

LEGISLATIVE HISTORY CHECKLIST

NJSA: 54: 35-19

(Inheritance-allow transfer of increased amounts to beneficiaries)

LAWS OF: 1988

CHAPTER: 103

Bill No: S1486

Sponsor(s): Gagliano

Date Introduced: Pre-filed

Committee: Assembly: Financial Institutions

Senate: Revenue, Finance & Appropriations

Amended during passage: Yes Amendments during passage denoted by asterisks.

Date of Passage: Assembly: June 23, 1988

Senate: February 2, 1988

Date of Approval: August 10, 1988

Following statements are attached if available:

Sponsor statement: Yes

Committee Statement: Assembly: Yes

Senate: Yes

Fiscal Note: No

Veto Message: No

Message on signing: No

Following were printed:

Reports: No

Hearings: No

[FIRST REPRINT]
SENATE, No. 1486

STATE OF NEW JERSEY

PRE-FILED FOR INTRODUCTION IN THE 1988 SESSION

By Senator GAGLIANO

1 AN ACT concerning transfer inheritance taxes and amending
R.S. 54:35-19.

3

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

1. R.S. 54:35-19 is amended to read as follows:

7 54:35-19. Unless the Director of the Division of Taxation
consents in writing thereto, no ¹State or federally chartered
9 bank, savings bank, savings and loan association or credit union,
or¹ safe deposit company, trust company¹[, bank]¹ or other
11 institution ¹[or],¹ corporation or person shall deliver or transfer
any securities, deposits or other assets within its or his control
13 or possession, including capital stock of or other interests in
¹[such] the State or federally chartered bank, savings bank,
15 savings and loan association or credit union or¹ safe deposit
company, trust company, ¹[bank,]¹ institution, or corporation,
17 which belong to or stand in the name of a resident decedent or
in the joint names of a resident decedent and one or more
19 persons, to an executor, administrator or legal representative of
a resident decedent, or upon his or their order or request, or, to
21 the survivor or survivors when held in the joint names of a
resident decedent and one or more persons, or upon his or their
23 order or request, without:

a. Notice of the time and place of such intended delivery or
25 transfer being served upon the Director of the Division of
Taxation at least 10 days prior thereto, and

27 b. The retention by the ¹State or federally chartered bank,
savings bank, savings and loan association or credit union, or¹
29 safe deposit company, trust company, ¹[bank,]¹ institution,
corporation or persons of sufficient of the assets mentioned

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.

Matter enclosed in superscript numerals has been adopted as follows:
¹ Assembly AFI committee amendments adopted May 23, 1988.

1 herein to pay any tax and interest which may be assessed on
such delivery or transfer under authority of chapters 33 to 36 of
3 [this] Title [(§ 54:33-7 et seq.)] 54 of the Revised Statutes.

The Director of the Division of Taxation may, either
5 personally or by representative, examine such securities,
deposits or assets of a resident decedent.

7 Notwithstanding the foregoing provisions of this section, a
¹State or federally chartered bank, savings bank, savings and
9 loan association or credit union, or¹ safe deposit company, trust
company, ¹[bank,]¹ institution, corporation or person may
11 transfer [not in excess of the amounts hereinafter provided of
funds of a resident decedent,] ¹[the entire amount] not in excess
13 of the amounts hereinafter provided of funds of a resident
decedent,¹ on deposit or otherwise in its or his control or
15 possession, without the written consent of the Director of the
Division of Taxation, [to a surviving spouse \$5,000.00, to any one
17 other than the surviving spouse, \$200.00] ¹to a surviving spouse
or \$5,000.00, to any one other than the surviving spouse,
19 \$200.00¹ provided, such transferor shall first obtain from the
transferee an affidavit, in such form as shall be prescribed by
21 the director, establishing that the value of the gross estate, real
and personal, of the decedent [does not exceed \$200.00 where
23 the transferee is one other than the surviving spouse or
\$5,000.00 where the transferee is the surviving spouse] ¹[is less
25 than \$500.00] does not exceed \$200.00 where the transferee is
one other than the surviving spouse or \$5,000.00 where the
27 transferee is the surviving spouse¹, which affidavit, within 30
days after the transfer, shall be filed by the transferor with the
29 director.

¹[The] With respect to deaths occurring on or after July 1,
31 1988, the¹ provisions of this section shall not apply to any
securities, deposits or other assets ¹[owned by husband and wife
33 as joint tenants or owned by a decedent and payable to the
surviving spouse where the death of a husband or wife occurred
35 on or after January 1, 1985 and the surviving spouse is the sole
surviving joint tenant or sole beneficiary of the gross estate of
37 the decedent spouse. A] which belong to or stand in the name of
a resident decedent and are payable on death to his or her
39 surviving spouse, parent, grandparent, child or children,

