

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2025

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HOUSE BILL 388
Committee Substitute Favorable 3/25/25
Senate Judiciary Committee Substitute Adopted 6/17/25

Short Title: Amend Business Corporations Act.

(Public)

Sponsors:

Referred to:

March 13, 2025

A BILL TO BE ENTITLED
AN ACT TO AMEND THE NORTH CAROLINA BUSINESS CORPORATIONS ACT, AS
RECOMMENDED BY THE NORTH CAROLINA BAR ASSOCIATION, TO
AUTHORIZE THE PROBATE OF A CERTIFIED COPY OF AN ATTESTED WRITTEN
WILL THAT HAS BEEN STORED BY AN ATTORNEY AS AN ELECTRONIC
RECORD, AND TO MODIFY THE EMERGENCY VIDEO NOTARIZATION SUNSET.
The General Assembly of North Carolina enacts:

PART I. PROVIDE FOR OFFICER EXCULPATION

SECTION 1. G.S. 55-2-02 reads as rewritten:

"§ 55-2-02. Articles of incorporation.

...

(b) The articles of incorporation may set forth any provision that under this Chapter is required or permitted to be set forth in the bylaws, and may also set forth any or all of the following:

- (1) The names and addresses of the individuals who are to serve as the initial directors.
- (2) Provisions not inconsistent with law regarding (i) the purpose or purposes for which the corporation is organized; (ii) managing the business and regulating the affairs of the corporation; (iii) defining, limiting, and regulating the powers of the corporation, its board of directors, and shareholders; (iv) a par value for authorized shares or classes of shares; (v) the imposition of personal liability on shareholders for the debts of the corporation to a specified extent and upon specified conditions; and (vi) any limitation on the duration of the corporation.
- (3) A provision limiting or eliminating the personal liability of any director arising out of an action whether by or in the right of the corporation or otherwise for monetary damages for breach of any duty as a ~~director~~ director or limiting or eliminating the personal liability of any officer arising out of an action for monetary damages for breach of any duty as an officer. No such provision shall be effective with respect to (i) acts or omissions that the director or officer at the time of ~~such the~~ breach knew or believed were clearly in conflict with the best interests of the corporation, (ii) in the case of a director, any liability under G.S. 55-8-33, (iii) any transaction from which the director or officer derived an improper personal benefit, ~~or~~ (iv) acts or omissions occurring prior to the date the ~~provisions~~ provision became



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~~effective.~~ effective, or (v) in the case of an officer, any claim by or in the right of the corporation. As used ~~herein, in this subdivision,~~ the term "improper personal benefit" does not include a director's reasonable compensation or other reasonable incidental benefit for or on account of ~~his~~ the director's service as a director, officer, employee, independent contractor, attorney, or consultant of the corporation. A provision permitted by this Chapter in the articles of incorporation, bylaws, or a contract or resolution indemnifying or agreeing to indemnify a director against personal liability ~~shall be~~ is fully effective whether or not there is a provision in the articles of incorporation limiting or eliminating personal liability.

(4) A provision limiting or eliminating any duty of a director, an officer, or any other person, to offer the corporation the right to have or participate in one or more specific classes or categories of business opportunities, prior to the pursuit or taking of the opportunity by the director, officer, or other person.

(c) The articles of incorporation need not set forth any of the corporate powers enumerated in this Chapter.

(d) Articles of incorporation filed to effect the conversion of another business entity pursuant to Article 11A of this Chapter shall also include the statements required by G.S. 55-11A-03(a).

(e) For purposes of subdivision (b)(3) of this section, unless the articles of incorporation otherwise provide, "officer" means an individual appointed in accordance with G.S. 55-8-40 as (i) president, chief executive officer, chief operating officer, chief financial officer, chief legal officer, secretary, controller, treasurer, or chief accounting officer of the corporation and (ii) any officer of the corporation designated by resolution of the board of directors as an officer for purposes of subdivision (b)(3) of this section. The board of directors may from time to time by resolution determine that one or more of the officers designated by resolution of the board in accordance with this subsection is no longer an officer for purposes of subdivision (b)(3) of this section, but no such resolution is effective as to an officer, or any act or omission of the officer, prior to the adoption of that resolution.

