

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013

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HOUSE BILL 384

Short Title: Amend Definitions/Property Classif./Equ. Dist. (Public)

Sponsors: Representatives Davis and Stevens (Primary Sponsors).

For a complete list of Sponsors, refer to the North Carolina General Assembly Web Site.

Referred to: Judiciary Subcommittee C.

March 21, 2013

A BILL TO BE ENTITLED

AN ACT AMENDING THE DEFINITION OF MARITAL PROPERTY TO PROVIDE THAT ENTIRETIES PROPERTY IS SUBJECT TO THE SAME BURDEN OF PROOF IN REBUTTING THE PRESUMPTION AS ALL PROPERTY CLASSIFIED AS MARITAL PROPERTY AND AMENDING THE DEFINITION OF DIVISIBLE PROPERTY TO CLARIFY THAT INCREASES AND DECREASES IN MARITAL DEBT MEANS PASSIVE INCREASES AND PASSIVE DECREASES IN MARITAL DEBT UNDER THE LAWS PERTAINING TO EQUITABLE DISTRIBUTION.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 50-20(b) reads as rewritten:

"(b) For purposes of this section:

(1) "Marital property" means all real and personal property acquired by either spouse or both spouses during the course of the marriage and before the date of the separation of the parties, and presently owned, except property determined to be separate property or divisible property in accordance with subdivision (2) or (4) of this subsection. Marital property includes all vested and nonvested pension, retirement, and other deferred compensation rights, and vested and nonvested military pensions eligible under the federal Uniformed Services Former Spouses' Protection Act. It is presumed that all property acquired after the date of marriage and before the date of separation is marital property except property which is separate property under subdivision (2) of this subsection. It is presumed that all real property creating a tenancy by the entirety acquired after the date of marriage and before the date of separation is marital property. ~~This~~ Either presumption may be rebutted by the greater weight of the evidence.

(2) "Separate property" means all real and personal property acquired by a spouse before marriage or acquired by a spouse by devise, descent, or gift during the course of the marriage. However, property acquired by gift from the other spouse during the course of the marriage shall be considered separate property only if such an intention is stated in the conveyance. Property acquired in exchange for separate property shall remain separate property regardless of whether the title is in the name of the husband or wife or both and shall not be considered to be marital property unless a contrary intention is expressly stated in the conveyance. The increase in value of separate property and the income derived from separate property shall be



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1 considered separate property. All professional licenses and business licenses
2 which would terminate on transfer shall be considered separate property.

3 (3) "Distributive award" means payments that are payable either in a lump sum
4 or over a period of time in fixed amounts, but shall not include alimony
5 payments or other similar payments for support and maintenance which are
6 treated as ordinary income to the recipient under the Internal Revenue Code.

7 (4) "Divisible property" means all real and personal property as set forth below:
8 a. All appreciation and diminution in value of marital property and
9 divisible property of the parties occurring after the date of separation
10 and prior to the date of distribution, except that appreciation or
11 diminution in value which is the result of postseparation actions or
12 activities of a spouse shall not be treated as divisible property.
13 b. All property, property rights, or any portion thereof received after the
14 date of separation but before the date of distribution that was
15 acquired as a result of the efforts of either spouse during the marriage
16 and before the date of separation, including, but not limited to,
17 commissions, bonuses, and contractual rights.
18 c. Passive income from marital property received after the date of
19 separation, including, but not limited to, interest and dividends.
20 ~~Increases~~ Passive increases and passive decreases in marital debt and
21 financing charges and interest related to marital debt."
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SECTION 2. This act is effective when it becomes law.