the minds" on such issues as delivery, quantity, weight, price, quality, or any other material terms that may affect the transaction has been reached. This mutual understanding must be present before a contract can exist.

The final element, required for a valid contract, is consideration. In essence, consideration means that something of value has been exchanged by the parties. With the sale of grain, for example, consideration is present since dollars are exchanged for grain. It is important to know that the courts will not question, in the absence of duress or fraud, the amount of consideration. Thus, the sale of soybeans for two cents a bushel would constitute sufficient consideration for a contract to be enforced.

The essential elements of a

contract must be present irrespective of whether the contract is written or oral.

Remedies for Breach of Contract

An individual is typically motivated to breach a contract in order to capture some perceived gain or to avoid some potential loss. For example, if the market price rises above the contract price, the seller may seek to breach the contract and sell his/her commodity elsewhere at the higher price.

On the other hand, if the market price falls below the contract price, the buyer may seek to breach the contract and purchase the commodity at the lower price. To prevent this type of disruption in the marketplace, courts will enforce contracts which have met the legal requirements.

If a valid contract is breached, then the injured party may request its completion or payment of compensation, known as damages. In the event that the breaching party refuses to complete the contract, the aggrieved party is entitled to specific performance if the commodity contracted for is unique and not available elsewhere.

For example, if a livestock dealer refuses to deliver a particular bull under a contract of sale to a farmer, then the farmer could seek as a remedy specific performance of the sales agreement. If the farmer is successful, then the court would order the dealer to specifically perform the contract, that is deliver the bull to the buyer.

In contrast, if commodity contracted for is generally available in the marketplace, then monetary damages and not specific performance is the correct remedy. When a court awards monetary damages, it seeks to compensate the injured party for the loss under the contract. For example, a farmer contracts to deliver 2,500 bushels of soybeans at \$7 per bushel. On the day set for delivery, the price of soybeans is \$9 per bushel. Tempted by the potential \$5,000 gain, the farmer breaches the contract and sells his/her soybeans elsewhere. The farmer's action entitles the dealer to sue for damages.

There are two common measures for damages. In order to meet his/her commitment, the dealer enters the market within a reasonable time and purchases 2,500 bushels of soybeans, then his/her measure of damages is the difference between the agreed upon price in the contract and the dealer's replacement price. Alternatively, if the dealer does not have a current commitment and decides not to purchase the soybeans elsewhere, then his/her measure of damages is the difference between the agreed upon price in the contract and market value of the soybeans at the time delivery was to occur.

Regardless of whether it is specific performance or monetary damages, the remedy awarded to the injured party is not to be viewed as a penalty or fine levied against

the breaching party. It simply seeks to make the injured party "whole" and, hence, removes any incentive to breach the contract and disrupt the marketplace.

LEGALS

NOTICE OF FORECLOSURE NORTH CAROLINA HOKE COUNTY

UNDER AND BY VIRTUE OF THE POWER OF SALE contained in a certain deed of trust made by Henry Wilson McDaniel to Lloyd K. Swaringen, Trustee, dated the 1st day of November, 1979, and recorded in Book 211, Page 741, Hoke County Registry, default having been made in the payment of the note thereby secured and the holder having directed that the deed of trust be foreclosed, the undersigned Trustee will offer for sale, at the Courthouse door, in the City of Raeford, North Carolina, at Twelve (12:00) o'clock Noon on August 17, 1982, and will sell to the highest bidder, for cash, a residence situate on and together with the following real estate, in Quewhille Township, Hoke County, North Carolina, and being more particularly described as follows:

A certain lot or tract of land in Quewhille Township, Hoke County, North Carolina, located about 1/2 mile East of Highway No. 15-501 and about 1/4 mile South of State Road No. 1225 described as follows:

