

NORTH CAROLINA GENERAL ASSEMBLY
1973 SESSION

CHAPTER 741
SENATE BILL 555

AN ACT TO AMEND G.S. 33-31 TO CLARIFY ITS PROVISIONS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 33-31 is hereby amended and rewritten to read as follows:

"§ 33-31. **Special proceedings to sell; judge's approval required.** — On application of the guardian or ancillary guardian appointed pursuant to G.S. 33-31.2, or by guardian ad litem, next friend or commissioner of the court acting pursuant to this Article, by petition, verified upon oath, to the superior court, showing that the interest of the ward would be materially promoted by the sale or mortgage of any part of his estate, real or personal, the proceeding shall be conducted as in other cases of special proceedings; and the truth of the matter alleged in the petition being ascertained by satisfactory proof, a decree may thereupon be made that a sale or mortgage be had by such person, in such way and on such terms as may be most advantageous to the interest of the ward; all petitions filed under the authority of this section wherein an order is sought for the sale or mortgage of the ward's real estate or both real and personal property shall be filed in the superior court of the county in which all or any part of the real estate is situated; if the order of sale demanded in the petition is for the sale or mortgage of the ward's personal estate, the petition may be filed in the superior court of the county in which any or all of such personal estate is situated; no mortgage shall be made until approved by the judge of the court, nor shall the same be valid, nor any conveyance of the title made, unless confirmed and directed by the judge, and the proceeds of the sale or mortgage shall be exclusively applied and secured to such purposes and on such trusts as the judge shall specify, provided that on and after June 1, 1973, no sales of property belonging to minors or incompetents prior to that date by next friend, guardian ad litem, or commissioner of the court regular in all other respects shall be declared invalid nor shall any claim or defense be asserted on the grounds that said sale was not made by a duly appointed guardian as provided herein or on the grounds that said minor or incompetent was not represented by a duly appointed guardian. The guardian may not mortgage the property of his ward for a term of years in excess of the term fixed by the court in its decree. The word 'mortgage' whenever used herein shall be construed to include deeds in trust. The word 'guardian' whenever used herein shall be construed to include next friend, guardian ad litem, or commissioner of the court acting pursuant to this Article. Nothing herein contained shall be construed to divest the court of the power to order private sales as heretofore ordered in proper cases. The procedure for a sale pursuant to this section shall be provided by Article 29A of Chapter 1 of the General Statutes."

Sec. 2. This act shall be in full force and effect on and after June 1, 1973.

In the General Assembly read three times and ratified, this the 23rd day of May, 1973.