

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

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HOUSE BILL 333
Committee Substitute Favorable 4/16/97

Short Title: Clarify Atty-In-Fact Gifts.

(Public)

Sponsors:

Referred to:

February 26, 1997

1 A BILL TO BE ENTITLED
2 AN ACT TO CLARIFY THE CIRCUMSTANCES UNDER WHICH AN ATTORNEY-
3 IN-FACT MAY MAKE GIFTS.

4 The General Assembly of North Carolina enacts:

5 Section 1. G.S. 32A-2(14) reads as rewritten:

6 "(14) Gifts to Charities, and to Individuals Other Than the Attorney-In-Fact. –

7 a. Except as provided in G.S. 32A-2(14)b., to make gifts of any of
8 the principal's property to any individual other than the attorney-
9 in-fact or to any organization described in sections 170(c) and
10 2522(a) of the Internal Revenue Code or corresponding future
11 provisions of federal tax law, or both, in accordance with the
12 principal's personal history of making or joining in the making of
13 lifetime gifts. As used in this subdivision 'Internal Revenue
14 Code' means the 'Code' as defined in G.S. 105-2.1.

15 b. Except as provided in G.S. 32A-2(14)c., or unless gifts are
16 expressly authorized by the power of attorney under G.S. 32A-
17 2(15), a power described in G.S. 32A-2(14)a. may not be
18 exercised by the attorney-in-fact in favor of the attorney-in-fact

1 or the estate, creditors, or creditors of the estate of the attorney-
2 in-fact.

3 c. If the power described in G.S. 32A-2(14)a. is conferred upon two
4 or more attorneys-in-fact, it may be exercised by the attorney-in-
5 fact or attorneys-in-fact who are not disqualified by G.S. 32A-
6 2(14)b. from exercising the power of appointment as if they were
7 the only attorney-in-fact or attorneys-in-fact.

8 d. An attorney-in-fact expressly authorized by this section to make
9 gifts of the principal's property may elect to request the clerk of
10 the superior court to issue an order to make a gift of the property
11 of the principal."

12 Section 2. G.S. 32A-2(15) reads as rewritten:

13 "(15) Gifts to the Named Attorney-In-Fact. – To make gifts to the attorney-in-
14 fact named in the power of attorney or the estate, creditors, or creditors
15 of the estate of the ~~attorney-in-fact.~~ attorney-in-fact, in accordance with
16 the principal's personal history of making or joining in the making of
17 lifetime gifts."

18 Section 3. Section 1 of this act becomes effective July 1, 1997, and applies to
19 all powers of attorney executed on or after October 1, 1995. Section 2 of this act
20 becomes effective October 1, 1997, and applies to all powers of attorney executed on or
21 after that date. Section 3 of this act is effective when it becomes law.