

NORTH CAROLINA GENERAL ASSEMBLY
1979 SESSION

CHAPTER 772
SENATE BILL 848

AN ACT TO AMEND G.S. 36A-53(b) RELATIVE TO AMENDMENT OF TRUSTS TO MEET THE REQUIREMENTS OF SECTION 2055(e)(2) OF THE INTERNAL REVENUE CODE OF 1954.

The General Assembly of North Carolina enacts:

Section 1. G.S. 36A-53(b) is amended by striking out the first sentence thereof in its entirety and inserting in lieu thereof a new sentence, to read as follows:

"In the case of a will executed before December 31, 1977, or a trust created before such date, if a federal estate tax deduction is not allowable at the time of a decedent's death because of the failure of an interest in property which passes from the decedent to a person, or for a use, described in Section 2055(a) of the Internal Revenue Code of 1954, to meet the requirements of subsections 2055(e)(2)(A) or (B) of the Internal Revenue Code of 1954, then in order that such deduction shall nevertheless be allowable under Section 2055(e)(3) of the Internal Revenue Code of 1954, any judge of the superior court may, on application of any trustee, executor, administrator or any interested party and either (i) with the written consent of the charitable beneficiaries, the noncharitable beneficiaries not under any legal disability, and duly appointed guardians or guardians ad litem acting on behalf of any beneficiaries under legal disability, or (ii) upon a finding that the interest of such beneficiaries is substantially preserved, order an amendment to the trust so that the remainder interest is in a trust which is a charitable remainder annuity trust, a charitable remainder unitrust (as those terms are described in Section 664 of the Internal Revenue Code of 1954) or a pooled income fund (as that term is described in Section 642(c)(5) of the Internal Revenue Code of 1954), or so that any other interest of a charitable beneficiary is in the form of a guaranteed annuity or is a fixed percentage distributed yearly of the fair market value of the property (to be determined yearly), in accordance with the provisions of Section 2055(e)(2)(B) of the Internal Revenue Code of 1954."

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 4th day of June, 1979.