

## **Chapter 31.**

### **Wills.**

#### **Article 1.**

##### **Execution of Will.**

###### **§ 31-1. Who may make will.**

Any person of sound mind, and 18 years of age or over, may make a will. (1811, c. 280; R.C., c. 119, s. 2; Code, s. 2137; Rev., s. 3111; C.S., s. 4128; 1953, c. 1098, s. 1; 1965, c. 303; 1969, c. 39.)

###### **§ 31-2. Repealed by Session Laws 1953, c. 1098, s. 1.**

§ 31-3: Rewritten and renumbered as G.S. 31-3.1 to 31-3.6 by Session Laws 1953, c. 1098, s. 2.

###### **§ 31-3.1. Will invalid unless statutory requirements complied with.**

No will is valid unless it complies with the requirements prescribed therefor by this Article. (1953, c. 1098, s. 2.)

###### **§ 31-3.2. Kinds of wills.**

- (a) Personal property and real property may be devised by
  - (1) An attested written will which complies with the requirements of G.S. 31-3.3, or
  - (2) A holographic will which complies with the requirements of G.S. 31-3.4.
- (b) Personal property may also be devised by a nuncupative will which complies with the requirements of G.S. 31-3.5. (1953, c. 1098, s. 2; 2011-284, s. 26.)

###### **§ 31-3.3. Attested written will.**

- (a) An attested written will is a written will signed by the testator and attested by at least two competent witnesses as provided by this section.
- (b) The testator must, with intent to sign the will, do so by actually signing the will or by having someone else in the testator's presence and at the testator's direction sign the testator's name thereon.
- (c) The testator must signify to the attesting witnesses that the instrument is the testator's instrument by signing it in their presence or by acknowledging to them the testator's signature previously affixed thereto, either of which may be done before the attesting witnesses separately.
- (d) The attesting witnesses must sign the will in the presence of the testator but need not sign in the presence of each other. (1953, c. 1098, s. 2; 2011-344, s. 8.)

###### **§ 31-3.4. Holographic will.**

- (a) A holographic will is a will that meets all of the following requirements:
  - (1) Written entirely in the handwriting of the testator but when all the words appearing on a paper in the handwriting of the testator are sufficient to constitute a valid holographic will, the fact that other words or printed matter appear thereon not in the handwriting of the testator, and not affecting the meaning of the words in the handwriting, does not affect the validity of the will.

- (2) Subscribed by the testator, or with the testator's name written in or on the will in the testator's own handwriting.
  - (3) Repealed by Session Laws 2021-85, s. 1(b), effective July 8, 2021, and applicable to estates of decedents dying on or after that date.
- (b) No attesting witness to a holographic will is required. (1953, c. 1098, s. 2; 1955, c. 73, s. 1; 2011-344, s. 8; 2021-85, s. 1(b).)

**§ 31-3.5. Nuncupative will.**

A nuncupative will is a will

- (1) Made orally by a person who is in that person's last sickness or in imminent peril of death and who does not survive such sickness or imminent peril, and
- (2) Declared to be that person's will before two competent witnesses simultaneously present at the making thereof and specially requested by the person to bear witness thereto. (1953, c. 1098, s. 2; 2011-344, s. 8.)

**§ 31-3.6. Seal not required.**

A seal is not necessary to the validity of a will. (1953, c. 1098, s. 2.)

**§ 31-4:** Repealed by Session Laws 2015-205, s. 3(b), effective August 11, 2015.

**§ 31-4.1:** Repealed by Session Laws 2010-181, s. 1, effective July 1, 2010.

**§ 31-4.2:** Repealed by Session Laws 2010-181, s. 2, effective July 1, 2010.