

CHAPTER 132

AN ACT concerning wills and estates and revising various sections of the statutory law.

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

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

Definitions A to H.

3B:1-1. As used in this title, unless otherwise defined:

"Administrator" includes general administrators of an intestate and unless restricted by the subject or context, administrators with the will annexed, substituted administrators, substituted administrators with the will annexed, temporary administrators and administrators pendente lite.

"Beneficiary," as it relates to trust beneficiaries, includes a person who has any present or future interest, vested or contingent, and also includes the owner of an interest by assignment or other transfer and as it relates to a charitable trust, and includes any person entitled to enforce the trust.

"Child" means any individual, including a natural or adopted child, entitled to take by intestate succession from the parent whose relationship is involved and excludes any individual who is only a stepchild, a resource family child, a grandchild or any more remote descendant.

"Claims" include liabilities whether arising in contract, or in tort or otherwise, and liabilities of the estate which arise at or after the death of the decedent, including funeral expenses and expenses of administration, but does not include estate or inheritance taxes, demands or disputes regarding title to specific assets alleged to be included in the estate.

"Cofiduciary" means each of two or more fiduciaries jointly serving in a fiduciary capacity.

"Descendant" of an individual means all of his progeny of all generations, with the relationship of parent and child at each generation being determined by the definition of child contained in this section and parent contained in N.J.S.3B:1-2.

"Devise," when used as a noun, means a testamentary disposition of real or personal property and when used as a verb, means to dispose of real or personal property by will.

"Devisee" means any person designated in a will to receive a devise. In the case of a devise to an existing trust or trustee, or to a trustee of a trust described by will, the trust or trustee is the devisee and the beneficiaries are not devisees.

"Distributee" means any person who has received property of a decedent from his personal representative other than as a creditor or purchaser. A trustee is a distributee only to the extent of a distributed asset or increment thereto remaining in his hands. A beneficiary of a trust to whom the trustee has distributed property received from a personal representative is a distributee of the personal representative.

"Domiciliary foreign fiduciary" means any fiduciary who has received letters, or has been appointed, or is authorized to act as a fiduciary, in the jurisdiction in which the decedent was domiciled at the time of his death, in which the ward is domiciled or in which is located the principal place of the administration of a trust.

"Estate" means all of the property of a decedent, minor or incapacitated individual, trust or other person whose affairs are subject to this title as the property is originally constituted and as it exists from time to time during administration.

"Fiduciary" includes executors, general administrators of an intestate estate, administrators with the will annexed, substituted administrators, substituted administrators with the will annexed, guardians, substituted guardians, trustees, substituted trustees and, unless restricted by the subject or context, temporary administrators, administrators pendente lite, administrators ad prosequendum, administrators ad litem and other limited fiduciaries.

"Governing instrument" means a deed, will, trust, insurance or annuity policy, account with the designation "pay on death" (POD) or "transfer on death" (TOD), security registered in beneficiary form with the designation "pay on death" (POD) or "transfer on death" (TOD), pension, profit-sharing, retirement or similar benefit plan, instrument creating or exercising a power of appointment or a power of attorney, or a dispositive, appointive, or nominative instrument of any similar type.

"Guardian" means a person who has qualified as a guardian of the person or estate of a minor or incapacitated individual pursuant to testamentary or court appointment, but excludes one who is merely a guardian ad litem.

"Heirs" means those persons, including, but not limited to, the surviving spouse and the descendants of the decedent, who are entitled under the statutes of intestate succession to the property of a decedent.

2. N.J.S.3B:1-2 is amended to read as follows:

Definitions I to Z.

3B:1-2. "Incapacitated individual" means an individual who is impaired by reason of mental illness or mental deficiency to the extent that he lacks sufficient capacity to govern himself and manage his affairs.

The term incapacitated individual is also used to designate an individual who is impaired by reason of physical illness or disability, chronic use of drugs, chronic alcoholism or other cause (except minority) to the extent that he lacks sufficient capacity to govern himself and manage his affairs.

The terms incapacity and incapacitated individual refer to the state or condition of an incapacitated individual as hereinbefore defined.

"Issue" of an individual means a descendant as defined in N.J.S.3B:1-1.

"Joint tenants with the right of survivorship" means co-owners of property held under circumstances that entitle one or more to the whole of the property on the death of the other or others, but excludes forms of co-ownership in which the underlying ownership of each party is in proportion to that party's contribution.

"Local administration" means administration by a personal representative appointed in this State.

"Local fiduciary" means any fiduciary who has received letters in this State and excludes foreign fiduciaries who acquire the power of local fiduciary pursuant to this title.

"Minor" means an individual who is under 18 years of age.

"Nonresident decedent" means a decedent who was domiciled in another jurisdiction at the time of his death.

"Parent" means any person entitled to take or who would be entitled to take if the child, natural or adopted, died without a will, by intestate succession from the child whose relationship is in question and excludes any person who is a stepparent, resource family parent or grandparent.

"Per capita." If a governing instrument requires property to be distributed "per capita," the property is divided to provide equal shares for each of the takers, without regard to their shares or the right of representation.

"Payor" means a trustee, insurer, business entity, employer, government, governmental agency or subdivision, or any other person authorized or obligated by law or a governing instrument to make payments.

"Person" means an individual or an organization.

"Per Stirpes." If a governing instrument requires property to be distributed "per stirpes," the property is divided into as many equal shares as there are: (1) surviving children of the designated ancestor; and (2) deceased children who left surviving descendants. Each surviving child is allocated one share. The share of each deceased child with surviving descendants is divided in the same manner, with subdivision repeating at each succeeding generation until the property is fully allocated among surviving descendants.

"Personal representative" includes executor, administrator, successor personal representative, special administrator, and persons who perform substantially the same function under the law governing their status. "General personal representative" excludes special administrator.

"Representation; Per Capita at Each Generation." If an applicable statute or a governing instrument requires property to be distributed "by representation" or "per capita at each generation," the property is divided into as many equal shares as there are: (1) surviving descendants in the generation nearest to the designated ancestor which contains one or more surviving descendants; and (2) deceased descendants in the same generation who left surviving descendants, if any. Each surviving descendant in the nearest generation is allocated one share. The remaining shares, if any, are combined and then divided in the same manner among the

surviving descendants of the deceased descendants, as if the surviving descendants who were allocated a share and their surviving descendants had predeceased the designated ancestor.

"Resident creditor" means a person domiciled in, or doing business in this State, who is, or could be, a claimant against an estate.

"Security" includes any note, stock, treasury stock, bond, mortgage, financing statement, debenture, evidence of indebtedness, certificate of interest or participation in an oil, gas or mining title or lease or in payments out of production under the title or lease, collateral, trust certificate, transferable share, voting trust certificate or, in general, any interest or instrument commonly known as a security or as a security interest or any certificate of interest or participation, any temporary or interim certificate, receipt or certificate of deposit for, or any warrant or right to subscribe to or purchase, any of the foregoing.

"Stepchild" means a child of the surviving, deceased, or former spouse of the testator.

"Successor personal representative" means a personal representative, other than a special administrator, who is appointed to succeed a previously appointed personal representative.

"Successors" means those persons, other than creditors, who are entitled to real and personal property of a decedent under his will or the laws governing intestate succession.

"Testamentary trustee" means a trustee designated by will or appointed to exercise a trust created by will.

"Testator" includes an individual and means male or female.

"Trust" includes any express trust, private or charitable, with additions thereto, wherever and however created. It also includes a trust created by judgment under which the trust is to be administered in the manner of an express trust. "Trust" excludes other constructive trusts, and it excludes resulting trusts, guardianships, personal representatives, trust accounts created under the "Multiple-party Deposit Account Act," P.L.1979, c.491 (C.17:16I-1 et seq.), gifts to minors under the "New Jersey Uniform Gifts to Minors Act," P.L.1963, c.177 (C.46:38-13 et seq.), or the "New Jersey Uniform Transfers to Minors Act," R.S.46:38A-1 et seq., business trusts providing for certificates to be issued to beneficiaries, common trusts, security arrangements, liquidation trusts, and trusts for the primary purpose of paying debts, dividends, interest, salaries, wages, profits, pensions or employee benefits of any kind, and any arrangement under which a person is nominee or escrowee for another.

"Trustee" includes an original, additional or successor trustee, whether or not appointed or confirmed by court.

"Ward" means an individual for whom a guardian is appointed or an individual under the protection of the court.

"Will" means the last will and testament of a testator or testatrix and includes any codicil and any testamentary instrument that merely appoints an executor, revokes or revises another will, nominates a guardian, or expressly excludes or limits the right of a person or class to succeed to property of the decedent passing by intestate succession.

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

Devolution of property upon death.

3B:1-3. Upon the death of an individual, his real and personal property devolves to the persons to whom it is devised by his will or to those indicated as substitutes for them in cases involving lapse, renunciation, or other circumstances affecting the devolution of testate estates, or in the absence of testamentary disposition, to his heirs, or to those indicated as substitutes for them in cases involving renunciation or other circumstances affecting devolution of intestate estates, subject to rights of creditors and to administration.

4. N.J.S.3B:2-5 is amended to read as follows:

Disputes or doubts in proceedings before the surrogate.

3B:2-5. In the event of any dispute or doubt arising before the surrogate or in the surrogate's court, neither the surrogate nor the court shall take any further action therein, except in accordance with the order of the Superior Court.

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

Oath; affidavit; deposition or proof.