BEGINNING at an iron stake in the West margin of a 60 foot wide road; designated as Brown Road, said stake being at the Southeast corner of a 0.46 acre lot heretofore conveyed to Charlie B. Wike and wife, Hattie M. Wike, as of record will appear in the Hoke County Registry and runs thence from said beginning point as and with the South margin of said heretofore conveyed lot North 82-15 West 210 feet to a corner; thence a new line, South 29-01 West 105 feet to a corner; thence a new line, South 82-15 East 210 feet to a corner in the margin of said heretofore described Brown Road; thence as and with the West margin of said road, North 28-31 East 105 feet to the point of BEGINNING, and containing 0.46 acres, more or less. The herein conveyed lot comprises all of Lot number three (3) as it appears on that plat entitled "Property of John Brown and wife, Blanche Brown" Quewhille Township, Hoke County, North Carolina. Said plat being dated August 14, 1974, and having been prepared by C.H. Blue and Associates, Southern Pines, North Carolina to which plat reference is hereby made for further identification. This lot lies West of and adjacent to a private dirt access road leading from State Road No. 1225, said dirt road running in a Southerly direction across Lot No. 26, Map Book 1, Page 16, Hoke County Registry and also across that road designated as Brown Road. This Deed includes a right of way and right of ingress and egress and regress over the said dirt access road or so much thereof as lies on or across the aforementioned realty and said right of access is hereby specifically designated, granted and conveyed in this Deed.

This sale is made subject to all taxes, prior liens or encumbrances of record against said property and recorded releases, if any. A cash deposit of 10% of the purchase price will be required at the time of the sale. This the 19th day of July, 1982. LLOYD K. SWARINGEN Trustee

BLACKWELL, THOMPSON, SWARINGEN JOHNSON & THOMPSON, P.A. Attorneys at Law Post Office Box 469 300 Dick Street-Heritage Square Fayetteville, North Carolina 28302 Telephone: (919) 483-5176 15-16C

IN THE GENERAL COURT OF JUSTICE SUPERIOR COURT DIVISION 82 SP 45 STATE OF NORTH CAROLINA COUNTY OF HOKE

IN THE MATTER OF THE SALE OF LAND OF PILOT EQUITIES, INC., UNDER FORECLOSURE OF DEED OF TRUST TO CHARLES A. HOSTETLER, TRUSTEE IN BOOK 215, PAGE 009, HOKE COUNTY PUBLIC REGISTRY NOTICE OF RESALE WHEREAS, the undersigned, acting as Trustee, in a certain Deed of Trust executed by PILOT EQUITIES, INC., et al, and recorded in Book 215, Page 009, in the Office of the Register of Deeds

of Hoke County, foreclosed and offered for sale the land hereinafter described; and whereas within the time allowed by law an advanced bid was filed with the Clerk of the Superior Court and an order issued directing the Trustee to resell said land upon an opening bid of ONE THOUSAND FIVE HUNDRED TWENTY AND NO/100 DOLLARS (\$1,520.00). NOW, THEREFORE, under and by virtue of said order of the Clerk of the Superior Court of Hoke County, and the power of sale contained in said Deed of Trust, the undersigned Trustee, will offer for sale upon said opening bid at public auction to the highest bidder for cash at the door of the County Courthouse in Raeford, Hoke County, North Carolina, at 12:00 o'clock Noon on the 24th day of August, 1982, the following described property located in Raeford Township, Hoke County, North Carolina, and

Being all of Lot #43 (Forty-Three) of the Thomasville Subdivision as shown in Map Book 6, Page 23 of the Hoke County Public Registry to which reference is hereby made. This sale will be made subject to all outstanding taxes, if any, and prior liens of record, if any. CASH DEPOSIT: Ten per cent (10%) of the first \$1,000.00 and five per cent (5%) on any additional amount bid will be required at the sale. Done, this the 28 day of July, 1982. CHARLES A. HOSTETLER Trustee

HOSTETLER & McNEILL ATTORNEYS AT LAW RAEFORD, N.C. 15-16C

LEGALS

of Hoke County, foreclosed and offered for sale the land hereinafter described; and whereas within the time allowed by law an advanced bid was filed with the Clerk of the Superior Court and an order issued directing the Trustee to resell said land upon an opening bid of ONE THOUSAND FIVE HUNDRED TWENTY AND NO/100 DOLLARS (\$1,520.00). NOW, THEREFORE, under and by virtue of said order of the Clerk of the Superior Court of Hoke County, and the power of sale contained in said Deed of Trust, the undersigned Trustee, will offer for sale upon said opening bid at public auction to the highest bidder for cash at the door of the County Courthouse in Raeford, Hoke County, North Carolina, at 12:00 o'clock Noon on the 24th day of August, 1982, the following described property located in Raeford Township, Hoke County, North Carolina, and

