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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, TO MODIFY THE EMERGENCY VIDEO SUNSETS, TO MAKE UPDATES
TO THE ELECTIVE SHARE STATUTES, TO UPDATE STATUTES RELATING TO
TRUST ADMINISTRATION, AND TO MAKE REVISIONS TO THE YEAR'S
ALLOWANCE STATUTES.

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



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1 in conflict with the best interests of the corporation, (ii) in the case of a
2 director, any liability under G.S. 55-8-33, (iii) any transaction from which the
3 director or officer derived an improper personal benefit, or ~~or~~ (iv) acts or
4 omissions occurring prior to the date the provisions—provision became
5 effective. effective, or (v) in the case of an officer, any claim by or in the right
6 of the corporation. As used herein, in this subdivision, the term "improper
7 personal benefit" does not include a director's reasonable compensation or
8 other reasonable incidental benefit for or on account of his—the director's
9 service as a director, officer, employee, independent contractor, attorney, or
10 consultant of the corporation. A provision permitted by this Chapter in the
11 articles of incorporation, bylaws, or a contract or resolution indemnifying or
12 agreeing to indemnify a director against personal liability shall be is fully
13 effective whether or not there is a provision in the articles of incorporation
14 limiting or eliminating personal liability.

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

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

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

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

35 PART II. CLARIFY PROVISIONS FOR EMERGENCY BYLAWS AND EMERGENCY 36 POWERS

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

38 "§ 55-2-07. Emergency bylaws.

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

- 45 (1) Procedures for calling a meeting of the board of ~~directors;~~ directors.
- 46 (2) Quorum requirements for the ~~meeting; and~~ meeting.
- 47 (3) Designation of additional or substitute directors.

48 (b) All provisions of the regular bylaws consistent with the emergency bylaws remain
49 effective during the emergency. ~~The emergency bylaws are not effective after the emergency~~
50 ~~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~~ by any of the following:

(1) A majority vote of independent directors present at a meeting of the board of directors if the independent directors constitute a ~~quorum; or~~ quorum.

(2) A majority vote of a committee consisting of two or more independent directors appointed by majority vote of independent directors present at a meeting of the board of directors, whether or not the independent directors constituted a quorum.

(3) Upon motion by the corporation, by a panel of one or more individuals appointed by the court.

(c) For purposes of this section, none of the following factors by itself shall cause a director to be considered not independent:

(1) The nomination or election of the director by ~~persons who are defendants any person who is a defendant~~ in the derivative proceeding or against whom action is ~~demanded; demanded.~~

(2) The naming of the director as a defendant in the derivative proceeding or as a person against whom action is ~~demanded; or~~ demanded.

(3) The approval by the director of the act being challenged in the derivative proceeding or demand if the act resulted in no personal benefit to the director.

(d) ~~If a derivative proceeding is commenced after a determination has been made rejecting a demand by a shareholder, the complaint made by one of the groups specified in subsection (b) of this section that maintaining the derivative proceeding is not in the best interest of the corporation, in order to contest the determination, the plaintiff shall allege with particularity facts establishing that the requirements of subsection (a) of this section have not been met. Defendants may make a motion to dismiss a complaint under subsection (a) of this section for failure to comply with this subsection. Prior to the court's ruling on such a the motion to dismiss, the plaintiff shall be is entitled to discovery only with respect to the issues presented by the motion and only if and to the extent that the plaintiff has alleged such the facts with particularity. The preliminary discovery shall be limited solely to matters germane and necessary to support the facts alleged with particularity relating solely to the requirements of subsection (a) of this section.~~

(e) ~~If a majority of the board of directors does not consist of independent directors at the time the determination is made, The burden of proving whether the requirements of subsection (a) of this section have been met is determined as follows:~~

(1) If the determination was made by one of the groups specified in subdivision (b)(1) or (b)(2) of this section, then the plaintiff has the burden of proving that the requirements of subsection (a) of this section have not been met unless the plaintiff has alleged with particularity facts establishing that a majority of the board of directors at the time the determination was made did not consist of independent directors, in which case the corporation shall have has the burden of proving that the requirements of subsection (a) of this section have been met.

