Chapter 29.

Intestate Succession.

Article 1.

General Provisions.

§ 29-1. Short title.

This Chapter shall be known and may be cited as the Intestate Succession Act. (1959, c. 879, s. 1.)

§ 29-2. Definitions.

As used in this Chapter, unless the context otherwise requires, the term:

(1) "Advancement" means an irrevocable inter vivos gift of property, made by an intestate donor to any person who would be the donor's heir or one of the donor's heirs upon the donor's death, and intended by the intestate donor to enable the donee to anticipate the donee's inheritance to the extent of the gift; except that no gift to a spouse shall be considered an advancement unless so designated by the intestate donor in a writing signed by the donor at the time of the gift.

(2) "Estate" means all the property of a decedent, including but not limited to:

a. An estate for the life of another; and

b. All future interests in property not terminable by the death of the owner thereof, including all reversions, remainders, executory interests, rights of entry and possibilities of reverter, subject, however, to all limitations and conditions imposed upon such future interests.

(3) "Heir" means any person entitled to take real or personal property upon intestacy under the provisions of this Chapter.

(4) "Lineal descendants" of a person means all children of such person and successive generations of children of such children.

(5) "Net estate" means the estate of a decedent, exclusive of family allowances, costs of administration, and all lawful claims against the estate.

(6) "Share," when used to describe the share of a net estate or property which any person is entitled to take, includes both the fractional share of the personal property and the undivided fractional interest in the real property, which the person is entitled to take. (1959, c. 879, s. 1; 1961, c. 958, s. 1; 2011-344, s. 5.)

§ 29-3. Certain distinctions as to intestate succession abolished.

In the determination of those persons who take upon intestate succession there is no distinction:

(1) Between real and personal property, or

(2) Between ancestral and nonancestral property, or

(3) Between relations of the whole blood and those of the half blood. (1959, c. 879, s. 1.)

§ 29-4. Curtesy and dower abolished.

The estates of curtesy and dower are hereby abolished. (1959, c. 879, s. 1.)

§ 29-5. Computation of next of kin.

Degrees of kinship shall be computed as provided in G.S. 104A-1. (1959, c. 879, s. 1.)

§ 29-6. Lineal succession unlimited.

There shall be no limitation on the right of succession by lineal descendants of an intestate. (1959, c. 879, s. 1.)

§ 29-7. Collateral succession limited.

There shall be no right of succession by collateral kin who are more than five degrees of kinship removed from an intestate; provided that if there is no collateral relative within the five degrees of kinship referred to herein, then collateral succession shall be unlimited to prevent any property from escheating. (1959, c. 879, s. 1.)

§ 29-8. Partial intestacy.

If part but not all of the estate of a decedent is validly disposed of by the decedent's will, the part not disposed of by such will shall descend and be distributed as intestate property. (1959, c. 879, s. 1; 2011-344, s. 5.)

§ 29-9. Inheritance by unborn infant.

Lineal descendants and other relatives of an intestate born within 10 lunar months after the death of the intestate, shall inherit as if they had been born in the lifetime of the intestate and had survived him. (1959, c. 879, s. 1.)

§ 29-10. Renunciation.

Renunciation of an intestate share shall be as provided for in Chapter 31B of the General Statutes. (1959, c. 879, s. 1; 1961, c. 958, s. 2; 1975, c. 371, s. 2.)

§ 29-11. Aliens.

Unless otherwise provided by law, it shall be no bar to intestate succession by any person, that the person, or any other person through whom the person traces the person's inheritance, is or has been an alien. (1959, c. 879, s. 1; 2011-344, s. 5.)

§ 29-12. Escheats.

If there is no person entitled to take under G.S. 29-14 or G.S. 29-15, or if in case of an intestate born out of wedlock, there is no one entitled to take under G.S. 29-21 or G.S. 29-22, the net estate shall escheat as provided in G.S. 116B-2. (1959, c. 879, s. 1; 1961, c. 83; 1973, c. 1446, s. 7; 1999-456, s. 1; 1999-460, s. 8; 2013-198, s. 6.)

