

3A:15-36

LEGISLATIVE HISTORY CHECKLIST

WISA 3A:15-36 (Probate--Trust estates--investments
by fiduciaries)
LAWS OF 1979 CHAPTER 490
Bill No. A1625
Sponsor(s) Burstein
Date Introduced Sept. 25, 1978
Committee: Assembly Judiciary, Law, Public Safety and Defense
Senate Judiciary
Amended during passage ~~xxx~~ no
Date of Passage: Assembly June 18, 1979
Senate Dec. 10, 1979
Date of approval Feb. 28, 1980

Following statements are attached if available:

Sponsor statement	Yes	xxx
Committee Statement: Assembly	xxx	No
Senate	xxx	No
Fiscal Note	xxx	No
Veto message	xxx	No
Message on signing	Yes	xxx

Following were printed:

Reports	xxx	No
Hearings	xxx	No

9/1/78
EU

ASSEMBLY, No. 1625

STATE OF NEW JERSEY

INTRODUCED SEPTEMBER 25, 1978

By Assemblyman BURSTEIN

Referred to Committee on Judiciary, Law, Public Safety and Defense

AN ACT concerning investments by fiduciaries administering trust estates and amending P. L. 1975, c. 337.

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

1 1. Section 2 of P. L. 1975, c. 337 (C. 3A:15-36) is amended to
2 read as follows:

3 2. As used in this act:

4 a. "Trust instrument" means and includes a will, deed, agree-
5 ment, court order or other instrument pursuant to which money or
6 other property is entrusted to a fiduciary;

7 b. "Fiduciary" means an individual or corporation authorized
8 to act as a trustee, executor, *administrator*, administrator with the
9 will annexed, or guardian, and every other person or corporation
10 charged with the duty of administering a trust estate;

11 c. "Trust estate" means money or other property entrusted to
12 a fiduciary pursuant to a trust instrument **[;]**, *will, estate of an*
13 *intestate decedent or the estate of a minor or mentally incompetent*
14 *person being administered by a guardian;*

15 d. "Investments" means and includes property of every nature,
16 real, personal and mixed, tangible and intangible, which persons
17 of ordinary prudence and reasonable discretion acquire for the
18 purpose of preserving capital and of realizing income; and
19 specifically includes, solely by way of description and not by way
20 of limitation, bonds, debentures and other corporate obligations,
21 capital stocks, common stocks, preferred stocks, common trust
22 funds as defined in and regulated by article 9, Common Trust
23 Funds, P. L. 1948, c. 67 (C. 17:9A-36 et seq.), investments as
24 authorized by article 1 of chapter 15 of Title 3A of the New Jersey
25 Statutes, and securities of any open-end or closed-end manage-

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

26 ment type investment company or investment trust registered
27 pursuant to the Federal Investment Company Act of 1940, as from
28 time to time amended.

1 2. This act shall take effect immediately.

STATEMENT

This bill has been drafted by the Division of Law Revision of the Law Revision and Legislative Services Agency in furtherance of its duty to conduct a continuous examination of the general and permanent statutory law of this State.

This bill amends section 2 of the act to include an "administrator" within the term "fiduciary" because of the broad general powers conferred upon administrators in the administration of an intestate's estate under the provisions of the recently adopted act concerning decedent's estates (P. L. 1977, c. 412).

Section 2 of the act is further amended to broaden the rather restrictive meaning of a "trust estate" and to include "wills, estate of an intestate decedent or the estate of a minor or mentally incompetent person being administered by a guardian." The broadened definition will avoid any ambiguity as to the meaning of the term within the operation of other provisions of the act.

26 ment type investment company or investment trust registered
27 pursuant to the Federal Investment Company Act of 1940, as from
28 time to time amended.

1 2. This act shall take effect immediately.

STATEMENT

This bill has been drafted by the Division of Law Revision of the Law Revision and Legislative Services Agency in furtherance of its duty to conduct a continuous examination of the general and permanent statutory law of this State.

This bill amends section 2 of the act to include an "administrator" within the term "fiduciary" because of the broad general powers conferred upon administrators in the administration of an intestate's estate under the provisions of the recently adopted act concerning decedent's estates (P. L. 1977, c. 412).

Section 2 of the act is further amended to broaden the rather restrictive meaning of a "trust estate" and to include "wills, estate of an intestate decedent or the estate of a minor or mentally incompetent person being administered by a guardian." The broadened definition will avoid any ambiguity as to the meaning of the term within the operation of other provisions of the act.