(2) ~~If a majority of the board of directors consists of independent directors at the time the determination is made, If the determination was made by a panel appointed pursuant to subdivision (b)(3) of this section, then the plaintiff shall have has the burden of proving that the requirements of subsection (a) of this section have not been met.~~

(f) ~~The court may appoint a panel of one or more independent persons upon motion of the corporation to make a determination whether the maintenance of the derivative proceeding is in the best interest of the corporation. The plaintiff shall have the burden of proving that the requirements of subsection (a) of this section have not been met.~~ The court on its own motion or on the motion of any party may order that any motion to dismiss under subsection (a) of this section be made within a specified reasonable time."

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

"§ 55-7-46. Payment of expenses.

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

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

...."

PART VI. MAKE CLARIFYING AND TECHNICAL CHANGES REGARDING THE AUTHORITY OF BOARD COMMITTEES

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

"§ 55-8-25. Committees.

...

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

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

...."

PART VII. CLARIFY PROVISIONS FOR MERGERS BETWEEN PARENT ENTITIES AND SUBSIDIARY CORPORATIONS

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

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

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

(a) Subject to the other provisions of this section and Article 9 of this Chapter, a parent unincorporated entity owning shares of a domestic subsidiary corporation that carry at least ninety percent (90%) of the voting power of each class and series of the outstanding shares of the subsidiary corporation and that have the power to vote in the election of directors at the time of a merger under this section may merge the subsidiary corporation or corporations into itself, or merge itself and one or more subsidiary corporations into another subsidiary corporation, without approval of the board of directors or shareholders of the subsidiary corporation or corporations, unless the articles of incorporation ~~for~~of the subsidiary corporation or corporations require

approval of the shareholders of the subsidiary corporation or corporations, if ~~both~~ all of the following requirements are met:

- (1) The merger is permitted by the laws of the state or country governing the organization and internal affairs of each merging business entity.
- (2) Each merging business entity complies with the requirements of this section and, to the extent applicable, the laws referred to in subdivision (1) of this subsection.
- (3) The parent unincorporated entity approves, in the manner required by laws of the state or country governing the organization and internal affairs of the parent unincorporated entity, a written plan of merger containing all of the provisions required by G.S. 55-11-10(c).

...

(d) The surviving business entity shall deliver articles of merger to the Secretary of State for filing. The articles of merger shall set forth all of the following:

- (1) For each merging business entity, its name, type of business entity, and the state or country whose laws govern its organization and internal affairs.
- ~~(2) The terms and conditions of the merger.~~
- ~~(3) The manner and basis of converting the interests in each merging business entity into interests, obligations, or securities of the surviving business entity, or into cash or other property in whole or in part, or of cancelling the interests.~~
- (4) The name of the merging business entity that shall survive the merger and, if the surviving business entity is not authorized to transact business or conduct affairs in this State, a designation of its mailing address and a commitment to file with the Secretary of State a statement of any subsequent change in its mailing address.
- (5) If the surviving business entity is a domestic corporation, any amendment to its articles of incorporation as provided in a plan of ~~merger or board resolution.~~ merger.
- (6) A statement that the plan of merger has been approved by each merging business entity in the manner required by law.

(e) ~~The provisions of the articles of merger may be made dependent on facts objectively ascertainable outside the articles of merger if the articles of merger set forth the manner in which the facts will operate upon the affected provisions. The facts may include any of the following:~~

- ~~(1) Statistical or market indices, market prices of any security or group of securities, interest rates, currency exchange rates, or similar economic or financial data.~~
- ~~(2) A determination or action by the corporation or by any other person, group, or body.~~
- ~~(3) The terms of, or actions taken under, an agreement to which the corporation is a party, or any other agreement or document.~~ G.S. 55-11-10(c1) and (c2) apply to any merger described in this section.

(f) A merger takes effect when the articles of merger become effective."

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

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

"Article 11.

"Electronic Storage of Attested Written Wills by an Attorney.

"§ 31-71. Definitions.

In this Article, the following definitions apply:

- (1) Electronic. – Relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities.
- (2) Record. – Information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

"§ 31-72. Storage of attested written will by a licensed attorney as an electronic record.

(a) At any time during the life of the testator, an attorney licensed to practice law in North Carolina may, at the testator's direction, create an electronic record of the testator's attested written will. The electronic record shall include a certification, signed by that attorney, in the form of an affidavit sworn to or affirmed before an officer authorized to administer oaths, that the electronic record of the attested written will is a complete, true, and accurate copy of the attested written will, that the testator expressly authorized the attorney to create an electronic record of the attested written will, and that the testator has been advised that the creation of an electronic record of the testator's attested written will eliminates the ability of the testator to revoke the attested written will by physical act.