§ 29-12.1. Controversies under this Chapter.

Any controversy arising under this Chapter shall be determined as an estate proceeding under Article 2 of Chapter 28A of the General Statutes, except that controversies arising under Article 8 of this Chapter shall be determined as set forth in that Chapter. (2011-344, s. 5.)

Article 2.

Shares of Persons Who Take upon Intestacy.

§ 29-13. Descent and distribution upon intestacy; 120-hour survivorship requirement, revised simultaneous death act, Article 24, Chapter 28A.

(a) All the estate of a person dying intestate shall descend and be distributed, subject to the payment of costs of administration and other lawful claims against the estate, and subject to the payment of State inheritance or estate taxes, as provided in this Chapter.

(b) The determination of whether an heir has predeceased a person dying intestate shall be made as provided by Article 24 of Chapter 28A of the General Statutes. (1959, c. 879, s. 1; 1999-337, s. 5; 2007-132, s. 2.)

§ 29-14. Share of surviving spouse.

(a) Real Property. – The share of the surviving spouse in the real property is:

(1) If the intestate is survived by only one child or by any lineal descendant of only one deceased child, a one-half undivided interest in the real property;

(2) If the intestate is survived by two or more children, or by one child and any lineal descendant of one or more deceased children or by lineal descendants of two or more deceased children, a one-third undivided interest in the real property;

(3) If the intestate is not survived by a child, children or any lineal descendant of a deceased child or children, but is survived by one or more parents, a one-half undivided interest in the real property;

(4) If the intestate is not survived by a child, children or any lineal descendant of a deceased child or children, or by a parent, all the real property.

(b) The share of the surviving spouse in the personal property is:

(1) If the intestate is survived by only one child or by any lineal descendant of only one deceased child, and the net personal property does not exceed sixty thousand dollars ($60,000) in value, all of the personal property; if the net personal property exceeds sixty thousand dollars ($60,000) in value, the sum of sixty thousand dollars ($60,000) plus one half of the balance of the personal property;

(2) If the intestate is survived by two or more children, or by one child and any lineal descendant of one or more deceased children, or by lineal descendants of two or more deceased children, and the net personal property does not exceed sixty thousand dollars ($60,000) in value, all of the personal property; if the net personal property exceeds sixty thousand dollars ($60,000) in value, the sum of sixty thousand dollars ($60,000) plus one third of the balance of the personal property;

(3) If the intestate is not survived by a child, children, or any lineal descendant of a deceased child or children, but is survived by one or more parents, and the net personal property does not exceed one hundred thousand dollars ($100,000) in value, all of the personal property; if the net personal property exceeds one hundred thousand dollars ($100,000) in value, the sum of one hundred thousand dollars ($100,000) plus one half of the balance of the personal property;

(4) If the intestate is not survived by a child, children, or any lineal descendant of a deceased child or children, or by a parent, all of the personal property.

(c) When an equitable distribution of property is awarded to the surviving spouse pursuant to G.S. 50-20 subsequent to the death of the decedent, the share of the surviving spouse determined under subsections (a) and (b) of this section shall be first determined as though no property had been awarded to the surviving spouse pursuant to G.S. 50-20 subsequent to the death of the decedent, and then reduced by the net value of the marital estate awarded to the surviving spouse pursuant to G.S. 50-20 subsequent to the death of the decedent. (1959, c. 879, s. 1; 1979, c. 186, s. 1; 1981, c. 69; 1995, c. 262, s. 3; 2001-364, s. 6; 2012-71, s. 1.)

§ 29-15. Shares of others than surviving spouse.

