

§ 31B-2. Filing and registering of renunciations; failure to file or register; spouse's interest.

(a) To be a qualified disclaimer for federal and State inheritance, estate, and gift tax purposes, an instrument of renunciation 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 date the transfer of the renounced interest to the person whose property or interest is being renounced was complete for the purpose of such taxes.

(b) When a renunciation of real property or an interest in real property is made within the time period required under subsection (a) of this section, the spouse of the person whose property or interest is being renounced is not required to join in the execution of the instrument of renunciation, and, as provided in G.S. 31B-3(a)(1), the spouse has no statutory dower, inchoate marital rights, elective share, or any other marital interest in the real property or real property interest renounced.

(c) The renunciation is effective when filed with the clerk of court (i) in the county in which court proceedings have been commenced for the administration of the estate of the deceased owner or deceased creator of the power or holder of the power; or (ii) if proceedings have not been commenced, then in a county in which they could be commenced; or (iii) in all other cases, in a county with a court that has jurisdiction to enforce the terms of the instrument creating the interest renounced. In those cases in which an estate proceeding has not been commenced, the renunciation shall be filed as an estate matter. In addition to the above requirements, a renunciation of real property, or an interest therein, shall be registered in accordance with the provisions of subsection (d) of this section.

(d) If real property or an interest therein is renounced, the instrument of renunciation shall also be registered as provided in G.S. 47-18 or G.S. 47-20. The instrument of renunciation shall be indexed in the grantor's index under (i) the name of the transferor or creator of the power or holder of the power, and (ii) the name of the person whose property or interest is being renounced. Failure to file or register the instrument of renunciation does not affect the effectiveness of the renunciation as between the person whose property or interest is being renounced and persons to whom the property interest or power passes by reason of the renunciation; however, record title to a renounced interest in real property does not pass to persons receiving the renounced interest by reason of the renunciation until the instrument of renunciation is registered as provided in G.S. 47-18 or G.S. 47-20.

(e) If an instrument transferring an interest in or right, privilege, power, or immunity over property subject to a renunciation is required or permitted by law to be filed or registered, the instrument of renunciation may be so filed or registered. Failure to file or register the instrument of renunciation does not affect the effectiveness of the renunciation as between the person whose property or interest is being renounced and persons to whom the property interest or power passes by reason of the renunciation. (1975, c. 371, s. 1; 1979, c. 525, s. 7; 1983, c. 66, s. 2; 1989, c. 684, s. 4; 1991, c. 744, s. 1; 1998-148, s. 2; 2009-48, s. 4.)