(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.

"§ 31-73. 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. 31-72 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. 31-72.

(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.

- 1 (4) Upon a showing that the will has been made self-proved in accordance with
2 ~~the provisions of G.S. 31-11.6.~~
- 3 (a1) A certified paper copy, created in accordance with the requirements of G.S. 31-73, of
4 an attested written will executed as provided by G.S. 31-3.3 may be probated in any of the
5 following ways:
- 6 (1) Upon the testimony of at least two of the attesting witnesses.
7 (2) If the testimony of only one attesting witness is available, then with both of
8 the following:
9 a. The testimony of the witness.
10 b. Proof of other circumstances that satisfy the clerk of the superior court
11 as to the genuineness and due execution of the will.
12 (3) If the testimony of none of the attesting witnesses is available, then upon
13 compliance with sub-subdivision b. of subdivision (2) of this subsection.
14 (4) Upon a showing that the attested will has been made self-proved in accordance
15 with G.S. 31-11.6.
- 16 (b) Due execution of a will may be established, ~~where if~~ the evidence required by
17 ~~subsection (a)~~-subsections (a) and (a1) of this section is unavoidably lacking or inadequate, by
18 testimony of other competent witnesses as to the requisite facts.
- 19 (c) The testimony of a witness is unavailable within the meaning of this section when the
20 witness is dead, out of the State, not to be found within the State, incompetent, physically unable
21 to ~~testify~~ testify, or refuses to testify."
- 22 **SECTION 8.3.** G.S. 28A-2B-1 reads as rewritten:
23 **"§ 28A-2B-1. Establishment before death that a will or codicil is valid.**
24 (a) Any petitioner who is a resident of North Carolina and who has executed a will or
25 codicil may file a petition seeking a judicial declaration that the will or codicil is valid.
26 (b) The petition shall be filed with the clerk of superior court and the matter shall proceed
27 as a contested estate proceeding governed by Article 2 of Chapter 28A of the General Statutes.
28 At the hearing before the clerk of superior court, the petitioner shall produce the original will or
29 codicil or a certified paper copy of an attested written will created in accordance with the
30 requirements of G.S. 31-73 and any other evidence necessary to establish that the will or codicil
31 would be admitted to probate if the petitioner were deceased.
32 If an interested party contests the validity of the will or codicil, that person shall file a written
33 challenge to the will or codicil before the hearing or make an objection to the validity of the will
34 or codicil at the hearing. Upon the filing of a challenge or the raising of an issue contesting the
35 validity of the will or codicil, the clerk shall transfer the cause to the superior court. The matter
36 shall be heard as if it were a caveat proceeding, and the court shall make a determination as to
37 the validity of the will or codicil and enter judgment accordingly.
38 If no interested party contests the validity of the will or codicil and if the clerk of superior
39 court determines that the will or codicil would be admitted to probate if the petitioner were
40 deceased, the clerk of superior court shall enter an order adjudging the will or codicil to be valid.
41 (c) Failure to use the procedure authorized by this Article ~~shall~~ does not have any
42 evidentiary or procedural effect on any future probate proceedings.
43 (d) For purposes of this Article only, a "petitioner" is a person who requests a judicial
44 declaration that confirms the validity of that person's will or codicil."
- 45 **SECTION 8.4.** G.S. 28A-2B-3 reads as rewritten:
46 **"§ 28A-2B-3. Contents of petition for will validity.**
47 (a) Petition. – A petition requesting an order declaring that a petitioner's will or codicil is
48 valid shall be verified and shall contain the following information:
49 ...
50 (5) A statement identifying the ~~petitioner~~ petitioner and all persons believed by
51 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. 31-73. 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.

(a) Personal property and real property may be devised by any of the following:

(1) An attested written will ~~which that~~ complies with the requirements of G.S. 31-3.3, or G.S. 31-3.3.

(2) A holographic will ~~which that~~ complies with the requirements of G.S. 31-3.4.

(3) A certified paper copy of an attested written will created in accordance with the requirements of G.S. 31-73.

(b) Personal property may also be devised by a nuncupative will ~~which that~~ complies with the requirements of G.S. 31-3.5."

SECTION 8.7. G.S. 31-5.1 reads as rewritten:

"§ 31-5.1. Revocation of written will.

