

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1995

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HOUSE BILL 273

Committee Substitute Favorable 5/9/95

Senate Judiciary I/Constitution Committee Substitute Adopted 6/6/95

Short Title: ED Before or After Divorce.

(Public)

Sponsors:

Referred to:

February 23, 1995

A BILL TO BE ENTITLED

AN ACT TO ALLOW CLAIMS FOR EQUITABLE DISTRIBUTION TO BE RESOLVED EITHER BEFORE OR AFTER AN ABSOLUTE DIVORCE IS GRANTED AND TO CLARIFY THE LAW CONCERNING THE INTEREST IN MARITAL PROPERTY OF A SUBSEQUENT SPOUSE PRIOR TO EQUITABLE DISTRIBUTION OF MARITAL PROPERTY OF FORMER MARRIAGE.

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). Within 90 days after service of a claim for equitable distribution, the party who first asserts the claim shall prepare and serve upon the opposing party an equitable distribution inventory affidavit listing all property claimed by the party to be marital property and all property claimed by the party to be separate property, and the estimated date-of-separation fair market value of each item of marital and separate property. Within 30 days after service of the inventory affidavit, the party upon whom service is made shall prepare and serve an inventory

1 affidavit upon the other party. The inventory affidavits prepared and served pursuant to  
2 this subsection shall be subject to amendment and shall not be binding at trial as to  
3 completeness or value. The court may extend the time limits in this subsection for good  
4 cause shown. During the pendency of the action for equitable distribution, discovery  
5 may proceed, and the court may enter temporary orders as appropriate and necessary for  
6 the purpose of preventing the disappearance, waste, or destruction of marital or separate  
7 property or to secure the possession thereof.

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

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

17 Sec. 2. G.S. 50-20 is amended by adding a new subsection to read:

18 "(c1) Notwithstanding any other provision of law, a second or subsequent spouse  
19 acquires no interest in the marital property of his or her spouse from a former marriage  
20 until a final determination of equitable distribution is made in the marital property of the  
21 spouse's former marriage."

22 Sec. 3. This act becomes effective October 1, 1995, and applies to actions filed  
23 on or after that date.