

NORTH CAROLINA GENERAL ASSEMBLY  
1975 SESSION

CHAPTER 552  
SENATE BILL 794

AN ACT TO PROVIDE THE JUDICIAL MACHINERY BY MEANS OF WHICH A TRUST  
CAN BE AMENDED TO PRESERVE THE FEDERAL ESTATE TAX CHARITABLE  
DEDUCTION.

The General Assembly of North Carolina enacts:

**Section 1.** G.S. 36-23.2 is amended by redesignating present subsections (b) and (c) as subsections (c) and (d) respectively, and by inserting after subsection (a) a new subsection (b), to read as follows:

"(b) In the case of a will executed before September 21, 1974, or a trust created before such date, if a federal estate tax deduction is not allowable at the time of a decedent's death because of the failure of an interest in property which passes from the decedent to a person, or for a use, described in Section 2055(a) of the Internal Revenue Code of 1954, to meet the requirements of Subsection 2055(e)(2)(A) of the Internal Revenue Code of 1954, then in order that such deduction shall nevertheless be allowable under Section 2055(e)(3) of the Internal Revenue Code of 1954, any judge of the superior court may, on application of any trustee, executor, administrator or any interested party and either (1) with the written consent of the charitable remaindermen, the beneficiaries of the intervening interest not under any legal disability, and duly appointed guardians or guardians ad litem acting on behalf of any beneficiaries under legal disability, or (2) upon a finding that the interest of such beneficiaries are substantially preserved, order an amendment to the trust so that the remainder interest is in a trust which is a charitable remainder annuity trust, a charitable remainder unitrust (as those terms are described in Section 664 of the Internal Revenue Code of 1954) or a pooled income fund (as that term is described in Section 642(c)(5) of the Internal Revenue Code of 1954). In every such proceeding, the Attorney General, as representative of the public interest, shall be notified and given an opportunity to be heard."

**Sec. 2.** This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 11th day of June, 1975.