A written will, or any part thereof, may be revoked only

(1) By a subsequent written will or codicil or other revocatory writing executed in the manner provided herein for the execution of written wills, or

(2) By being burnt, torn, canceled, obliterated, or destroyed, with the intent and for the purpose of revoking it, by the testator himself or by another person in the testator's presence and by the testator's ~~direction~~ direction, except as otherwise provided in Article 11 of this Chapter."

PART IX. MODIFICATION OF EMERGENCY VIDEO SUNSETS

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

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

SECTION 9.(b) G.S. 10B-200(b) reads as rewritten:

"(b) This Article expires ~~June 30, 2025; upon the earlier of~~ (i) 12:01 A.M. July 1, 2026, or (ii) the date the Secretary issues the first license in accordance with G.S. 10B-134.19. If the Secretary issues the first license in accordance with G.S. 10B-134.19 prior to 12:01 A.M. July 1, 2026, the Secretary shall file that date with the Codifier of Rules to be published in the North Carolina Register as the expiration date of this section."

PART X. UPDATES TO ELECTIVE SHARE STATUTES

SECTION 10.1. G.S. 30-3.3A reads as rewritten:

"§ 30-3.3A. Valuation of property.

...

(e) Partial or Contingent Interest Property. – The valuation of partial and contingent property interests, outright or in trust, which are limited to commence or terminate upon the death of one or more persons, upon the expiration of a period of time, or upon the occurrence of one or more contingencies, shall be determined by computations based upon the mortality and annuity tables set forth in G.S. 8-46 and G.S. 8-47, and by using a presumed rate of return of six percent (6%) of the value of the underlying property in which those interests are limited, unless upon good cause shown by one of the parties, the clerk determines that the use of such tables or rate of return is not appropriate, then the value of such interests shall be determined under subsection (f) of this section. However, in valuing partial and contingent interests passing to the surviving spouse, the following special rules apply:

(1) The value of the beneficial interest of a spouse shall be the entire fair market value of any property held in trust if the decedent was the settlor of the trust, if the trust is held for the exclusive benefit of the surviving spouse during the surviving spouse's lifetime, ~~and if the terms of the trust substantially meet the following requirements:~~ requirements in form and content:

- a. ~~During~~ At all times during the lifetime of the surviving spouse, the trust is controlled by (i) one or more nonadverse trustees, including successor trustees, (ii) the surviving spouse as trustee, or (iii) one or more nonadverse trustees and the surviving spouse as co-trustees, including successor trustees.
- b. The trustee shall distribute to or for the benefit of the surviving spouse either (i) the entire net income of the trust at least annually or (ii) the income of the trust in such amounts and at such times as the trustee, in its discretion, determines necessary for the health, maintenance, and support of the surviving spouse.
- c. The trustee shall distribute to or for the benefit of the surviving spouse out of the principal of the trust such amounts and at such times as the trustee, in its discretion, determines necessary for the health, maintenance, and support of the surviving spouse.
- d. ~~In exercising discretion, the trustee~~

(1a) Notwithstanding any requirements in subdivision (1) of this subsection to the contrary, the terms of the trust may be authorized to authorize or required to require the trustee, in exercising discretion, to take into consideration all other income assets—~~income, assets,~~ and other means of support available to the surviving spouse.

(1b) A trust fails to meet the requirements of sub-subdivisions b. and c. of subdivision (1) of this subsection if the terms of the trust do not state the requirement that the trustee shall distribute the income and principal as provided in those sub-subdivisions using the terms "shall," "is required to," or other equivalent term or terms directing the trustee to distribute the income and principal. Nothing in this subdivision shall affect the ability of the trustee to exercise the discretion provided in sub-subdivisions b. and c. of subdivision (1) of this subsection with respect to the timing and amount of distributions necessary for the health, maintenance, and support of the surviving spouse.

(2) To the extent that the partial or contingent interest is dependent upon the occurrence of any contingency that is not subject to the control of the surviving spouse and that is not subject to valuation by reference to the mortality and annuity tables set forth in G.S. 8-46 and G.S. 8-47, the contingency will be conclusively presumed to result in the lowest possible value passing to the surviving spouse. However, a life estate or income interest

that will terminate upon the surviving spouse's death or remarriage will be valued without regard to the possibility of termination upon remarriage.

...."

SECTION 10.2. G.S. 30-3.4 reads as rewritten:

"§ 30-3.4. Procedure for determining the elective share.

