

GENERAL ASSEMBLY OF NORTH CAROLINA
1987 SESSION

CHAPTER 844
HOUSE BILL 1106

AN ACT TO PROVIDE THAT A CONSENT JUDGMENT OF EQUITABLE DISTRIBUTION CAN BE ENTERED PRIOR OR SUBSEQUENT TO THE ENTRY OF A JUDGMENT OF ABSOLUTE DIVORCE, AND TO PERMIT AN ACTION FOR EQUITABLE DISTRIBUTION TO BE INSTITUTED, DISCOVERY TO BE OBTAINED, AND TEMPORARY ORDERS RELATING TO EQUITABLE DISTRIBUTION TO BE ENTERED PRIOR TO THE ENTRY OF A JUDGMENT OF ABSOLUTE DIVORCE.

The General Assembly of North Carolina enacts:

Section 1. G.S. 50-21 is rewritten to read:

"§ 50-21. **Procedures in actions for equitable distribution of property.** – (a) At any time after a husband and wife begin to live separate and apart from each other, a claim for equitable distribution may be filed, either as a separate civil action, or together with any other action brought pursuant to Chapter 50 of the General Statutes, or as a motion in the cause as provided by G.S. 50-11(e) or (f). During the pendency of any such action for equitable distribution, discovery may proceed, and the court may enter temporary orders as appropriate and necessary for the purpose of preventing the disappearance, waste, or destruction of marital or separate property or to secure the possession thereof.

A judgment for an equitable distribution shall not be entered prior to entry of a decree of absolute divorce, except for a consent judgment, which may be entered at any time during the pendency of the action.

Real or personal property located outside of North Carolina is subject to equitable distribution in accordance with the provisions of G.S. 50-20, and the court may include in its order appropriate provisions to ensure compliance with the order of equitable distribution.

(b) For purposes of equitable distribution, marital property shall be valued as of the date of the separation of the parties.

(c) Nothing in G.S. 50-20 or this section shall restrict or extend the right to trial by jury as provided by the Constitution of North Carolina."

Sec. 2. G.S. 50-20(k) is rewritten to read:

"(k) The rights of the parties to an equitable distribution of marital property are a species of common ownership, the rights of the respective parties vesting at the time of the parties' separation."

Sec. 3. G.S. 50-11(f) is rewritten to read:

"(f) An absolute divorce by a court that lacked personal jurisdiction over the absent spouse or lacked jurisdiction to dispose of the property shall not destroy the right of a spouse to an equitable distribution of marital property under G.S. 50-20 if an action or motion in the cause is filed within six months after the judgment of divorce is entered. The validity of such divorce may be attacked in the action for equitable distribution."

Sec. 4. This act shall become effective October 1, 1987.

In the General Assembly read three times and ratified this the 14th day of August, 1987.