

GENERAL ASSEMBLY OF NORTH CAROLINA
1987 SESSION

CHAPTER 86
HOUSE BILL 129

AN ACT TO CLARIFY THE PROVISIONS OF G.S. 31-42 RELATING TO THE DEVOLUTION OF A DEVISE OR LEGACY TO INDIVIDUALS OR MEMBERS OF A CLASS PREDECEASING THE TESTATOR AS RECOMMENDED BY THE GENERAL STATUTES COMMISSION.

The General Assembly of North Carolina enacts:

Section 1. G.S. 31-42(a) and (b) are rewritten to read as follows:

"(a) Unless a contrary intent is indicated by the will, where a devise or legacy of any interest in property is given to a person as an individual or as a member of a class and the person dies survived by qualified issue before the testator dies, then the qualified issue of such deceased person that survive the testator shall represent the deceased person, and the entire interest that the deceased person would have taken had he survived the testator shall pass by substitution to his qualified issue. The qualified issue shall take pursuant to the preceding sentence regardless of whether or not the deceased person dies before or after the making of the will.

(b) The term 'qualified issue' as used in subsection (a) means issue of the deceased person who would have been an heir of the testator under the provisions of the Intestate Succession Act had there been no will."

Sec. 2. G.S. 31-42(c) is amended by rewriting the first two lines thereof to read as follows:

"(c) If subsection (a) is not applicable and if a contrary".

Sec. 3. This act is effective October 1, 1987.

In the General Assembly read three times and ratified this the 23rd day of April, 1987.