(a) Exercisable Only During Lifetime. – The right of the surviving spouse to file a claim for an elective share must be exercised during the lifetime of the surviving spouse, by the surviving spouse, by the surviving spouse's agent if the surviving spouse's power of attorney expressly authorizes the agent to do so or to generally engage in estate, trusts, and other beneficial interests, or, with approval of court, by the guardian of the surviving spouse's estate or general guardian. If a surviving spouse dies before the claim for an elective share has been settled, the surviving spouse's personal representative shall succeed to the surviving spouse's rights to an elective share.

(b) Time Limitations. – A claim for an elective share must be made within six months after the issuance of letters testamentary or letters of administration in connection with the will or intestate proceeding with respect to which the surviving spouse claims the elective share by ~~(i) filing a verified petition with the clerk of superior court of the county in which the primary administration of the decedent's estate lies, and (ii) mailing or delivering a copy of that petition to the personal representative of the decedent's estate.~~ lies. A surviving spouse's incapacity shall not toll the six-month period of limitations.

...

(e1) Procedure. – ~~An elective share proceeding shall be an estate proceeding and shall be conducted in accordance with the procedures of Article 2 of Chapter 28A of the General Statutes.~~ The verified petition shall be filed by the clerk upon payment of the costs assessed in G.S. 7A-307. An elective share proceeding shall be an estate proceeding and shall be conducted in accordance with the procedures of Article 2 of Chapter 28A of the General Statutes, except as modified or supplemented by the following:

(1) Upon the filing of the verified petition, the petition shall be served upon the personal representative in accordance with G.S. 1A-1, Rule 4 of the Rules of Civil Procedure, without issuance of a summons. The petition shall also be served on all responsible persons as those persons become known to the petitioner in accordance with G.S. 1A-1, Rule 4 of the Rules of Civil Procedure, without issuance of a summons. The failure to serve the petition for elective share on the personal representative or any other person within the six-month period described in subsection (b) of this section shall not render the claim for elective share as being untimely filed.

(2) After service under subdivision (1) of this subsection, the petitioner, the personal representative, or any other party may cause notice of a hearing before the clerk to be served upon all parties in accordance with G.S. 1A-1, Rule 5 of the Rules of Civil Procedure. At the hearing, the clerk may set deadlines as to the gathering and sharing of information concerning total net assets and may determine any other relevant procedural matters.

(3) Within 30 days following the entry of an order resulting from the hearing described in subdivision (2) of this subsection, any party who was present at the hearing may file a responsive pleading to the petition; provided, however, that failure to respond to any averment or claim in the petition shall not be deemed an admission of that averment or claim. An extension of time to file a responsive pleading to the petition may be granted as provided by G.S. 1A-1, Rule 6 of the Rules of Civil Procedure.

...."

1 **SECTION 10.3.** This Part becomes effective January 1, 2026, and applies to claims
2 for elective share filed on or after that date.

3
4 **PART XI. TRUST ADMINISTRATION/CONTEST UPDATES**

5 **SECTION 11.1.** G.S. 36C-6-604 reads as rewritten:

6 "**§ 36C-6-604. Limitation on action contesting validity of revocable trust; distribution of**
7 **trust property.**

8 (a) A person may commence a judicial proceeding to contest the validity of a trust that
9 was revocable at the settlor's death within the earlier of: ~~of the following:~~

10 (1) Three years after the settlor's ~~death; or death.~~

11 (2) 120 days after the trustee sent the person a copy of the trust instrument and
12 written notice pursuant to G.S. 1A-1, Rule 4 of the Rules of Civil Procedure,
13 informing the person of the trust's existence, of the trustee's name and address,
14 and of the time allowed for commencing a proceeding.

15 (b) Upon the death of the settlor of a trust that was revocable at the settlor's death, the
16 trustee may proceed to administer the trust and distribute the trust property in accordance with
17 the terms of the trust. The trustee is trust and shall not be subject to liability for doing so unless so,
18 except that the trustee shall not distribute trust property to any beneficiary in contravention of the
19 rights of any person who may be affected by the outcome of a pending or possible judicial
20 proceeding if, at the time the distribution is made, any of the following apply:

21 (1) The trustee knows of a pending judicial proceeding contesting the validity of
22 all or part of the terms of the trust; trust or contesting the identity of the
23 beneficiaries eligible to receive distributions therefrom.

