

ASSEMBLY, No. 342

STATE OF NEW JERSEY

INTRODUCED JANUARY 29, 1924.

By Mr. SIRACUSA.

Referred to Committee on Revision of Laws.

AN ACT concerning declaratory judgments and decrees.

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

I 1. Courts of record within their respective jurisdictions shall have power to de-
2 clare rights, status, and other legal relations whether or not further relief is or could
3 be claimed. No action or proceeding shall be open to objection on the ground that a
4 declaratory judgment or decree is prayed for. The declaration may be either affirm-
5 ative or negative in form and effect; and such declarations shall have the force and
6 effect of a final judgment or decree.

I 2. Any person interested under a deed, will, written contract or oth writings
2 constituting a contract, or whose rights, status or other legal relations are by
3 a statute, municipal ordinance, contract or franchise, may have determine
4 tion of construction or validity arising under the instrument, statute, ordinance, con-
5 tract or franchise and obtain a declaration of rights, status or other legal relations
6 thereunder.

I 3. A contract may be construed either before or after there has been a breach
2 thereof.

I 4. Any person interested as or through an executor, administrator, trustee,
2 guardian or other fiduciary, creditor, devisee, legatee, heir, next of kin, or cestui que
3 trust, in the administration of a trust, or of the estate of a decedent, an infant, luna-
4 tic, or insolvent, may have a declaration of rights or legal relations in respect thereto:

5 (a) To ascertain any class of creditors, devisees, legatees, heirs, next of kin
6 or others; or

7 (b) To direct the executors, administrators, or trustees to do or abstain from
8 doing any particular act in their fiduciary capacity; or

9 (c) To determine any question arising in the administration of the estate or
10 trust, including questions of construction of wills and other writings.

1 5. The enumeration in sections two, three and four does not limit or restrict the
2 exercise of the general powers conferred in section one, in any proceeding where de-
3 claratory relief is sought, in which a judgment or decree will terminate the controversy
4 or remove an uncertainty.

1 6. The court may refuse to render or enter a declaratory judgment or decree
2 where such judgment or decree, if rendered or entered, would not terminate the un-
3 certainty or controversy giving rise to the proceeding.

1 7. All orders, judgments and decrees under this act may be reviewed as other
2 orders, judgments and decrees.

1 8. Further relief based on a declaratory judgment or decree may be granted
2 whenever necessary or proper. The application therefore shall be by petition to a
3 court having jurisdiction to grant the relief. If the application be deemed sufficient,
4 the court shall, on reasonable notice, require any adverse party whose rights have
5 been adjudicated by the declaratory judgment or decree, to show cause why further
6 relief should not be granted forthwith.

1 9. When a proceeding under this act involves the determination of an issue of
2 fact, such issue may be tried and determined in the same manner as issues of fact are
3 tried and determined in other civil actions in the court in which the proceeding is
4 pending.

1 10. In any proceeding under this act the court may make such award of costs
2 as may seem equitable and just.

1 11. When declaratory relief is sought, all persons shall be made parties who have
2 or claim any interest which would be affected by the declaration, and no declaration
3 shall prejudice the rights of persons not parties to the proceeding. In any proceeding
4 which involves the validity of a municipal ordinance or franchise, such municipality
5 shall be made a party, and shall be entitled to be heard, and if the statute, ordinance
6 or franchise is alleged to be unconstitutional, the Attorney-General of the State shall
7 also be served with a copy of the proceeding and be entitled to be heard.

1 12. This act is declared to be remedial; its purpose is to settle and to afford
2 relief from uncertainty and insecurity with respect to rights, status and other legal
3 relations; and is to be liberally construed and administered.

1 13. The word "person" wherever used in this act, shall be construed to mean
2 any person, partnership, joint stock company, unincorporated association, or society,
3 or municipal or other corporation of any character whatsoever.

1 14. The several sections and provisions of this act, except sections one and two,
2 are hereby declared independent and severable, and the invalidity, if any, of any part
3 or feature thereof shall not affect or render the remainder of the act invalid or
4 inoperative.

1 15. This act shall be so interpreted and construed as to effectuate its general pur-
2 pose to make uniform the law of those States which enact it, and to harmonize, as
3 far as possible, with Federal laws and regulations on the subject of declaratory judg-
4 ments and decrees.

1 16. This act may be cited as the Uniform Declaratory Judgments Act.

1 17. This act shall take effect immediately.

STATEMENT.

The object of this bill is to enable parties interested under a deed, will or written contract, or whose rights, status or legal relations are affected by statute or municipal ordinance, contract or franchise, to secure a determination or construction arising under such instrument, statute, ordinance, contract or franchise, prior to a breach or infraction thereof, so that they can be governed by the judgment or decree of the court touching the same, thus avoiding delay and loss.