

ADOPTED



NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
Senate Bill 336

AMENDMENT NO. A1
(to be filled in by
Principal Clerk)

S336-ARN-14 [v.2]

Page 1 of 3

Amends Title [NO]
Second Edition

Date _____, 2015

Senator Hartsell

1 moves to amend the bill on page 7, lines 26-34, by rewriting those lines to read:

2
3 "(a) Any individual who is a resident of North Carolina and who has executed a will or
4 codicil may file a petition seeking a judicial declaration that the will or codicil is valid.";

5
6 and on page 8, lines 28-29, by rewriting those lines to read:

7
8 "(b) If the court declares a will or codicil to be valid, upon the motion of the petitioner or
9 the court, the court may order that the will";

10
11 and on page 17, line 17 through page 23, line 24, by rewriting those lines to read:

12
13 **"PART IV. AMEND THE ELECTIVE SHARE STATUTES REGARDING**
14 **VALUATION OF PARTIAL OR CONTINGENT INTEREST PROPERTY.**

15
16 **SECTION 4.** G.S. 30-3.3A(e) reads as rewritten:

17 "(e) Partial or Contingent Interest Property. – The valuation of partial and contingent
18 property interests, outright or in trust, which are limited to commence or terminate upon the
19 death of one or more persons, upon the expiration of a period of time, or upon the occurrence of
20 one or more contingencies, shall be determined by computations based upon the mortality and
21 annuity tables set forth in G.S. 8-46 and G.S. 8-47, and by using a presumed rate of return of
22 six percent (6%) of the value of the underlying property in which those interests are ~~limited~~
23 limited, unless upon good cause shown by one of the parties, the clerk determines that the use
24 of such tables or rate of return is not appropriate, then the value of such interests shall be
25 determined under subsection (f) of this section. However, in valuing partial and contingent
26 interests passing to the surviving spouse, the following special rules apply:

- 27 (1) The value of the beneficial interest of a spouse shall be the entire fair market
28 value of any property held in trust if the decedent was the settlor of the trust,
29 if the trust is held for the exclusive benefit of the surviving spouse during the
30 surviving spouse's lifetime, and if the terms of the trust meet the following
31 requirements:



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- a. During the lifetime of the surviving spouse, the trust is controlled by one or more nonadverse trustees.
 - b. The trustee shall distribute to or for the benefit of the surviving spouse either (i) the entire net income of the trust at least annually or (ii) the income of the trust in such amounts and at such times as the trustee, in its discretion, determines necessary for the health, maintenance, and support of the surviving spouse.
 - c. The trustee shall distribute to or for the benefit of the surviving spouse out of the principal of the trust such amounts and at such times as the trustee, in its discretion, determines necessary for the health, maintenance, and support of the surviving spouse.
 - d. In exercising discretion, the trustee may be authorized or required to take into consideration all other income assets and other means of support available to the surviving spouse.
- (2) To the extent that the partial or contingent interest is dependent upon the occurrence of any contingency that is not subject to the control of the surviving spouse and that is not subject to valuation by reference to the mortality and annuity tables set forth in G.S. 8-46 and G.S. 8-47, the contingency will be conclusively presumed to result in the lowest possible value passing to the surviving spouse. However, a life estate or income interest that will terminate upon the surviving spouse's death or remarriage will be valued without regard to the possibility of termination upon remarriage.
- ~~(3) To the extent that the valuation of a partial or contingent interest is dependent upon the life expectancy of the surviving spouse, that life expectancy shall be conclusively presumed to be no less than 10 years, regardless of the actual attained age of the surviving spouse at the decedent's death.";~~

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1 and on page 30, lines 13-14, by rewriting those lines to read:

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"SECTION 11.(b) Sections 6, 7, 8, 9, and 10 of this act".

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED _____ FAILED _____ TABLED _____

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and vote information, is available in the
Senate Principal Clerk's Office**