24 (2) A potential contestant has notified the trustee in writing of a possible judicial
25 proceeding to contest the ~~trust; validity of all or part of the terms of the trust~~
26 or to contest the identity of the beneficiaries eligible to receive distribution
27 therefrom, and a judicial proceeding is commenced within 60 days after the
28 contestant sent the notification.

29 **(b1)** Any distribution in contravention of the provisions of subsection (b) of this section
30 shall constitute a breach of trust by the trustee. Upon motion of a party and after notice to
31 interested parties, a court, on good cause shown, may make an exception to the provisions of
32 subsection (b) of this section and authorize the trustee to distribute trust assets to a beneficiary,
33 subject to any conditions the court, in the court's discretion, may impose, including the posting
34 of a bond by the beneficiary.

35 (c) A beneficiary of a trust that is determined to have been ~~invalid-invalid, or whose~~
36 interest in a trust has been determined to be invalid, is liable to return any distribution received.
37 If the beneficiary refuses to return the distribution after being ordered by the court, the beneficiary
38 shall be liable for all costs incurred for recovery of the distribution, including attorneys' fees."

39 **SECTION 11.2.** This Part becomes effective January 1, 2026, and applies to settlors
40 dying on or after that date.

41
42 **PART XII. REVISIONS TO YEAR'S ALLOWANCE STATUTES**

43 **SECTION 12.1.** G.S. 30-15 reads as rewritten:

44 "**§ 30-15. When spouse entitled to allowance.**

45 (a) Every surviving spouse of a decedent, whether or not the surviving spouse has
46 petitioned for an elective share, shall be entitled to receive an allowance having the value of sixty
47 thousand dollars (\$60,000) for the surviving spouse's support for one year after the death of the
48 deceased spouse unless the spouse is barred from seeking an allowance under G.S. 31A-1 or
49 another applicable law. The spouse's allowance shall be in addition to the spouse's share of the
50 decedent's estate if the decedent died intestate but shall be charged against the spouse's share of
51 the decedent's estate if the decedent died testate.

(b) The right of a surviving spouse to file a claim for an allowance must be exercised during the lifetime of the surviving spouse by (i) the surviving spouse, (ii) the surviving spouse's agent under a durable power of attorney, or (iii), with approval of the court, by the guardian of the surviving spouse's estate or general guardian. A claim for an allowance must be made by filing a verified petition with the clerk of court of the county in which venue would be proper under G.S. 28A-3-1. There is no time limitation on bringing a claim for an allowance except that, if a personal representative has been appointed for the decedent's estate, the claim must be made within six months after the issuance of letters testamentary or letters of administration. In addition, if a personal representative has been appointed for the decedent's estate, a copy of the verified petition must be personally delivered or sent by first-class mail by the petitioner to the personal representative.

(c) If the surviving spouse dies after the petition is filed but before the claim for an allowance has been fully satisfied, any deficiency judgment existing at the time of the surviving spouse's death shall not expire.

(d) The spouse's allowance shall be exempt from any lien by judgment or execution against the property of the decedent or any other claim made against or owed by the decedent's estate. The spouse's allowance takes priority over any child's allowance under ~~G.S. 30-17~~G.S. 30-17, except as set forth in subsection (e) of this section.

(e) If a surviving spouse entitled to an allowance fails to file a petition for an allowance within six months after the date of death of the decedent and an eligible person files a petition for a child's allowance in accordance with G.S. 30-17 before the spouse files a petition for an allowance, then the spouse's priority to receive the allowance prior to the child named in the petition is waived and the clerk may proceed to assign the full child's allowance to the eligible child named in the petition. If a petition for the spousal allowance is filed jointly with a petition for a child's allowance, then the spouse retains the right to receive the allowance prior to the child named in the petition. The waiver described in this subsection shall not affect the spouse's right to an allowance, only the spouse's priority to receive an allowance over any child's allowance under G.S. 30-17.

(f) A proceeding for a spouse's allowance shall be an estate proceeding governed by the provisions of Article 2 of Chapter 28 of the General Statutes."

SECTION 12.2. G.S. 30-17 reads as rewritten:

"§ 30-17. When children entitled to an allowance.

