

§ 35A-1306. Abandoned incompetent spouse.

(a) A guardian of a married person found incompetent who has been abandoned, whether the guardian was appointed before or after the abandonment, may initiate a special proceeding before the clerk having jurisdiction over the ward requesting the issuance of an order authorizing the sale of the ward's separate real property without the joinder of the abandoning spouse.

(b) The ward's spouse shall be served with notice of the special proceeding in accordance with G.S. 1A-1, Rule 4.

(c) If the clerk finds:

- (1) That the spouse of the ward has willfully and without just cause abandoned the ward for a period of more than one year; and
- (2) That the spouse of the ward has knowledge of the guardianship, or that the guardian has made a reasonable attempt to notify the spouse of the guardianship; and
- (3) That an order authorizing the sale of the separate real property of the ward is in the best interest of the ward;

the clerk may issue such an order thereby barring the abandoning spouse from all right, title and interest in any of the ward's separate real property sold pursuant to such an order. (1987, c. 550, s. 1.)