3B:2-6. Any oath, affidavit, deposition or proof required to be made or taken in any proceeding before a surrogate, the surrogate's court or in the Superior Court, or necessary or proper to be used before the surrogate or the court, may be made and taken before the surrogate or before any individual authorized by law to administer oaths. Qualifications of executors and administrators and acceptances of trusteeships and guardianships may be taken as provided by the rules of the Supreme Court.

6. N.J.S.3B:2-7 is amended to read as follows:

Issuance of subpoenas by surrogate.

3B:2-7. A surrogate may issue process of subpoenas to any person within the State to appear and give evidence in any matter pending before the surrogate's court.

7. N.J.S.3B:2-8 is amended to read as follows:

Penalty for failure to obey subpoena.

3B:2-8. Any person subpoenaed as a witness by a surrogate, who does not appear pursuant thereto, or appearing refuses to be sworn or give evidence, without reasonable cause assigned, shall, for every such default or refusal, be subject to a fine of not more than \$50.00, as the surrogate's court issuing the subpoena shall by judgment determine proper to impose. The fine, when collected, shall be paid to the county.

In default of the payment of a fine so imposed, the surrogate's court by its judgment may commit the witness to the county jail of the county until it is paid or he is sooner discharged.

The judgment of the surrogate's court imposing a fine or committing a witness to jail shall be reviewable by the Superior Court in the same manner as other judgments of the court are reviewed.

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

Individuals competent to make a will and appoint a testamentary guardian.

3B:3-1. Any individual 18 or more years of age who is of sound mind may make a will and may appoint a testamentary guardian.

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

Execution; Witnessed Wills; Writings Intended as Wills.

3B:3-2. a. Except as provided in subsection b. and in N.J.S.3B:3-3, a will shall be:

(1) in writing;

(2) signed by the testator or in the testator's name by some other individual in the testator's conscious presence and at the testator's direction; and

(3) signed by at least two individuals, each of whom signed within a reasonable time after each witnessed either the signing of the will as described in paragraph (2) or the testator's acknowledgment of that signature or acknowledgment of the will.

b. A will that does not comply with subsection a. is valid as a writing intended as a will, whether or not witnessed, if the signature and material portions of the document are in the testator's handwriting.

c. Intent that the document constitutes the testator's will can be established by extrinsic evidence, including writings intended as wills, portions of the document that are not in the testator's handwriting.

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

Writings intended as wills.

3B:3-3. Although a document or writing added upon a document was not executed in compliance with N.J.S.3B:3-2, the document or writing is treated as if it had been executed in compliance with N.J.S.3B:3-2 if the proponent of the document or writing establishes by clear and convincing evidence that the decedent intended the document or writing to constitute: (1) the decedent's will; (2) a partial or complete revocation of the will; (3) an addition to or an alteration of the will; or (4) a partial or complete revival of his formerly revoked will or formerly revoked portion of the will.

11. N.J.S.3B:3-4 is amended to read as follows:

Making will self-proved at time of execution.

3B:3-4. Any will executed on or after September 1, 1978 may be simultaneously executed, attested, and made self-proved, by acknowledgment thereof by the testator and affidavits of the witnesses, each made before an officer authorized pursuant to R.S.46:14-6.1 to take acknowledgments and proofs of instruments entitled to be recorded under the laws of this State, in substantially the following form:

I,, the testator, sign my name to this instrument this day of, 20..., and being duly sworn, do hereby declare to the undersigned authority that I sign and execute this instrument as my last will and that I sign it willingly (or willingly direct another to sign for me), that I execute it as my free and voluntary act for the purposes therein expressed, and that I am 18 years of age or older, of sound mind, and under no constraint or undue influence.

.....
Testator

We,....., the witnesses, sign our names to this instrument, and, being duly sworn, do hereby declare to the undersigned authority that the testator signs and executes this instrument as the testator's last will and that the testator signs it willingly (or willingly directs another to sign for him), and that each of us, in the presence and hearing of the testator, hereby signs this will as witness to the testator's signing, and that to the best of our knowledge the testator is 18 years of age or older, of sound mind, and under no constraint or undue influence.

.....
Witness

.....
Witness

The State of.....

County of.....

Subscribed, sworn to and acknowledged before me by, the testator and subscribed and sworn to before me by and, witnesses, this day of.....

(Signed).....

.....
(Official capacity of officer)

12. N.J.S.3B:3-5 is amended to read as follows:

Making will self-proved subsequent to time of execution.

3B:3-5. A will executed in compliance with N.J.S.3B:3-2 may at any time subsequent to its execution be made self-proved by the acknowledgment thereof by the testator and the affidavits of the witnesses, each made before an officer authorized pursuant to R.S.46:14-6.1 to take acknowledgments and proofs of instruments entitled to be recorded under the laws of this State, attached or annexed to the will in substantially the following form:

The State of

County of

We, , and , the testator and the witnesses, respectively, whose names are signed to the attached or foregoing instrument, being duly sworn, do hereby declare to the undersigned authority that the testator signed and executed the instrument as his last will and that the testator had signed willingly (or willingly directed another to sign for the testator), and that he executed it as the testator's free and voluntary act for the purposes therein expressed, and that each of the witnesses, in the presence and hearing of the testator, signed the will as witness and that to the best of his knowledge the testator was at that time 18 years of age or older, of sound mind and under no constraint or undue influence.

Testator

Witness

Witness

Subscribed, sworn to and acknowledged before me by , the testator, and subscribed and sworn to before me by and , witnesses, this day of .

(Signed)

(Official capacity of officer)

13. N.J.S.3B:3-7 is amended to read as follows:

Who may witness a will.

3B:3-7. Any individual generally competent to be a witness may act as a witness to a will and to testify concerning execution thereof.

14. N.J.S.3B:3-11 is amended to read as follows:

Identifying devise of tangible personal property by separate writing.

3B:3-11. A will may refer to a written statement or list to dispose of items of tangible personal property not otherwise specifically disposed of by the will, other than money. To be admissible under this section as evidence of the intended disposition, the writing must be either in the handwriting of the testator or be signed by the testator and must describe the items and the devisees with reasonable certainty. The writing may be referred to as one to be in existence at the time of the testator's death; it may be prepared before or after the execution of the will; it may be altered by the testator after its preparation; and it may be a writing which has no significance apart from its effect upon the dispositions made by the will.

15. N.J.S.3B:3-12 is amended to read as follows:

Acts and events of independent significance.

3B:3-12. A will may dispose of property by reference to acts and events which have significance apart from their effect upon the dispositions made by the will, whether they occur before or after the execution of the will or before or after the testator's death. The execution or revocation of a will of another individual is such an event.

16. N.J.S.3B:3-13 is amended to read as follows:

Revocation by writing or by act.

3B:3-13. A will or any part thereof is revoked:

a. By the execution of a subsequent will that revokes the previous will or part expressly or by inconsistency; or

b. By the performance of a revocatory act on the will, if the testator performed the act with the intent and for the purpose of revoking the will or part or if another individual performed the act in the testator's conscious presence and by the testator's direction. For purposes of this subsection, "revocatory act on the will" includes burning, tearing canceling, obliterating or destroying the will or any part of it. A burning, tearing or cancelling is a "revocatory act on the will," whether or not the burn, tear, or cancellation touched any of the words on the will.

(1) If a subsequent will does not expressly revoke a previous will, the execution of the subsequent will wholly revokes the previous will by inconsistency if the testator intended the subsequent will to replace rather than supplement the previous will.

(2) The testator is presumed to have intended a subsequent will to replace rather than supplement a previous will if the subsequent will makes a complete disposition of the testator's estate. If this presumption arises and is not rebutted by clear and convincing evidence, the previous will is revoked; only the subsequent will is operative on the testator's death.

(3) The testator is presumed to have intended a subsequent will to supplement rather than replace a previous will if the subsequent will does not make a complete disposition of the testator's estate. If this presumption arises and is not rebutted by clear and convincing evidence, the subsequent will revokes the previous will only to the extent the subsequent will is inconsistent with the previous will; each will is fully operative on the testator's death to the extent they are not inconsistent.

17. N.J.S.3B:3-14 is amended to read as follows:

Revocation of probate and non-probate transfers by divorce or annulment; revival by remarriage to former spouse.

3B:3-14. a. Except as provided by the express terms of a governing instrument, a court order, or a contract relating to the division of the marital estate made between the divorced individuals before or after the marriage, divorce or annulment, a divorce or annulment:

(1) revokes any revocable:

(a) dispositions or appointment of property made by a divorced individual to his former spouse in a governing instrument and any disposition or appointment created by law or in a governing instrument to a relative of the divorced individual's former spouse;

(b) provision in a governing instrument conferring a general or special power of appointment on the divorced individual's former spouse, or on a relative of the divorced individual's former spouse; and

(c) nomination in a governing instrument of a divorced individual's former spouse or a relative of the divorced individual's former spouse to serve in any fiduciary or representative capacity; and

(2) severs the interests of the former spouses in property held by them at the time of the divorce or annulment as joint tenants with the right of survivorship or as tenants by the entireties, transforming the interests of the former spouses into tenancies in common.

In the event of a divorce or annulment, provisions of a governing instrument are given effect as if the former spouse and relatives of the former spouse disclaimed all provisions revoked by this section or, in the case of a revoked nomination in a fiduciary or representative capacity, as if the former spouse and relatives of the former spouse died immediately before the divorce or annulment. If provisions are revoked solely by this section, they are revived by the divorced individual's remarriage to the former spouse or by the revocation, suspension or nullification of the divorce or annulment. No change of circumstances other than as described in this section and in N.J.S.3B:7-1 effects a revocation or severance.