PART II. CLARIFY PROVISIONS FOR EMERGENCY BYLAWS AND EMERGENCY POWERS

SECTION 2.(a) G.S. 55-2-07 reads as rewritten:

"§ 55-2-07. Emergency bylaws.

(a) Unless the articles of incorporation provide otherwise, the ~~board of directors of a corporation may adopt bylaws to be~~ bylaws may contain provisions that become effective only ~~in an emergency defined in subsection (d). during an emergency if the provisions are adopted in advance of an emergency.~~ The emergency bylaws, which are subject to amendment or repeal by the shareholders, may make bylaws may contain all provisions necessary for managing the corporation during the an emergency, ~~including:~~ including all of the following:

(1) Procedures for calling a meeting of the board of ~~directors;~~ directors.

(2) Quorum requirements for the ~~meeting;~~ and meeting.

(3) Designation of additional or substitute directors.

(b) All provisions of the regular bylaws consistent with the emergency bylaws remain effective during the emergency. ~~The emergency bylaws are not effective after the emergency ends.~~

(c) Corporate action taken in good faith in accordance with the emergency bylaws binds the corporation and the fact that the action was taken by special procedures ~~may~~ shall not be used to impose liability on a corporate director, officer, employee, or agent.

(d) An emergency exists for purposes of this section if a quorum of the corporation's directors cannot readily be assembled because of some catastrophic event."

SECTION 2.(b) G.S. 55-3-03 reads as rewritten:

"§ 55-3-03. Emergency powers.

(a) ~~In anticipation of or during an emergency defined in subsection (d), the board of directors of a corporation may:~~

(1) ~~Modify lines of succession to accommodate the incapacity of any director, officer, employee, or agent; and~~

(2) ~~Relocate the principal office, designate alternative principal offices or regional offices, or authorize the officers to do so.~~

(b) ~~During an emergency defined in subsection (d), emergency, unless emergency bylaws provide otherwise; otherwise, both of the following apply:~~

(1) Notice of a meeting of the board of directors need be given only to those directors whom it is practicable to reach and may be given in any practicable manner, including by publication and ~~radio; and radio.~~

(2) One or more officers of the corporation present at a meeting of the board of directors may be deemed to be directors for the meeting, in order of rank and within the same rank in order of seniority, ~~as to the extent necessary to achieve a quorum.~~

(b1) During an emergency, unless emergency bylaws provide otherwise, the board of directors may postpone a meeting of shareholders for which notice has been given or authorize shareholders to participate in a meeting by any means of remote communication that conforms with G.S. 55-7-09(b). The corporation shall give notice to shareholders, by such means and with such shorter advance notice as are reasonable in the circumstances, of any postponement, including any new date, time, or place, and shall describe any means of remote communication to be used.

(c) Corporate action taken in good faith under this section during an emergency ~~under this section~~ to further the ordinary business affairs of the corporation binds the corporation and the fact that ~~said the~~ action is taken by special procedures ~~may shall~~ not be used to impose liability on a corporate director, officer, employee, or ~~agent-agent~~ of the corporation.

(d) An emergency exists for purposes of subsection (b) of this section if a quorum of the corporation's directors cannot readily be assembled because of some catastrophic event. An emergency exists for purposes of subsection (b1) of this section if, because of some catastrophic event, it is impracticable to convene a meeting of shareholders in accordance with this Chapter or the bylaws or as specified in a notice previously given for the meeting."

PART III. CLARIFY PROVISIONS FOR SELECTION OF EXCLUSIVE FORUM

SECTION 3.(a) Article 2 of Chapter 55 of the General Statutes is amended by adding a new section to read:

"§ 55-2-08. Forum selection provisions.

(a) The articles of incorporation or the bylaws may require that any or all internal corporate claims shall be brought exclusively in any specified court or courts of this State and, if so specified, in any additional courts in this State or in any other jurisdictions with which the corporation has a reasonable relationship.

