

March 11, 1999

S 329. NEW LAPSE STATUTE. *TO MAKE NORTH CAROLINA'S LAPSE STATUTE LESS RESTRICTIVE.* Repeals GS 32-42 (probably intends to repeal GS 31-42). Enacts new GS 31-42.1 providing that, unless the will indicates a contrary intent, if a devisee predeceases the testator, whether before or after execution of the will, and if the devisee is a grandparent of or a descendant of a grandparent of the testator, the issue of the predeceased devisee inherit in place of the deceased devisee. The devisee's issue inherits the deceased devisee's share in the same manner as heirs of the deceased devisee under the intestacy provisions in effect at the time of death. These provisions apply whether the devise is a gift to an individual, to a class, or a residuary devise. Unless the will indicates a contrary intent, these provisions do not apply to a devise to a devisee who predeceases the testator, or if a devise otherwise fails, the property passes to the residuary devisee(s) in proportion to their share of the residue. If the devise is a residuary devise, the gift augments the shares of the other residuary devisees, including the shares of any substitute takers under the new provision. If there are no residuary devisees the property passes by intestacy. Renunciation of a devise is as provided for in Ch. 31B. Applies to estates of decedents dying on or after Jan. 1, 2000.

Intro. by Hagan.

Ref. to Judiciary II

GS 31