

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1991

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SENATE BILL 775  
House Committee Substitute Favorable 7/11/91  
Third Edition Engrossed 7/13/91

Short Title: Modify Law Concerning Trusts.

(Public)

Sponsors:

Referred to:

April 24, 1991

1 A BILL TO BE ENTITLED  
2 AN ACT TO MODIFY THE LAW REGARDING TRUSTS.

3 The General Assembly of North Carolina enacts:

4 Section 1. The purpose of this act is to save the deduction of interests in  
5 certain trusts for which a federal estate or gift tax marital deduction is claimed and  
6 which may not otherwise qualify for the deduction.

7 Sec. 2. Chapter 36A of the General Statutes is amended by adding a new  
8 Article to read:

9 **“ARTICLE 10.**  
10 **"MARITAL DEDUCTION TRUSTS.**

11 **"§ 36A-116. Marital deduction trusts.**

12 (a) If a trust created under a will or trust agreement for the benefit of the spouse  
13 of the testator or the grantor of the trust, other than a trust which provides that upon the  
14 termination of the income interest that the entire remaining trust estate be paid to the  
15 estate of the spouse, requires that all the income of the trust be paid not less frequently  
16 than annually to the spouse and a federal estate or gift tax marital deduction is claimed  
17 with respect to the trust, then, unless the will or trust agreement specifically provides  
18 otherwise by reference to this section, any investment in or retention of unproductive  
19 property as an asset of the trust is subject to the power of the spouse to require either  
20 that the asset be made productive of income, or that it be converted to assets productive  
21 of income, within a reasonable period of time.

1       (b) If, but for the absence of a direction in the will or trust agreement that accrued  
2 income shall be paid to the estate of the spouse, a trust created under a will or trust  
3 agreement for the benefit of the spouse of the testator or the grantor of the trust would  
4 qualify for the federal estate tax marital deduction under section 2056(b)(7) of the  
5 Internal Revenue Code or the federal gift tax marital deduction under section 2523(f) of  
6 the Internal Revenue Code, then, unless the will or trust agreement specifically provides  
7 otherwise by reference to this section, upon the termination of the income interest all  
8 accrued or undistributed income of the trust at the death of spouse shall be paid to the  
9 personal representative of the spouse's estate in accordance with the Principal and  
10 Income Act of 1973, Article 2 of Chapter 37 of the General Statutes."

11               Sec. 3. This act is effective upon ratification. Section 2 of this act applies to  
12 irrevocable trusts in existence or created on or after the date of ratification.