(b) A provision of the articles of incorporation or bylaws adopted under subsection (a) of this section does not have the effect of conferring jurisdiction on any court or over any person or claim and does not apply if none of the courts specified by the provision has the requisite personal and subject matter jurisdiction. If the court or courts of this State specified in a provision adopted under subsection (a) of this section do not have the requisite personal and subject matter jurisdiction and another court of this State does have the requisite jurisdiction, then the internal corporate claim may be brought in the other court of this State, notwithstanding that the other court of this State is not specified in the provision. Additionally, the internal corporate claim may be brought in any other court specified in the provision that has the requisite jurisdiction.

(c) No provision of the articles of incorporation or the bylaws may prohibit bringing an internal corporate claim in the courts of this State or require the claims to be determined by arbitration.

(d) For the purposes of this section, "internal corporate claim" means any of the following:

- (1) A claim that is based on a violation of a duty under the laws of this State by a current or former director, officer, or shareholder in such capacity.
- (2) A derivative proceeding brought on behalf of the corporation.
- (3) An action asserting a claim arising pursuant to any provision of this Chapter or the articles of incorporation or bylaws.
- (4) An action asserting a claim governed by the internal affairs doctrine that is not otherwise included in subdivisions (1) through (3) of this subsection."

SECTION 3.(b) G.S. 55-7-50 is repealed.

PART IV. PROHIBITION AGAINST THE ISSUANCE OF SCRIP IN BEARER FORM

SECTION 4.(a) G.S. 55-6-04 reads as rewritten:

"§ 55-6-04. Fractional shares.

(a) A corporation ~~may~~ may issue fractions of a share or, in lieu of doing so, may do any of the following:

- (1) ~~Issue fractions of a share or pay in money~~ Pay in cash the value of fractions of a share; share.
- (2) ~~Arrange for disposition of fractional shares by the shareholders;~~ Dispose of the fractional shares and pay the proceeds to the holders of those shares.
- (3) Issue scrip in ~~registered or bearer~~ certificated or uncertificated form entitling the holder to receive a full share upon surrendering enough scrip to equal a full share.

(b) Each certificate representing scrip ~~must~~ shall be conspicuously labeled "scrip" and ~~must~~ shall contain the information required by G.S. 55-6-25(b). A corporation shall not issue scrip certificates in bearer form. Within a reasonable time after the issuance or transfer of scrip without certificates, the corporation shall deliver to the scripholder a written statement of the information required on certificates by G.S. 55-6-25(b) and the terms of the scrip.

(c) The holder of a fractional share is entitled to exercise the rights of a shareholder, including the ~~right~~ rights to vote, to receive dividends, and to ~~participate in the assets of the corporation~~ receive distributions upon liquidation. The holder of scrip is not entitled to any of these rights unless the scrip provides for them.

(d) The board of directors may authorize the issuance of scrip subject to any condition considered desirable, ~~including~~ including the following:

- (1) ~~That the~~ The scrip will become void if not exchanged for full shares before a specified date; and date.
- (2) ~~That the~~ The shares for which the scrip is exchangeable may be sold and the proceeds paid to the scripholders."

SECTION 4.(b) G.S. 55-6-25 reads as rewritten:

"§ 55-6-25. Form and content of certificates.

(a) Shares ~~may~~ may, but need ~~not~~ not, be represented by certificates. Share certificates shall not be issued in bearer form. Unless this ~~act~~ Chapter or another statute expressly provides otherwise, the rights and obligations of shareholders are identical regardless of whether or not their shares are represented by certificates.

(b) At a minimum each share certificate ~~must~~ shall state all of the following on its face:

- (1) The name of the issuing corporation and that it is organized under the law of North ~~Carolina~~ Carolina.
- (2) The name of the person to whom ~~issued~~ and issued.

(3) The number and class of shares and the designation of the series, if any, the certificate represents.

(c) If the issuing corporation is authorized to issue different classes of shares or different series within a class, the designations, relative rights, preferences, and limitations applicable to each class and the variations in rights, preferences, and limitations determined for each series (and the authority of the board of directors to determine variations for future series) ~~must~~ shall be summarized on the front or back of each certificate. Alternatively, each certificate may state conspicuously on its front or back that the corporation will furnish the shareholder this information on request in writing and without charge.

