

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1991

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HOUSE BILL 190  
Second Edition Engrossed 5/15/91  
Senate Judiciary II Committee Substitute Adopted 7/3/91

Short Title: Equit. Distrib./Judgment.

(Public)

Sponsors:

Referred to:

February 28, 1991

A BILL TO BE ENTITLED

AN ACT ALLOWING JUDGMENT FOR EQUITABLE DISTRIBUTION TO BE ENTERED PRIOR TO ENTRY OF A DIVORCE DECREE IN CERTAIN CASES AND TO CLARIFY EQUITABLE DISTRIBUTIONS RELATED TO A PROFESSIONAL PRACTICE.

The General Assembly of North Carolina enacts:

Section 1. G.S. 50-21(a) reads as rewritten:

"(a) At any time after a husband and wife begin to live separate and apart from each other, a claim for equitable distribution may be filed, either as a separate civil action, or together with any other action brought pursuant to Chapter 50 of the General Statutes, or as a motion in the cause as provided by G.S. 50-11(e) or (f). During the pendency of any such action for equitable distribution, discovery may proceed, and the court may enter temporary orders as appropriate and necessary for the purpose of preventing the disappearance, waste, or destruction of marital or separate property or to secure the possession thereof.

A judgment for an equitable distribution shall not be entered prior to entry of a decree of absolute divorce, except for a consent judgment, which may be entered at any time during the pendency of the ~~action~~-action, or except if the parties have been separated for at least six months and they consent, in a pleading or other writing filed with the court, to an equitable distribution trial prior to the entry of the decree for absolute divorce.

1 Real or personal property located outside of North Carolina is subject to equitable  
2 distribution in accordance with the provisions of G.S. 50-20, and the court may include  
3 in its order appropriate provisions to ensure compliance with the order of equitable  
4 distribution."

5 Sec. 2. G.S. 50-20(b)(2) reads as rewritten:

6 "(2) 'Separate property' means all real and personal property acquired by a  
7 spouse before marriage or acquired by a spouse by bequest, devise,  
8 descent, or gift during the course of the marriage. However, property  
9 acquired by gift from the other spouse during the course of the  
10 marriage shall be considered separate property only if such an  
11 intention is stated in the conveyance. Property acquired in exchange  
12 for separate property shall remain separate property regardless of  
13 whether the title is in the name of the husband or wife or both and shall  
14 not be considered to be marital property unless a contrary intention is  
15 expressly stated in the conveyance. The increase in value of separate  
16 property and the income derived from separate property shall be  
17 considered separate property. All professional licenses and business  
18 licenses which would terminate on transfer shall be considered  
19 separate property. A professional practice shall be considered separate  
20 property unless the professional practice can be sold to another  
21 pursuant to the rules of the professional licensing board of that  
22 profession. The expectation of nonvested pension, retirement, or other  
23 deferred compensation rights shall be considered separate property."

24 Sec. 3. This act becomes effective October 1, 1991, and applies only to  
25 actions for equitable distribution filed or pending on or after that date.