A severance under paragraph (2) of subsection a. does not affect any third-party interest in property acquired for value and in good faith reliance on an apparent title by survivorship in the survivor of the former spouse unless a writing declaring the severance has been noted, registered, filed, or recorded in records appropriate to the kind and location of the property which are relied upon, in the ordinary course of transactions involving such property, as evidence of ownership.

b. For purposes of this section: (1) "divorce or annulment" means any divorce or annulment,

or other dissolution or invalidity of a marriage including a judgment of divorce from bed and board; (2) "governing instrument" means a governing instrument executed by the divorced individual before the divorce or annulment; (3) "divorced individual" includes an individual whose marriage has been annulled; and (4) "relative of the divorced individual's former spouse" means an individual who is related to the divorced individual's former spouse by blood, adoption or affinity and who, after the divorce or annulment, is not related to the divorced individual by blood, adoption or affinity.

c. This section does not affect the rights of any person who purchases property from a former spouse for value and without notice, or receives a payment or other item of property in partial or full satisfaction of a legally enforceable obligation, which the former spouse was not entitled to under this section, but the former spouse is liable for the amount of the proceeds or the value of the property to the person who is entitled to it under this section.

d. A payor or other third party making payment or transferring an item of property or other benefit according to the terms of a governing instrument affected by a divorce or annulment is not liable by reason of this section unless prior to such payment or transfer it has received at its home or principal address written notice of a claimed revocation, severance or forfeiture under this section.

18. N.J.S.3B:3-15 is amended to read as follows:

Revival of revoked will.

3B:3-15. a. Except as otherwise provided in N.J.S.3B:3-14 or as provided in subsections b., c. and d. of this section, a revoked will or codicil shall not be revived except by reexecution or by a duly executed codicil expressing an intention to revive it.

b. If a subsequent will that wholly revoked a previous will is thereafter revoked by a revocatory act described in N.J.S.3B:3-13, the previous will remains revoked unless it is revived. The previous will is revived if there is clear and convincing evidence from the circumstances of the revocation of the subsequent will or from the testator's contemporary or subsequent declarations that the testator intended the previous will to take effect as executed.

c. If a subsequent will that partly revoked a previous will is thereafter revoked by a revocatory act described in N.J.S.3B:3-13, a revoked part of the previous will is revived unless there is clear and convincing evidence from the circumstances of the revocation of the subsequent will or from the testator's contemporary or subsequent declarations that the testator did not intend the revoked part to take effect as executed.

d. If a subsequent will that revoked a previous will in whole or in part is thereafter revoked by another, later will, the previous will remains revoked in whole or in part, unless it or its revoked part is revived. The previous will or its revoked part is revived to the extent it appears from the terms of the later will that the testator intended the previous will to take effect.

19. N.J.S.3B:3-17 is amended to read as follows:

Probate of will and grant of letters.

3B:3-17. The surrogates of the several counties or the Superior Court may take depositions to wills admit the same to probate, and grant thereon letters testamentary or letters of administration with the will annexed.

20. N.J.S.3B:3-19 is amended to read as follows:

Proof required to probate will.

3B:3-19. A will executed as provided in N.J.S.3B:3-2 may be admitted to probate by the surrogate upon the proof of one of the attesting witnesses or by some other individual having knowledge of the facts relating to the proper execution of the will by the testator and its attestation by one of the witnesses.

A will executed and acknowledged in the manner provided in N.J.S.3B:3-4, or N.J.S.3B:3-5 may be admitted to probate by the surrogate without further affidavit, deposition or proof.

A writing intended as a will may be admitted to probate only in the manner provided by the Rules Governing the Courts of the State of New Jersey.

21. N.J.S.3B:3-20 is amended to read as follows:

Probate of a will of testator who died in military service or within 2 years of discharge.

N.J.S.3B:3-20. When a resident of this State dies while a member of the armed forces of the United State or within 2 years from the date of his discharge from the armed forces and no witness to his will is available in this State to prove the will, either because of death, incapacity, nonresidence, absence, or for any other reason, the will shall be admitted to probate upon proof of the signature of the testator by any two individuals, provided the will was validly executed as provided in N.J.S.3B:3-9, and the will would have been admitted to probate if the witnesses were dead.

22. N.J.S.3B:3-24 is amended to read as follows:

Where a will of a resident is to be probated; effect of failure to probate.

3B:3-24. The will of any individual resident within any county of this State at his death may be admitted to probate in the surrogate's court of the county or in the Superior Court. If the will of any individual resident within the State at his death is probated outside the State, it shall be without effect unless or until probate is granted within the State.

23. N.J.S.3B:3-26 is amended to read as follows:

Probate of will of nonresident probated in another state or country.

3B:3-26. When the will of any individual not resident in this State at his death shall have been admitted to probate in any state of the United States or other jurisdiction or country, the surrogate's court of any county may admit it to probate for any purpose and issue letters thereon, provided the will is valid under the laws of this State.

24. N.J.S.3B:3-28 is amended to read as follows:

Probate of will of nonresident decedent where property situated in New Jersey.

3B:3-28. Where the will of any individual not resident in this State at his death has not been admitted to probate in the state, jurisdiction or country in which he then resided and no proceeding is there pending for the probate of the will, and he died owning real estate situate in any county of this State or personal property, or evidence of the ownership thereof, situate therein at the time of probate, the Superior Court or the surrogate's court may admit the will to probate and grant letters thereon.

25. N.J.S.3B:3-28.1 is amended to read as follows:

Probate of will of nonresident where laws of decedent's domicile are discriminatory.

3B:3-28.1. Where the will of any individual who is not resident in this State at the time of his death has not been admitted to probate in the state in which he resided and no proceeding is there pending for the probate of the will, the Superior Court may admit the will to probate and grant letters thereon if the laws of that state discriminate against residents of New Jersey either as a beneficiary or as a fiduciary.

26. N.J.S.3B:3-31 is amended to read as follows:

Judgment for probate; conclusive effect on title to real property after 7 years.

3B:3-31. Where judgment has been or shall be entered by any surrogate's court in this State or Superior Court of the State, admitting to probate the will of any individual whether or not a resident of the State at his death and 7 years have elapsed after the judgment, the judgment

unless set aside, shall, as to all matters adjudicated thereby, be conclusive upon the title to real estate.

27. N.J.S.3B:3-32 is amended to read as follows:

Requirement of survival by 120 hours; exceptions; survivorship with respect to future interests.

3B:3-32. a. Except as provided in subsections b. and c., for purposes of construing a will, trust agreement, or other governing instrument, an individual who is not established by clear and convincing evidence to have survived an event, including the death of another individual, by 120 hours is deemed to have predeceased the event.

b. If it is not established by clear and convincing evidence that one of two co-owners with right of survivorship survived the other co-owner by 120 hours, one-half of the property passes as if one had survived by 120 hours and one-half as if the other had survived by 120 hours.

c. If there are more than two co-owners and it is not established by clear and convincing evidence that at least one of them survived the others by 120 hours, the property passes in the proportion that one bears to the whole number of co-owners.

d. The 120 hour survival requirement of subsections a., b. and c. shall not apply if: (1) the will, trust agreement, or other governing instrument, contains some language applicable to the event dealing explicitly with simultaneous deaths or deaths in a common disaster, or requiring survival for a stated time period; (2) application would cause a non-vested property interest or power of appointment to be invalid under a rule against perpetuities concerning an interest created prior to the enactment of P.L. 1999, c. 159 (effective on July 8, 1999); or (3) it is established by clear and convincing evidence that application to multiple governing instruments would result in an unintended failure or duplication of a disposition.

e. For purposes of this section, "co-owners with right of survivorship" includes joint tenants, tenants by the entireties, and other co-owners of property or accounts held under circumstances that entitle one or more to the whole of the property or account on the death of the other or others.

To the extent this section is inconsistent with the "Uniform Simultaneous Death Law" (N.J.S.3B:6-1 et seq.), the provisions of this section shall apply.

C.3B:3-33.1 Testator's intention; settlor's intention; rules of construction applicable to wills, trusts and other governing instruments.

28. a. The intention of a testator as expressed in his will controls the legal effect of his dispositions, and the rules of construction expressed in N.J.S.3B:3-34 through N.J.S.3B:3-48 shall apply unless the probable intention of the testator, as indicated by the will and relevant circumstances, is contrary.

b. The intention of a settlor as expressed in a trust, or of an individual as expressed in a governing instrument, controls the legal effect of the dispositions therein and the rules of construction expressed in N.J.S.3B:34 through N.J.S.3B:3-48 shall apply unless the probable intent of such settlor or of such individual, as indicated by the trust or by such governing instrument and relevant circumstances, is contrary. For purposes of this Title, when construing each of these rules of construction the word "testator" shall include but not be limited to a settlor or a creator of any other governing instrument; the word "will" shall include a trust or other governing instrument; the word "devise" shall include any disposition in a trust or other governing instrument; and the word "devisee" shall include a beneficiary of a trust or other governing instrument.

29. N.J.S.3B:3-33 is amended to read as follows:

Choice of law as to meaning and effect of wills; testator's intention; rules of construction.

3B:3-33. The meaning and legal effect of a disposition in a will, trust or other governing instrument shall be determined by the local law of a particular state selected in the will, trust or other governing instrument, unless the application of that law is contrary to the provisions relating to the elective share described in N.J.S.3B:8-1 et seq. or any other public policy of this

State otherwise applicable to the disposition.

30. N.J.S.3B:3-34 is amended to read as follows:

Will construed to pass all property of testator including after-acquired property.

3B:3-34. Unless a will expressly provides otherwise, it is construed to pass all property the testator owns at death including property acquired after the execution of the will, and all property acquired by the estate after the testator's death.