(d) Each share certificate ~~(1) must~~ (i) shall be signed (either manually or in facsimile) by two officers designated in the bylaws or by the board of directors and ~~(2) (ii)~~ may bear the corporate seal or its facsimile.

(e) If the person who signed ~~in any capacity~~ (either manually or in facsimile) a share certificate no longer holds office when the certificate is issued, the certificate is nevertheless valid."

PART V. CLARIFY AND REVISE DERIVATIVE PROCEEDING PROCEDURES

SECTION 5.(a) G.S. 55-7-40.1 reads as rewritten:

"§ 55-7-40.1. Definitions.

In this Part:

(1) "Derivative proceeding" means a civil suit in the right of a domestic corporation or, to the extent provided in G.S. 55-7-47, in the right of a foreign ~~corporation~~ corporation, to recover for an injury to the corporation.

(2) "Shareholder" has the same meaning as in G.S. 55-1-40 and includes a beneficial owner whose shares are held in a voting trust or held by a nominee on the beneficial owner's behalf."

SECTION 5.(b) G.S. 55-7-42 reads as rewritten:

"§ 55-7-42. Demand.

No shareholder may commence a derivative proceeding ~~until~~ until both of the following have occurred:

(1) A written demand has been ~~made upon~~ delivered to the corporation to take suitable ~~action; and~~ action. The written demand shall describe in reasonable detail the reasons for the demand and the action being requested and state that the shareholder may commence a derivative proceeding if the action is not taken. If the shareholder is a beneficial shareholder or an unrestricted voting trust beneficial owner, the written demand shall be accompanied by evidence of the beneficial ownership.

(2) 90 days have expired from the date the demand was made unless, prior to the expiration of the 90 days, the shareholder was notified that the corporation rejected the demand, or unless irreparable injury to the corporation would result by waiting for the expiration of the 90-day period."

SECTION 5.(c) G.S. 55-7-44 reads as rewritten:

"§ 55-7-44. Dismissal.

(a) The court shall dismiss a derivative proceeding on motion of the corporation if a determination is made, whether before or after the commencement of the derivative proceeding, by one of the groups specified in subsection (b) or (f) of this section determines of this section in good faith—faith, after conducting a reasonable inquiry upon which its conclusions are ~~based~~ based, that the maintenance of the derivative proceeding is not in the best interest of the corporation.

(b) ~~Unless a panel is appointed pursuant to subsection (f) of this section, the~~ The inquiry and determination in subsection (a) of this section shall be made by any of the following:

- 1 (1) A majority vote of independent directors present at a meeting of the board of
2 directors if the independent directors constitute a ~~quorum~~; or quorum.
- 3 (2) A majority vote of a committee consisting of two or more independent
4 directors appointed by majority vote of independent directors present at a
5 meeting of the board of directors, whether or not the independent directors
6 constituted a quorum.
- 7 (3) Upon motion by the corporation, by a panel of one or more individuals
8 appointed by the court.
- 9 (c) For purposes of this section, none of the following factors by itself shall cause a
10 director to be considered not independent:
- 11 (1) The nomination or election of the director by ~~persons who are defendants~~ any
12 person who is a defendant in the derivative proceeding or against whom action
13 is ~~demanded~~; demanded.
- 14 (2) The naming of the director as a defendant in the derivative proceeding or as a
15 person against whom action is ~~demanded~~; or demanded.
- 16 (3) The approval by the director of the act being challenged in the derivative
17 proceeding or demand if the act resulted in no personal benefit to the director.
- 18 (d) ~~If a derivative proceeding is commenced after a determination has been made~~
19 ~~rejecting a demand by a shareholder, the complaint made by one of the groups specified in~~
20 ~~subsection (b) of this section that maintaining the derivative proceeding is not in the best interest~~
21 ~~of the corporation, in order to contest the determination, the plaintiff shall allege with~~
22 ~~particularity facts establishing that the requirements of subsection (a) of this section have not~~
23 ~~been met. Defendants may make a motion to dismiss a complaint under subsection (a) of this~~
24 ~~section for failure to comply with this subsection. Prior to the court's ruling on such a the motion~~
25 ~~to dismiss, the plaintiff shall be is entitled to discovery only with respect to the issues presented~~
26 ~~by the motion and only if and to the extent that the plaintiff has alleged such the facts with~~
27 ~~particularity. The preliminary discovery shall be limited solely to matters germane and necessary~~
28 ~~to support the facts alleged with particularity relating solely to the requirements of subsection (a)~~
29 ~~of this section.~~
- 30 (e) ~~If a majority of the board of directors does not consist of independent directors at the~~
31 ~~time the determination is made, The burden of proving whether the requirements of subsection~~
32 ~~(a) of this section have been met is determined as follows:~~
- 33 (1) If the determination was made by one of the groups specified in subdivision
34 (b)(1) or (b)(2) of this section, then the plaintiff has the burden of proving that
35 the requirements of subsection (a) of this section have not been met unless the
36 plaintiff has alleged with particularity facts establishing that a majority of the
37 board of directors at the time the determination was made did not consist of
38 independent directors, in which case the corporation shall have has the burden
39 of proving that the requirements of subsection (a) of this section have been
40 met.
- 41 (2) ~~If a majority of the board of directors consists of independent directors at the~~
42 ~~time the determination is made, If the determination was made by a panel~~
43 ~~appointed pursuant to subdivision (b)(3) of this section, then the plaintiff shall~~
44 ~~have has the burden of proving that the requirements of subsection (a) of this~~
45 ~~section have not been met.~~
- 46 (f) ~~The court may appoint a panel of one or more independent persons upon motion of~~
47 ~~the corporation to make a determination whether the maintenance of the derivative proceeding is~~
48 ~~in the best interest of the corporation. The plaintiff shall have the burden of proving that the~~
49 ~~requirements of subsection (a) of this section have not been met. The court on its own motion or~~
50 ~~on the motion of any party may order that any motion to dismiss under subsection (a) of this~~
51 ~~section be made within a specified reasonable time."~~

1 **SECTION 5.(d)** G.S. 55-7-46 reads as rewritten:

2 "**§ 55-7-46. Payment of expenses.**

3 On termination of the derivative proceeding, the court ~~may~~may do any of the following:

- 4 (1) Order the corporation to pay the plaintiff's reasonable expenses, including
5 attorneys' fees, incurred in the derivative proceeding if it finds that the
6 derivative proceeding has resulted in a substantial benefit to the
7 ~~corporation~~corporation.
8 (2) Order the plaintiff to pay the corporation's or any defendant's reasonable
9 expenses, including attorneys' fees, incurred in responding to the demand or
10 defending the derivative proceeding if it finds that the demand was made or
11 the derivative proceeding was commenced or maintained without reasonable
12 cause or for an improper ~~purpose~~purpose.

13 "

14
15 **PART VI. MAKE CLARIFYING AND TECHNICAL CHANGES REGARDING THE**
16 **AUTHORITY OF BOARD COMMITTEES**

17 **SECTION 6.** G.S. 55-8-25 reads as rewritten:

18 "**§ 55-8-25. Committees.**

19 ...

20 (e) A committee shall not, however, do any of the following:

- 21 (1) Authorize or approve distributions, except according to a formula or method,
22 or within limits, prescribed by the board of directors.
23 (2) Approve or propose to shareholders action that this ~~act~~Chapter requires be
24 approved by shareholders.
25 (3) Fill vacancies on the board of directors or on any of its committees.
26 (4) ~~Amend articles of incorporation pursuant to G.S. 55-10-02.~~
27 (5) Adopt, amend, or repeal bylaws.
28 (6) Approve a plan of merger not requiring shareholder approval.

29 "

30
31 **PART VII. CLARIFY PROVISIONS FOR MERGERS BETWEEN PARENT ENTITIES**
32 **AND SUBSIDIARY CORPORATIONS**

33 **SECTION 7.(a)** G.S. 55-11-04(f) is repealed.

