

## Session 113 - (1999-2000)

### S 1346 General Bill, By Holland

**Summary:** Trusts and Estates, Probate Code, Courts, Property, Real estate; rights of survivorship when joint tenancy in

A BILL TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 27-7-40, SO AS TO PROVIDE THAT FOR ANY DEED OF CONVEYANCE OF REAL ESTATE WHICH CONTAINS THE NAMES OF THE GRANTEES FOLLOWED BY THE WORDS 'AS JOINT TENANTS WITH RIGHTS OF SURVIVORSHIP, AND NOT AS TENANTS IN COMMON', THE CREATION OF A JOINT TENANCY WITH RIGHTS OF SURVIVORSHIP IN THE REAL ESTATE SHALL BE CONCLUSIVELY DEEMED TO HAVE BEEN CREATED; TO AMEND SECTION 62-2-804, RELATING TO THE EFFECT OF A SURVIVORSHIP PROVISION ON JOINT TENANCY, SO AS TO PROVIDE THAT WHILE OTHER METHODS FOR THE CREATION OF A JOINT TENANCY MAY BE UTILIZED, AN EXPRESS PROVISION FOR A RIGHT OF SURVIVORSHIP WILL BE CONCLUSIVELY DEEMED TO HAVE OCCURRED IF THE WILL OR INSTRUMENT OF CONVEYANCE CONTAINS CERTAIN LANGUAGE; TO AMEND SECTION 62-3-711, RELATING TO THE POWERS OF A PERSONAL REPRESENTATIVE, SO AS TO PROVIDE IF THE WILL OF A DECEDEDENT AUTHORIZES A PERSONAL REPRESENTATIVE TO SELL REAL PROPERTY, THE TITLE TO WHICH WAS NOT DEVISED TO THE PERSONAL REPRESENTATIVE, SUBJECT TO SECTION 62-3-713, THE PERSONAL REPRESENTATIVE HAS FULL AND UNRESTRICTED POWER TO CONVEY FEE SIMPLE TITLE TO THE REAL PROPERTY BY LIMITED WARRANTY DEED WITHOUT THE CONSENT OF HEIRS OR DEVISEES WHO HAVE RECEIVED TITLE TO THE PROPERTY; TO AMEND SECTION 62-3-715, RELATING TO TRANSACTIONS AUTHORIZED FOR PERSONAL REPRESENTATIVES, SO AS TO PROVIDE THAT A PERSONAL REPRESENTATIVE MAY MAKE NON-PRO RATA DISTRIBUTIONS OF REAL AND PERSONAL PROPERTY; TO AMEND SECTION 62-3-906, RELATING TO DISTRIBUTION IN KIND, SO AS TO PROVIDE THAT UNLESS A PERSONAL REPRESENTATIVE IS AFFORDED A POWER OF SALE, THE DISTRIBUTABLE ASSETS OF A DECEDEDENT'S ESTATE MUST BE DISTRIBUTED IN KIND TO THE EXTENT POSSIBLE; TO AMEND SECTION 62-3-907, RELATING TO DISTRIBUTION IN KIND, SO AS TO PROVIDE CERTAIN REQUIREMENTS FOR AND DUTIES OF PERSONAL REPRESENTATIVES; TO AMEND SECTION 62-3-908, RELATING TO DISTRIBUTION AND THE RIGHT OR TITLE OF A DISTRIBUTEE, SO AS TO PROVIDE THAT AN IMPROPER DISTRIBUTION WOULD INCLUDE, BUT NOT BE LIMITED TO, THOSE INSTANCES WHERE THE INSTRUMENT OR DEED OF DISTRIBUTION IS INCONSISTENT WITH THE PROVISIONS OF THE WILL OR WITH STATUTES GOVERNING INTESTACY; TO AMEND SECTION 62-3-910, RELATING TO THE PROTECTION OF PURCHASERS FROM DISTRIBUTEES, SO AS TO PROVIDE THAT IF REAL PROPERTY IS PURCHASED FROM A PERSONAL REPRESENTATIVE WHO IS GRANTED A POWER OF SALE IN THE WILL BUT WHO DOES NOT HAVE TITLE TO SUCH PROPERTY, THE PURCHASER THEREOF TAKES TITLE FREE OF RIGHTS OF ANY HEIRS OR DEVISEES AND INCURS NO PERSONAL LIABILITY TO THE ESTATE OR TO ANY HEIR OR DEVISEE; TO AMEND SECTION 62-3-1201, RELATING TO THE COLLECTION OF PERSONAL PROPERTY BY AFFIDAVIT, SO AS TO INCREASE THE MAXIMUM AMOUNT FROM TEN THOUSAND TO TWENTY-FIVE THOUSAND DOLLARS WHEREBY PERSONAL PROPERTY CAN BE COLLECTED BY USE OF AN AFFIDAVIT; TO AMEND SECTIONS 62-3-1202A, 62-3-1203, AND 62-3-1204, RELATING TO SMALL ESTATES, SO AS TO INCREASE THE MAXIMUM AMOUNT FROM TEN THOUSAND TO TWENTY-FIVE THOUSAND DOLLARS IN ORDER FOR AN ESTATE TO QUALIFY UNDER THIS SECTION; TO AMEND SECTION 62-4-205, RELATING TO THE POWERS OF A FOREIGN PERSONAL REPRESENTATIVE, SO AS TO PROVIDE THAT, WITH REGARD TO ASSETS, A DOMICILIARY FOREIGN PERSONAL REPRESENTATIVE MAY EXERCISE ALL POWERS OF A LOCAL PERSONAL REPRESENTATIVE UNDER CERTAIN CONDITIONS; TO AMEND SECTION 62-4-207, RELATING TO ANCILLARY AND OTHER LOCAL ADMINISTRATION, SO AS TO PROVIDE THAT THE INITIATION OF A PROCEEDING UNDER ARTICLE 3 OF TITLE 62 IS THE ONLY MECHANISM WHICH AFFECTS THE RIGHTS OF CLAIMANTS, PURCHASERS, OR DISTRIBUTEES IN THIS STATE; AND TO AMEND SECTION 62-7-704, RELATING TO POWERS OF TRUSTEES, SO AS TO PROVIDE THAT TRUSTEES MAY MAKE NON-PRO RATA DISTRIBUTIONS OF REAL AND PERSONAL PROPERTY.

04/19/00 Senate Introduced and read first time SJ-6

04/19/00 Senate Referred to Committee on Judiciary SJ-6