

1 Article 4.

2 Qualification and Disqualification for Letters Testamentary and Letters of Administration.

3 **§ 28A-4-1. Order of persons qualified to serve.**

4 (a) Letters Testamentary. – Letters testamentary shall be granted to the executor or  
5 executors named or designated in the will, or if no such person qualifies, to any substitute or  
6 successor executor named or designated in the will. If no person so named or designated  
7 qualifies, letters testamentary shall be granted to some other person nominated by a person  
8 upon whom the will expressly confers the authority to make such nomination. If none of the  
9 foregoing persons qualifies, the clerk shall grant letters of administration in accordance with  
10 subsection (b) of this section.

11 (b) Letters of Administration. – Letters of administration shall be granted to persons  
12 who are qualified to serve, in the following order, unless the clerk of superior court in the  
13 discretion of the clerk of superior court determines that the best interests of the estate otherwise  
14 require:

- 15 (1) The surviving spouse of the decedent;
- 16 (2) Any devisee of the testator;
- 17 (3) Any heir of the decedent;
- 18 (3a) Any next of kin, with a person who is of a closer kinship as computed  
19 pursuant to G.S. 104A-1 having priority;
- 20 (4) Any creditor to whom the decedent became obligated prior to the decedent's  
21 death;
- 22 (5) Any person of good character residing in the county who applies therefor;  
23 and
- 24 (6) Any other person of good character not disqualified under G.S. 28A-4-2.

25 When applicants are equally entitled, letters shall be granted to the applicant who, in the  
26 judgment of the clerk of superior court, is most likely to administer the estate advantageously,  
27 or they may be granted to any two or more of such applicants.

28 (c) Any interested person may file a petition pursuant to Article 2 of this Chapter  
29 alleging that all or any of the persons described in subsection (b) of this section is disqualified  
30 in accordance with G.S. 28A-4-2. (R.C., c. 46, ss. 2, 3; C.C.P., s. 456; 1968-9, c. 113, s. 115;  
31 Code, s. 1376; Rev., s. 3; C.S., s. 6; 1949, c. 22; 1973, c. 1329, s. 3; 1987, c. 357; 2011-344, s.  
32 4.)

33  
34 **§ 28A-4-2. Persons disqualified to serve as personal representative.**

35 No person is qualified to serve as a personal representative who:

- 36 (1) Is under 18 years of age;
- 37 (2) Has been adjudged incompetent in a formal proceeding and remains under  
38 such disability;
- 39 (3) Is a convicted felon, under the laws either of the United States or of any state  
40 or territory of the United States, or of the District of Columbia and whose  
41 citizenship has not been restored;
- 42 (4) Is a nonresident of this State who has not appointed a resident agent to  
43 accept service of process in all actions or proceedings with respect to the  
44 estate, and caused such appointment to be filed with the court; or who is a  
45 resident of this State who has, subsequent to appointment as a personal  
46 representative, moved from this State without appointing such process agent;
- 47 (5) Is a corporation not authorized to act as a personal representative in this  
48 State;
- 49 (6) Repealed by Session Laws 1999-133, s. 1.
- 50 (7) Has lost that person's rights as provided by Chapter 31A;
- 51 (8) Is illiterate;

- 1 (9) Is a person whom the clerk of superior court finds otherwise unsuitable; or
- 2 (10) Is a person who has renounced either expressly or by implication as provided
- 3 in G.S. 28A-5-1 and 28A-5-2. (C.C.P., s. 457; Code, ss. 1377, 1378, 2162;
- 4 Rev., s. 5; C.S., s. 8; 1973, c. 1329, s. 3; 1999-133, s. 1; 2011-344, s. 4.)