

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

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SENATE BILL 329

Short Title: New Lapse Statute.

(Public)

Sponsors: Senators Hagan; Ballance, Carter, Garrou, Garwood, Kinnaird, Rand, and Robinson.

Referred to: Judiciary II.

March 11, 1999

A BILL TO BE ENTITLED

AN ACT TO MAKE NORTH CAROLINA'S LAPSE STATUTE LESS RESTRICTIVE.

The General Assembly of North Carolina enacts:

Section 1. G.S. 32-42 is repealed.

Section 2. Chapter 31 of the General Statutes is amended by adding a new section to read:

"§ 31-42.1. Failures of devises and legacies by lapse or otherwise; renunciation.

(a) Unless the will indicates a contrary intent, if a devisee predeceases the testator, whether before or after the execution of the will, and if the devisee is a grandparent of or a descendant of a grandparent of the testator, then the issue of the predeceased devisee shall take in place of the deceased devisee. The devisee's issue shall take the deceased devisee's share in the same manner that the issue would take as heirs of the deceased devisee under the intestacy provisions in effect at the time of the testator's death. The provisions of this section apply whether the devise is a gift to an individual, a gift to a class, or a residuary devise. In the case of the class gift, the issue shall take whatever share the deceased devisee would have taken had the devisee survived the testator.

(b) Unless the will indicates a contrary intent, if the provisions of subsection (a) of this section do not apply to a devise to a devisee who predeceases the testator, or if a devise otherwise fails, the property shall pass to the residuary devisee or devisees in

1 proportion to their share of the residue. If the devise is a residuary devise, the gift shall
2 augment the shares of the other residuary devisees, including the shares of any substitute
3 takers under subsection (a) of this section. If there are no residuary devisees, then the
4 property shall pass by intestacy.

5 (c) Renunciation of a devise is as provided for in Chapter 31B of the General
6 Statutes."

7 Section 3. This act becomes effective January 1, 2000, and applies to estates
8 of decedents dying on or after that date.