

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013**

**SESSION LAW 2013-103
HOUSE BILL 384**

AN ACT AMENDING THE DEFINITION OF MARITAL PROPERTY TO PROVIDE THAT ENTIRETIES PROPERTY IS SUBJECT TO THE SAME BURDEN OF PROOF IN REBUTTING THE PRESUMPTION AS ALL PROPERTY CLASSIFIED AS MARITAL PROPERTY AND AMENDING THE DEFINITION OF DIVISIBLE PROPERTY TO CLARIFY THAT INCREASES AND DECREASES IN MARITAL DEBT MEANS PASSIVE INCREASES AND PASSIVE DECREASES IN MARITAL DEBT UNDER THE LAWS PERTAINING TO EQUITABLE DISTRIBUTION.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 50-20(b) reads as rewritten:

"(b) For purposes of this section:

- (1) "Marital property" means all real and personal property acquired by either spouse or both spouses during the course of the marriage and before the date of the separation of the parties, and presently owned, except property determined to be separate property or divisible property in accordance with subdivision (2) or (4) of this subsection. Marital property includes all vested and nonvested pension, retirement, and other deferred compensation rights, and vested and nonvested military pensions eligible under the federal Uniformed Services Former Spouses' Protection Act. It is presumed that all property acquired after the date of marriage and before the date of separation is marital property except property which is separate property under subdivision (2) of this subsection. It is presumed that all real property creating a tenancy by the entirety acquired after the date of marriage and before the date of separation is marital property. This ~~Either~~ presumption may be rebutted by the greater weight of the evidence.
- (2) "Separate property" means all real and personal property acquired by a spouse before marriage or acquired by a spouse by devise, descent, or gift during the course of the marriage. However, property acquired by gift from the other spouse during the course of the marriage shall be considered separate property only if such an intention is stated in the conveyance. Property acquired in exchange for separate property shall remain separate property regardless of whether the title is in the name of the husband or wife or both and shall not be considered to be marital property unless a contrary intention is expressly stated in the conveyance. The increase in value of separate property and the income derived from separate property shall be considered separate property. All professional licenses and business licenses which would terminate on transfer shall be considered separate property.
- (3) "Distributive award" means payments that are payable either in a lump sum or over a period of time in fixed amounts, but shall not include alimony payments or other similar payments for support and maintenance which are treated as ordinary income to the recipient under the Internal Revenue Code.
- (4) "Divisible property" means all real and personal property as set forth below:
 - a. All appreciation and diminution in value of marital property and divisible property of the parties occurring after the date of separation and prior to the date of distribution, except that appreciation or diminution in value which is the result of postseparation actions or activities of a spouse shall not be treated as divisible property.



- b. All property, property rights, or any portion thereof received after the date of separation but before the date of distribution that was acquired as a result of the efforts of either spouse during the marriage and before the date of separation, including, but not limited to, commissions, bonuses, and contractual rights.
- c. Passive income from marital property received after the date of separation, including, but not limited to, interest and dividends.
- d. ~~Increase~~ Passive increases and passive decreases in marital debt and financing charges and interest related to marital debt."

SECTION 2. This act becomes effective October 1, 2013.

In the General Assembly read three times and ratified this the 6th day of June, 2013.

s/ Daniel J. Forest
President of the Senate

s/ Thom Tillis
Speaker of the House of Representatives

s/ Pat McCrory
Governor

Approved 4:30 p.m. this 12th day of June, 2013