31. N.J.S.3B:3-35 is amended to read as follows:

Anti-lapse; deceased devisee; class gifts.

3B:3-35. If a devisee who is a grandparent, stepchild or a lineal descendant of a grandparent of the testator is dead at the time of the execution of the will, fails to survive the testator, or is treated as if he predeceased the testator, any descendants of the deceased devisee who survives the testator by 120 hours take by representation in place of the deceased devisee. One who would have been a devisee under a class gift if he had survived the testator is treated as a devisee for purposes of this section whether his death occurred before or after the execution of the will. For purposes of this section, a "stepchild" means a child of the surviving, deceased or former spouse of the testator.

32. N.J.S.3B:3-36 is amended to read as follows:

Failure of testamentary provision; residuary devise to two or more residuary devisees; death of one or more before testator.

3B:3-36. Except as provided in N.J.S.3B:3-35:

a. a devise, other than a residuary devise, that fails for any reason becomes a part of the residue.

b. if the residue is devised to two or more persons, unless a contrary intention shall appear by the will, the share of a residuary devise that fails for any reason passes to the other residuary devisee, or to other residuary devisees in proportion to the interest of each in the remaining part of the residue.

33. N.J.S.3B:3-38 is amended to read as follows:

Construction of words "die without issue" or "die without descendants".

3B:3-38. In a devise of real or personal property the words "die without issue" or "die without descendants" or "die without lawful issue" or "die without lawful descendants" or "have no issue" or "have no descendants" or other words which may import a want or failure of issue or descendants of an individual in his lifetime, or at his death, or an indefinite failure of his issue or descendants, shall be construed to mean a failure of issue or descendants at the death of the individual, unless a contrary intention shall otherwise appear by the will.

34. N.J.S.3B:3-41 is amended to read as follows:

Issue and descendants to take by representation.

3B:3-41. Where under any will or trust provision is made for the benefit of issue and descendants and no contrary intention is expressed, the issue or descendants shall take by representation.

35. N.J.S.3B:3-42 is amended to read as follows:

Increase in securities, accessions.

3B:3-42. a. If a testator executes a will that devises securities and the testator then owned

securities that meet the description in the will, the devise includes additional securities owned by the testator at death to the extent the additional securities were acquired by the testator after the will was executed as a result of the testator's ownership of the described securities and are securities of any of the following types:

(1) securities of the same organization acquired by reason of action initiated by the organization or any successor, related, or acquiring organization, excluding any acquired by exercise of purchase options;

(2) securities of another organization acquired as a result of a merger, consolidation, reorganization, or other distribution by the organization or any successor, related, or acquiring organization; or

(3) securities of the same organization acquired as a result of a plan of reinvestment.

b. Distributions in cash declared and payable as of a record date before death with respect to a described security, whether paid before or after death, are not part of the devise.

36. N.J.S.3B:3-43 is amended to read as follows:

Nonademption of specific devise; sale by or payment of condemnation award or insurance proceeds to guardian of testator or agent.

3B:3-43. If specifically devised property is sold or mortgaged by a guardian for a testator, or by an agent acting within the authority of a durable power of attorney for an incapacitated individual, or if a condemnation award, insurance proceeds or recovery for injury to the property are paid to a guardian for a testator or such agent as a result of condemnation, fire or casualty, the specific devisee has the right to a general pecuniary devise equal to the net sale price, the amount of the unpaid loan, the condemnation award, the insurance proceeds or the recovery. This section does not apply if subsequent to the sale, mortgage, condemnation, casualty, or recovery the guardianship is terminated or the durable power of attorney is revoked by the testator and the testator survives by 1 year the judgment terminating the guardianship or such revocation. The right of the specific devisee under this section is reduced by any right he has under N.J.S.3B:3-44.

37. N.J.S.3B:3-44 is amended to read as follows:

Specific devise; right of devisee after sale, condemnation, casualty loss or foreclosure.

3B:3-44. A specific devisee has the right to the remaining specifically devised property in the testator's estate at death and:

a. Any balance of the purchase price (together with any security interest) owing from a purchaser to the testator at death by reason of sale of the property;

b. Any amount of a condemnation award for the taking of the property unpaid at death;

c. Any proceeds unpaid at death on fire or casualty insurance on, or other recovery for injury to, the property; and

d. Property owned by testator at his death as a result of foreclosure, or obtained in lieu of foreclosure, of the security for a specifically devised obligation.

38. N.J.S.3B:3-46 is amended to read as follows:

Ademption by satisfaction.

3B:3-46. a. Property which a testator gave in his lifetime to a person is treated as a satisfaction of a devise to that person in whole or in part, only if the will provides for deduction of the lifetime gift, or the testator declares in a contemporaneous writing that the value of the gift is to be deducted from the value of the devise or is in satisfaction of the devise, or the devisee acknowledges in writing that the gift is in satisfaction of the devise or that its value is to be deducted from the value of the devise.

b. For purpose of partial satisfaction, property given during lifetime is valued as of the time the devisee came into possession or enjoyment of the property or as of the time of death of the testator, whichever occurs first.

c. If the devisee fails to survive the testator, in the case of a substituted devise or a devise saved from lapse, the gift is treated as a full or partial satisfaction of the devise, as appropriate, unless the testator's contemporaneous writing provides otherwise.

39. N.J.S.3B:3-48 is amended to read as follows:

Construction of generic terms included in class gift terminology.

3B:3-48. a. Adopted individuals and individuals born out of wedlock, and their respective descendants if appropriate to the class, are included in class gifts and other terms of relationship in accordance with the rules for intestate succession. Terms of relationship that do not differentiate relationships by the half blood from those by the whole blood, such as "brothers," "sisters," "nieces," or "nephews," are construed to include both types of relationships.

b. In addition to the requirements of subsection a., in construing a donative disposition by a transferor who is not the natural parent, an individual born to the natural parent is not considered the child of that parent unless the individual lived while a minor as a regular member of the household of that natural parent or of that parent's parent, brother, sister, spouse or surviving spouse.

c. In addition to the requirements of subsection a., in construing a dispositive provision by a transferor who is not the adoptive parent, an adopted individual is not considered the child of the adoptive parent unless the adopted individual lived while a minor, either before or after the adoption, as a regular member of the household of the adoptive parent.

40. N.J.S.3B:4-2 is amended to read as follows:

Devise to trustee of trust created other than by testator's will.

3B:4-2. A will may validly devise property to the trustee of a trust established or a trust which will be established: (1) during the testator's lifetime by the testator, or by the testator and some other person, or by some other person including a funded or unfunded life insurance trust, although the settlor has reserved any or all rights of ownership of the insurance contracts, or (2) at the testator's death by the testator's devise to the trustee, if the trust is identified in the testator's will, and its terms are set forth in a written instrument, other than a will, executed before, concurrently with, or after the execution of the testator's will or in another individual's will, executed before, concurrently with or after the execution of the testator's will, if that other individual has predeceased the testator, regardless of the existence, size, or character of the corpus of the trust.

41. N.J.S.3B:4-3 is amended to read as follows:

Devise not invalidated because trust is amendable or revocable.

3B:4-3. A devise made as provided in N.J.S.3B:4-2 shall not be invalid because the trust is amendable or revocable, or because the trust was amended after the execution of the will or the testator's death.

42. N.J.S.3B:4-4 is amended to read as follows:

Administration of trust.

3B:4-4. Unless the testator's will provides otherwise, property devised to a trust described in N.J.S.3B:4-2 shall not be deemed to be held under a testamentary trust of the testator, but shall become a part of the trust to which it is devised and shall be administered and disposed of in accordance with the provisions of the governing instrument setting forth the terms of the trust, including any amendments thereto made before or after the testator's death.

43. N.J.S.3B:4-5 is amended to read as follows:

Lapse of devise.

3B:4-5. Unless the testator's will provides otherwise, a revocation or termination of the trust

before the testator's death causes the devise to lapse.

44. N.J.S.3B:5-1 is amended to read as follows:

Requirement that heir survive decedent by 120 hours.

3B:5-1. For the purposes of intestate succession an individual who is not established by clear and convincing evidence to have survived the decedent by 120 hours is deemed to have predeceased the decedent. This section is not to be applied where its application would result in a taking of intestate estate by the State.

45. N.J.S.3B:5-2 is amended to read as follows:

Intestate estate.

3B:5-2. a. Any part of the decedent's estate not effectively disposed of by his will passes by intestate succession to the decedent's heirs as prescribed in N.J.S.3B:5-3 through N.J.S.3B:5-14, except as modified by the decedent's will.

b. A decedent by will may expressly exclude or limit the right of an individual or class to succeed to property of the decedent passing by intestate succession. If that individual or member of that class survives the decedent, the share of the decedent's intestate estate to which that individual or class would have succeeded passes as if that individual or each member of that class had disclaimed his intestate share.

46. N.J.S.3B:5-3 is amended to read as follows:

Intestate share of decedent's surviving spouse.

3B:5-3. The intestate share of the surviving spouse is:

a. The entire intestate estate if:

(1) No descendant or parent of the decedent survives the decedent; or

(2) All of the decedent's surviving descendants are also descendants of the surviving spouse and there is no other descendant of the surviving spouse who survives the decedent;

b. The first 25% of the intestate estate, but not less than \$50,000.00 nor more than \$200,000.00, plus three-fourths of any balance of the intestate estate, if no descendant of the decedent survives the decedent, but a parent of the decedent survives the decedent;

c. The first 25% of the intestate estate, but not less than \$50,000.00 nor more than \$200,000.00, plus one-half of the balance of the intestate estate:

(1) If all of the decedent's surviving descendants are also descendants of the surviving spouse and the surviving spouse has one or more surviving descendants who are not descendants of the decedent; or

(2) If one or more of the decedent's surviving descendants is not a descendant of the surviving spouse.

