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REPORTS:

Yes

974.901 New Jersey. Law Revision Commission

L446 Report, 1999. February 1, 2000. Trenton, 2000

(see pp. 10, 13, Appendix G and Appendix K)

HEARINGS:

No

NEWSPAPER ARTICLES:

No

ASSEMBLY, No. 2105

STATE OF NEW JERSEY 209th LEGISLATURE

INTRODUCED FEBRUARY 28, 2000

Sponsored by:

Assemblyman CHRISTOPHER "KIP" BATEMAN

District 16 (Morris and Somerset)

Assemblyman PETER J. BIONDI

District 16 (Morris and Somerset)

SYNOPSIS

Modifies probate code with regard to settlement of intestate estates when heirs are missing or unknown.

CURRENT VERSION OF TEXT

As introduced.



A2105 BATEMAN, BIONDI

2

1 AN ACT concerning the settlement of intestate estates in certain
2 circumstances, amending and supplementing various sections of
3 Title 3B of New Jersey Statutes and repealing N.J.S.3B:5-5 and
4 N.J.S.3B:23-20.

5

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

8

9 1. (New section) If it appears to a fiduciary administering an
10 intestate estate that there may be persons whose names or addresses
11 are unknown who may be entitled to participate in the distribution of
12 the estate, the fiduciary shall make reasonable efforts to identify and
13 locate the persons. The actions taken by a fiduciary shall be those that
14 have some reasonable likelihood of finding the persons and are
15 reasonable in cost compared with the amount of the distribution
16 involved. The fiduciary may take any reasonable action including:

17 a. inquiries to relatives and associates of the deceased;

18 b. inquiries to public or private agencies that may have information
19 about the persons;

20 c. examination of directories for locations where the persons may
21 reside; and

22 d. advertisement in publications that may be read by the persons.

23

24 2. N.J.S.3B:23-19 is amended to read as follows:

25 3B:23-19. Order for filing claims of unknown distributees.

26 a. When it appears in an action for the distribution of the property
27 of which a decedent dies intestate that **[,] no heirs to the property can**
28 **be found or** in addition to persons known to have an interest in the
29 estate, **[any other person or persons] there may be others** whose
30 names or addresses are unknown who may be entitled to participate in
31 the distribution, the court may **[require all those persons whose**
32 names or addresses are unknown, to appear or file their claims with
33 the personal representative within a reasonable time and after
34 reasonable notice by publication or otherwise, as may be prescribed by
35 the court] order additional actions to identify and locate heirs.

36 b. If no heirs to the property can be found, the property shall be
37 presumed abandoned and handled in accordance with the "Uniform
38 Unclaimed Property Act (1981)," R.S. 46:30B-1 et seq.

39 c. If, in addition to persons known to have an interest in the estate,
40 others whose names or addresses are unknown may be entitled to
41 participate in the distribution, the court shall order the part of the
42 estate to which they may be entitled held for a specific period. The
43 court shall set that period as two years beginning at the date of death

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 unless good cause is shown to set another period. If the others cannot
2 be located within the period, the court shall order the property divided
3 among the known heirs in proportions as if the unknown heirs did not
4 exist.

5 (cf: P.L.1981, c.405, s.3B:23-19)

6
7 3. N.J.S.3B:23-21 is amended to read as follows:

8 3B:23-21. Unclaimed estate assets. When a fiduciary states his final
9 account and there remains in his hands a balance, devise, distributive
10 share, dividend or sum of money to be paid to a person and the person,
11 or his guardian, if he be an infant or mental incompetent, fails to claim
12 the balance, devise, distributive share, dividend or sum of money
13 within the period of time set forth in R.S.46:30B-37.1, then the
14 property shall be disposed of as provided in N.J.S.3B:23-19 if it is part
15 of an intestate estate or otherwise presumed abandoned and handled
16 in accordance with the "Uniform Unclaimed Property Act (1981),"
17 R.S.46:30B-1 et seq.

