NORTH CAROLINA GENERAL ASSEMBLY
1965 SESSION

CHAPTER 938
SENATE BILL 183

AN ACT TO AMEND G.S. 31-42 RELATING TO THE DEVOLUTION OF DEVISES AND LEGACIES WHICH FAIL BY LAPSE OR OTHERWISE.

The General Assembly of North Carolina do enact:

Section 1. G.S. 31-42 is hereby amended by rewriting the Section to read as follows:

"**§ 31-42. Failure of Devises and Legacies by Lapse or Otherwise.** (a) Devolution of Devise or Legacy to Person Predeceasing Testator. Unless a contrary intent is indicated by the will, where a devise or legacy of any interest in property is given to a devisee or legatee who would have taken individually had he survived the testator, and he dies survived by issue before the testator, whether he dies before or after the making of the will, such devise or legacy shall pass by substitution to such issue of the devisee or legatee as survive the testator in all cases where such issue of the de ceased devisee or legatee would have been an heir of the testator under the provisions of the Intestate Succession Act had there been no will.

"(b) Devolution of Devise or Legacy to Member of Class Predeceasing Testator. Unless a contrary intent is indicated by the will, where a devise or legacy of any interest in property is given to devisee or legatee who would have taken as a member of a class had he survived the testator, and he dies survived by issue before the testator, whether he dies before or after the making of the will, such devise or legacy shall pass by substitution to such issue of the devisee or legatee as survive the testator in all cases where such issue of the deceased devisee or legatee would have been an heir of the testator under the provisions of the Intestate Succession Act had there been no will: Provided, however, if such devisee or legatee is not survived by such issue, then the entire property interest therein shall devolve upon the remaining members of the class who survive the testator.

"(c) Devolution of Void, Revoked, Renounced or Lapsed Devises or Legacies. If subsections (a) and (b) above are not applicable and if a contrary intent is not indicated by the will;

(1) Where a devise or legacy of any interest in property is void, is revoked, is renounced, or lapses or which for any other reason fails to take effect, such a devise or legacy shall pass
   a. under the residuary clause of the will applicable to real property in case of such devise, or applicable to personal property in case of such legacy, or
   b. as if the testator had died intestate with respect thereto when there is no such applicable residuary clause; and

(2) Where a residuary devise or legacy is void, revoked, renounced, lapsed or for any other reason fails to take effect with respect to any devisee or legatee named in the residuary clause itself or a member of a class described therein, then such devise or legacy shall continue as a part of the residue and shall pass to the other residuary devisees or legatees if any; or, if none, shall pass as if the testator had died intestate with respect thereto."

Sec. 2. G.S. 31-42.1, G.S. 31-42.2 and all other laws and clauses of laws in conflict with this Act are hereby repealed.

Sec. 3. This Act shall apply to wills of persons who die on or after the effective date hereof.

Sec. 4. This Act shall become effective on July 1, 1965.

In the General Assembly read three times and ratified, this the 11th day of June, 1965.