47. N.J.S.3B:5-4 is amended to read as follows:

Intestate shares of heirs other than surviving spouse.

3B:5-4. Any part of the intestate estate not passing to the decedent's surviving spouse under N.J.S.3B:5-3, or the entire intestate estate if there is no surviving spouse, passes in the following order to the individuals designated below who survive the decedent:

a. To the decedent's descendants by representation;

b. If there are no surviving descendants, to the decedent's parents equally if both survive, or to the surviving parent;

c. If there are no surviving descendants or parent, to the descendants of the decedent's parents or either of them by representation;

d. If there is no surviving descendant, parent or descendant of a parent, but the decedent is survived by one or more grandparents, half of the estate passes to the decedent's paternal grandparents equally if both survive, or to the surviving paternal grandparent, or to the

descendants of the decedent's paternal grandparents or either of them if both are deceased, the descendants taking by representation; and the other half passes to the decedent's maternal relatives in the same manner; but if there is no surviving grandparent, or descendant of a grandparent on either the paternal or the maternal side, the entire estate passes to the decedent's relatives on the other side in the same manner as the half.

e. If there is no surviving descendant, parent, descendant of a parent, or grandparent, but the decedent is survived by one or more descendants of grandparents, the descendants take equally if they are all of the same degree of kinship to the decedent, but if of unequal degree those of more remote degree take by representation.

f. If there are no surviving descendants of grandparents, then the decedent's step-children or their descendants by representation.

48. Section 1 of P.L. 2001, c. 109 (C.3B:5-5.1) is amended to read as follows:

C.3B:5-5.1 Diligent inquiry by fiduciary to find heirs.

1. If it appears to a fiduciary administering an intestate estate that there may be individuals whose names or addresses are unknown who may be entitled to participate in the distribution of the estate, the fiduciary shall make a diligent inquiry, under the circumstances, to identify and locate the individuals. The actions taken by a fiduciary shall be those that have some reasonable likelihood of finding the individuals and are reasonable in cost compared with the amount of the distribution involved.

49. N.J.S.3B:5-6 is amended to read as follows:

Determining representation.

3B:5-6. a. As used in this section:

(1) "Deceased descendant," "deceased parent," or "deceased grandparent" means a descendant, parent or grandparent who either predeceased the decedent or is deemed to have predeceased the decedent under N.J.S.3B:5-1.

(2) "Surviving descendant" means a descendant who neither predeceased the decedent nor is deemed to have predeceased the decedent under N.J.S.3B:5-1.

b. If, under N.J.S.3B:5-4, a decedent's intestate estate or part thereof passes "by representation" to the decedent's descendants, the estate or part thereof is divided into as many equal shares as there are: (1) surviving descendants in the generation nearest to the decedent which contains one or more surviving descendants; and (2) deceased descendants in the same generation who left surviving descendants, if any. Each surviving descendant in the nearest generation is allocated one share. The remaining shares, if any, are combined and then divided in the same manner among the surviving descendants of the deceased descendants as if the surviving descendants who were allocated a share and their surviving descendants had predeceased the decedent.

c. If, under section c. or d. of N.J.S.3B:5-4, a decedent's intestate estate or a part thereof passes "by representation" to the descendants of the decedent's deceased parents or either of them or to the descendants of the decedent's deceased paternal or maternal grandparents or either of them, the estate or part thereof is divided into as many equal shares as there are: (1) surviving descendants in the generation nearest the deceased parents or either of them, or the deceased grandparents or either of them, that contains one or more surviving descendants; and (2) deceased descendants in the same generation who left surviving descendants, if any. Each surviving descendant in the nearest generation is allocated one share. The remaining shares, if any, are combined and then divided in the same manner among the surviving descendants of the deceased descendants as if the surviving descendants who were allocated a share, and their surviving descendants had predeceased the decedent.

50. N.J.S.3B:5-8 is amended to read as follows:

After born heirs.

3B:5-8. An individual in gestation at a particular time is treated as living at that time if the person lives 120 hours or more after birth.

51. N.J.S.3B:5-9 is amended to read as follows:

Adopted child.

3B:5-9. If, for the purposes of intestate succession, a relationship of parent and child must be established to determine succession by, through or from an individual, the relationships and rights of a minor adopted child shall be those as provided in section 14 of P.L.1977, c.367 (C.9:3-50), and the relationships and rights of an adopted adult shall be as provided in N.J.S.2A:22-3.

52. N.J.S.3B:5-10 is amended to read as follows:

Establishment of Parent-Child Relationship.

3B:5-10. If, for the purposes of intestate succession, a relationship of parent and child must be established to determine succession by, through, or from an individual, in cases not covered by N.J.S.3B:5-9, an individual is the child of the individual's parents regardless of the marital state of the individual's parents, and the parent and child relationship may be established as provided by the "New Jersey Parentage Act," P.L.1983, c.17 (C.9:17-38 et seq.). The parent and child relationship may be established for purposes of this section regardless of the time limitations set forth in subsection b. of section 8 of P.L.1983, c.17 (C.9:17-45).

53. N.J.S.3B:5-11 is amended to read as follows:

Debt to decedent.

3B:5-11. A debt owed to a decedent is not charged against the intestate share of any individual except the debtor. If the debtor fails to survive the decedent, the debt is not taken into account in computing the intestate share of the debtor's descendants.

54. N.J.S.3B:5-12 is amended to read as follows:

Aliens not disqualified; individuals related to decedent through two lines.

3B:5-12. a. An individual is not disqualified to take as an heir because he or an individual through whom he claims is or has been an alien.

b. An individual who is related to the decedent through two lines of relationship is entitled to only a single share based on the relationship that would entitle the individual to the larger share.

55. N.J.S.3B:5-13 is amended to read as follows:

Advancements.

3B:5-13. a. If an individual dies intestate as to all or a portion of his estate, property the decedent gave during the decedent's lifetime to an individual who, at the decedent's death, is an heir is treated as an advancement against the heir's intestate share only if: (1) the decedent declared in a contemporaneous writing or the heir acknowledged in writing that the gift is an advancement; or (2) the decedent's contemporaneous writing or the heir's written acknowledgment otherwise indicates that the gift is to be taken into account in computing the division and distribution of the decedent's intestate estate.

b. For purposes of subsection a., property advanced is valued as of the time the heir came into possession or enjoyment of the property or as of the time of the decedent's death, whichever occurs first.

c. If the recipient of the property fails to survive the decedent, the property is not taken into account in computing the division and distribution of the decedent's intestate estate, unless the

decedent's contemporaneous writing or the heir's written acknowledgment provides otherwise.

56. N.J.S.3B:5-15 is amended to read as follows:

Entitlement of spouse; premarital will.

3B:5-15. a. If a testator's surviving spouse married the testator after the testator executed the testator's will, the surviving spouse is entitled to receive, as an intestate share, no less than the value of the share of the estate the surviving spouse would have received if the testator had died intestate, unless:

(1) it appears from the will or other evidence that the will was made in contemplation of the testator's marriage to the surviving spouse;

(2) the will expresses the intention that it is to be effective notwithstanding any subsequent marriage; or

(3) the testator provided for the spouse by transfer outside the will and the intent that the transfer be in lieu of a testamentary provision is shown by the testator's statements or is reasonably inferred from the amount of the transfer or other evidence.

b. In satisfying the share provided by this section, devises made by the will to the testator's surviving spouse, if any, are applied first, and other devises shall abate ratably and in proportion to their respective interests therein.

c. Notwithstanding any other provision of law to the contrary, this section shall apply only to wills executed on or after September 1, 1978.

57. N.J.S.3B:5-16 is amended to read as follows:

Omitted children.

3B:5-16. a. Except as provided in subsection b., if a testator fails to provide in his will for any of his children born or adopted after the execution of his will, the omitted after-born or after-adopted child receives a share in the estate as follows:

(1) If the testator had no child living when he executed the will, an omitted after-born or after-adopted child receives a share in the estate equal in value to that which the child would have received had the testator died intestate, unless the will devised all or substantially all of the estate to the other parent of the omitted child or to a trust primarily for the benefit of that other parent and that other parent survives the testator and is entitled to take under the will.

(2) If the testator had one or more children living when he executed the will, and the will devised property or an interest in property to one or more of the then-living children, an omitted after-born or after-adopted child is entitled to share in the testator's estate as follows:

(a) the portion of the testator's estate in which the omitted after-born or after-adopted child is entitled to share is limited to devises made to the testator's then-living children under the will.

(b) the omitted after-born or after-adopted child is entitled to receive the share of the testator's estate, as limited in subparagraph (a), that the child would have received had the testator included all omitted after-born and after-adopted children with the children to whom devises were made under the will and had given an equal share of the estate to each child.

(c) to the extent feasible, the interest granted an omitted after-born or after-adopted child under this section must be of the same character, whether equitable or legal, present or future, as that devised to the testator's then-living children under the will.

(d) in satisfying a share provided by this paragraph, devises to the testator's children who were living when the will was executed abate ratably. In abating the devises of the then-living children, the court shall preserve to the maximum extent possible the character of the testamentary plan adopted by the testator.

b. Neither subsection a. (1) nor subsection a. (2) applies if:

(1) it appears from the will that the omission was intentional; or

(2) the testator provided for the omitted after-born or after-adopted child by transfer outside the will and the intent that the transfer be in lieu of a testamentary provision is shown by the testator's statements or is reasonably inferred from the amount of the transfer or other evidence.

c. If at the time of execution of the will the testator fails to provide in his will for a living

child solely because he believes the child to be dead, the child is entitled to a share in the estate as if the child were an omitted after-born or after-adopted child.

d. The share provided by subsection a. (1) shall be taken from devisees under the will ratably and in proportion to their respective interests therein.

