

March 31, 2003

H 807. ELECTIVE SHARE AMENDMENTS. *TO CLARIFY CERTAIN PROVISIONS OF THE LAW ESTABLISHING THE ELECTIVE SHARE OF A DECEDENT'S SURVIVING SPOUSE AND TO REPEAL THE RIGHT OF A SURVIVING SPOUSE TO ELECT A LIFE INTEREST IN LIEU OF AN INTESTATE SHARE.* Makes following changes to statutes allowing surviving spouse to claim a certain percentage of decedent's estate (called an elective share) in lieu of amount spouse receives under will or by intestate succession: (1) Provides that amount of death taxes that may be taken as a claim against the estate is equal to difference between the amount of death taxes as finally determined and amount that death taxes would have been if all assets received by the surviving spouse had qualified for the marital deduction. (2) Includes within property passing to surviving spouse the entire fair market value of any property held in trust for the exclusive benefit of the surviving spouse during his or her lifetime if the trust is controlled by a nonadverse trustee (term redefined); the trustee is required to distribute the entire net income of the trust at least annually or the income in such amounts as the trustee determines necessary for the health, maintenance, and support of the surviving spouse; and the trustee is required to distribute out of the principal of the trust such amount as is necessary for the health, maintenance, and support of the surviving spouse. The property is valued as if the underlying property passed outright to the surviving spouse. (3) Clarifies that written waivers of right to dissent (which was prior law) executed before the law allowing a spouse to claim an elective share are effective to waive the spouse's right to an elective share. (4) Repeals GS 29-30, which authorizes a surviving spouse to take a life interest in 1/3 of the decedent's real estate owned during marriage or a life interest in the dwelling house owned by decedent at the time of death in lieu of the spouse's intestate share or elective share. Effective Jan. 1, 2004, and applies to estates of decedents dying on or after that date.

Intro. by Culpepper.

Ref. to Judiciary IV	GS 30, 29
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April 23, 2003

H 807. ELECTIVE SHARE AMENDMENTS. Intro. 3/31/03. House committee substitute makes the following changes to 1st edition. Reinstates GS 29-30 and provides that sec. 5 [new GS 30-3.6(c)] is effective when it becomes law (was, Jan. 1, 2004).

April 30, 2003

H 807. ELECTIVE SHARE AMENDMENTS. Intro. 3/31/03. House committee substitute adopted 4/29/03 makes the following changes to 2nd edition. Changes title to reflect change made in House Committee Substitute adopted 4/23/03.

June 3, 2003

H 807. ELECTIVE SHARE AMENDMENTS. Intro. 3/31/03. Senate committee substitute makes the following changes to 3rd edition. The third edition amended GS 30-3.6 to provide that a written waiver that would have been effective to waive a spouse's right to dissent for estates of decedents dying on or before Dec. 31, 2000, would be effective to waive the spouse's right of elective share for estates of decedents dying on or after Jan. 1, 2001, if the waiver had been executed before Jan. 1, 2001. This committee substitute deletes the underlined language.

July 1, 2003

SL 2003-296 (H 807). ELECTIVE SHARE AMENDMENTS. *AN ACT TO CLARIFY CERTAIN PROVISIONS OF THE LAW ESTABLISHING THE ELECTIVE SHARE OF A DECEDENT'S SURVIVING SPOUSE.* Summarized in *Daily Bulletin* 3/31/03, 4/23/03, 4/30/03, and 6/3/03. Enacted July 4, 2003. Section 5 is effective July 4, 2003. The remainder of this act is effective January 1, 2004.