

March 25, 2009

H 800. RENUNCIATION AMENDMENTS. Filed 3/25/09. *TO AMEND THE LAW RELATING TO RENUNCIATIONS AND TO MAKE RELATED AMENDMENTS TO THE NORTH CAROLINA UNIFORM TRUST CODE AND THE LAW GOVERNING POWERS OF ATTORNEY AND ADMINISTRATION OF DECEDENTS' ESTATES, AS RECOMMENDED BY THE GENERAL STATUTES COMMISSION.*

Amends numerous statutory provisions to make changes in the law related to renunciation as follows:

Amends GS 31B-1 to (1) add donees to the list of individuals who may make renunciations, (2) make clear that attorneys-in-fact may renounce only if the governing power of attorney so provides (and makes conforming change in GS Chapter 32A by adding new GS 32A-14.2), (3) specify that a renunciation is deemed to include the entirety of the interest at issue unless the renunciation is specifically limited, (4) specify that a person may renounce even if the creator imposed a restriction on renunciation, and (5) state the power of the parent of a minor to renounce the interest that would fall to the minor upon the parent's renunciation.

Amends GS 31B-1A and adds new GS 31B-1.2 concerning renunciation by fiduciaries to (1) delineate the power of a fiduciary to renounce and (2) to create the right of a fiduciary to institute a proceeding before the clerk of court for a determination as to whether the renunciation would be compatible with the fiduciary's duties

Amends GS 31B-2 to delineate the effect of a failure to register a renunciation with the register of deeds.

Adds new GS 31B-2.1 to delineate how instruments of renunciation must be delivered in instances of intestate succession, succession by will, testamentary trust, inter vivos trust, and many other instances and to specify the consequences of failing to deliver the instruments as required.

Amends GS 31B-3, which specifies how renunciations take effect in certain circumstances, to provide, for example, when the renunciation occurs by a surviving tenant by the entireties upon the death of the other tenant and to specify that a renunciation is binding on the person whose interest is being renounced and on all persons claiming through or under that person.

Amends GS 31B-4 to delineate the effect of an instrument waiving or barring the right to renounce before it is registered.

Adds new GS 31B-4.1 to provide that a renunciation is effective if it has the effect under the Internal Revenue Code of preventing the transfer of property to the renouncer, even if not in compliance with GS Chapter 31B.

Amends GS 28A-13-3, concerning powers of personal representatives and fiduciaries, to conform to the changes in Chapter 31B.

Amends GS 32A-1, the short form power of attorney, to add to the form specific authorization for an attorney-in-fact to renounce, to conform with changes in Chapter 31B.

Makes numerous stylistic and conforming changes.

Effective October 1, 2009 and applies to renunciations and powers of attorney executed on or after that date.

Intro. by Ross.

GS 28A, 31B, 32A, 36C

April 14, 2009

H 800. RENUNCIATION AMENDMENTS. Filed 3/25/09. House committee substitute makes the following changes to 1st edition. Amends proposed GS 31B-3(k) to clarify that a renunciation is also binding upon the person whose property is being renounced as well as a person whose interest is being renounced. Amends GS 36C-1-105(b)(12) to provide that the terms of a trust prevail over any provision of GS Chapter 36C except the power of a trustee to renounce an interest in or power over property under GS 36C-8-816(32) (was, in accordance with the provisions of GS Chapter 31B). Makes additional conforming and technical changes.

June 1, 2009

SL 2009-48 (H 800). RENUNCIATION AMENDMENTS. AN ACT TO AMEND THE LAW RELATING TO RENUNCIATIONS AND TO MAKE RELATED AMENDMENTS TO THE NORTH CAROLINA UNIFORM TRUST CODE AND THE LAW GOVERNING POWERS OF ATTORNEY AND ADMINISTRATION OF DECEDENTS' ESTATES, AS RECOMMENDED BY THE GENERAL STATUTES COMMISSION. Summarized in *Daily Bulletin* 3/25/09 and 4/14/09. Enacted June 1, 2009. Effective October 1, 2009.