34 **SECTION 7.(b)** G.S. 55-11-12 reads as rewritten:

35 "**§ 55-11-12. Merger between parent unincorporated entity and subsidiary corporation or**
36 **corporations.**

37 (a) Subject to the other provisions of this section and Article 9 of this Chapter, a parent
38 unincorporated entity owning shares of a domestic subsidiary corporation that carry at least
39 ninety percent (90%) of the voting power of each class and series of the outstanding shares of the
40 subsidiary corporation and that have the power to vote in the election of directors at the time of
41 a merger under this section may merge the subsidiary corporation or corporations into itself, or
42 merge itself and one or more subsidiary corporations into another subsidiary corporation, without
43 approval of the board of directors or shareholders of the subsidiary corporation or corporations,
44 unless the articles of incorporation ~~for~~of the subsidiary corporation or corporations require
45 approval of the shareholders of the subsidiary corporation or corporations, if ~~both~~all of the
46 following requirements are met:

- 47 (1) The merger is permitted by the laws of the state or country governing the
48 organization and internal affairs of each merging business entity.
49 (2) Each merging business entity complies with the requirements of this section
50 and, to the extent applicable, the laws referred to in subdivision (1) of this
51 subsection.

- 1 (3) The parent unincorporated entity approves, in the manner required by laws of
2 the state or country governing the organization and internal affairs of the
3 parent unincorporated entity, a written plan of merger containing all of the
4 provisions required by G.S. 55-11-10(c).
- 5 ...
- 6 (d) The surviving business entity shall deliver articles of merger to the Secretary of State
7 for filing. The articles of merger shall set forth all of the following:
- 8 (1) For each merging business entity, its name, type of business entity, and the
9 state or country whose laws govern its organization and internal affairs.
- 10 ~~(2) The terms and conditions of the merger.~~
- 11 ~~(3) The manner and basis of converting the interests in each merging business~~
12 ~~entity into interests, obligations, or securities of the surviving business entity,~~
13 ~~or into cash or other property in whole or in part, or of cancelling the interests.~~
- 14 (4) The name of the merging business entity that shall survive the merger and, if
15 the surviving business entity is not authorized to transact business or conduct
16 affairs in this State, a designation of its mailing address and a commitment to
17 file with the Secretary of State a statement of any subsequent change in its
18 mailing address.
- 19 (5) If the surviving business entity is a domestic corporation, any amendment to
20 its articles of incorporation as provided in a plan of ~~merger or board~~
21 ~~resolution merger.~~
- 22 (6) A statement that the plan of merger has been approved by each merging
23 business entity in the manner required by law.
- 24 ~~(e) The provisions of the articles of merger may be made dependent on facts objectively~~
25 ~~ascertainable outside the articles of merger if the articles of merger set forth the manner in which~~
26 ~~the facts will operate upon the affected provisions. The facts may include any of the following:~~
- 27 ~~(1) Statistical or market indices, market prices of any security or group of~~
28 ~~securities, interest rates, currency exchange rates, or similar economic or~~
29 ~~financial data.~~
- 30 ~~(2) A determination or action by the corporation or by any other person, group,~~
31 ~~or body.~~
- 32 ~~(3) The terms of, or actions taken under, an agreement to which the corporation~~
33 ~~is a party, or any other agreement or document.~~ G.S. 55-11-10(c1) and (c2)
34 apply to any merger described in this section.
- 35 (f) A merger takes effect when the articles of merger become effective."

37 **PART VIII. ELECTRONIC STORAGE OF ATTESTED WRITTEN WILLS BY AN** 38 **ATTORNEY**

39 **SECTION 8.1.** Chapter 31 of the General Statutes is amended by adding a new
40 Article to read:

41 "Article 11.

42 "Electronic Storage of Attested Written Wills by an Attorney.

43 **"§ 31-71. Storage of attested written will by a licensed attorney as an electronic record.**

44 (a) At any time during the life of the testator, an attorney licensed to practice law in North
45 Carolina may, at the testator's direction, store the testator's attested written will as an electronic
46 record. The electronic record shall include a certification, signed by that attorney, in the form of
47 an affidavit sworn to or affirmed before an officer authorized to administer oaths, that the
48 electronic record of the attested written will is a complete, true, and accurate copy of the attested
49 written will and that the testator expressly authorized that attorney to store the attested written
50 will as an electronic record.