18 (cf: P.L.1989, c.58,s.3)

19
20 4. N.J.S.3B:5-5 and N.J.S.3B:23-20 are hereby repealed.

21
22 5. This act shall take effect immediately.

23
24
25 STATEMENT

26
27 This bill is intended to clarify the provisions of New Jersey's
28 Probate Code with regard to the settlement of intestate estates when
29 one or more heirs cannot be found or is unknown. The provisions of
30 this bill are based on recommendations contained in a report issued by
31 the N.J. Law Revision Commission in September, 1999.

32 Two sections of the Probate Code, N.J.S.3B:23-19 and N.J.S.3B-
33 20, provide for advertisement in order to attempt to locate missing
34 heirs. If there is no response, the statutes provide that missing heirs
35 are deemed to have waived the inheritance and the known heirs divide
36 the property. However, two other sections of the Probate Code,
37 N.J.S.3B:5-5 and N.J.S.3B:23-21, provide that the property should be
38 held by the State pursuant to the provisions of the "Uniform
39 Unclaimed Property Act," R.S.46:30B-1 et seq., until the missing heirs
40 come forward. In Matter of Estate of Peterson, 316 N.J.Super. 549
41 (Ch. Div. 1998), the court ruled that the provisions referring to the
42 "Uniform Unclaimed Property Act" govern such circumstances.

43 This bill would reconcile these conflicting provisions by providing
44 that in cases in which there are missing heirs, the share of property to
45 which the missing heirs are entitled would be held for a period of two
46 years. After that period, if there heirs remain missing, the property

A2105 BATEMAN, BIONDI

4

1 would be divided among the known heirs. In circumstances in which
2 there are no known heirs, the bill provides the property would be
3 presumed abandoned and handled pursuant to the "Uniform Unclaimed
4 Property Act."

5 The bill repeals two sections of the Probate Code, N.J.S.3B:5-5 and
6 N.J.S.3B:23-20, which the provisions of the bill make unnecessary.

ASSEMBLY JUDICIARY COMMITTEE

STATEMENT TO

ASSEMBLY, No. 2105

STATE OF NEW JERSEY

DATED: MARCH 23, 2000

The Assembly Judiciary Committee reports favorably Assembly Bill No. 2105.

This bill is intended to clarify the provisions of New Jersey's Probate Code (Title 3B "Administration of Estates-Decedents and Others") with regard to the settlement of intestate estates when one or more heirs cannot be found or is unknown. The provisions of this bill are based on recommendations contained in a report issued by the New Jersey Law Revision Commission in September, 1999.

Two sections of the Probate Code, N.J.S.3B:23-19 and N.J.S.3B:23-20, provide for advertisement in order to attempt to locate missing heirs. If there is no response, the statutes provide that missing heirs are deemed to have waived the inheritance and the known heirs divide the property. However, two other sections of the Probate Code, N.J.S.3B:5-5 and N.J.S.3B:23-21, provide that the property should be held by the State pursuant to the provisions of the "Uniform Unclaimed Property Act," R.S.46:30B-1 et seq., until the missing heirs come forward. In Matter of Estate of Peterson, 316 N.J.Super. 549 (Ch. Div. 1998), the court ruled that the provisions referring to the "Uniform Unclaimed Property Act" govern such circumstances.

This bill would reconcile these conflicting provisions by providing that in cases in which there are missing heirs, the share of property to which the missing heirs are entitled would be held for a period of two years. After that period, if the heirs remain missing, the property would be divided among the known heirs. In circumstances in which there are no known heirs, the bill provides the property would be presumed abandoned and handled pursuant to the "Uniform Unclaimed Property Act."

To hold property for heirs who do not exist or whose identity can never be determined is to give the property to the State. The Commission suggests that this result should be avoided if possible. Intestate succession is intended to mirror the presumed intention of the average decedent. As a result, this bill would send property to the State from an intestate estate only when no relative can be found.