(a) Every child of a decedent who is under the age of 21 years at the time of the decedent's death, including an adopted child or a child in utero, and every child who is under the age of 21 years at the time of the decedent's death with whom the decedent stood in loco parentis at the time of death, shall be entitled to receive an allowance having a value of ten thousand dollars (\$10,000) for the child's support for one year after the death of the decedent. The allowance shall be in addition to the child's share of the decedent's estate regardless of whether the decedent died testate or intestate.

(b) The right of a child to file a claim for an allowance must be exercised during the lifetime of the child by the person with priority to file on behalf of the child as provided in subsection (c) of this section. A claim for an allowance must be made by filing a verified petition with the clerk of court of the county in which venue would be proper under G.S. 28A-3-1. There is no time limitation on bringing a claim for an allowance except that, if a personal representative has been appointed for the decedent's estate, the claim must be made within six months after the issuance of letters testamentary or letters of administration. In addition, if a personal representative has been appointed for the decedent's estate, a copy of the verified petition must be personally delivered or sent by first-class mail by the petitioner to the personal representative.

(c) The person entitled to file a petition on behalf of the child for a child's allowance shall be in the following order of priority:

(1) The child, if the child is at least 18 years old or an emancipated minor at the time of the filing of the petition.

~~(1)(2)~~ The general guardian or guardian of the estate of the child, if any.

~~(2)(3)~~ The surviving parent of the child if the child resides with the surviving parent.

~~(3)(4)~~ The person with whom the child resides.

If the clerk of court determines that no person entitled to file a petition pursuant to this subsection is a fit or suitable individual, the clerk, upon the clerk's own motion, may appoint another individual if the clerk determines that individual better represents the best interests of the child as the representative.

(d) The child's allowance shall be exempt from any lien by judgment or execution against the property of the decedent or any other claim made against or owed by the decedent's estate except that the spouse's allowance under G.S. 30-15 shall take priority over any child's allowance. A child's allowance shall only be awarded after the full spouse's allowance under G.S. 30-15 has been awarded.

(e) A proceeding for a child's allowance shall be an estate proceeding governed by the provisions of Article 2 of Chapter 28 of the General Statutes."

SECTION 12.3. G.S. 30-20 reads as rewritten:

"§ 30-20. Procedure for assignment; order of clerk.

(a) The clerk of court shall first ascertain if the surviving spouse is entitled to an allowance according to the provisions of this Article, and, if so, enter an order setting forth the personal property of the estate to be awarded to the surviving spouse. Once the spouse's allowance has been awarded, the clerk of court shall next ascertain if any children of the decedent are entitled to an allowance according to the provisions of this Article, and, if so, enter an order setting forth the personal property of the estate to be awarded for the child's allowance. If a personal representative has been appointed for the decedent's estate, the clerk of court shall provide a copy of any order awarding an allowance to the personal representative of the decedent's estate.

(b) If the personal property of the estate is insufficient to satisfy the allowances awarded, the clerk of the superior court shall enter judgment against the decedent's estate for the amount of the deficiency. If a personal representative has been appointed for the decedent's estate, the deficiency shall be satisfied by the personal representative when a sufficiency of such assets shall come into the possession of the personal representative.

~~(c) The clerk of court may, on the clerk's own motion, determine that a hearing is necessary to determine whether a year's allowance should be awarded pursuant to the provisions of this Article and, if so, what personal property should be awarded. If the clerk of court makes such a determination, the clerk shall direct the petitioner to commence a contested estate proceeding pursuant to G.S. 30-23 in order to determine the year's allowance."~~

SECTION 12.4. G.S. 30-23.1 reads as rewritten:

"§ 30-23.1. Contested proceeding regarding allowance.

(a) If no contested estate proceeding ~~under G.S. 30-20(e)~~ was commenced by the petitioner or by order of the clerk joining respondents to the proceeding to determine an award of an allowance under this Article, any person with standing, including the personal representative of the decedent's estate, may bring a proceeding to challenge the award of a spousal allowance or a child's allowance, including, but not limited to, a proceeding to challenge the validity of an award of a year's allowance, a proceeding to challenge the amount of a year's allowance awarded, and a proceeding to challenge the assets awarded as part of a year's allowance. If a contested estate proceeding was commenced ~~under G.S. 30-20(e)~~, by the petitioner or by order of the clerk joining the respondents to the proceeding to determine an award of an allowance under this Article, then any person with standing, including the personal representative of the decedent's estate, who was not a party to the contested estate proceeding may bring a proceeding in accordance with this section.