1 child or children adopted by the decedent in conformity with the
2 laws of the State, or of the United States or of a foreign
3 country, or the issue of any child or legally adopted child of a
4 decedent, either by virtue of joint ownership or pursuant to the
5 decedent's will. It shall be lawful, notwithstanding the other
6 provisions of this section, for any State or federally chartered
7 bank, savings bank, savings and loan association or credit union,
8 or¹ safe deposit company, trust company, ¹[bank]¹ or other
9 institution, corporation or person ¹[may] to¹ deliver or transfer
10 ¹[to a surviving spouse]¹ any securities, deposits, or other assets
11 within its or his ¹[possession or]¹ control¹[, owned by husband
12 and wife as joint tenants or owned by a decedent and payable to
13 the surviving spouse. The transferor shall first obtain from the
14 transferee an affidavit prescribed by the director, without the
15 requirement of attachment of letters testamentary or letters of
16 administration under such circumstances as he shall prescribe.
17 The transferor shall file the affidavit with the director within 30
18 days] or possession to a surviving spouse, parent, grandparent,
19 child or children, child or children adopted by the decedent in
20 conformity with the laws of this State, or of the United States,
21 or of a foreign country, or the issue of any child or legally
22 adopted child, without prior notice to the Director of the
23 Division of Taxation and without the retention of any assets to
24 pay any tax and interest which may be assessed on that delivery
25 or transfer under the authority of chapters 33 to 36 of Title 54
26 of the Revised Statutes. The Director of the Division of
27 Taxation may require affidavits or reports and records of the
28 delivery or transfer of securities, deposits¹[,] or¹ other assets¹[,
29 or a safe deposit receptacle] as he may deem necessary, but
30 shall in no manner restrict the exercise of any right of a
31 transferee to a transfer of securities, deposits¹[,] or¹ other
32 assets ¹[or a safe deposit receptacle]¹ subject to the provisions
33 of this paragraph¹.

(cf: P.L. 1979, c. 217, s. 1)

35 2. This act shall take effect immediately.

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TAXATION

Banking and Financial Institutions

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Permits financial institutions and others holding assets of decedents to transfer increased amounts of those assets to a surviving spouse and other beneficiaries under certain circumstances.

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STATEMENT

3 This bill permits a surviving spouse to gain access to deposits
and securities where the spouse is the sole surviving joint tenant
5 or sole beneficiary, giving a surviving spouse immediate access
to cash and securities. The revisions of the transfer inheritance
7 tax (P.L. 1985, c. 57) exempt transfers to a surviving spouse
made on or after January 1, 1985. This exemption conflicted
9 with other provisions in the transfer inheritance tax which
required waivers and affidavits in certain cases in order to
11 release any funds. The Division of Taxation has created, by
regulation, a short form that can be filled out at any bank in
13 order to release any assets to a surviving spouse. The bill
codifies this practice.

15 In addition, the bill authorizes other transfers without a tax
waiver, provided that the value of the gross estate is less than
17 \$500.00. Currently, the limit is \$200.00. In the case of such
transfer, the survivor must file an affidavit with the Division of
19 Taxation proving that the value of the gross estate does not
exceed the limit.

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TAXATION

Banking and Financial Institutions

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Permits financial institutions and others holding assets of
27 decedents to transfer increased amounts of those assets to a
surviving spouse and other beneficiaries under certain
29 circumstances.

ASSEMBLY FINANCIAL INSTITUTIONS COMMITTEE

STATEMENT TO

SENATE, No. 1486

with Assembly committee amendments

STATE OF NEW JERSEY

DATED: MAY 23, 1988

The Assembly Financial Institutions Committee favorably reports Senate, No. 1486.

This bill, as amended, would permit a surviving spouse, parent, grandparent, or natural or legally adopted child or children to gain access to deposits, securities and other jointly held assets that are payable either by virtue of joint ownership or pursuant to the decedent's will in the event of a death occurring on or after July 1, 1988.

Committee amendments: include State or federally chartered banks, savings banks, savings and loan associations and credit unions among the financial institutions to which the act applies; and permit a surviving spouse, parent, grandparent, or natural or legally adopted child or children to gain access to deposits, securities and other jointly held assets that are payable either by virtue of joint ownership or pursuant to the decedent's will in the event of death occurring on or after July 1, 1988.

SENATE REVENUE, FINANCE AND APPROPRIATIONS
COMMITTEE

STATEMENT TO

SENATE, No. 1486

STATE OF NEW JERSEY

DATED: JANUARY 21, 1988

The Senate Revenue, Finance and Appropriations Committee reported Senate Bill 1486 favorably.

Senate Bill 1486 permits a surviving spouse to gain access to deposits and securities where the spouse is the sole surviving joint tenant or sole beneficiary, giving a surviving spouse immediate access to cash and securities. The revisions to the transfer inheritance tax (P.L. 1985, c. 57) exempt transfers to a surviving spouse made on or after January 1, 1985. This exemption conflicted with other provisions in the transfer inheritance tax which required waivers and affidavits in certain cases in order to release any funds. The Division of Taxation has created, by regulation, a short form that can be filled out at any bank in order to release any assets to a surviving spouse. This bill codifies this practice.

In addition, the bill authorizes other transfers without a tax waiver, provided that the value of the gross estate is less than \$500.00. Currently, the limit is \$200.00. In the case of such a transfer, the survivor must file an affidavit with the Division of Taxation proving that the value of the gross estate does not exceed the limit.

FISCAL IMPACT

There should be no fiscal impact on the State.