The bill requires an administrator to make reasonable efforts to locate all heirs to an intestate estate. The particular efforts may depend on the amount of the inheritance involved. It is not reasonable

to spend \$1,000 in an attempt to find a person entitled to receive a \$500 distribution from an estate.

The bill repeals two sections of the Probate Code, N.J.S.3B:5-5 and N.J.S.3B:23-20, which the provisions of the bill make unnecessary.

SENATE JUDICIARY COMMITTEE

STATEMENT TO

ASSEMBLY, No. 2105

with committee amendments

STATE OF NEW JERSEY

DATED: SEPTEMBER 14, 2000

The Senate Judiciary Committee reports favorably and with committee amendments Assembly Bill No. 2105.

This bill is intended to clarify the provisions of New Jersey's Probate Code (Title 3B "Administration of Estates-Decedents and Others") with regard to the settlement of intestate estates when one or more heirs cannot be found or is unknown. The provisions of A2105 are based on recommendations contained in a report issued by the New Jersey Law Revision Commission in September, 1999.

Two sections of the Probate Code, N.J.S.3B:23-19 and N.J.S.3B:23-20, provide for advertisement in order to attempt to locate missing heirs. If there is no response, the statutes provide that missing heirs are deemed to have waived the inheritance and the known heirs divide the property. However, two other sections of the Probate Code, N.J.S.3B:5-5 and N.J.S.3B:23-21, provide that the property should be held by the State pursuant to the provisions of the "Uniform Unclaimed Property Act," R.S.46:30B-1 et seq., until the missing heirs come forward. In Matter of Estate of Peterson, 316 N.J.Super. 549 (Ch. Div. 1998), the court ruled that the provisions referring to the "Uniform Unclaimed Property Act" govern such circumstances.

This bill would reconcile these conflicting provisions by providing that in cases in which there are missing heirs, the share of property to which the missing heirs are entitled would be held for a period of two years. After that period, if the heirs remain missing, the property would be divided among the known heirs. In circumstances in which there are no known heirs, the bill provides the property would be presumed abandoned and handled pursuant to the "Uniform Unclaimed Property Act."

This bill repeals two sections of the Probate Code, N.J.S.3B:5-5 and N.J.S.3B:23-20, which the provisions of the bill make unnecessary.

As passed by the Assembly, the bill required a fiduciary to make reasonable efforts to locate and identify missing heirs. The amendments adopted by the committee would delete the phrase

"reasonable efforts" and instead provide that a fiduciary make a diligent inquiry, under the circumstances to locate missing heirs. It was felt that the "diligent inquiry" standard better reflected existing case law and the language of the current court rules.

[First Reprint]

ASSEMBLY, No. 2105

STATE OF NEW JERSEY
209th LEGISLATURE

INTRODUCED FEBRUARY 28, 2000

Sponsored by:

Assemblyman CHRISTOPHER "KIP" BATEMAN

District 16 (Morris and Somerset)

Assemblyman PETER J. BIONDI

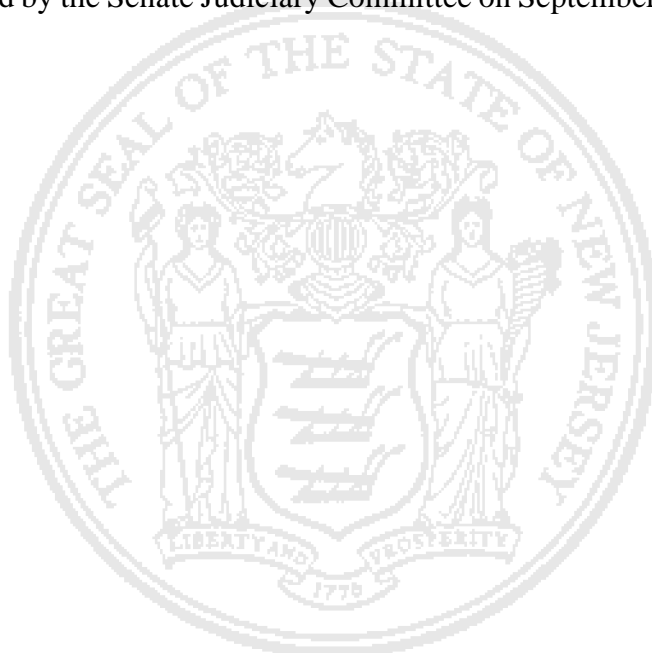
District 16 (Morris and Somerset)

SYNOPSIS

Modifies probate code with regard to settlement of intestate estates when heirs are missing or unknown.

