

GENERAL ASSEMBLY OF NORTH CAROLINA
1991 SESSION

CHAPTER 635
HOUSE BILL 398

AN ACT TO AUTHORIZE JUDGES TO MAKE INTERIM ALLOCATIONS OF ASSETS PENDING A FINAL EQUITABLE DISTRIBUTION JUDGMENT AND TO ESTABLISH A REBUTTABLE PRESUMPTION THAT PROPERTY ACQUIRED DURING MARRIAGE IS MARITAL PROPERTY EXCEPT UNDER CERTAIN CIRCUMSTANCES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 50-20 is amended by adding the following new subsection to read:

"(i1) After an action for equitable distribution has been filed the Court may, for just cause, order the spouse in control of marital assets to transfer the use and possession of some or all of those assets to the other spouse provided that any and all assets so transferred shall be subject to a full accounting when the property is ultimately allocated in an equitable distribution judgment. Any property transfer made pursuant to this subsection shall be made without prejudice to the rights of either spouse to claim a contrary classification, value, or distribution in the final equitable distribution trial."

Sec. 1.1. G.S. 50-20(b)(1) reads as rewritten:

"(1) 'Marital property' means all real and personal property acquired by either spouse or both spouses during the course of the marriage and before the date of the separation of the parties, and presently owned, except property determined to be separate property in accordance with subdivision (2) of this ~~section~~ subsection. Marital property includes all vested pension, retirement, and other deferred compensation rights, including military pensions eligible under the federal Uniformed Services Former Spouses' Protection Act. It is presumed that all property acquired after the date of marriage and before the date of separation is marital property except property which is separate property under subdivision (2) of this subsection. This presumption may be rebutted by the greater weight of the evidence."

Sec. 2. This act becomes effective October 1, 1991, and applies to actions for equitable distribution pending or filed on or after that date.

In the General Assembly read three times and ratified this the 11th day of July, 1991.

James C. Gardner

President of the Senate

Daniel Blue, Jr.
Speaker of the House of Representatives