

3A:6-5 and 3A:6-6

LEGISLATIVE HISTORY CHECKLIST

WJSA 3A:6-5 and 3A:6-6 (Decedents--Intestate--Affadavit in lieu of general administration--increase amount)

LAWS OF 1979 CHAPTER 316

Bill No. S139

Sponsor(s) Cafiero

Date Introduced Pre-filed

Committee: Assembly Judiciary, Law, Public Safety and Defense

Senate Judiciary

Amended during passage Yes ~~xx~~ Amendments denoted by asterisks
according to Governor's recommendations

Date of Passage: Assembly June 11, 1979 Re-enacted Jan. 7, 1980

Senate Feb. 23, 1978 Re-enacted Jna. 5, 1980

Date of approval Jan. 18, 1980

Following statements are attached if available:

Sponsor statement Yes ~~xx~~ No

Committee Statement: Assembly ~~xx~~ Yes No

Senate ~~xx~~ Yes No

Fiscal Note ~~xx~~ Yes No

Veto message Yes ~~xx~~ No

Message on signing ~~xx~~ Yes No

Following were printed:

Reports ~~xx~~ Yes No

Hearings ~~xx~~ Yes No

2/25/78

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SENATE, No. 139

STATE OF NEW JERSEY

PRE-FILED FOR INTRODUCTION IN THE 1978 SESSION

By Senator CAFIERO

AN ACT concerning the administration of decedents' estates and amending N. J. S. 3A:6-5 and N. J. S. 3A:6-6.

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

1 1. N. J. S. 3A:6-5 is amended to read as follows:

2 3A:6-5. Where the total value of the real and personal assets
3 of the estate of an intestate will not exceed **[\$5,000.00]** \$10,000.00,
4 the surviving spouse upon the execution of an affidavit before the
5 surrogate of the county where the intestate resided at his death,
6 or, if then nonresident in this State, where any of the assets are
7 located, or before the Superior Court, shall be entitled absolutely
8 to all the real and personal assets without administration and *up
9 to \$5,000.00 of such assets shall be* free from all debts of the in-
10 testate. *Upon executing the affidavit, and upon filing it, the sur-
11 viving spouse shall have all the rights, powers and duties of an
12 administrator duly appointed for the estate and, as such, may be
13 sued and required to account as if he had been appointed adminis-
14 trator by the surrogate or the Superior Court, as the case may be.*
15 The affidavit shall state that the affiant is the surviving spouse of
16 the intestate and that the value of the intestate's real and personal
17 assets will not exceed **[\$5,000.00]** \$10,000.00, and shall set forth
18 the residence of the intestate at his death, and specifically the na-
19 ture, location and value of the intestate's real and personal assets.
20 The affidavit shall be filed and recorded in the office of such surro-
21 gate or, if the proceeding is before the Superior Court, then in the
22 office of the clerk of that court.

1 2. N. J. S. 3A:6-6 is amended to read as follows:

2 3A:6-6. Where the total value of the real and personal assets
3 of the estate of an intestate will not exceed **[\$2,500.00]** \$5,000.00
4 and the intestate leaves no surviving spouse, such one of the next

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

5 of kin as shall have obtained the consent in writing of the remain-
6 ing next of kin, if any, and shall have executed before the surro-
7 gate of the county where the intestate resided at his death, or, if
8 then nonresident in this State, where any of the personal assets
9 are located, or before the Superior Court, the affidavit herein
10 provided for, shall be entitled to receive the personal assets of the
11 intestate for the benefits of all the next of kin and creditors without
12 administration or entering into a bond. Upon executing the affi-
13 davit, and upon filing it and the consent, he shall have all the rights,
14 powers and duties of an administrator duly appointed for the
15 estate and, as such, may be sued and required to account as if he
16 had been appointed administrator by the surrogate or the Superior
17 Court, as the case may be.

18 In the affidavit aforesaid there shall be set forth the residence
19 of the intestate at his death, the names, residences and relation-
20 ships of all the next of kin and specifically the nature, location and
21 value of the real and personal assets and also a statement that the
22 value of the intestate's real and personal assets will not exceed
23 ~~【\$2,500.00】~~ \$5,000.00.

24 The consent shall be filed, and the affidavit filed and recorded,
25 in the office of such surrogate or, if the proceeding is before the
26 Superior Court, then in the office of the clerk of that court.

1 3. This act shall take effect immediately.

9 are located, or before the Superior Court, the affidavit herein
 10 provided for, shall be entitled to receive the personal assets of the
 11 intestate for the benefits of all the next of kin and creditors without
 12 ~~administration~~ or entering into a bond. Upon ~~executing~~ the affi-
 13 davit, and upon filing it and the consent, he shall have all the rights,
 14 powers and duties of an administrator duly appointed for the
 15 estate and, as such, may be sued and required to account as if he
 16 had been appointed administrator by the surrogate or the Superior
 17 Court, as the case may be.

18 In the affidavit aforesaid there shall be set forth the residence
 19 of the intestate at his death, the names, residences and relation-
 20 ships of all the next of kin and specifically the nature, location and
 21 value of the real and personal assets and also a statement that the
 22 value of the intestate's real and personal assets will not exceed
 23 ~~[\$2,500.00]~~ \$5,000.00.

24 The consent shall be filed, and the affidavit filed and recorded,
 25 in the office of such surrogate or, if the proceeding is before the
 26 Superior Court, then in the office of the clerk of that court.

1 3. This act shall take effect immediately.

STATEMENT

This bill permits the spouse of a decedent who dies intestate to file an affidavit in lieu of general administration when the estate of the decedent is less than \$10,000.00. The law previously allowed a spouse to file such an affidavit only where the estate was less than \$5,000.00.

The bill also permits the next of kin of a decedent who dies intestate to file an affidavit in lieu of general administration when the estate of the decedent is less than \$5,000.00. The law previously allowed a next of kin to file such an affidavit only where the estate was less than \$2,500.00.

These changes in the law reflect increasing values in property and would simplify the procedures with respect to the administration of smaller estates.

S. 139 (1979)

STATE OF NEW JERSEY
EXECUTIVE DEPARTMENT

January 3, 1980

SENATE BILL NO. 139

To the Senate:

Pursuant to Article V, Section I, paragraph 14(b) of the Constitution, I herewith return Senate Bill No. 139 with my objections, for reconsideration.

This bill would increase the amount of an intestate's property which may be distributed by affidavit in lieu of formal administration. In the case of a surviving spouse, the amount would be increased from \$5,000 to \$10,000. In other cases, the amount would be increased from \$2,500 to \$5,000. All property distributed to the surviving spouse under this act would be free of the debts of the intestate.

While I agree that the amount of property subject to in lieu administration should be increased, I do not believe that the entire amount should be free of debts. For this reason, I propose that the bill be amended to provide that only the first \$5,000 with respect to a surviving spouse be free from the intestate's debts.

Accordingly, I herewith return Senate Bill No. 139 with my recommendations for reconsideration and recommend that it be amended as follows:

Page 1, Section 1, Line 8: After "administration and" insert "up to \$5,000 of such assets shall be".

Page 1, Section 1, Line 9: After "intestate.", insert "Upon executing the affidavit, and upon filing it, the surviving spouse shall have all the rights, powers and duties of an administrator duly appointed for the estate and, as such, may be sued and required to account as if he had been appointed administrator by the surrogate or the Superior Court, as the case may be."

Respectfully,

/s/ Brendan Byrne

GOVERNOR

[seal]

Attest:

/s/ Harold L. Hodes