CURRENT VERSION OF TEXT

As reported by the Senate Judiciary Committee on September 14, 2000, with amendments.



1 AN ACT concerning the settlement of intestate estates in certain
2 circumstances, amending and supplementing various sections of
3 Title 3B of New Jersey Statutes and repealing N.J.S.3B:5-5 and
4 N.J.S.3B:23-20.

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

8
9 1. (New section) If it appears to a fiduciary administering an
10 intestate estate that there may be persons whose names or addresses
11 are unknown who may be entitled to participate in the distribution of
12 the estate, the fiduciary shall make ¹[reasonable efforts] a diligent
13 inquiry, under the circumstances,¹ to identify and locate the persons.
14 The actions taken by a fiduciary shall be those that have some
15 reasonable likelihood of finding the persons and are reasonable in cost
16 compared with the amount of the distribution involved. ¹[The
17 fiduciary may take any reasonable action including:

- 18 a. inquiries to relatives and associates of the deceased;
19 b. inquiries to public or private agencies that may have information
20 about the persons;
21 c. examination of directories for locations where the persons may
22 reside; and
23 d. advertisement in publications that may be read by the persons.]¹

24
25 2. N.J.S.3B:23-19 is amended to read as follows:

26 3B:23-19. Order for filing claims of unknown distributees.

27 a. When it appears in an action for the distribution of the property
28 of which a decedent dies intestate that[,] no heirs to the property can
29 be found or in addition to persons known to have an interest in the
30 estate, [any other person or persons] there may be others whose
31 names or addresses are unknown who may be entitled to participate in
32 the distribution, the court may [require all those persons whose
33 names or addresses are unknown, to appear or file their claims with
34 the personal representative within a reasonable time and after
35 reasonable notice by publication or otherwise, as may be prescribed by
36 the court] order additional actions to identify and locate heirs.

37 b. If no heirs to the property can be found, the property shall be
38 presumed abandoned and handled in accordance with the "Uniform
39 Unclaimed Property Act (1981)," R.S. 46:30B-1 et seq.

40 c. If, in addition to persons known to have an interest in the estate,
41 others whose names or addresses are unknown may be entitled to

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Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹ Senate SJU committee amendments adopted September 14, 2000.

1 participate in the distribution, the court shall order the part of the
2 estate to which they may be entitled held for a specific period. The
3 court shall set that period as two years beginning at the date of death
4 unless good cause is shown to set another period. If the others cannot
5 be located within the period, the court shall order the property divided
6 among the known heirs in proportions as if the unknown heirs did not
7 exist.

8 (cf: P.L.1981, c.405, s.3B:23-19)

9

10 3. N.J.S.3B:23-21 is amended to read as follows:

11 3B:23-21. Unclaimed estate assets. When a fiduciary states his final
12 account and there remains in his hands a balance, devise, distributive
13 share, dividend or sum of money to be paid to a person and the person,
14 or his guardian, if he be an infant or mental incompetent, fails to claim
15 the balance, devise, distributive share, dividend or sum of money
16 within the period of time set forth in R.S.46:30B-37.1, then the
17 property shall be disposed of as provided in N.J.S.3B:23-19 if it is part
18 of an intestate estate or otherwise presumed abandoned and handled
19 in accordance with the "Uniform Unclaimed Property Act (1981),"
20 R.S.46:30B-1 et seq.

21 (cf: P.L.1989, c.58, s.3)

22

23 4. N.J.S.3B:5-5 and N.J.S.3B:23-20 are hereby repealed.