Being all of Lot #43 (Forty-Three) of the Thomasville Subdivision as shown in Map Book 6, Page 23 of the Hoke County Public Registry to which reference is hereby made. This sale will be made subject to all outstanding taxes, if any, and prior liens of record, if any. CASH DEPOSIT: Ten per cent (10%) of the first \$1,000.00 and five per cent (5%) on any additional amount bid will be required at the sale. Done, this the 28 day of July, 1982. CHARLES A. HOSTETLER Trustee

HOSTETLER & McNEILL ATTORNEYS AT LAW RAEFORD, N.C. 15-16C

NOTICE OF RESALE IN THE GENERAL COURT OF JUSTICE SUPERIOR COURT DIVISION 82 SP 45 STATE OF NORTH CAROLINA COUNTY OF HOKE

IN THE MATTER OF THE SALE OF LAND OF PILOT EQUITIES, INC., UNDER FORECLOSURE OF DEED OF TRUST TO CHARLES A. HOSTETLER, TRUSTEE IN BOOK 215, PAGE 009, HOKE COUNTY PUBLIC REGISTRY WHEREAS, the undersigned, acting as Trustee, in a certain Deed of Trust executed by PILOT EQUITIES, INC., et al, and recorded in Book 215, Page 009, in the Office of the Register of Deeds of Hoke County, foreclosed and offered for sale the land hereinafter described; and whereas within the time allowed by law an advanced bid was filed with the Clerk of the Superior Court and an order issued directing the Trustee to resell said land upon an opening bid of ONE THOUSAND FIVE HUNDRED TWENTY AND NO/100 DOLLARS (\$1,520.00). NOW, THEREFORE, under and by virtue of said order of the Clerk of the Superior Court of Hoke County, and the power of sale contained in said Deed of Trust, the undersigned Trustee, will offer for sale upon said opening bid at public auction to the highest bidder for cash at the door of the County Courthouse in Raeford, Hoke County, North Carolina, at 12:00 o'clock Noon on the 24th day of August, 1982, the following described property located in Raeford Township, Hoke County, North Carolina, and

Being all of Lot #53 (Fifty-Three) of the Thomasville Subdivision as shown in Map Book 6, Page 23 of the Hoke County Public Registry to which reference is hereby made. This sale will be made subject to all outstanding taxes, if any, and prior liens of record, if any. CASH DEPOSIT: Ten per cent (10%) of the first \$1,000.00 and five per cent (5%) on any additional amount bid will be required at the sale. Done, this the 28 day of July, 1982. CHARLES A. HOSTETLER Trustee

HOSTETLER & McNEILL ATTORNEYS AT LAW RAEFORD, N.C. 15-16C

NOTICE OF SALE NORTH CAROLINA COUNTY OF HOKE Under and by virtue of the power of sale contained in a certain Deed of Trust executed by JAMES C. LENTZ and wife, LARUE B. LENTZ TO BOBBY BURNS McNEILL, Trustee, dated the 27th day of January, 1977, and recorded in Book 197, Page 143 in the Office of the Register of Deeds of Hoke County, North Carolina, and default having been made in the payment of the indebtedness thereby secured and said Deed of Trust being by the terms thereof subject to foreclosure, the undersigned Trustee will offer for sale at public

auction to the highest bidder for cash at the courthouse door in Raeford, North Carolina, at 12:00 o'clock Noon on the 31st day of August 1982, property conveyed by said Deed of Trust, the same lying and being in the County of Hoke, State of North Carolina, Raeford Township, and more particularly described as follows: BEGINNING at the northwest corner of Younger Snead residence premises in the south margin of Prospect Avenue, and runs thence South 1-30 West 150 feet to a stake; thence N 88-30 West 125 feet to a stake, O.L. Crowder's corner; thence as dividing line between said Crowder and Lentz North 1-30 East 150 feet to a stake in the south margin of said Avenue, also Crowder's corner; thence along the margin of said Avenue, South 88-30 East 125 feet to the BEGINNING, running around and embracing the premises known and used as Lentz Mortuary or Funeral Home.

