

3B:18-25

LEGISLATIVE HISTORY CHECKLIST

NJSA: 3B:18-25 (Fiduciaries-- revise certain commissions)

LAWS OF: 1988 CHAPTER: 165

BILL NO: S2440

SPONSOR(S): Russo

Date Introduced: April 25, 1988

Committee: Assembly: -----

Senate: Labor, Industry and Professions

Amended during passage: No

Date of Passage: Assembly: October 27, 1988

Senate: June 2, 1988

Date of Approval: November 29, 1988

Following statements are attached if available:

Sponsor statement: Yes

Committee statement: Assembly No

Senate Yes

Fiscal Note: No

Veto Message: No

Message on Signing: No

Following were printed:

Reports: No

Hearings: No

The sponsor's statement refers to the Uniform Probate Code. The UPC uses the term "Reasonable Compensation" with no specific amounts or percentages given. See, E.G., UPC 5-209 and 7-205.

rdv

P.L. 1988, CHAPTER 165, approved November 29, 1988
1988 Senate No. 2440

1 **AN ACT concerning commissions payable to certain fiduciaries
and amending N.J.S. 3B:18-25.**

3

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

1. N.J.S. 3B:18-25 is amended to read as follows:

7 **3B:18-25. Taking annual amounts on account of corpus
commissions.**

9 **a. Fiduciaries may annually, without court allowance, take
commissions on corpus (including accumulated income which has
11 been invested by the fiduciary) in the amount of [five-tenths of
1% of the first \$100,000.00 of value of corpus, three-tenths of
13 1% of the next \$100,000.00 of value and two-tenths of 1% of the
value in excess of \$200,000.00] \$5.00 per thousand dollars of
15 corpus value on the first \$400,000.00 of value of corpus and \$3.00
per thousand dollars of the corpus value in excess of \$400,000.00.**

17 **b. Notwithstanding the provisions of subsection a. of this
section, if the fiduciary is a banking institution or savings and
19 loan association authorized to exercise fiduciary powers and the
corpus value is in excess of \$400,000.00, the fiduciary shall be
21 entitled to such commissions as may be reasonable.**

23 **c. Notwithstanding the provisions of subsection a. of this
section, a fiduciary may take a minimum commission of \$100.00
annually.**

25 **d. The value of the corpus for the purpose of [computing the
commissions] this section shall be the "presumptive value" as
27 defined in N.J.S. 3B:18-18 or, at the option of the fiduciary, the
value at the end of the period.**

29 **e. Upon application of a person interested in the trust or
guardianship, a court may review the reasonableness of the
31 commissions of the fiduciary, provided, however, the fiduciary
shall be entitled to receive at least the compensation provided**

**EXPLANATION--Matter enclosed in bold-faced brackets [thus] in the
above bill is not enacted and is intended to be omitted in the law.**

Matter underlined thus is new matter.

1 for all fiduciaries as set forth in subsections a. and c. of this
2 section.

3 (cf: N.J.S. 38:18-25)

4 2. This act shall take effect immediately and shall apply to all
5 annual periods beginning on or after the effective date of this act.

7

8 STATEMENT

9

10 This bill concerns the allowance of corpus commissions to the
11 trustees of testamentary trusts and guardians under
12 guardianships. The bill amends that section of law which provides
13 for the taking of annual amounts on account of corpus
14 commissions and permits individual fiduciaries to receive higher
15 corpus commissions for their services and corporate fiduciaries to
16 receive reasonable compensation in cases where the assets
17 exceed \$400,000.00 in value. The commissions taken annually
18 would be subject to court review.

19 Currently, 41 states permit a reasonable compensation
20 approach for corporate fiduciaries. These amendments are in
21 keeping with the Uniform Probate Code, developed by the
22 National Conference of Commissioners on Uniform State Laws,
23 which calls for reasonable compensation.

25

26 BANKING AND FINANCIAL INSTITUTIONS

27

Property and Estates

28 Revises commissions of certain fiduciaries.

29

STATE OF NEW JERSEY

INTRODUCED APRIL 25, 1988

By Senator RUSSO

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21 entitled to such commissions as may be reasonable.

c. Notwithstanding the provisions of subsection a. of this
23 section, a fiduciary may take a minimum commission of \$100.00
annually.

25 d. The value of the corpus for the purpose of [computing the
commissions] this section shall be the "presumptive value" as
27 defined in N.J.S. 3B:18-18 or, at the option of the fiduciary, the
value at the end of the period.

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SENATE LABOR, INDUSTRY AND PROFESSIONS COMMITTEE

STATEMENT TO

SENATE, No. 2440

STATE OF NEW JERSEY

DATED: MAY 19, 1988

The Senate Labor, Industry and Professions Committee reports favorably Senate, No. 2440.

This bill concerns the allowable annual corpus commissions payable to trustees of testamentary trusts and guardians under guardianships. The bill permits individual fiduciaries and banks, savings banks and savings and loan associations with fiduciary powers to receive increased rates of commission for their services and, in addition, if the corpus exceeds \$400,000.00, it permits financial institutions to receive reasonable compensation for their services.

Currently fiduciaries, including individual fiduciaries and banks, savings banks and savings and loan associations with fiduciary powers, are permitted annual commissions at the rate of \$5.00 per \$1,000.00 of the first \$100,000.00 of corpus, \$3.00 per \$1,000.00 of the next \$100,000.00 of corpus, and \$2.00 per \$1,000.00 of the value of the corpus exceeding \$200,000.00. This bill increases those rates by providing annual commission rates of \$5.00 per \$1,000.00 of the first \$400,000.00 of corpus and \$3.00 per \$1,000.00 of the value of the corpus exceeding \$400,000.00, except that financial institutions may receive reasonable compensation if the corpus exceeds \$400,000.00. The bill also establishes a minimum commission of \$100.00. The current law does not provide for a minimum commission.

If a person interested in a trust or guardianship requests a review of the reasonable compensation of a financial institution acting as a fiduciary, the court may review the reasonableness of the commissions being charged but it cannot reduce the commissions below the statutory rates.