Those persons surviving the intestate, other than the surviving spouse, shall take that share of the net estate not distributable to the surviving spouse, or the entire net estate if there is no surviving spouse, as follows:

(1) If the intestate is survived by only one child or by only one lineal descendant of only one deceased child, that person shall take the entire net estate or share, but if the intestate is survived by two or more lineal descendants of only one deceased child, they shall take as provided in G.S. 29-16; or

(2) If the intestate is survived by two or more children or by one child and any lineal descendant of one or more deceased children, or by lineal descendants of two or more deceased children, they shall take as provided in G.S. 29-16; or

(3) If the intestate is not survived by a child, children or any lineal descendant of a deceased child or children, but is survived by both parents, they shall take in equal shares, or if either parent is dead, the surviving parent shall take the entire share; or

(4) If the intestate is not survived by such children or lineal descendants or by a parent, the brothers and sisters of the intestate, and the lineal descendants of any deceased brothers or sisters, shall take as provided in G.S. 29-16; or

(5) If there is no one entitled to take under the preceding subdivisions of this section or under G.S. 29-14,

a. The paternal grandparents shall take one half of the net estate in equal shares, or, if either is dead, the survivor shall take the entire one half of the net estate, and if neither paternal grandparent survives, then the paternal uncles and aunts of the intestate and the lineal descendants of deceased paternal uncles and aunts shall take said one half as provided in G.S. 29-16; and

b. The maternal grandparents shall take the other one half in equal shares, or if either is dead, the survivor shall take the entire one half of the net estate, and if neither maternal grandparent survives, then the maternal uncles and aunts of the intestate and the lineal descendants of deceased maternal uncles and aunts shall take one half as provided in G.S. 29-16; but

c. If there is no grandparent and no uncle or aunt, or lineal descendant of a deceased uncle or aunt, on the paternal side, then those of the maternal side who otherwise would be entitled to take one half as hereinbefore provided in this subdivision shall take the whole; or

d. If there is no grandparent and no uncle or aunt, or lineal descendant of a deceased uncle or aunt, on the maternal side, then those on the paternal side who otherwise would be entitled to take one half as hereinbefore provided in this subdivision shall take the whole. (1959, c. 879, s. 1.)

Article 3.

Distribution among Classes.

§ 29-16. Distribution among classes.

(a) Children and Their Lineal Descendants. – If the intestate is survived by lineal descendants, their respective shares in the property which they are entitled to take under G.S. 29-15 of this Chapter shall be determined in the following manner:

(1) Children. – To determine the share of each surviving child, divide the property by the number of surviving children plus the number of deceased children who have left lineal descendants surviving the intestate.

(2) Grandchildren. – To determine the share of each surviving grandchild by a deceased child of the intestate in the property not taken under the preceding subdivision of this subsection, divide that property by the number of such surviving grandchildren plus the number of deceased grandchildren who have left lineal descendants surviving the intestate.

(3) Great-Grandchildren. – To determine the share of each surviving great-grandchild by a deceased grandchild of the intestate in the property not taken under the preceding subdivisions of this subsection, divide that property by the number of such surviving great-grandchildren plus the number of deceased great-grandchildren who have left lineal descendants surviving the intestate.

(4) Great-Great-Grandchildren. – To determine the share of each surviving great-great-grandchild by a deceased great-grandchild of the intestate in the property not taken under the preceding subdivisions of this subsection, divide that property by the number of such surviving great-great-grandchildren plus the number of deceased great-great-grandchildren who have left lineal descendants surviving the intestate.

(5) Other Lineal Descendants of Children. – Divide, according to the formula established in the preceding subdivisions of this subsection, any property not taken under such preceding subdivisions, among the lineal descendants of the children of the intestate not already participating.

(b) Brothers and Sisters and Their Lineal Descendants. – If the intestate is survived by brothers and sisters or the lineal descendants of deceased brothers and sisters, their respective shares in the property which they are entitled to take under G.S. 29-15 of this Chapter shall be determined in the following manner:

(1) Brothers and Sisters. – To determine the share of each surviving brother and sister, divide the property by the number of surviving brothers and sisters plus the number of deceased brothers and sisters who have left lineal descendants surviving the intestate within the fifth degree of kinship to the intestate.

