

March 13, 2007

H 634. RENUNCIATION AMENDMENTS. Filed 3/13/07. *TO AMEND THE LAW RELATING TO RENUNCIATIONS, AS RECOMMENDED BY THE GENERAL STATUTES COMMISSION.*

Amends GS 31B-1 to include a donee and a fiduciary as those that have a right to renounce succession to an interest in property. The renunciation is deemed to include the person's entire interest unless otherwise limited. Allows the custodial parent of a minor for whom no general guardian has been appointed to renounce an interest in property that would have passed to the minor as a result of another renunciation. Amends GS 31B-1.1 and GS 31B-1 to require that an instrument of renunciation identify the transferor of the property or the creator of the power. Amends GS 31B-1.1 to provide that if a fiduciary renounces property that otherwise would have become property held by the fiduciary pursuant to the instrument, the property will not become held by the fiduciary, unless the effect of the renunciation is to transfer title to a beneficiary of the trust. Also authorizes a fiduciary to petition the superior court for a special proceeding to determine whether a renunciation is compatible with the fiduciary's duties. Amends GS 31B-2 to provide that when a renunciation is made within the time period required under federal statute, the spouse of the person renouncing property is not required to join in the execution of the instrument of renunciation. Also amends filing requirements and provides that failure to file or register the instrument of renunciation does not affect the effectiveness of the renunciation (was, renunciation of an interest is not effective until a copy is filed with the register of deeds). Enacts new GS 31B-2.1 providing delivery requirements for instruments of renunciation for various interests and for renunciations made by various individuals. Amends GS 31B-3 to provide for renunciation by a person holding a power of appointment in a trust, for a surviving tenant by the entireties, and for a surviving joint tenant with right of survivorship. Amends GS 31B-4 providing for when an instrument waiving or barring the right to renounce an interest in real property is effective and sets out requirements for registering and indexing the waiver. Enacts new GS 31B-4.1, tax qualified renunciation. Repeals GS 31B-6, application of chapter. Makes technical changes. Effective January 1, 2008.

Intro. by Ross.

GS 31B

April 10, 2007

H 634. RENUNCIATION AMENDMENTS. Filed 3/13/07. House committee substitute makes the following changes to 1st edition. Adds references to the *holder of the power* to provisions referencing the *creator of the power* with respect to (1) the contents of a renunciation and (2) where instruments are to be filed and indexed. In GS 31B-1, clarifies that there is no right of partial renunciation if the instrument creating the power so provides (was, if the decedent or creator so provided in the instrument). In proposed GS 31B-1(d), adds noncustodial parents to the provision granting parents the right to renounce property with respect to a minor for whom no guardian has been appointed. Provides that a parent's right to renounce in this situation applies to property that would have passed to the minor as the result of that parent's renunciation. Provides that a renunciation must be filed as an estate matter in a court with appropriate jurisdiction (1) when a proceeding for the administration of the estate of the deceased has not begun or (2) when there is no personal representative or fiduciary serving with respect to the instrument that created the power. In proposed GS 31B-3(e) and (f), clarifies the effect of a renunciation by a surviving tenant by the entirety or joint tenant.

July 27, 2007

H 634. ADVANCE DIRECTIVES/HEALTH CARE POA (NEW). Filed 3/13/07. Senate committee substitute deletes all provisions of the 2nd edition and replaces it with *AN ACT TO CLARIFY THE RIGHT TO MAKE ADVANCE DIRECTIVES AND TO DESIGNATE HEALTH CARE AGENTS; AND TO IMPROVE AND SIMPLIFY THE MEANS OF MAKING THESE DIRECTIVES AND DESIGNATIONS.* As revised, the bill is identical to the fourth edition of Senate Bill 1046, except as follows. It modifies the proposed amendments to GS 90-21.17(c) to (1) require the MOST form to advise that the patient is not required to have a MOST to receive treatment and (2) clarify the statutory language. It makes technical corrections in GS 90-321(c)(3), GS 28A-13-1, and Section 19. It changes the effective date from when the act becomes law, to October 1, 2007.

September 4, 2007

SL 2007-502 (H 634). ADVANCE DIRECTIVES/HEALTH CARE POA. AN ACT TO CLARIFY THE RIGHT TO MAKE ADVANCE DIRECTIVES AND TO DESIGNATE HEALTH CARE AGENTS; AND TO IMPROVE AND SIMPLIFY THE MEANS OF MAKING THESE DIRECTIVES AND DESIGNATIONS. Summarized in *Daily Bulletin* 7/27/07. Enacted August 30, 2007. Effective October 1, 2007.