24

25 5. This act shall take effect immediately.

P.L. 2001, CHAPTER 109, *approved June 21, 2001*

Assembly Bill No. 2105 (*First Reprint*)

1 **AN ACT** concerning the settlement of intestate estates in certain
2 circumstances, amending and supplementing various sections of
3 Title 3B of New Jersey Statutes and repealing N.J.S.3B:5-5 and
4 N.J.S.3B:23-20.

5

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

8

9 1. (New section) If it appears to a fiduciary administering an
10 intestate estate that there may be persons whose names or addresses
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12 the estate, the fiduciary shall make ¹[reasonable efforts] a diligent
13 inquiry, under the circumstances, ¹to identify and locate the persons.
14 The actions taken by a fiduciary shall be those that have some
15 reasonable likelihood of finding the persons and are reasonable in cost
16 compared with the amount of the distribution involved. ¹[The
17 fiduciary may take any reasonable action including:

- 18 a. inquiries to relatives and associates of the deceased;
19 b. inquiries to public or private agencies that may have information
20 about the persons;
21 c. examination of directories for locations where the persons may
22 reside; and
23 d. advertisement in publications that may be read by the persons.]¹

24

25 2. N.J.S.3B:23-19 is amended to read as follows:

26 3B:23-19. Order for filing claims of unknown distributees.

27 a. When it appears in an action for the distribution of the property
28 of which a decedent dies intestate that[.] no heirs to the property can
29 be found or in addition to persons known to have an interest in the
30 estate, [any other person or persons] there may be others whose
31 names or addresses are unknown who may be entitled to participate in
32 the distribution, the court may [require all those persons whose
33 names or addresses are unknown, to appear or file their claims with
34 the personal representative within a reasonable time and after
35 reasonable notice by publication or otherwise, as may be prescribed by
36 the court] order additional actions to identify and locate heirs.

37 b. If no heirs to the property can be found, the property shall be
38 presumed abandoned and handled in accordance with the "Uniform
39 Unclaimed Property Act (1981)." R.S. 46:30B-1 et seq.

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 Senate SJU committee amendments adopted September 14, 2000.

1 c. If, in addition to persons known to have an interest in the estate,
2 others whose names or addresses are unknown may be entitled to
3 participate in the distribution, the court shall order the part of the
4 estate to which they may be entitled held for a specific period. The
5 court shall set that period as two years beginning at the date of death
6 unless good cause is shown to set another period. If the others cannot
7 be located within the period, the court shall order the property divided
8 among the known heirs in proportions as if the unknown heirs did not
9 exist.

10 (cf: P.L.1981, c.405, s.3B:23-19)

11

12 3. N.J.S.3B:23-21 is amended to read as follows:

13 3B:23-21. Unclaimed estate assets. When a fiduciary states his final
14 account and there remains in his hands a balance, devise, distributive
15 share, dividend or sum of money to be paid to a person and the person,
16 or his guardian, if he be an infant or mental incompetent, fails to claim
17 the balance, devise, distributive share, dividend or sum of money
18 within the period of time set forth in R.S.46:30B-37.1, then the
19 property shall be disposed of as provided in N.J.S.3B:23-19 if it is part
20 of an intestate estate or otherwise presumed abandoned and handled
21 in accordance with the "Uniform Unclaimed Property Act (1981),"
22 R.S.46:30B-1 et seq.

23 (cf: P.L.1989, c.58, s.3)

24

25 4. N.J.S.3B:5-5 and N.J.S.3B:23-20 are hereby repealed.

26

27 5. This act shall take effect immediately.

28

29

30

31

32 Modifies probate code with regard to settlement of intestate estates
33 when heirs are missing or unknown.

CHAPTER 109

AN ACT concerning the settlement of intestate estates in certain circumstances, amending and supplementing various sections of Title 3B of New Jersey Statutes and repealing N.J.S.3B:5-5 and N.J.S.3B:23-20.