(2) Nephews and Nieces. – To determine the share of each surviving nephew or niece by a deceased brother or sister of the intestate in the property not taken under the preceding subdivision of this subsection, divide that property by the number of such surviving nephews or nieces plus the number of deceased nephews and nieces who have left lineal descendants surviving the intestate within the fifth degree of kinship to the intestate.

(3) Grandnephews and Grandnieces. – To determine the share of each surviving grandnephew or grandniece by a deceased nephew or niece of the intestate in the property not taken under the preceding subdivisions of this subsection, divide that property by the number of such surviving grandnephews and grandnieces plus the number of deceased grandnephews and grandnieces who have left children surviving the intestate.

(4) Great-Grandnephews and Great-Grandnieces. – To determine the share of each surviving child of a deceased grandnephew or grandniece of the intestate, divide equally among the great-grandnephews and great-grandnieces of the intestate any property not taken under the preceding subdivisions of this subsection.

(5) Grandparents and Others. – If there is no one within the fifth degree of kinship to the intestate entitled to take the property under the preceding subdivisions of this subsection, then the intestate's property shall go to those entitled to take under G.S. 29-15(5).

(c) Uncles and Aunts and Their Lineal Descendants. – If the intestate is survived by uncles and aunts or the lineal descendants of deceased uncles and aunts, their respective shares in the property which they are entitled to take under G.S. 29-15 shall be determined in the following manner:

(1) Uncles and Aunts. – To determine the share of each surviving uncle and aunt, divide the property by the number of surviving uncles and aunts plus the number of deceased uncles and aunts who have left children or grandchildren surviving the intestate.

(2) Children of Uncles and Aunts. – To determine the share of each surviving child of a deceased uncle or aunt of the intestate in the property not taken under the preceding subdivision of this subsection, divide that property by the number of surviving children of deceased uncles and aunts plus the number of deceased children of deceased uncles and aunts who have left children surviving the intestate.

(3) Grandchildren of Uncles and Aunts. – To determine the share of each surviving child of a deceased child of a deceased uncle or aunt of the intestate, divide equally among the grandchildren of uncles or aunts of the intestate any property not taken under the preceding subdivisions of this subsection. (1959, c. 879, s. 1; 1979, c. 107, ss. 2, 3.)

Article 4.

Adopted Children.

§ 29-17. Succession by, through and from adopted children.

(a) A child, adopted in accordance with Chapter 48 of the General Statutes or in accordance with the applicable law of any other jurisdiction, and the heirs of such child, are entitled by succession to any property by, through and from the child's adoptive parents and their heirs the same as if the child were the natural legitimate child of the adoptive parents.

(b) An adopted child is not entitled by succession to any property, by, through, or from the child's natural parents or their heirs, except as provided in subsection (e) of this section.

(c) The adoptive parents and the heirs of the adoptive parents are entitled by succession to any property, by, through and from an adopted child the same as if the adopted child were the natural legitimate child of the adoptive parents.

(d) The natural parents and the heirs of the natural parents are not entitled by succession to any property, by, through or from an adopted child, except as provided in subsection (e) of this section.

(e) If a natural parent has previously married, is married to, or shall marry an adoptive parent, the adopted child is considered the child of such natural parent for all purposes of intestate succession. (1959, c. 879, s. 1; 2011-344, s. 5.)

Article 5.

Legitimated Children.

§ 29-18. Succession by, through and from legitimated children.

A child born out of wedlock who has been legitimated in accordance with G.S. 49-10 or 49-12 or in accordance with the applicable law of any other jurisdiction, and the heirs of the child, are entitled by succession to property by, through and from the child's father and mother and their heirs the same as if born in lawful wedlock; and if the child dies intestate, the child's property shall descend and be distributed as if the child had been born in lawful wedlock. (1959, c. 879, s. 1; 2011-344, s. 5; 2013-198, s. 7.)

Article 6.

Children Born Out of Wedlock.

§ 29-19. Succession by, through and from children born out of wedlock.

