

NORTH CAROLINA GENERAL ASSEMBLY
1979 SESSION

CHAPTER 100
HOUSE BILL 261

AN ACT TO AUTHORIZE THE SALE OF THE REAL PROPERTY OF AN ABANDONED
INCOMPETENT SPOUSE WITHOUT THE JOINDER OF THE ABANDONING
SPOUSE AS RECOMMENDED BY THE GENERAL STATUTES COMMISSION.

The General Assembly of North Carolina enacts:

Section 1. Article 3 of Chapter 35 is hereby amended by adding a new section thereto to read as follows:

"§ 35-10.1. **Abandoned incompetent spouse.** — (a) A guardian of a married person found incompetent who has been abandoned, whether the guardian was appointed before or after the abandonment, may initiate a special proceeding before a clerk of superior court requesting the issuance of an order authorizing the sale of the ward's separate real property without the joinder of the abandoning spouse.

(b) The special proceeding shall be brought before a clerk of superior court having jurisdiction over the ward under the provisions of G.S. 35-1.8.

(c) The ward's spouse shall be served with notice of the special proceeding in accordance with G.S. 1A-1, Rule 4.

(d) If the clerk finds:

- (1) that the spouse of the ward has willfully and without just cause abandoned the ward for a period of more than one year; and
- (2) that the spouse of the ward has knowledge of the guardianship, or that the guardian has made a reasonable attempt to notify the spouse of the guardianship; and
- (3) that an order authorizing the sale of the separate real property of the ward is in the best interest of the ward,

the clerk may issue such an order thereby barring the abandoning spouse from all right, title and interest in any of the ward's separate real property sold pursuant to such an order."

Sec. 2. This act shall become effective October 1, 1979.

In the General Assembly read three times and ratified, this the 1st day of March, 1979.