C.3B:7-1.1. Effect of intentional killing on intestate succession, wills, trusts, joint assets, life insurance and beneficiary designations.

58. a. An individual who is responsible for the intentional killing of the decedent forfeits all benefits under this title with respect to the decedent's estate, including an intestate share, an elective share, an omitted spouse's or child's share, exempt property and a family allowance. If the decedent died intestate, the decedent's intestate estate passes as if the killer disclaimed his share.

b. The intentional killing of the decedent:

(1) revokes any revocable (a) disposition or appointment of property made by decedent to the killer in a governing instrument and any disposition or appointment created by law or in a governing instrument to a relative of the killer, (b) provision in a governing instrument conferring a general or special power of appointment on the killer or a relative of the killer, and (c) nomination in a governing instrument of the killer or a relative of the killer, nominating or appointing the killer or a relative of the killer to serve in any fiduciary or representative capacity; and

(2) severs the interests of the decedent and the killer in property held by them at the time of the killing as joint tenants with the right of survivorship or as tenants by the entireties, transforming the interests of the decedent and killer into tenancies in common.

c. For purposes of this chapter: (1) "governing instrument" means a governing instrument executed by the decedent; and (2) "relative of the killer" means a person who is related to the killer by blood, adoption or affinity and who is not related to the decedent by blood or adoption or affinity.

C.3B:7-1.2 Effect of revocation.

59. Provisions of a governing instrument are given effect as if the killer or relative of the killer disclaimed all provisions revoked by this chapter or, in the case of a revoked nomination in a fiduciary or representative capacity, as if the killer or relative of the killer predeceased the decedent.

60. N.J.S.3B:7-5 is amended to read as follows:

Other acquisitions of property by decedent's killer.

3B:7-5. Any other acquisition of property or interest by the decedent's killer or by a relative of the killer not covered by this chapter shall be treated in accordance with the principle that a killer or a relative of a killer cannot profit from the killer's wrongdoing.

61. N.J.S.3B:7-6 is amended to read as follows:

Effect of final judgment of conviction.

3B:7-6. A final judgment of conviction establishing responsibility for the intentional killing of the decedent is conclusive for purposes of this chapter. In the absence of such a conviction the court may determine by a preponderance of evidence whether the individual was responsible for the intentional killing of the decedent for purposes of this chapter.

62. N.J.S.3B:7-7 is amended to read as follows:

Rights of purchasers; protection of payors and other third parties.

3B:7-7. This chapter does not affect the rights of any person who, before rights under this chapter have been adjudicated, purchases from the killer for value and without notice or receives a payment or other item of property in partial or full satisfaction of a legally enforceable

obligation which the killer would have acquired except for this chapter, but the killer is liable for the amount of the proceeds or the value of the property. A payor or other third party making payment or transferring an item of property or other benefit according to the terms of a governing instrument affected by an intentional killing is not liable by reason of this chapter unless prior to such payment or transfer it has received at its home office or principal address written notice of a claimed forfeiture or revocation under this chapter.

63. N.J.S.3B:9-1 is amended to read as follows:

Definitions.

3B:9-1. As used in this chapter:

a. A "present interest" is one to take effect in immediate possession, use or enjoyment without the intervention of a preceding estate or interest or without being dependent upon the happening of any event or thing;

b. A "future interest" is one to take effect in possession, use or enjoyment dependent upon the termination of an intervening estate or interest or the happening of any event or thing;

c. A "devisee" means any person designated in a will to receive a devise, but does not mean a trustee or trust designated in a will to receive a devise;

d. The "effective date" is the date on which a property right vests, or a contract right arises, even though the right is subject to divestment;

e. "Joint property" is property that is owned by two or more persons with rights of survivorship and includes a tenancy by the entirety, a joint tenancy, a joint tenancy with rights of survivorship and a joint life estate with contingent remainder in fee. For purposes of this chapter, joint property is deemed to consist of a present interest and a future interest. The future interest is the right of survivorship;

f. "Joint tenant" is the co-owner of joint property.

64. N.J.S.3B:9-2 is amended to read as follows:

Disclaimer of an interested party.

3B:9-2. a. Any person who is an heir, or a devisee or beneficiary under a will or testamentary trust, or appointee under a power of appointment exercised by a will or testamentary trust, including a person succeeding to a disclaimed interest, may disclaim in whole or in part any property or interest therein, including a future interest, by delivering and filing a disclaimer under this chapter.

b. Any person who is a grantee, donee, surviving joint tenant, surviving party to a P.O.D. account or a trust deposit account, person succeeding to a disclaimed interest, beneficiary under a nontestamentary instrument or contract, appointee under a power of appointment exercised by a nontestamentary instrument, or a beneficiary under an insurance policy, may disclaim in whole or in part any such property or interest therein by delivering, and if required by N.J.S. 3B:9-7, by filing, a written disclaimer under this chapter.

c. A surviving joint tenant may disclaim as a separate interest any property or interest therein devolving to him by right of survivorship without regard to the extent, if any, the surviving joint tenant contributed to the creation of the joint property interest.

d. A disclaimer may be of a pecuniary or a fractional share, expressed as either a percentage or dollar amount, specific property or any limited interest or estate.

65. N.J.S.3B:9-3 is amended to read as follows:

Requirements of a disclaimer.

3B:9-3. a. A disclaimer shall be in writing, signed and acknowledged by the person disclaiming, and shall:

(1) Describe the property, interest, power or discretion disclaimed;

(2) If the property interest disclaimed is real property, identify the municipality and county in which the real property is situated; and

(3) Declare the disclaimer and the extent thereof.

b. The disclaimer shall be made within the time prescribed by section 68 of P.L.2004, c.132 (C.3B:9-4.2).

66. N.J.S.3B:9-4 is amended to read as follows:

Disclaimer by a fiduciary of an interest in property.

3B:9-4. a. A fiduciary or agent acting on behalf of a principal within the express, general or implied authority of a power of attorney, may disclaim property or any interest therein.

b. Except as provided in subsection c. of this section, such disclaimer shall not be effective unless, prior thereto, the fiduciary or agent has been authorized to disclaim by the court having jurisdiction over the fiduciary or the principal after finding that such disclaimer is advisable and will not materially prejudice the rights of: (1) creditors, devisees, heirs or beneficiaries of the estate; (2) beneficiaries of the trust; or (3) the minor, the incapacitated individual, the conservatee or the principal for whom such fiduciary or agent acts.

c. If the governing instrument expressly authorizes the fiduciary or the agent to disclaim, the disclaimer by the fiduciary or agent shall be effective without court authorization.

C.3B:9-4.1 Disclaimer by a fiduciary of a power of discretion.

67. a. Any fiduciary, including an agent acting on behalf of a principal within the implied or general authority of a power of attorney, may disclaim any power or discretion held by such fiduciary in a fiduciary capacity. Unless the governing instrument specifically authorizes the fiduciary to disclaim such power or discretion without obtaining court authorization to do so, the disclaimer by the fiduciary shall not be effective unless, prior thereto, such fiduciary has been authorized to disclaim by the court having jurisdiction over the fiduciary after finding that it is advisable and will not materially prejudice the rights of: (1) devisees, heirs, or beneficiaries of the decedent; (2) the minor, the incapacitated individual, the conservatee, or the principal; or (3) the beneficiaries of the trust.

b. Unless expressly authorized by the court or by the governing instrument:

(1) Any disclaimer under this section shall be personal to the fiduciary so disclaiming and shall not constitute a disclaimer by a co-fiduciary or a successor or substituted fiduciary of such power or discretion;

(2) No disclaimer shall affect the rights of: (a) devisees, heirs or beneficiaries of the decedent; (b) the minor, the incapacitated individual, the conservatee, or the principal; or (c) the beneficiaries of the trust.

C.3B:9-4.2 Time for disclaiming.

68. a. The disclaimer of an interest in property may be delivered, and if required by this chapter filed, at any time after the effective date of the governing instrument, or in the case of an intestacy, at any time after the death of the intestate decedent, and must be delivered, and if required by this chapter filed, before the right to disclaim is barred by N.J.S.3B:9-10. With respect to joint property, the barring of the right to disclaim the present interest does not bar the right to disclaim the future interest.

b. The disclaimer of a power or discretion by a fiduciary, including an agent acting on behalf of a principal within the implied or general authority of a power of attorney, in a fiduciary capacity may be made at any time, before or after exercise.

69. N.J.S.3B:9-6 is amended to read as follows:

Delivering and Filing disclaimer.