(a) For purposes of intestate succession, a child born out of wedlock shall be treated as if that child were the legitimate child of the child's mother, so that the child and the child's lineal descendants are entitled to take by, through and from the child's mother and the child's other maternal kindred, both descendants and collaterals, and they are entitled to take from the child.

(b) For purposes of intestate succession, a child born out of wedlock shall be entitled to take by, through and from:

(1) Any person who has been finally adjudged to be the father of the child pursuant to the provisions of G.S. 49-1 through 49-9 or the provisions of G.S. 49-14 through 49-16;

(2) Any person who has acknowledged himself during his own lifetime and the child's lifetime to be the father of the child in a written instrument executed or acknowledged before a certifying officer named in G.S. 52-10(b) and filed during his own lifetime and the child's lifetime in the office of the clerk of superior court of the county where either he or the child resides.

(3) A person who died prior to or within one year after the birth of the child and who can be established to have been the father of the child by DNA testing.

Notwithstanding the above provisions, no person shall be entitled to take hereunder unless the person has given written notice of the basis of the person's claim to the personal representative of the putative father within six months after the date of the first publication or posting of the general notice to creditors.

(c) Any person described under subdivision (b)(1), (2), or (3) of this section and the person's lineal and collateral kin shall be entitled to inherit by, through and from the child.

(d) Any person who acknowledges that he is the father of a child born out of wedlock in his duly probated last will shall be deemed to have intended that the child be treated as expressly provided for in the will or, in the absence of any express provision, the same as a legitimate child. (1959, c. 879, s. 1; 1973, c. 1062, s. 1; 1975, c. 54, s. 1; 1977, c. 375, s. 6; c. 591; c. 757, s. 3; 2011-344, s. 5; 2013-198, s. 9.)

§ 29-20. Descent and distribution upon intestacy of children born out of wedlock.

All the estate of a person who was born out of wedlock and dies intestate shall descend and be distributed, subject to the payment of costs of administration and other lawful claims against the estate, and subject to the payment of State inheritance or estate taxes, as provided in this Article. (1959, c. 879, s. 1; 1999-337, s. 6; 2013-198, s. 10.)

§ 29-21. Share of surviving spouse.

The share of the surviving spouse of an intestate born out of wedlock shall be the same as provided in G.S. 29-14 for the surviving spouse of a legitimate person. In determining whether the intestate is survived by one or more parents as provided in G.S. 29-14(3), any person identified as the father under G.S. 29-19(b)(1) or (b)(2) shall be regarded as a parent. (1959, c. 879, s. 1; 1977, c. 757, s. 1; 2013-198, s. 11.)

§ 29-22. Shares of others than the surviving spouse.

Those persons surviving an intestate born out of wedlock, other than the surviving spouse, shall take that share of the net estate provided in G.S. 29-15. In determining whether the intestate is survived by one or more parents or their collateral kindred as provided in G.S. 29-15, any person identified as the father under G.S. 29-19(b)(1) or (b)(2) shall be regarded as a parent. (1959, c. 879, s. 1; 1977, c. 757, s. 2; 2013-198, s. 12.)

Article 7.

Advancements.

§ 29-23. In general.

If a person dies intestate as to all the person's estate, property which the person gave in his lifetime as an advancement shall be counted toward the advancee's intestate share, and to the extent that it does not exceed such intestate share, shall be taken into account in computing the estate to be distributed. (1959, c. 879, s. 1; 2011-344, s. 5.)

§ 29-24. Presumption of gift.

A gratuitous inter vivos transfer is presumed to be an absolute gift and not an advancement unless shown to be an advancement. (1959, c. 879, s. 1.)

§ 29-25. Effect of advancement.

If the amount of the advancement equals or exceeds the intestate share of the advancee, the advancee shall be excluded from any further portion in the distribution of the estate, but the advancee shall not be required to refund any part of such advancement; and if the amount of the advancement is less than the advancee's share, the advancee shall be entitled to such additional amount as will give the advancee the advancee's full share of the intestate donor's estate. (1959, c. 879, s. 1; 2011-344, s. 5.)

