

FAILED



NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
Senate Bill 336

AMENDMENT NO. A2
(to be filled in by
Principal Clerk)

S336-ARN-25 [v.1]

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Amends Title [NO]
Fourth Edition

Date _____, 2015

Representative R. Turner

1 moves to amend the bill on page 17, line 6 through page 23, line 12, by rewriting those lines to
2 read:

3
4 **"PART IV. AMEND THE ELECTIVE SHARE STATUTES REGARDING**
5 **VALUATION OF PARTIAL OR CONTINGENT INTEREST PROPERTY.**

6
7 **SECTION 4.** G.S. 30-3.3A(e) reads as rewritten:

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

- 18 (1) The value of the beneficial interest of a spouse shall be the entire fair market
19 value of any property held in trust if the decedent was the settlor of the trust,
20 if the trust is held for the exclusive benefit of the surviving spouse during the
21 surviving spouse's lifetime, and if the terms of the trust meet the following
22 requirements:
- 23 a. During the lifetime of the surviving spouse, the trust is controlled by
24 one or more nonadverse trustees.
 - 25 b. The trustee shall distribute to or for the benefit of the surviving
26 spouse either (i) the entire net income of the trust at least annually or
27 (ii) the income of the trust in such amounts and at such times as the
28 trustee, in its discretion, determines necessary for the health,
29 maintenance, and support of the surviving spouse.
 - 30 c. The trustee shall distribute to or for the benefit of the surviving
31 spouse out of the principal of the trust such amounts and at such



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- 1 times as the trustee, in its discretion, determines necessary for the
- 2 health, maintenance, and support of the surviving spouse.
- 3 d. In exercising discretion, the trustee may be authorized or required to
- 4 take into consideration all other income assets and other means of
- 5 support available to the surviving spouse.
- 6 (2) To the extent that the partial or contingent interest is dependent upon the
- 7 occurrence of any contingency that is not subject to the control of the
- 8 surviving spouse and that is not subject to valuation by reference to the
- 9 mortality and annuity tables set forth in G.S. 8-46 and G.S. 8-47, the
- 10 contingency will be conclusively presumed to result in the lowest possible
- 11 value passing to the surviving spouse. However, a life estate or income
- 12 interest that will terminate upon the surviving spouse's death or remarriage
- 13 will be valued without regard to the possibility of termination upon
- 14 remarriage.
- 15 ~~(3) To the extent that the valuation of a partial or contingent interest is~~
- 16 ~~dependent upon the life expectancy of the surviving spouse, that life~~
- 17 ~~expectancy shall be conclusively presumed to be no less than 10 years,~~
- 18 ~~regardless of the actual attained age of the surviving spouse at the decedent's~~
- 19 ~~death.";~~
- 20

21 and on page 30, lines 1-2, by rewriting those lines to read:

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

23 SIGNED _____
24 Amendment Sponsor

25 SIGNED _____
26 Committee Chair if Senate Committee Amendment

ADOPTED _____ FAILED _____ TABLED _____

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