

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2001**

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**HOUSE BILL 1084
Senate Judiciary I Committee Substitute Adopted 5/9/01**

Short Title: Equitable Distribution Clarification.

(Public)

Sponsors:

Referred to:

April 11, 2001

A BILL TO BE ENTITLED

1 AN ACT TO CLARIFY THAT AN ACTION FOR EQUITABLE DISTRIBUTION
2 DOES NOT ABATE UPON THE DEATH OF A PARTY.

3 The General Assembly of North Carolina enacts:

4 **SECTION 1.** G.S. 50-21(a) reads as rewritten:

5 "(a) At any time after a husband and wife begin to live separate and apart from
6 each other, a claim for equitable distribution may be ~~filed~~, filed and adjudicated, either
7 as a separate civil action, or together with any other action brought pursuant to Chapter
8 50 of the General Statutes, or as a motion in the cause as provided by G.S. 50-11(e) or
9 (f). Within 90 days after service of a claim for equitable distribution, the party who first
10 asserts the claim shall prepare and serve upon the opposing party an equitable
11 distribution inventory affidavit listing all property claimed by the party to be marital
12 property and all property claimed by the party to be separate property, and the estimated
13 date-of-separation fair market value of each item of marital and separate property.
14 Within 30 days after service of the inventory affidavit, the party upon whom service is
15 made shall prepare and serve an inventory affidavit upon the other party. The inventory
16 affidavits prepared and served pursuant to this subsection shall be subject to amendment
17 and shall not be binding at trial as to completeness or value. The court may extend the
18 time limits in this subsection for good cause shown. The affidavits are subject to the
19 requirements of G.S. 1A-1, Rule 11, and are deemed to be in the nature of answers to
20 interrogatories propounded to the parties. Any party failing to supply the information
21 required by this subsection in the affidavit is subject to G.S. 1A-1, Rules 26, 33, and 37.
22 During the pendency of the action for equitable distribution, discovery may proceed,
23 and the court shall enter temporary orders as appropriate and necessary for the purpose
24 of preventing the disappearance, waste, or destruction of marital or separate property or
25 to secure the possession thereof.

26 Real or personal property located outside of North Carolina is subject to equitable
27 distribution in accordance with the provisions of G.S. 50-20, and the court may include
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1 in its order appropriate provisions to ensure compliance with the order of equitable
2 distribution."

3 **SECTION 2.** G.S. 50-20 is amended by adding a new subsection to read:

4 "(1) A pending action for equitable distribution shall not abate upon the death of a
5 party."

6 **SECTION 3.** This act is effective when it becomes law and applies to
7 actions pending or filed on or after that date.