§ 29-26. Valuation.

The value of the property given as an advancement shall be determined as of the time when the advancee came into possession or enjoyment, or at the time of the death of the intestate, whichever first occurs. However, if the value of the property, so advanced, is stated by the intestate donor in a writing signed by the intestate donor and designating the gift as an advancement, such value shall be deemed the value of the advancement. (1959, c. 879, s. 1; 2011-344, s. 5.)

§ 29-27. Death of advancee before intestate donor.

If the advancee dies before the intestate donor leaving a lineal heir or heirs who take by intestate succession from the intestate donor, the advancement shall be taken into account in the same manner as if it had been made directly to such heir or heirs, but the value shall be determined as of the time the original advancee came into possession or enjoyment, or when the heir or heirs came into possession or enjoyment or at the time of the death of the intestate donor, whichever first occurs. (1959, c. 879, s. 1; 1961, c. 958, s. 3.)

§ 29-28. Inventory.

If any person who has, in the lifetime of an intestate donor, received a part of the donor's property, refuses, upon order of the clerk of superior court of the county in which the administrator or collector qualifies, to give an inventory on oath, setting forth therein to the best of the person's knowledge and belief the particulars of the transfer of such property, the person shall be considered to have received the person's full share of the donor's estate, and shall not be entitled to receive any further part or share. (1959, c. 879, s. 1; 2011-344, s. 5.)

§ 29-29. Release by advancee.

If the advancee acknowledges to the intestate donor by a signed writing that the advancee has been advanced the advancee's full share of the intestate donor's estate, both the advancee and those claiming through the advancee shall be excluded from any further participation in the intestate donor's estate. (1959, c. 879, s. 1; 2011-344, s. 5.)

Article 8.

Election to Take Life Interest in Lieu of Intestate Share.

§ 29-30. Election of surviving spouse to take life interest in lieu of intestate share provided.

(a) In lieu of the intestate share provided in G.S. 29-14 or G.S. 29-21, or of the elective share provided in G.S. 30-3.1, the surviving spouse of an intestate or the surviving spouse who has petitioned for an elective share shall be entitled to take as the surviving spouse's intestate

share or elective share a life estate in one third in value of all the real estate of which the deceased spouse was seised and possessed of an estate of inheritance at any time during coverture, except that real estate as to which the surviving spouse:

(1) Has waived the surviving spouse's rights by joining with the other spouse in a conveyance thereof, or

(2) Has released or quitclaimed the surviving spouse's interest therein in accordance with G.S. 52-10, or

(3) Was not required by law to join in conveyance thereof in order to bar the elective life estate, or

(4) Is otherwise not legally entitled to the election provided in this section.

(b) The surviving spouse may elect to take a life estate in the usual dwelling house occupied by the surviving spouse at the time of the death of the deceased spouse if such dwelling house were owned by the deceased spouse at the time of the deceased spouse's death, together with the outbuildings, improvements and easements thereunto belonging or appertaining, and lands upon which situated and reasonably necessary to the use and enjoyment thereof, as well as a fee simple ownership in the household furnishings therein, despite the fact that a life estate therein might exceed the fractional limitation provided for in subsection (a) of this section. If the value of a life estate in the dwelling house is less than the value of a life estate in one-third in value of all the real estate, the surviving spouse may elect to take a life estate in the dwelling and a life estate in such other real estate as to make the aggregate life estate of the surviving spouse equal to a life estate in one-third in value of all the real estate.

(c) The election provided for in subsection (a) shall be made by the filing of a petition in accordance with Article 2 of Chapter 28A of the General Statutes with the clerk of the superior court of the county in which the administration of the estate is pending, or, if no administration is pending, then with the clerk of the superior court of any county in which the administration of the estate could be commenced. The election shall be made prior to the shorter of the following applicable periods:

(1) In case of testacy, (i) within 12 months of the date of death of the deceased spouse if letters testamentary are not issued within that period, or (ii) within one month after the expiration of the time limit for filing a claim for elective share if letters have been issued.

