

CHAPTER 247

AN ACT concerning the presumption of death and amending N.J.S.3B:27-1 and N.J.S.3B:27-6 and supplementing P.L.1944, c.20 (C.52:17A-1 et seq.).

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

1. N.J.S.3B:27-1 is amended to read as follows:

Death of resident or nonresident presumed after 5 years' absence or exposure to specific catastrophic event.

3B:27-1. Death of resident or nonresident presumed after 5 years' absence or exposure to specific catastrophic event. a. A resident or nonresident of this State who absents himself from the place of his last known residence for a continuous period of 5 years, during which he has not been heard from, and whose absence is not satisfactorily explained after diligent search or inquiry, is presumed to be dead. His death is presumed to have occurred at the end of the period unless there is sufficient evidence for determining that death occurred earlier.

b. A resident or nonresident of this State who is exposed to a specific event certified by the Governor as a catastrophic event that has resulted in a loss of life to persons known or unknown and whose absence following that event is not satisfactorily explained after diligent search or inquiry is presumed to be dead. The death is presumed to have occurred at the time of the catastrophic event.

c. Nothing in this section shall be construed to limit or abrogate the special peril doctrine under the common law.

2. N.J.S.3B:27-6 is amended to read as follows:

Action to be brought in Superior Court.

3B:27-6. Action to be brought in Superior Court. a. The Superior Court may declare the absentee dead, if it is satisfied that the absentee should be presumed dead under the provisions of N.J.S.3B:27-1. Under the provisions of subsection a. of N.J.S.3B:27-1 the Superior Court may, if it concludes from a review of the evidence, both direct and circumstantial, that the earlier death of the absentee has been established and that the death occurred prior to the institution of the proceeding before the court, fix the date of death earlier than the expiration of the 5-year period set forth therein. Under the provisions of subsection b. of N.J.S.3B:27-1 the death is presumed to have occurred at the time of the catastrophic event. A declaration with respect to a nonresident shall affect only property located within the State.

b. At the request of an applicant who has obtained a declaration based on subsection b. of N.J.S.3B:27-1 with respect to a resident of this State, the court shall order the State registrar of vital statistics to issue, at no cost to the applicant, a death certificate. The State registrar may indicate on such certificate that it was issued pursuant to court order in accordance with this section.

C.52:17B-4b Additional powers, duties of Attorney General concerning certain declarations of death.

3. In addition to the powers and duties conferred upon the Attorney General by the Constitution, the common and statutory law of this State, the Attorney General may initiate or intervene in any proceedings or action brought pursuant to N.J.S.3B:27-6, including a class action law suit, on behalf of citizens of this State to seek a declaration of death of an absentee under subsection b. of N.J.S.3B:27-1. The Attorney General may take all steps necessary or useful in carrying out the powers provided in this act.

4. This act shall take effect immediately and shall be retroactive to September 11, 2001.

Approved October 4, 2001.