

§2-802. Effect of homicide on intestate succession, wills, trusts, joint assets, life insurance and beneficiary designations

1. Definitions. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Disposition or appointment of property" includes a transfer of an item of property or any other benefit to a beneficiary designated in a governing instrument. [PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

B. "Governing instrument" means a governing instrument executed by the decedent. [PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

C. "Revocable," with respect to a disposition, appointment, provision or nomination, means one under which the decedent, at the time of or immediately before death, was alone empowered, by law or under the governing instrument, to cancel the designation in favor of the killer, whether or not the decedent was then empowered to designate the decedent in place of the killer and whether or not the decedent then had capacity to exercise the power. [PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

[PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

2. Forfeiture of statutory benefits. An individual who feloniously and intentionally kills the decedent forfeits all benefits under this Article with respect to the decedent's estate, including an intestate share, an elective share, an omitted spouse's or child's share, a homestead allowance, exempt property and a family allowance. If the decedent died intestate, the decedent's intestate estate passes as if the killer disclaimed the killer's intestate share.

[PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

3. Revocation of benefits under governing instruments. The felonious and intentional killing of the decedent:

A. Revokes any revocable:

(1) Disposition or appointment of property made by the decedent to the killer in a governing instrument;

(2) Provision in a governing instrument conferring a general or nongeneral power of appointment on the killer; and

(3) Nomination of the killer in a governing instrument nominating or appointing the killer to serve in any fiduciary or representative capacity, including as a personal representative, executor, trustee or agent; and [PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

B. Severs the interests of the decedent and killer in property held by them at the time of the killing as joint tenants with the right of survivorship, transforming the interests of the decedent and killer into equal tenancies in common. [PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

[PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

4. Effect of severance. A severance under subsection 3, paragraph B does not affect any 3rd-party interest in property acquired for value and in good faith reliance on an apparent title by survivorship in the killer unless a writing declaring the severance has been noted, registered, filed or recorded in records appropriate to the kind and location of the property that are relied upon, in the ordinary course of transactions involving such property, as evidence of ownership.

[PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

5. Effect of revocation. Provisions of a governing instrument are given effect as if the killer disclaimed all provisions revoked by this section or, in the case of a revoked nomination in a fiduciary or representative capacity, as if the killer predeceased the decedent. [PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

6. Wrongful acquisition of property. A wrongful acquisition of property or interest by a killer not covered by this section must be treated in accordance with the principle that a killer may not profit from the killer's wrong. [PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

7. Felonious and intentional killing; how determined. After all right to appeal has been exhausted, a judgment of conviction establishing criminal accountability for the felonious and intentional killing of the decedent conclusively establishes the convicted individual as the decedent's killer for purposes of this section. In the absence of a conviction, the court, upon the petition of an interested person, shall determine whether, under the preponderance of evidence standard, the individual would be found criminally accountable for the felonious and intentional killing of the decedent. If the court determines that, under that standard, the individual would be found criminally accountable for the felonious and intentional killing of the decedent, the determination conclusively establishes that individual as the decedent's killer for purposes of this section. [PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

8. Protection of payors and other 3rd parties. This subsection governs the liability of payors and other 3rd parties.

A. A payor or other 3rd party is not liable for having made a payment or transferred an item of property or any other benefit to a beneficiary designated in a governing instrument affected by an intentional and felonious killing or for having taken any other action if that payment, transfer or other action is made in good faith reliance on the validity of the governing instrument, upon request and satisfactory proof of the decedent's death, before the payor or other 3rd party received written notice of a claimed forfeiture or revocation under this section. A payor or other 3rd party is liable for a payment or transfer made or other action taken after the payor or other 3rd party received written notice of a claimed forfeiture or revocation under this section. [PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

B. Written notice of a claimed forfeiture or revocation under paragraph A must be mailed to the payor's or other 3rd party's main office or home by registered or certified mail, return receipt requested, or served upon the payor or other 3rd party in the same manner as a summons in a civil action. Upon receipt of written notice of a claimed forfeiture or revocation under this section, a payor or other 3rd party may pay any amount owed or transfer or deposit any item of property held by the payor or other 3rd party to or with the court having jurisdiction of the probate proceedings relating to the decedent's estate or, if no proceedings have been commenced, to or with the court having jurisdiction of probate proceedings relating to decedents' estates located in the county of the decedent's residence. The court shall hold the funds or item of property and, upon its determination under this section, shall order disbursement in accordance with the determination. Payments, transfers or deposits made to or with the court discharge the payor or other 3rd party from all claims for the value of amounts paid to or items of property transferred to or deposited with the court. [PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]
[PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

9. Protection of bona fide purchaser; personal liability of recipient. This subsection governs the liability of bona fide purchasers and other recipients.

A. A person who purchases property for value and without notice, or who receives a payment, an item of property or any other benefit in partial or full satisfaction of a legally enforceable obligation, is neither obligated under this section to return the payment, item of property or benefit nor liable

under this section for the amount of the payment or the value of the item of property or benefit. A person who, not for value, receives a payment, item of property or other benefit to which the person is not entitled under this section is obligated to return the payment, item of property or benefit, or is personally liable for the amount of the payment or the value of the item of property or benefit, to the person who is entitled to it under this section. [PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

B. If this section or any part of this section is preempted by federal law with respect to a payment, an item of property or any other benefit covered by this section, a person who, not for value, receives the payment, item of property or other benefit to which the person is not entitled under this section is obligated to return the payment, item of property or benefit, or is personally liable for the amount of the payment or the value of the item of property or benefit, to the person who would have been entitled to it were this section or part of this section not preempted. [PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

[PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

SECTION HISTORY

PL 2017, c. 402, Pt. A, §2 (NEW). PL 2017, c. 402, Pt. F, §1 (AFF). PL 2019, c. 417, Pt. B, §14 (AFF).

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