3B:9-6. a. The disclaimer of an interest by an intestate heir, or a person who is a devisee or beneficiary under a will or a testamentary trust or who is an appointee under a power of appointment exercised by a will or testamentary trust, including a person succeeding to a disclaimed interest, shall be filed in the office of the surrogate or clerk of the Superior Court in which proceedings have been commenced or will be commenced for the administration of the

estate of the decedent or deceased donee of the power of appointment. A copy of the disclaimer shall also be delivered to any personal representative, or other fiduciary of the decedent or to the donee of the power or to the holder of the legal title to which the interest relates. The fiduciary shall promptly notify the person or persons who take the disclaimed interest, although any such failure to provide the notice required herein shall not affect the validity of the disclaimer.

b. The disclaimer of an interest in property, other than property passing under or pursuant to a will or testamentary trust shall be delivered to the fiduciary, payor or other person having legal title to or possession of the property or interest disclaimed or who is entitled thereto in the event of disclaimer. Any fiduciary, payor or other person having title to or possession of the property or interest who receives such disclaimer shall promptly notify the person or persons who take the disclaimed interest, although any such failure to provide the notice required herein shall not affect the validity of the disclaimer.

c. In the case of a disclaimer by a fiduciary of a power or discretion:

(1) If such disclaimer is made after court authorization, the fiduciary shall deliver a copy to such person or persons and in such manner as shall be directed by the court; or

(2) If such disclaimer is made without court authorization pursuant to N.J.S.3B:9-4(a), the fiduciary shall deliver a copy to all co-fiduciaries, but if there are none, then to all persons whose property interests are affected by the disclaimer.

d. In the case of a will or testamentary trust or power of appointment under a will or testamentary trust, if real property or any interest therein is disclaimed, the surrogate or clerk of the Superior Court, as the case may be, shall forthwith forward a copy of the disclaimer for filing in the office of the clerk or register of deeds and mortgages of the county in which the real property is situated. In the case of a nontestamentary instrument or contract, if real property or any interest therein is disclaimed, the original thereof shall be filed in the office of the clerk or register of deeds and mortgages of the county in which the real property is situated.

e. For the purposes of this section, delivery may be effected: (1) in person; (2) by registered or certified mail; or (3) by another means which is reasonably likely to accomplish delivery.

70. N.J.S.3B:9-7 is amended to read as follows:

Recording of disclaimer where real property or interest therein is disclaimed.

3B:9-7. Each county clerk or register of deeds and mortgages shall provide a book to be entitled "Disclaimers," so arranged that he may record therein:

a. The name of the disclaimant;

b. The name of the decedent or the name of the donee of the power of appointment, the name of the trustee or other person having legal title to, or possession of, the property or interest disclaimed or entitled thereto in the event of disclaimer or the name of the donee of the power of appointment;

c. The location of the property;

d. The file number of the county clerk's office or the office of register of deeds and mortgages indorsed upon each disclaimer filed;

e. The date of filing the disclaimer.

The county clerk or the register of deeds and mortgages shall maintain in the record an alphabetical index of the names of all disclaimants stated in any disclaimer file, and also keep in his office for public inspection, all disclaimers so filed therein.

71. N.J.S.3B:9-8 is amended to read as follows:

Effect of disclaimer.

3B:9-8. A disclaimer acts as a nonacceptance of the disclaimed interest, rather than as a transfer of the disclaimed interest. The disclaimant is treated as never having received the disclaimed interest. Unless a governing instrument otherwise provides the property or interest disclaimed devolves:

a. As to a present interest:

(1) in the case of an intestacy, a will, a testamentary trust or a power of appointment exercised by a will or testamentary trust, as if the disclaimant had predeceased the decedent or, if the disclaimant is designated to take under a power of appointment exercised by a will or testamentary instrument, as if the disclaimant had predeceased the donee of the power. If by law or under the will or testamentary trust the descendants of the disclaimant would take the disclaimant's share by representation were the disclaimant to predecease the disclaimant, then the disclaimed interest devolves by representation to the descendants of the disclaimant who survive the decedent; and

(2) in the case of a nontestamentary instrument or contract, other than a joint property interest, as if the disclaimant had died before the effective date of the instrument or contract. If by law or under the nontestamentary instrument or contract the descendants of the disclaimant would take the disclaimant's share by representation were the disclaimant to predecease the effective date of the instrument, then the disclaimed interest devolves by representation to the descendants of the disclaimant who survive the effective date of the instrument.

(3) in the case of joint property created by a will, testamentary trust or non-testamentary instrument: (a) if the disclaimant is the only living owner, the disclaimed interest devolves to the estate of the last to die of the other joint owners; or (b) if the disclaimant is not the only living owner, the disclaimed interest devolves equally to the living joint owners, or all to the other living owner, if there is only one living owner.

b. As to a future interest:

(1) In the case of a will or testamentary trust or a power of appointment exercised by a will or testamentary trust, as if the disclaimant had died before the event determining that the taker of the property or interest is finally ascertained and his interest is vested; and

(2) In the case of a nontestamentary instrument or contract, as if the disclaimant had died before the event determining that the taker of the property or interest had become finally ascertained and the taker's interest is vested; and

(3) Notwithstanding the foregoing, a future interest that is held by the disclaimant who also holds the present interest and which takes effect at a time certain, such as a fixed calendar date or the disclaimant's attainment of a certain age, is not accelerated by the disclaimer and continues to take effect at the time certain.

c. Except as provided in subsection b. of this section, a disclaimer relates back for all purposes to the date of death of the decedent or the donee of the power or the effective date of the nontestamentary instrument or contract.

72. N.J.S.3B:9-9 is amended to read as follows:

Bar of right to disclaim.

3B:9-9. a. The right of a person to disclaim property or any interest therein is barred by:

(1) an assignment, conveyance, encumbrance, pledge or transfer of the property or interest or a contract therefor; or

(2) a written waiver of the right to disclaim; or

(3) an acceptance of the property or interest or a benefit under it after actual knowledge that a property right has been conferred; or

(4) a sale of the property or interest is seized under judicial process issued against him; or

(5) the expiration of the permitted applicable perpetuities period; or

(6) a fraud on the person's creditors as set forth in the "Uniform Fraudulent Transfer Act" (R.S.25:2-20 et seq.).

b. The disclaimant shall not be barred from disclaiming all or any part of the balance of the property where the disclaimant has received a portion of the property and there still remains an interest which the disclaimant is yet to receive.

c. A bar to the right to disclaim a present interest in joint property does not bar the right to disclaim a future interest in that property.

d. The right to disclaim may be barred to the extent provided by other applicable statutory law.

73. N.J.S.3B:9-10 is amended to read as follows:

Binding effect of disclaimer or waiver.

3B:9-10. The disclaimer or written waiver of the right to disclaim a property interest shall be binding upon the disclaimant or the person waiving and all persons claiming by, through or under him.

74. N.J.S.3B:9-11 is amended to read as follows:

Spendthrift provision not to affect right to disclaim.

3B:9-11. The right to disclaim a property interest exists notwithstanding any limitation on the interest of the disclaimant in the nature of a spendthrift provision or similar restriction or any restriction or limitation on the right to disclaim a property interest contained in the governing instrument.

75. N.J.S.3B:9-12 is amended to read as follows:

Right to disclaim, etc.; under other law not abridged.

3B:9-12. This chapter does not abridge the right of a person to waive, release, disclaim or renounce property or an interest therein under any other statute or law.

76. N.J.S.3B:9-13 is amended to read as follows:

Extension of time to disclaim interest existing on February 28, 1980.

3B:9-13. An interest in property existing on February 28, 1980, as to which, if a present interest, the time for filing a disclaimer under this chapter has not expired, or if a future interest, the interest has not become indefeasibly vested or the taker finally ascertained, may be disclaimed within 9 months after February 28, 1980.

An interest in property existing on the effective date of this chapter as amended and supplemented by P.L.2004, c.132 (C.3B:3-33.1 et al.) as to which the right to disclaim has not been barred by prior law may be disclaimed at any time before the right to disclaim is barred by N.J.S.3B:9-10.

77. N.J.S.3B:10-3 is amended to read as follows:

When spouse entitled to assets without administration.

3B:10-3. Where the total value of the real and personal assets of the estate of an intestate will not exceed \$20,000.00, the surviving spouse upon the execution of an affidavit before the surrogate of the county where the intestate resided at his death, or, if then nonresident in this State, where any of the assets are located, or before the Superior Court, shall be entitled absolutely to all the real and personal assets without administration, and the assets of the estate up to \$5,000.00 shall be free from all debts of the intestate. Upon the execution and filing of the affidavit as provided in this section, the surviving spouse shall have all of the rights, powers and duties of an administrator duly appointed for the estate. The surviving spouse may be sued and required to account as if he had been appointed administrator by the surrogate or the Superior Court. The affidavit shall state that the affiant is the surviving spouse of the intestate and that the value of the intestate's real and personal assets will not exceed \$20,000.00, and shall set forth the residence of the intestate at his death, and specifically the nature, location and value of the intestate's real and personal assets. The affidavit shall be filed and recorded in the office of such surrogate or, if the proceeding is before the Superior Court, then in the office of the clerk of that court. Where the affiant is domiciled outside this State, the surrogate may authorize in writing that the affidavit be executed in the affiant's domicile before any of the officers authorized by R.S.46:14-7 and R.S.46:14-8 to take acknowledgments or proofs.

78. N.J.S.3B:10-4 is amended to read as follows:

When heirs entitled to assets without administration.

3B:10-4. Where the total value of the real and personal assets of the estate of an intestate

will not exceed \$10,000.00 and the intestate leaves no surviving spouse, and one of his heirs shall have obtained the consent in writing of the remaining heirs, if any, and shall have executed before the surrogate of the county where the intestate resided at his death, or, if then nonresident in this State, where any of the intestate's assets are located, or before the Superior Court, the affidavit herein provided for, shall be entitled to receive the assets of the intestate of the benefit of all the heirs and creditors without administration or entering into a bond. Upon executing the affidavit, and upon filing it and the consent, he shall have all the rights, powers and duties of an administrator duly appointed for the estate and may be sued and required to account as if he had been appointed administrator by the surrogate or the Superior Court.

The affidavit shall set forth the residence of the intestate at his death, the names, residences and relationships of all of the heirs and specifically the nature, location and value of the real and personal assets and also a statement that the value of the intestate's real and personal assets will not exceed \$10,000.00.

