



CHAPTER 31

ARTICLE 7 - CONSTRUCTION OF WILL

N.C.G.S. § 31-42.

Failure of devises by lapse or otherwise;- renunciation; 120-hour survivorship requirement, revised simultaneous death act, Article 24, Chapter 28A.

SOURCE	LAST AMENDMENT IN THIS TEXT	RETRIEVED	SOURCE FINGERPRINT
General Statutes of North Carolina, as published by the General Assembly	S.L. 2007-132, ss. 3(a), (b) — sixteenth act in the lineage	21 September 2026, 02:53 UTC	addcafd5d6e37ac83f4f968 - b61f4597b7f301b7bb872187 - b2426da706cd84ed

§ 31-42(a)

Unless the will indicates a contrary intent, if a devisee predeceases the testator, whether before or after the execution of the will, and if the devisee is a grandparent of or a descendant of a grandparent of the testator, then the issue of the predeceased devisee shall take in place of the deceased devisee. The devisee's issue shall take the deceased devisee's share in the same manner that the issue would take as heirs of the deceased devisee under the intestacy provisions in effect at the time of the testator's death. The provisions of this section apply whether the devise is to an individual, to a class, or is a residuary devise. In the case of the class devise, the issue shall take whatever share the deceased devisee would have taken had the devisee survived the testator; in the event the deceased class member leaves no issue, the devisee's share shall devolve upon the members of the class who survived the testator and the issue of any deceased members taking by substitution.

§ 31-42(b)

Unless the will indicates a contrary intent, if the provisions of subsection (a) of this section do not apply to a devise to a devisee who predeceases the testator, or if a devise otherwise fails, the property shall pass to the residuary devisee or devisees in proportion to their share of the residue. If the devise is a residuary devise, it shall augment the shares of the other residuary devisees, including the shares of any

substitute takers under subsection (a) of this section. If there are no residuary devisees, then the property shall pass by intestacy.

§ 31-42(c) Renunciation of a devise is as provided for in Chapter 31B of the General Statutes.

§ 31-42(c1) The determination of whether a devisee has predeceased the testator shall be made as provided by Article 24 of Chapter 28A of the General Statutes.

§ 31-42(d) As used in this section, "devisee" means any person entitled to take real or personal property under the provisions of a will.

END OF SECTION TEXT

APPARATUS FOLLOWS — DERIVED, NOT ENACTED

APPARATUS I
16 ACTS

Amendment lineage

The State prints this history as a single parenthetical at the foot of the section. It is reproduced verbatim in the colophon and unpacked below in order of enactment.



Nº	YEAR	ACT	CHARACTER
01	1844	c. 88, s. 4	ENACTED
02	1844	R.C., c. 119, s. 7	AMENDED
03	1844	Code, s. 2142	AMENDED
04	Rev.	s. 3142	RECODIFIED
05	1919	c. 28	AMENDED
06	C.S.	s. 4166	RECODIFIED
07	1951	c. 762, s. 1	AMENDED
08	1953	c. 1084	AMENDED
09	1965	c. 938, s. 1	AMENDED
10	1975	c. 371, s. 3	AMENDED
11	1979	c. 525, s. 5	AMENDED
12	1987	c. 86, ss. 1, 2	AMENDED
13	1989	c. 244	AMENDED

14	1999	S.L. 1999-145, s. 1	AMENDED
15	2001	S.L. 2001-83, s. 1	AMENDED
16	2007	S.L. 2007-132, ss. 3(a), (b)	AMENDED

APPARATUS III

Citation

FULL SECTION

N.C. Gen. Stat. § 31-42 (2007).

PINPOINT

N.C. Gen. Stat. § 31-42(a) (2007).

Pinpoint keys are set in the left margin of the text rather than line numbers: subsection designators are stable across editions and paper sizes, line numbers are not.

COLOPHON

Provenance

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This is not the official text. The official text is published by the General Assembly of North Carolina.

HISTORY PARENTHETICAL, AS PRINTED BY THE STATE

(1844, c. 88, s. 4; R.C., c. 119, s. 7; Code, s. 2142; Rev., s. 3142; 1919, c. 28; C.S., s. 4166; 1951, c. 762, s. 1; 1953, c. 1084; 1965, c. 938, s. 1; 1975, c. 371, s. 3; 1979, c. 525, s. 5; 1987, c. 86, ss. 1, 2; 1989, c. 244; 1999-145, s. 1; 2001-83, s. 1; 2007-132, ss. 3(a), (b).)

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