This being the same property conveyed to James C. Lentz and wife, Larue B. Lentz by Administrator of Veterans Affairs and as recorded in Book 196, at Page 130 of the Hoke County Public Registry to which reference is hereby made. This sale will be made subject to all outstanding taxes, if any, and prior liens of record, if any. This sale will be subject to redemption rights of United States as provided by the Federal Tax Lien Act. CASH DEPOSITS: Ten per cent (10%) on the first \$1,000.00 and five per cent (5%) on any additional amount bid will be required at the date of the sale. Done, this the 28 day of July, 1982. BOBBY BURNS McNEILL, TRUSTEE

HOSTETLER & McNEILL ATTORNEYS AT LAW RAEFORD, N.C. 15-18C

NOTICE TO THE PUBLIC COLIFORM BACTERIA FOUND IN DRINKING WATER During the month of June, coliform bacteria was found in drinking water samples from the Carolina Country Mobile Home Park water system above the limit as it appears in the "Rules Governing Public Water Supplies." Coliform bacteria is an environmental bacteria which is found in the soil and intestinal tract of warm blooded animals. The presence of coliform bacteria in drinking water indicates that some contamination has occurred. In an attempt to correct the cause of the contamination, we have done the following: We have flushed the water lines. If you have questions about this notice, please contact: Davis K. Parker Jr. Duncan B. Parker Carolina Country Mobile Home Park 100 Carolina Drive Raeford, N.C. 28376 (919) 875-3800 14-16C

IN THE GENERAL COURT OF JUSTICE SUPERIOR COURT DIVISION 82-E-56 82-5-109 STATE OF NORTH CAROLINA HOKE COUNTY ADMINISTRATOR'S NOTICE Having qualified as Administrator C.T.A. of the estate of Edith Davis McColl of Hoke County, North Carolina, this is to notify all persons having claims against the estate of said Edith Davis McColl to present them to the undersigned within 6 months from date of the publication of this notice or same will be pleaded in bar of their recovery. All persons indebted to said Estate please make immediate payment. This the 12th day of July 1982. Randall Ashburn 218 Wright St. Raeford, N.C. 28376 13-16C

IN THE GENERAL COURT OF JUSTICE SUPERIOR COURT DIVISION 82 SP 45 STATE OF NORTH CAROLINA COUNTY OF HOKE COMPLAINT VS J. AARON PHIFER AND WIFE, if any; HORNE LUMBER COMPANY, INC., all heirs at law, devisees, together with all their creditors and lienholders regardless of how or through whom they claim, and any and all persons claiming any interest in the corporation of Horne Lumber Company, Inc., Warren Pate, guardian

LEGALS

ad litem for Horne Lumber Company, Inc., heirs at law, devisees, all lienors, creditors, and assignees of said heirs at law who may be minors, insane, or otherwise incompetent, the names and whereabouts of all such persons being unknown to the plaintiff. TO: HORNE LUMBER COMPANY, INC., et al. TAKE NOTICE THAT: A pleading seeking relief against you has been filed in the above-entitled action and notice of service of process by publication began on July 29, 1982. The nature of the relief being sought is as follows: PROPERTY TAX LIEN FORECLOSURE. You are required to make defense to such pleading not later than forty (40) days after the date of the first publication of the notice stated above, exclusive of such date, and upon your failure to do so, the party seeking service of process by publication will apply to the court for the relief sought. This the 22nd day of July, 1982. Hubert Wooten Attorney for Plaintiff Hoke County Tax Office Raeford, North Carolina 28376 14-16C

CREDITOR'S NOTICE Having qualified as Executrix of the estate of Minnie Smith Chambers, deceased, late of Hoke County, this is to notify all persons having claims against said estate to present them to the undersigned on or before January 22, 1983 or this notice will be pleaded in bar of their recovery. All persons indebted to said estate will please make immediate payment to the undersigned. This the 22nd day of July, 1982. Elaine Calhoun - Executrix R. Palmer Wilcox Wilcox & McFadyen Edinborough Ave. Raeford, N.C. 28376 13-16C