(2) In case of intestacy, (i) within 12 months after the date of death of the deceased spouse if letters of administration are not issued within that period, or (ii) within one month after the expiration of the time limit for filing claims against the estate, if letters have been issued.

(3) Repealed by Session Laws 2011-344, s. 5, effective January 1, 2012.

(4) If litigation that affects the share of the surviving spouse in the estate is pending, including a pending petition for determination of an elective share, then within such reasonable time as may be allowed by written order of the clerk of the superior court.

(5) Nothing in this subsection shall extend the period of time for a surviving spouse to petition for an elective share under Article 1A of Chapter 30 of the General Statutes.

(c1) The petition shall:

(1) Be directed to the clerk with whom filed;

(2) State that the surviving spouse making the same elects to take under this section rather than under the provisions of G.S. 29-14, 29-21, or 30-3.1, as applicable;

(3) Set forth the names of all heirs, devisees, personal representatives and all other persons in possession of or claiming an estate or an interest in the property described in subsection (a); and

(4) Request the allotment of the life estate provided for in subsection (a).

(c2) The petition may be filed in person, or by attorney authorized in a writing executed and duly acknowledged by the surviving spouse and attested by at least one witness. If the surviving spouse is a minor or an incompetent, the petition may be executed and filed by a general guardian or by the guardian of the person or estate of the minor or incompetent spouse. If the minor or incompetent spouse has no guardian, the petition may be executed and filed by a guardian ad litem appointed by the clerk. The petition, whether in person or by attorney, shall be filed as a record of the court, and a summons together with a copy of the petition shall be served upon each of the interested persons named in the petition, in accordance with G.S. 1A-1, Rule 4.

(d) In case of election to take a life estate in lieu of an intestate share or elective share, as provided in either G.S. 29-14, 29-21, or 30-3.3(a), the clerk of superior court, with whom the petition has been filed, shall summon and appoint a jury of three disinterested persons who being first duly sworn shall promptly allot and set apart to the surviving spouse the life estate provided for in subsection (a) and make a final report of such action to the clerk.

(e) The final report shall be filed by the jury not more than 60 days after the summoning and appointment thereof, shall be signed by all jurors, and shall describe by metes and bounds the real estate in which the surviving spouse shall have been allotted and set aside a life estate. It shall be filed as a record of court and a certified copy thereof shall be filed and recorded in the office of the register of deeds of each county in which any part of the real property of the deceased spouse, affected by the allotment, is located.

(f) In the election and procedure to have the life estate allotted and set apart provided for in this section, the rules of procedure relating to partition proceedings under Chapter 46 of the General Statutes shall apply except insofar as the same would be inconsistent with the provisions of this section. A determination of the life estate under this section may be appealed in accordance with G.S. 1-301.3.

(g) Neither the household furnishings in the dwelling house nor the life estates taken by election under this section shall be subject to the payment of debts due from the estate of the deceased spouse, except those debts secured by such property as follows:

(1) By a mortgage or deed of trust in which the surviving spouse has waived the surviving spouse's rights by joining with the other spouse in the making thereof; or

(2) By a purchase money mortgage or deed of trust, or by a conditional sales contract of personal property in which title is retained by the vendor, made prior to or during the marriage; or

(3) By a mortgage or deed of trust made prior to the marriage; or

(4) By a mortgage or deed of trust constituting a lien on the property at the time of its acquisition by the deceased spouse either before or during the marriage.

(h) If no election is made in the manner and within the time provided for in subsection (c) the surviving spouse shall be conclusively deemed to have waived the surviving spouse's right to elect to take under the provisions of this section, and any interest which the surviving spouse

may have had in the real estate of the deceased spouse by virtue of this section shall terminate. (1959, c. 879, s. 1; 1961, c. 958, ss. 4-8; 1965, c. 848; 1997-456, s. 27; 2000-178, s. 3; 2011-284, s. 22; 2011-344, s. 5.)