

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 1997

SESSION LAW 1998-148
HOUSE BILL 1342

AN ACT TO AMEND AND CLARIFY THE RENUNCIATION OF PROPERTY AND
RENUNCIATION OF FIDUCIARY POWERS ACT.

The General Assembly of North Carolina enacts:

Section 1. G.S. 31B-1(b) reads as rewritten:

"(b) ~~In no event shall the persons who succeed to the renounced interest receive from the renouncement a greater share than the renouncer would have received. This Chapter shall apply to all renunciations of present and future interests, whether qualified or nonqualified for federal and State inheritance, estate, and gift tax purposes, unless expressly provided otherwise in the instrument creating the interest.~~"

Section 2. G. S. 31B-2(a) reads as rewritten:

"(a) To be a qualified disclaimer for federal and State inheritance, estate, and gift tax purposes, An 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 as a disclaimer for federal estate and gift tax purposes. If there is no such federal statute the instrument shall be filed not later than nine months after the death of the decedent or donee of the power. date the transfer of the renounced interest to the renouncer was complete for the purpose of such taxes."

Section 3. G.S. 31B-3(a) reads as rewritten:

"(a) ~~Unless the decedent or decedent, donee of the a power of appointment, or creator of an interest under an inter vivos instrument~~ has otherwise provided in the instrument creating the interest, the property or interest renounced devolves as follows:

- (1) If the renunciation is filed within the time period described in G.S. 31B-2(a), the property or interest renounced devolves as if the renouncer had predeceased the decedent or, if the renouncer is designated to take under a power of appointment exercised by a testamentary instrument, as if the renouncer had predeceased the donee of the power, date the transfer of the renounced interest to the renouncer was complete for federal and State inheritance, estate, and gift tax purposes, or, in the case of the renunciation of a fiduciary right, power, privilege, or immunity, the property or interest subject to the power devolves as if the fiduciary right, power, privilege, or immunity never existed. A future interest that takes effect in possession or enjoyment after the termination of the estate or interest renounced takes effect as if the renouncer had predeceased the

~~decedent or the donee of the power. A~~ Any such renunciation relates back for all purposes to the date of the death of the decedent or the donee of the power. the transfer of the renounced interest to the renouncer was complete for the purpose of those taxes.

- (2) If the renunciation is not filed within the time period described in G.S. 31B-2(a), the property or interest devolves as if the renouncer had died on the date the renunciation is filed, or, in the case of the renunciation of a fiduciary right, power, privilege, or immunity, the property or interest subject to the power devolves as if the fiduciary right, power, privilege, or immunity ceased to exist as of the date the renunciation is filed.
- (3) Any future interest that takes effect in possession or enjoyment after the termination of the estate or interest renounced takes effect as if the renouncer had died on the date determined under subdivision (1) or (2) of this subsection, and upon the filing of the renunciation the persons in being as of the time the renouncer is deemed to have died will immediately become entitled to possession or enjoyment of any such future interest."

Section 4. Subdivision (3) of G.S. 31B-4(a) is repealed.

Section 5. G.S. 31B-4 is amended by adding the following new subsection to read:

"(e) The right to renounce property or an interest in property pursuant to this Chapter is not barred by an acceptance of the property, interest, or benefit thereunder; provided, however, an acceptance of the property, interest, or benefit thereunder may preclude such renunciation from being a qualified renunciation for federal and State inheritance, estate, and gift tax purposes."

Section 6. This act is effective when it becomes law and applies to all renunciations executed on or after the effective date of this act, whether qualified or nonqualified for federal and State inheritance, estate, and gift tax purposes. This act shall not apply to any renunciation executed before the effective date of this section whether qualified or nonqualified for federal and State inheritance, estate, and gift tax purposes, of an interest in a testamentary or inter vivos trust, unless the trustee within six months after the effective date of this act executes and records with the clerk of court of the county in which probate proceedings have been commenced, if any, or the county in which the property is located, an instrument evidencing the acceleration of the possession and enjoyment of the renounced interest to persons in esse at the time of the filing of the renunciation. This act shall not apply to remove the rights of a current beneficiary who has received an interest in a trust between the date of the filing of a renunciation and the date of the filing by a trustee pursuant to the preceding sentence.

In the General Assembly read three times and ratified this the 10th day of September, 1998.

s/ Dennis A. Wicker
President of the Senate

s/ Harold J. Brubaker
Speaker of the House of Representatives

s/ James B. Hunt, Jr.
Governor

Approved 9:55 a.m. this 18th day of September, 1998