The consent and the affidavit shall be filed and recorded, in the office of the surrogate or, if the proceeding is before the Superior Court, then in the office of the clerk of that court. Where the affiant is domiciled outside this State, the surrogate may authorize in writing that the affidavit be executed in the affiant's domicile before any of the officers authorized by R.S.46:14-7 and R.S.46:14-8 to take acknowledgments or proofs.

C.3B:9-14 Federal law.

79. The provisions of this chapter, as amended and supplemented by P.L.2004, c.132 (C.3B:3-33.1 et al.) are not intended to enlarge, limit, modify or otherwise affect the federal requirements for a qualified disclaimer under 26 U.S.C. section 2518 or 26 U.S.C. section 2046.

80. N.J.S.3B:14-24 is amended to read as follows:

Authorization to exercise other powers.

3B:14-24. The court having jurisdiction of the estate or trust may authorize the fiduciary to exercise any other power or to disclaim any power, if the court determines such exercise or disclaimer is necessary or advisable which in the judgment of the court is necessary for the proper administration of the estate or trust.

C.3B:17-13 Effect of nonjudicial settlement or waiver of account.

81. Unless the governing instrument expressly provides otherwise, an instrument settling or waiving an account, executed by all persons whom it would be necessary to join as parties in a proceeding for the judicial settlement of the account, shall be binding and conclusive on all other persons who may have a future interest in the property to the same extent as that instrument binds the person who executed it.

82. N.J.S.3B:22-2 is amended to read as follows:

Order of priority of claims when assets insufficient.

3B:22-2. If the applicable assets of the estate are insufficient to pay all claims in full, the personal representative shall make payment in the following order:

- a. Reasonable funeral expenses;
- b. Costs and expenses of administration;
- c. Debts and taxes with preference under federal law or the laws of this State, including debts for the reasonable value of services rendered to the decedent by the Office of the Public Guardian for Elderly Adults;
- d. Reasonable medical and hospital expenses of the last illness of the decedent, including compensation of persons attending him;
- e. Judgments entered against the decedent according to the priorities of their entries respectively;
- f. All other claims.

No preference shall be given in the payment of any claim over any other claim of the same class, and a claim due and payable shall not be entitled to a preference over claims not due. The

commencement of an action against the personal representative for the recovery of a debt or claim or the entry of a judgment thereon against the personal representative shall not entitle such debt or claim to preference over others of the same class.

83. N.J.S.3B:22-3 is amended to read as follows:

Abatement for purpose of paying claims and debts.

3B:22-3. The property of a decedent's estate shall abate for the purposes of paying debts and claims in the order prescribed in N.J.S.3B:23-12.

84. N.J.S.3B:22-4 is amended to read as follows:

Limitation of time to present claims of creditors to personal representative; discharge of personal representative where claim is not duly presented before distribution.

3B:22-4. Creditors of the decedent shall present their claims to the personal representative of the decedent's estate in writing and under oath, specifying the amount claimed and the particulars of the claim, within nine months from the date of the decedent's death. If a claim is not so presented to the personal representative within nine months from the date of the decedent's death, the personal representative shall not be liable to the creditor with respect to any assets which the personal representative may have delivered or paid in satisfaction of any lawful claims, devises or distributive shares, before the presentation of the claim.

85. N.J.S.3B:22-39 is amended to read as follows:

"Heirs and devisees" defined.

3B:22-39. As used in this article, heirs and devisees shall include the heirs and devisees of a deceased debtor and the heirs and devisees of any of them, who shall have died before the commencement of the action, authorized by this article, to whom any of the real or personal property, of which the debtor died seized or possessed, descended or was devised.

86. N.J.S.3B:23-12 is amended to read as follows:

Abatement generally.

3B:23-12. Except as provided in N.J.S.3B:23-14 and except as provided in connection with the share of a surviving spouse who elects to take an elective share, shares of distributees abate, without any preference or priority as between real and personal property, in the following order:

- a. Property passing by intestacy;
- b. Residuary devises;
- c. General devises;
- d. Specific devises; and
- e. Abatement within each classification is in proportion to the amount of property each of the beneficiaries would have received if full distribution of the property had been made in accordance with the terms of the will.

87. N.J.S.3B:24-4 is amended to read as follows:

Apportionment of tax to transferees in absence of directions to contrary.

3B:24-4. In the absence of directions to the contrary:

a. That part of the tax shall be apportioned to each of the transferees as bears the same ratio to the total tax as the ratio which each of the transferees' property included in the gross tax estate bears to the total property entering into the net estate for purposes of that tax, and the balance of the tax shall be apportioned to the fiduciary, the values as finally determined in the respective tax proceedings being the values to be used as the basis for apportionment of the respective taxes;

b. Any deduction allowed under the law imposing the tax by reason of the relationship of

any person to the decedent or by reason of the charitable purposes of the gift shall inure to the benefit of the fiduciary or transferee, as the case may be, subject nonetheless to the provisions of N.J.S.3B:24-3;

c. Any deduction for property previously taxed and any credit for gift taxes paid by the decedent shall inure to the benefit of all transferees and the fiduciary and the tax to be apportioned shall be the tax after allowance of the deduction and credit; and

d. Any interest resulting from late payment of the tax shall be apportioned in the same manner as the tax and shall be charged by the fiduciary and any trustee of any inter vivos trust and any other transferee wholly against corpus.

88. N.J.S.3B:25-1 is amended to read as follows:

Nonexoneration of property subject to mortgage or security interest; exception.

3B:25-1. When property subject to a mortgage or security interest descends to an heir or passes to a devisee, the heir or devisee shall not be entitled to have the mortgage or security interest discharged out of any other property of the ancestor or testator, but the property so descending or passing to him shall be primarily liable for the mortgage or secured debt, unless the will of the testator shall direct that the mortgage or security interest be otherwise paid. A general direction in the will to pay debts shall not be deemed a direction to pay the mortgage or security interest.

89. N.J.S.3B:28-1 is amended to read as follows:

Estates of dower and curtesy prior to May 28, 1980.

3B:28-1. The widow or widower, whether alien or not, of a person dying intestate or otherwise, shall be endowed for the term of her or his life of one half of all real property of which the decedent, or another to the decedent's use, was seized of an estate of inheritance at any time during marriage prior to May 28, 1980, unless the widow or widower shall have relinquished her right of dower or his right of curtesy in the manner provided by P.L.1953, c.352 (C.37:2-18.1) or such right of dower or such right of curtesy otherwise shall have been extinguished by law.

90. N.J.S.3B:28-2 is amended to read as follows:

No right of dower or curtesy created on or after May 28, 1980.

3B:28-2. No right of dower or curtesy in real property shall arise if, on or after May 28, 1980, a person shall become married, or such person or another to his or her use, shall become seized of an estate of inheritance.

91. N.J.S.3B:28-3 is amended to read as follows:

Right of joint possession of principal matrimonial residence where no dower or curtesy applies; alienation.

3B:28-3. a. During life every married person shall be entitled to joint possession with his or her spouse of any real property which they occupy jointly as their principal matrimonial residence and to which neither dower nor curtesy applies. One who acquires an estate or interest in real property from a person whose spouse is entitled to joint possession thereof does so subject to such right of possession, unless such right of possession has been released, extinguished or subordinated by such spouse or has been terminated by order or judgment of a court of competent jurisdiction or otherwise.

b. Nothing contained herein shall be construed to prevent the release, subordination or extinguishment of the right of joint possession by either spouse, by premarital agreement, separation agreement or other written instrument.

c. The right of joint possession shall be extinguished by the consent of both parties, by the death of either spouse, by judgment of divorce, separation or annulment, by other order or

judgment which extinguishes same, or by voluntary abandonment of the principal matrimonial residence.

92. N.J.S.3B:28-3.1 is amended to read as follows:

Joint occupancy of principal matrimonial residence; mortgage lien.

3B:28-3.1. The right of joint possession to the principal matrimonial residence as provided in N.J.S.3B:28-3 is subject to the lien of a mortgage, irrespective of the date when the mortgage is recorded, provided:

- a. The mortgage is placed upon the matrimonial residence prior to the time that title to the residence was acquired by the married person; or
- b. The mortgage is placed upon the matrimonial residence prior to the marriage; or
- c. The mortgage is a purchase money mortgage; or
- d. The parties to the marriage have joined in the mortgage; or
- e. The right of joint possession has been subordinated, released or extinguished by subsection b. or c. of N.J.S.3B:28-3.

C.46:2E-14 Disclaimer of interests previously governed by P.L.1979, c.492 (C.46:2E-1 to 46:2E-13).

93. A disclaimer of an interest by any person who is a grantee, donee, surviving joint tenant, surviving tenant by the entirety, surviving party to a joint deposit account, a P.O.D. account or a trust deposit account, person succeeding to a disclaimed interest, beneficiary under a nontestamentary instrument or contract, appointee under a power of appointment exercised by a nontestamentary instrument or a beneficiary under an insurance policy is governed by N.J.S.3B:9-1 et seq., as amended and supplemented by P.L.2004, c.132 (C.3B:3-33.1 et al.).

Repealer.

94. The following are hereby repealed:

N.J.S.3B:4-6;

N.J.S.3B:7-1 through 3B:7-4, inclusive;

N.J.S.3B:9-5;

N.J.S.3B:22-9; and

Laws of P.L.1979, c.492 (C.46:2E-1 to 46:2E-13 both inclusive).

95. This act shall take effect on the 180th day after enactment.

Approved August 31, 2004.