

## Chapter 31B.

### Renunciation of Property and Renunciation of Fiduciary Powers Act.

#### § 31B-1. Right to renounce succession.

- (a) A person who succeeds to a property interest as:
- (1) Heir;
  - (2) Next of kin;
  - (3) Devisee;
  - (4) Repealed by Session Laws 2011-284, s. 35, effective June 24, 2011.
  - (4a) Donee;
  - (5) Beneficiary of a life insurance policy who did not possess the incidents of ownership under the policy at the time of death of the insured;
  - (6) Person succeeding to a renounced interest;
  - (7) Beneficiary under a testamentary trust or under an inter vivos trust;
  - (8) Appointee, permissible appointee, or taker in default under a power of appointment exercised by a testamentary instrument or a nontestamentary instrument;
  - (9) Repealed by Session Laws 1989, c. 684, s. 2.
  - (9a) Surviving joint tenant, surviving tenant by the entireties, or surviving tenant of a tenancy with a right of survivorship;
  - (9b) Person entitled to share in a testator's estate under the provisions of G.S. 31-5.5;
  - (9c) Beneficiary under any other testamentary or nontestamentary instrument, including a beneficiary under:
    - a. Any qualified or nonqualified deferred compensation, employee benefit, retirement or death benefit, plan, fund, annuity, contract, policy, program or instrument, either funded or unfunded, which is established or maintained to provide retirement income or death benefits or results in, or is intended to result in, deferral of income;
    - b. An individual retirement account or individual retirement annuity; or
    - c. Any annuity, payable on death account, or other right to death benefits arising under contract;
  - (9d) Duly authorized or appointed guardian of any of the persons listed in subdivisions (1) through (9c) of this subsection, but only with the prior or subsequent approval of the clerk of superior court, or if required, of the resident judge of the superior court, pursuant to a proceeding or action instituted in accordance with and subject to the requirements of G.S. 31B-1.2; or
  - (9e) Subject to G.S. 31B-1.1 and G.S. 31B-1.2, fiduciary, including a trustee of a charitable trust, an attorney-in-fact of any of the persons listed in subdivisions (1) through (9e) of this subsection if expressly authorized by the governing power of attorney, and a personal representative appointed under Chapter 28A of the General Statutes of any of the persons listed in subdivisions (1) through (9c) of this subsection;
  - (10) Repealed by Session Laws 2009-48, s. 1, effective October 1, 2009.

may renounce at anytime, in whole or in part, the right of succession to any property or interest therein, including a future interest, by filing a written instrument under the provisions of this Chapter. A renunciation may be of a fractional share or any limited interest or estate. The renunciation shall be deemed to include the entire interest of the person whose property or interest is being renounced unless otherwise specifically limited. A person may renounce any

interest in or power over property, including a power of appointment, even if its creator imposed a spendthrift provision or similar restriction on transfer or a restriction or limitation on the right to renounce. Notwithstanding the foregoing, there shall be no right of partial renunciation if the instrument creating the interest expressly so provides.

(b) This Chapter shall apply to all renunciations of present and future interests, whether qualified or nonqualified for federal and State inheritance, estate, and gift tax purposes, unless expressly provided otherwise in the instrument creating the interest.

(c) The instrument of renunciation shall (i) identify the transferor of the property or interest in the property or the creator of the power or the holder of the power, (ii) describe the property or interest renounced, (iii) declare the renunciation and extent thereof, and (iv) be signed and acknowledged by the person renouncing.

(d) A parent of a minor for whom no general guardian or guardian of the estate has been appointed may renounce, in whole or in part, an interest in or power over property (including a power of appointment) that would have passed to the minor as the result of that parent's renunciation. The parent may renounce the interest or power even if its creator imposed a spendthrift provision or similar restriction on transfer or a restriction or limitation on the right to renounce. (1975, c. 371, s. 1; 1983, c. 66, s. 1; 1989, c. 684, s. 2; 1998-148, s. 1; 2009-48, s. 1; 2011-284, s. 35; 2017-102, s. 11.)