(b) If the attested written will is lost or destroyed after being stored as an electronic record pursuant to this section, the loss or destruction shall not be deemed a revocation of the attested written will, nor shall it be deemed a presumption of revocation of the attested written will.

"§ 31-72. Certification of paper copy of attested written will stored as an electronic record.

(a) An attorney licensed in this State may create a certified paper copy of an attested written will that has been stored as an electronic record in accordance with the requirements of G.S. 31-71 by certifying that the paper copy is a complete, true, and accurate copy of that electronic record. The certification shall be in the form of an affidavit sworn to or affirmed before an officer authorized to administer oaths. The certified paper copy may be created at any time after the attested written will has been stored as an electronic record in accordance with the requirements of G.S. 31-71.

(b) A certified paper copy of an attested written will stored as an electronic record in accordance with the requirements of this section may be probated under G.S. 28A-2A-8(a1)."

SECTION 8.2. G.S. 28A-2A-8 reads as rewritten:

"§ 28A-2A-8. Manner of probate of attested written will, will or certified paper copy of attested written will stored as an electronic record.

(a) An attested written will, executed as provided by G.S. 31-3.3, may be probated in the following manner: any of the following ways:

- (1) Upon the testimony of at least two of the attesting witnesses; or witnesses.
- (2) If the testimony of only one attesting witness is available, then with all of the following:
 - a. Upon the The testimony of such witness, and the witness.
 - b. Upon proof Proof of the handwriting of at least one of the attesting witnesses who is dead or whose testimony is otherwise unavailable, and unavailable.
 - c. Upon proof Proof of the handwriting of the testator, unless he the testator signed by his mark, and the testator's mark.
 - d. Upon proof Proof of such other circumstances as will that satisfy the clerk of the superior court as to the genuineness and due execution of the will; or will.
- (3) If the testimony of none of the attesting witnesses is available, then with both of the following:
 - a. Upon proof Proof of the handwriting of at least two of the attesting witnesses whose testimony is unavailable, and unavailable.
 - b. Upon compliance Compliance with paragraphs sub-subdivisions c. and d. of subsection (a)(2) of this section; or subdivision (a)(2) of this section.
- (4) Upon a showing that the will has been made self-proved in accordance with the provisions of G.S. 31-11.6.

(a1) A certified paper copy, created in accordance with the requirements of G.S. 31-72, of an attested written will executed as provided by G.S. 31-3.3 may be probated in any of the following ways:

- (1) Upon the testimony of at least two of the attesting witnesses.
- (2) If the testimony of only one attesting witness is available, then with both of the following:
 - a. The testimony of the witness.
 - b. Proof of other circumstances that satisfy the clerk of the superior court as to the genuineness and due execution of the will.
- (3) If the testimony of none of the attesting witnesses is available, then upon compliance with sub-subdivision b. of subdivision (2) of this subsection.

(4) Upon a showing that the attested will has been made self-proved in accordance with G.S. 31-11.6.

(b) Due execution of a will may be established, ~~where-if~~ the evidence required by ~~subsection (a)-subsections (a) and (a1)~~ of this section is unavoidably lacking or inadequate, by testimony of other competent witnesses as to the requisite facts.

(c) The testimony of a witness is unavailable within the meaning of this section when the witness is dead, out of the State, not to be found within the State, incompetent, physically unable to ~~testify-testify~~, or refuses to testify."

SECTION 8.3. G.S. 28A-2B-1 reads as rewritten:

"§ 28A-2B-1. Establishment before death that a will or codicil is valid.

(a) Any petitioner who is a resident of North Carolina and who has executed a will or codicil may file a petition seeking a judicial declaration that the will or codicil is valid.

(b) The petition shall be filed with the clerk of superior court and the matter shall proceed as a contested estate proceeding governed by Article 2 of Chapter 28A of the General Statutes. At the hearing before the clerk of superior court, the petitioner shall produce the original will or codicil or a certified paper copy of an attested written will created in accordance with the requirements of G.S. 31-72 and any other evidence necessary to establish that the will or codicil would be admitted to probate if the petitioner were deceased.