A. 1625 (1979)

FOR IMMEDIATE RELEASE

FEBRUARY 28, 1980

FOR FURTHER INFORMATION

KATHRYN FORSYTH

Governor Brendan Byrne today signed eleven bills, all sponsored by Assemblyman Albert Burstein (D-Bergen), which constitute the final portion of New Jersey's probate reform package.

"The signing of these last eleven bills marks the culmination of a seven year effort to update New Jersey's probate law, making it one of the most modern and enlightened codes in the nation," said Byrne.

The first part of the probate reform program, also sponsored by Assemblyman Burstein, was enacted in 1977. The final step will be the reorganization of Title 3A, which contains the probate law, to make any necessary technical and minor substantive changes. This process should be completed by the end of the year.

Byrne said that in preparing the probate reform package, his staff and the legislature worked closely with the Committee of Real Property, Probate and Trust Law of the New Jersey State Bar Association.

He commended the efforts of Assemblyman Burstein, attorneys Alfred C. Clapp, Richard F. Lert and Harrison Durand of the New Jersey State Bar Association, and Maurice Gold of Legislative Services, "as well as the many other people whose talents contributed to this major revision of the New Jersey probate law."

These are the bills the Governor signed today:

A-18, which helps prevent the disinheritance of a husband or wife by allowing the surviving spouse to elect to take one-third of the deceased person's augmented estate.

Under prior law, New Jersey was one of the few states that allowed husbands and wives to disinherit each other.

An augmented estate is defined in the bill as being the deceased person's estate, minus administration and funeral costs, plus various kinds of property transfers made by the decedent and other types of interests.

The independent wealth of the surviving husband or wife is credited against the elective share, as is any property the surviving spouse received from the deceased person. Only the balance, if any, may be collected from the elective share.

A-8, which revises the New Jersey law governing the appointments, duties, rights and obligations of guardians for minors or mental incompetents.

The bill modernizes the definition of a mental incompetent to mean a person impaired by mental illness or mental deficiency or by a physical illness or disability, chronic use of drugs, chronic alcoholism or other cause "to the extent that he lacks sufficient capacity to govern himself or manage his affairs."

The bill sets forth rules and guidelines governing the powers and duties of the guardian of a minor or of a minor's estate and the powers of the courts in such cases.

A-6, which permits a sum of up to \$5,000 per year from an estate to be paid to or on behalf of a minor beneficiary without the necessity of formally appointing a guardian of the estate in certain cases.

The money, which can be paid to the parent, legal guardian of the minor, adult who has custody of the child and with whom he resides, or a financial institution, must be applied to the "support and educational needs of the minor."

Any excess in a given year must be preserved for the future support of the child and any balance remaining must be delivered to the minor when he reaches the age of 18.

A-19, which clarifies the law governing disclaimers of testamentary and interstate transfers.

Clarification of the law was particularly important because of the federal gift tax consequences a beneficiary may face if he makes a disclaimer deemed untimely under the law.

A-20, which abolishes the ancient rights of dower and curtesy. Dower is the right of a surviving wife to possession for the rest of her life of one half the real estate owned in her husband's name. Curtesy is the corresponding right for surviving husbands.

A-21, which permits the court to authorize, direct or ratify transactions regarding the estate of a minor or mental incompetent in situations where the continuing services of a legal guardian are unnecessary.

A-22, which modernizes the present law regarding absent persons.

The bill broadens the definition of an absent person to include "any person who has disappeared or been confined or detained by a foreign power" and eliminates special treatment of war absentees.

A trustee for the absentees property cannot be appointed unless the property is endangered or if it is needed to provide support, care or welfare to the absent person or his dependents.

A-1624, which broadens the powers of fiduciaries to permit them to acquire, dispose of, manage develop, improve, exchange, partition or abandon an estate asset.

A-1625, which makes two technical amendments to the "Prudent Investment Law." This law governs the investment powers of fiduciaries in New Jersey.

A-1626, which is a comprehensive revision of the law governing multiple-party bank accounts.

A-3144, which clarifies and revises the law governing the disclaimer of nontestamentary transfers.

A-3335, which significantly changes the calculation of corpus commissions for trustees and guardians and generally increases the amount of corpus commissions which fiduciaries may take annually without a court order.

A corpus commission is the remuneration a fiduciary receives for his services rendered in administering the principal under his control.

This bill changes the formulation calculating a trustee's corpus commission by providing for increased commissions where the length of service is long.

#