IN THE GENERAL COURT OF JUSTICE SUPERIOR COURT DIVISION STATE OF NORTH CAROLINA HOKE COUNTY EXECUTOR'S NOTICE Having qualified as Executor of the estate of Janie T. Monroe of Hoke County, North Carolina, this is to notify all persons having claims against the estate of said Janie T. Monroe to present them to the undersigned within 6 months from date of the publication of this notice or same will be pleaded in bar of their recovery. All persons indebted to said estate please make immediate payment. This the 1st day of July, 1982. Lacy H. Koonce, Jr. Route 8 18 Trinity Dr. Lumberton, N.C. 28358 12-15C

NORTH CAROLINA HOKE COUNTY CREDITORS' NOTICE The undersigned, having qualified as Administratrix of the Estate of Alfred G. Bray, deceased, late of Hoke County, this is to notify all persons having claims against said Estate to present them to the undersigned on or before the 16th day of January, 1983, or this notice will be pleaded in bar of their recovery. All persons indebted to said Estate will please make immediate payment to the undersigned. This, the 9th day of July, 1982. Jacquelyn S. Bray 5201 Glenham Drive Charlotte, N.C. 28210 William L. Moses Attorney at Law 127 West Edinborough Avenue Post Office Drawer 688 Raeford, North Carolina 28376 Telephone: (919) 875-2137 12-15C

IN THE GENERAL COURT OF JUSTICE SUPERIOR COURT DIVISION STATE OF NORTH CAROLINA HOKE COUNTY EXECUTOR'S NOTICE Having qualified as Executor of the estate of Jesse Triplett Robertson of Hoke County, North Carolina, this is to notify all persons having claims against the estate of said Jesse Triplett Robertson to present them to the undersigned within 6 months from the date of the publication of this notice or same will be pleaded in bar of their recovery. All persons indebted to said estate please make immediate payment. This the 6th day of July, 1982. Martin A. Robertson Route 1, Box 81 Aberdeen, N.C. 28315 12-15C

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J.H. Wright Realty

527 HARRIS AVENUE RAEFORD, N.C. 28376

SALES - RENTALS - CONSTRUCTION

Owned and Operated by
Julian H. Wright
Res. 875-2290
Brenda K. Townsend
Res. 875-2467
Office Phone
875-3611
875-5153

FOR SALE

COUNTRY LIVING AT ITS BEST!

Quality construction with good looks. Many special features, large lot. Specific details furnished on request. Shown by appointment only with listing agent.

NEAR ROCKFISH IN HOKE COUNTY

Fishing Privileges in beautiful lake. Loan can be assumed.

NEWLY RENOVATED 4 B.R. BRICK & FRAME HOUSE.

2320 square feet (basement included). Near Antioch on approx. 2 acres nearby commercial property can be purchased.

THREE - BR, BRICK HOUSE

Lumber Bridge, N.C. or near Golf Course. 1534 Sq. Ft., elec. heat/central air, entrance foyer, formal living room, formal dining room, kitchen w/bar - stove (self cleaning, double oven), refrig. (side by side), den w/sliding glass doors to patio, two ceramic baths, laundry room w/washer & dryer, large inground swimming pool, fenced backyard w/professional landscaping, 12x16 storage, 24'4" x 22'4" garage. Move In - Completely Furnished.

Yard Sale Set To Help Shepherds

The Hoke County Beekeepers Association would like to remind everyone about the yard sale on Saturday for the Bill Shepperd family.

It will be held at Edinborough Shopping Center.

All the proceeds will go to this family to help pay the huge medical bills described in a recent News-Journal.

The announcement adds: "There is still time for you to clean that closet or attic that you have wanted to do all summer. Things that you might never use again. Someone else will buy. Anything that can be sold will be greatly appreciated.

"We have already had several items donated, such as a freezer, child's bicycle, TV, hair dryers, clothes and household items.

"Donations for the yard sale can be dropped off at the home of John Furrage, 610 Bethel Road, or at Brock's Florist, Rockfish Road. (Bill Shepperd is Claudine Brock's brother).

"Bee Association members will pick up items if requested. Call John Furrage, 875-3504 or Betty Freeman, 875-4693. "We need your help on this!"