If an interested party contests the validity of the will or codicil, that person shall file a written challenge to the will or codicil before the hearing or make an objection to the validity of the will or codicil at the hearing. Upon the filing of a challenge or the raising of an issue contesting the validity of the will or codicil, the clerk shall transfer the cause to the superior court. The matter shall be heard as if it were a caveat proceeding, and the court shall make a determination as to the validity of the will or codicil and enter judgment accordingly.

If no interested party contests the validity of the will or codicil and if the clerk of superior court determines that the will or codicil would be admitted to probate if the petitioner were deceased, the clerk of superior court shall enter an order adjudging the will or codicil to be valid.

(c) Failure to use the procedure authorized by this Article ~~shall~~does not have any evidentiary or procedural effect on any future probate proceedings.

(d) For purposes of this Article only, a "petitioner" is a person who requests a judicial declaration that confirms the validity of that person's will or codicil."

SECTION 8.4. G.S. 28A-2B-3 reads as rewritten:

"§ 28A-2B-3. Contents of petition for will validity.

(a) **Petition.** – A petition requesting an order declaring that a petitioner's will or codicil is valid shall be verified and shall contain the following information:

...

(5) A statement identifying the ~~petitioner~~petitioner and all persons believed by the petitioner to have an interest in the proceeding, including, for any interested parties who are minors, information regarding the minor's appropriate representative.

(b) The petitioner shall file a copy of the will or codicil with the ~~petition and petition~~. At the hearing provided in G.S. 28A-2B-1(b), the petitioner shall tender the original will or codicil at the hearing as provided in G.S. 28A-2B-1(b)-or a certified paper copy of an attested written will created in accordance with the requirements of G.S. 31-72. If an order is entered declaring the will or codicil to be valid, the court shall affix a certificate of validity to the will or codicil."

SECTION 8.5. G.S. 31-3.1 reads as rewritten:

"§ 31-3.1. Will invalid unless statutory requirements complied with.

No will is valid unless it complies with the requirements ~~prescribed therefor by this Article of this Chapter.~~

SECTION 8.6. G.S. 31-3.2 reads as rewritten:

"§ 31-3.2. Kinds of wills.

- 1 (a) Personal property and real property may be devised by any of the following:
2 (1) An attested written will ~~which~~ that complies with the requirements of G.S.
3 ~~31-3.3, or G.S. 31-3.3.~~
4 (2) A holographic will ~~which~~ that complies with the requirements of G.S. 31-3.4.
5 (3) A certified paper copy of an attested written will created in accordance with
6 the requirements of G.S. 31-72.
7 (b) Personal property may also be devised by a nuncupative will ~~which~~ that complies
8 with the requirements of G.S. 31-3.5."
9

10 **PART IX. MODIFICATION OF EMERGENCY VIDEO NOTARIZATION SUNSET**

11 **SECTION 9.** G.S. 10B-25(n) reads as rewritten:

12 "(n) This section shall expire ~~at 12:01 A.M. on July 1, 2025; provided, upon the earlier of~~
13 (i) 12:01 A.M. July 1, 2026, or (ii) the date the Secretary issues the first license in accordance
14 with G.S. 10B-134.19. If the Secretary issues the first license in accordance with
15 G.S. 10B-134.19 prior to 12:01 A.M. July 1, 2026, the Secretary shall file that date with the
16 Codifier of Rules to be published in the North Carolina Register as the expiration date of this
17 section. Provided, however, all notarial acts made in accordance with this section and while this
18 section is in effect shall remain effective and shall not need to be reaffirmed."
19

20 **PART X. EFFECTIVE DATE AND AUTHORIZATION TO PRINT COMMENTS**

21 **SECTION 10.(a)** The Revisor of Statutes shall cause to be printed, as annotations to
22 Chapter 55 of the published General Statutes, all relevant portions of the Official Comments to
23 the Model Business Corporation Act and all explanatory comments of the drafters of this act as
24 the Revisor may deem appropriate.

25 **SECTION 10.(b)** Parts I, II, III, IV, V, and VII of this act become effective October
26 1, 2025. Part VIII of this act becomes effective January 1, 2026, and applies to attested written
27 wills stored as electronic records on or after that date, regardless of the date of execution of the
28 attested written will. The remainder of this act is effective when it becomes law.