(b) Any proceeding to challenge the award of the allowance brought pursuant to this section shall be conducted as an estate proceeding in accordance with the provisions of Article 2 of Chapter 28A of the General Statutes and must be brought within one year of the date the order awarding the year's allowance was entered."

SECTION 12.5. G.S. 28A-25-6 reads as rewritten:

"§ 28A-25-6. Payment to clerk of money owed decedent.

(a) As an alternative to the small estate settlement procedures of this Article, any person indebted to a decedent may satisfy such indebtedness by paying the amount of the debt to the clerk of the superior court of the county of the domicile of the decedent if all of the following conditions are met:

(1) No administrator has been appointed.

(2) Except as otherwise provided in G.S. 90-210.64(d), the amount owed by such person does not exceed five thousand dollars (\$5,000).

(3) Except as otherwise provided in G.S. 90-210.64(d), the sum tendered to the clerk would not make the aggregate sum which has come into the clerk's hands belonging to the decedent exceed five thousand dollars (\$5,000).

(b) Such payments may not be made to the clerk if the total amount paid or tendered with respect to any one decedent would exceed five thousand dollars (\$5,000), even though disbursements have been made so that the aggregate amount in the clerk's hands at any one time would not exceed five thousand dollars (\$5,000).

(c) If the sum tendered pursuant to this section would make the aggregate sum coming into the clerk's hands with respect to any one decedent exceed five thousand dollars (\$5,000) the clerk shall appoint an administrator, or the sum may be administered under the preceding sections of this Article.

(d) If it appears to the clerk after making a preliminary survey that disbursements pursuant to this section would not exhaust funds received pursuant to this section, the clerk may, in the clerk's discretion, appoint an administrator, or the funds may be administered under the preceding sections of this Article.

(e) The receipt from the clerk of the superior court of a payment purporting to be made pursuant to this section is a full release to the debtor for the payment so made.

(f) If no administrator has been appointed, the clerk of superior court shall, upon motion of the clerk or upon the application of an interested party, disburse the money received under this section for the following purposes and in the following order:

(1) To pay the surviving spouse's year's allowance and children's year's allowance assigned in accordance with ~~law-law~~, except that if (i) it has been greater than six months since the date of death of the decedent and (ii) there has been no petition filed and assignment of a spouse's or child's year's allowance, the clerk may disburse the money received under this section in accordance with the other provisions of this subsection.

(2), (3) Repealed by Session Laws 1981, c. 383, s. 3.

(4) All other claims shall be disbursed according to the order set out in G.S. 28A-19-6.

Notwithstanding the foregoing provisions of this subsection, the clerk shall pay, out of funds provided the deceased pursuant to G.S. 111-18 and Part 3 of Article 2 of Chapter 108A of the ~~General Statutes of North Carolina, Statutes~~, any lawful claims for care provided by an adult care home to the deceased, incurred not more than 90 days prior to the deceased's death. After the death of ~~a spouse who died intestate~~ the decedent and after the disbursements have been made in accordance with this subsection, the balance in the clerk's hands belonging to the estate of the decedent shall be paid to the surviving spouse, and if there is no surviving spouse, the clerk shall pay it to the heirs or beneficiaries in proportion to their respective interests.

(g) The clerk shall not be required to publish notice to creditors.

(h) Whenever an administrator is appointed after a clerk of superior court has received any money pursuant to this section, the clerk shall pay to the administrator all funds which have not been disbursed. The clerk shall receive no commissions for payments made to the administrator, and the administrator shall receive no commissions for receiving such payments."

SECTION 12.6. Section 12.5 of this act is effective when it becomes law. The remainder of this Part becomes effective January 1, 2026, and applies to petitions filed on or after that date.

PART XIII. EFFECTIVE DATE AND AUTHORIZATION TO PRINT COMMENTS

SECTION 13.(a) The Revisor of Statutes shall cause to be printed, as annotations to Chapter 55 of the published General Statutes, all relevant portions of the Official Comments to the Model Business Corporation Act and all explanatory comments of the drafters of this act as the Revisor may deem appropriate.

SECTION 13.(b) Parts I, II, III, IV, V, and VII of this act become effective October 1, 2025. Part VIII of this act becomes effective January 1, 2026, and applies to attested written wills stored as electronic records on or after that date, regardless of the date of execution of the attested written will. Except as otherwise provided, the remainder of this act is effective when it becomes law.