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

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 persons 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 persons. The actions taken by a fiduciary shall be those that have some reasonable likelihood of finding the persons and are reasonable in cost compared with the amount of the distribution involved.

2. N.J.S.3B:23-19 is amended to read as follows:

Order for filing claims of unknown distributees.

3B:23-19. Order for filing claims of unknown distributees.

a. When it appears in an action for the distribution of the property of which a decedent dies intestate that no heirs to the property can be found or in addition to persons known to have an interest in the estate, there may be others whose names or addresses are unknown who may be entitled to participate in the distribution, the court may order additional actions to identify and locate heirs.

b. If no heirs to the property can be found, the property shall be presumed abandoned and handled in accordance with the "Uniform Unclaimed Property Act (1981)," R.S. 46:30B-1 et seq.

c. If, in addition to persons known to have an interest in the estate, others whose names or addresses are unknown may be entitled to participate in the distribution, the court shall order the part of the estate to which they may be entitled held for a specific period. The court shall set that period as two years beginning at the date of death unless good cause is shown to set another period. If the others cannot be located within the period, the court shall order the property divided among the known heirs in proportions as if the unknown heirs did not exist.

3. N.J.S.3B:23-21 is amended to read as follows:

Unclaimed estate assets.

3B:23-21. Unclaimed estate assets. When a fiduciary states his final account and there remains in his hands a balance, devise, distributive share, dividend or sum of money to be paid to a person and the person, or his guardian, if he be an infant or mental incompetent, fails to claim the balance, devise, distributive share, dividend or sum of money within the period of time set forth in R.S.46:30B-37.1, then the property shall be disposed of as provided in N.J.S.3B:23-19 if it is part of an intestate estate or otherwise presumed abandoned and handled in accordance with the "Uniform Unclaimed Property Act (1981)," R.S.46:30B-1 et seq.

Repealer.

4. N.J.S.3B:5-5 and N.J.S.3B:23-20 are hereby repealed.

5. This act shall take effect immediately.

Approved June 21, 2001.

PO BOX 004
TRENTON, NJ 08625

Office of the Governor
NEWS RELEASE

CONTACT: Rae Hutton
609-777-2600

RELEASE: June 21 , 2001

Acting Governor Donald T. DiFrancesco signed the following legislation today:

A-2803, sponsored by Senator John Matheussen (R-Camden/Gloucester) and Assemblymen David Russo (R-Bergen/Passaic) and Neil Cohen (D-Union), expands the definition of forgery to include the possession of forged or altered retail sales receipts or universal product code labels and counterfeit checks.

The bill also provides that a person who forges 15 or more bogus sales receipts or UPC labels is guilty of a crime of the third degree, which is punishable by a term of imprisonment of three to five years, a fine not to exceed \$15,000 or both. Fewer than 15 offenses is a crime of the fourth degree punishable by imprisonment not to exceed 18 months or a fine not to exceed \$10,000 or both.

A-2105, sponsored by Assemblymen Kip Bateman (R-Morris/Somerset) and Peter Biondi (R-Morris/Somerset), provides that in cases where a person dies intestate and there are missing heirs, the court must order that the share of property to which the missing heirs are entitled be held for a period of two years. During that time, a diligent inquiry, under the circumstances, must be made to look for the heirs. If, after this process, the missing heirs cannot be found, the court shall order the property divided among the known heirs. When there are no known heirs, the property would be presumed abandoned and handled pursuant to the "Uniform Unclaimed Property Act."

A 1994, sponsored by Senator Peter Inverso (R-Mercer/Middlesex) and Assembly members Reed Gusciora (D-Mercer) and Bonnie Watson Coleman (D-Mercer), provide a grant of \$45,000 to the Friends of the Homeless Animals, Inc., a not-for-profit organization whose mission is to save domestic animals that would otherwise be put to death when homes cannot be found. The grant will provide this organization with money to maintain and expand its community adoption events, spay/neuter program and special medical treatment for injured animals program.