

Article 11.

North Carolina Uniform Electronic Wills Act

§ 31-64. Short title. This Article may be cited as the North Carolina Uniform Electronic Wills Act.

§ 31-65. Definitions. In this Article:

(1) “Electronic” means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities.

(2) “Electronic will” means a will executed electronically in compliance with G.S. 31-68.

(3) “Record” means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

(4) “Sign” means, with present intent to authenticate or adopt a record:

(A) to execute or adopt a tangible symbol; or

(B) to affix to or logically associate with the record an electronic symbol or process.

(5) “State” means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States. The term includes a federally recognized Indian tribe or band, or Alaskan native village, which is recognized by federal law or formally acknowledged by a state.

§ 31-66. Law applicable to electronic will; principles of equity. An electronic will is a will for all purposes of the law of this state. The law of this state applicable to wills and principles of equity apply to an electronic will, except as modified by this Article.

§ 31-67. Choice of law regarding execution. An electronic will executed electronically but not in compliance with 31-68 is governed by the provisions of G.S. 31-46.

§ 31-68. Execution of electronic will.

Subject to G.S. 31-71(b), an electronic will is a record that is readable as text at the time of signing and is signed by the testator and attested by at least two competent witnesses, as provided by G.S. 31-3.3.

§ 31-69. Reserved for future codification purposes.

§ 31-70. Revocation.

(a) An electronic will may revoke all or part of a previous will.

(b) All or part of an electronic will is revoked

(1) in the manner provided by G.S. 31-5.1(1), or

(2) by a physical act, if it is established by a preponderance of the evidence that the testator, with the intent of revoking all or part of the will, performed the act or directed another individual who performed the act in the testator's physical presence.

§ 31-71. Electronic will attested and made self-proving at time of execution.

(a) An electronic will may be executed, attested, and made self-proving by acknowledgment of the testator and affidavits of the witnesses as provided by G.S. 31-11.6, except that for an electronic will to be made self-proving, the affidavits of the testator and the witnesses must be made simultaneously with the execution of the electronic will.

(b) A signature physically or electronically affixed to an affidavit that is affixed to or logically associated with an electronic will under this Article is deemed a signature of the electronic will under G.S. 31-68.

§ 31-72. Certification of paper copy. An individual may create a certified paper copy of an electronic will by certifying that a paper copy of the electronic will is a complete, true, and accurate copy of the electronic will. The certification shall be in the form of an affidavit sworn to

or affirmed before an officer authorized to administer oaths. If the electronic will is made self-proving, the certified paper copy of the will must include the self-proving affidavits. The certified paper copy of the electronic will may be created at any time after the electronic will is executed in accordance with G.S. 31-68.

§ 31-73. Uniformity of application and construction. In applying and construing this uniform act, consideration must be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it.

Transitional provision. This Article becomes effective January 1, 2025 and applies to the will of a decedent who dies on or after that date.

Authorization for the printing of official and drafters' comments. The Revisor of Statutes shall cause to be printed, as annotations to the published General Statutes, all relevant portions of the Official Comments to the Uniform Electronic Wills Act and all explanatory comments of the drafters of this act as the Revisor may deem appropriate.

§ 28A-2A-8. Manner of probate of attested written will.

(a) An attested written will other than an electronic will executed as provided by G.S. 31-3.3, may be probated in the following manner:

- (1) Upon the testimony of at least two of the attesting witnesses; or
- (2) If the testimony of only one attesting witness is available, then
 - a. Upon the testimony of such witness, and
 - b. Upon proof of the handwriting of at least one of the attesting witnesses who is dead or whose testimony is otherwise unavailable, and
 - c. Upon proof of the handwriting of the testator, unless he signed by his mark, and
 - d. Upon proof of such other circumstances as will satisfy the clerk of the superior court as to the genuineness and due execution of the will; or
- (3) If the testimony of none of the attesting witnesses is available, then
 - a. Upon proof of the handwriting of at least two of the attesting witnesses whose testimony is unavailable, and
 - b. Upon compliance with paragraphs c. and d. of subsection (a)(2) of this section; or
- (4) Upon a showing that the will has been made self-proved in accordance with the provisions of G.S. 31-11.6.

(a1) A certified copy of an electronic will, executed as provided by G.S. 31-68 and created as provided by G.S. 31-72, may be probated in the following manner:

- (1) Upon the testimony of at least two of the attesting witnesses; or
- (2) If the testimony of only one attesting witness is available, then

- a. Upon the testimony of such witness, and
 - b. Upon proof of such other circumstances as will satisfy the clerk of the superior court as to the genuineness and due execution of the will; or
- (3) If the testimony of none of the attesting witnesses is available, then upon compliance with paragraph b. of subsection (a1)(2) of this section; or
 - (4) Upon a showing that the will has been made self-proved in accordance with the provisions of G.S. 31-71.

(b) Due execution of a will may be established, where the evidence required by subsections (a) and (a1) of this section is unavoidably lacking or inadequate, by testimony of other competent witnesses as to the requisite facts.

(c) The testimony of a witness is unavailable within the meaning of this section when the witness is dead, out of the State, not to be found within the State, incompetent, physically unable to testify or refuses to testify.

Transitional provision. This Article becomes effective January 1, 2025 and applies to the will of a decedent who dies on or after that date.

§ 31-3.2. Kinds of wills.

- (a) Personal property and real property may be devised by
 - (1) An attested written will which complies with the requirements of G.S. 31-3.3,
 - (2) A holographic will which complies with the requirements of G.S. 31-3.4, or
 - (3) An electronic will which complies with the requirements of G.S. 31-68.
- (b) Personal property may also be devised by a nuncupative will which complies with the requirements of G.S. 31-3.5.

Transitional provision. This Article becomes effective January 1, 2025 and applies to the will of a decedent who dies on or after that date.