

NORTH CAROLINA GENERAL ASSEMBLY
1979 SESSION

CHAPTER 525
HOUSE BILL 853

AN ACT TO MAKE ISOLATED AMENDMENTS TO THE GENERAL STATUTES AS
RECOMMENDED BY THE GENERAL STATUTES COMMISSION.

The General Assembly of North Carolina enacts:

Section 1. G.S. 1-21 as the same appears in the 1969 Replacement Volume 1A is hereby amended by adding a new paragraph at the end thereof to read as follows:

"The provisions of this section shall not apply to the extent that a court of this State has or continues to have jurisdiction over the person under the provisions of G.S. 1-75.4."

Sec. 2. G.S. 1-75.10(4) is hereby rewritten to read as follows:

"(4) Service by registered or certified mail. In the case of service by registered or certified mail, by affidavit of the serving party showing the circumstances warranting the use of service by registered or certified mail and averring:

- a. that a copy of the summons and complaint was deposited in the post office for mailing by registered or certified mail, return receipt requested;
- b. that it was in fact received as evidenced by the attached registry receipt or other evidence satisfactory to the court of delivery to the addressee; and
- c. that the genuine receipt or other evidence of delivery is attached."

Sec. 3. G.S. 7A-289.28 as the same appears in the 1977 Cumulative Supplement to Volume 1B of the General Statutes is hereby amended on lines 3 and 4 by deleting the following: "or within 30 days from the date of first publication if service is by publication" and inserting in lieu thereof "or within the time period established for a defendant's reply by G.S. 1A-1, Rule 4(j)(9)c. if service is by publication."

Sec. 4. G.S. 28A-19-12 as the same appears in the 1976 Replacement Volume 2A is hereby amended on lines 4 and 5 by deleting the following:

"; but such claim must be established upon the same proof and paid in like manner and order as required by law in case of other debts" and by inserting at the end thereof the following:

"Prior to payment of his own claim the personal representative shall receive written approval of the clerk of superior court. If the clerk does not approve the claim the personal representative may refer the claim as a disputed claim under the provisions of G.S. 28A-19-15. The provisions of G.S. 28A-19-1 and G.S. 28A-19-3 shall not apply to such claims and the personal representative may present his own claim at any time prior to the filing of his final account."

Sec. 5. G.S. 31-42(c) as the same appears in the 1976 Replacement Volume 2A is hereby rewritten to read as follows:

"(c) Devolution of void, revoked, or lapsed devises or legacies. If subsections (a) and (b) above are not applicable and if a contrary intent is not indicated by the will:

- (1) Where a devise or legacy of any interest in property is void, is revoked, or lapses or which for any other reason fails to take effect, such a devise or legacy shall pass:

- a. under the residuary clause of the will applicable to real property in case of such devise, or applicable to personal property in case of such legacy, or
 - b. as if the testator had died intestate with respect thereto when there is no such applicable residuary clause; and
- (2) Where a residuary devise or legacy is void, revoked, lapsed or for any other reason fails to take effect with respect to any devisee or legatee named in the residuary clause itself or a member of a class described therein, then such devise or legacy shall continue as a part of the residue and shall pass to the other residuary devisees or legatees if any; or, if none, shall pass as if the testator had died intestate with respect thereto."

Sec. 6. G.S. 31B-3 is hereby amended by designating the existing provisions thereof as subsection (a) and by adding a new subsection (b) thereto to read as follows:

"(b) In the event that the property or interest renounced was created by testamentary disposition, the devolution of the property or interest renounced shall be governed by G.S. 31-42(a) and (b) notwithstanding that in fact the renouncer has not actually died before the testator."

Sec. 7. G.S. 31B-2(a) is hereby rewritten to read as follows:\

"(a) An instrument renouncing a present interest shall be filed within the time period required under the applicable federal statute for a renunciation to be given effect for federal estate tax purposes. If there is no such federal statute the instrument shall be filed not later than seven months after the death of the decedent or donee of the power."

Sec. 8. G.S. 39-12 as the same appears in the 1977 Cumulative Supplement to Volume 2A of the General Statutes is hereby amended on line 5 after "fact." by adding a new sentence to read as follows: "When such a married person executes a power of attorney authorized by the preceding sentence naming his or her spouse as attorney in fact the acknowledgment by the spouse of the grantor is not necessary."

Sec. 9. A power of attorney executed by a married person naming his or her spouse as attorney in fact during the period between January 1, 1978, and the effective date of this act shall not be invalid because the spouse named as attorney in fact did not acknowledge the power of attorney if otherwise executed in accordance with G.S. 39-12.

Sec. 10. G.S. 50-4 as the same appears in the 1976 Replacement Volume 2A is hereby amended by deleting the following: "the second proviso contained in".

Sec. 11. G.S. 90-220.4 is hereby amended by adding a new subsection to read as follows:

"(f) The making of a gift shall be deemed to include an authorization to the donee to review any medical records of the donor after the death of the donor."

Sec. 12. Section 1 of this act shall become effective January 1, 1980, and shall not apply to causes of action arising prior to January 1, 1980. The remaining sections of this act are effective upon ratification, except they shall not affect pending litigation and Section 4 shall apply only to the administration of the estates of decedents dying on or after the effective date.

Sec. 13. G.S. 1-501 as the same appears in the 1977 Cumulative Supplement to Volume 1A (1975 Replacement) of the General Statutes is hereby amended on line 5 to add a new sentence to read as follows:

"Any resident judge of the Superior Court Division or any nonresident judge of the Superior Court Division assigned to a district who appoints receivers pursuant to the authority granted hereby while holding court in that district may, in his discretion, retain jurisdiction and supervision of the original action, of the receivers appointed therefor and of any other civil actions pending in the same district involving the receivers, following his rotation out of the district."

Sec. 14. Section 13 of this act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 8th day of May, 1979.