§953. Disposition of property

1. Disposition. In a proceeding for a divorce, for legal separation or for disposition of property following dissolution of the marriage by a court that lacked personal jurisdiction over the absent spouse or lacked jurisdiction to dispose of the property, the court shall set apart to each spouse the spouse's property and shall divide the marital property in proportions the court considers just after considering all relevant factors, including:

A. The contribution of each spouse to the acquisition of the marital property, including the contribution of a spouse as homemaker; [PL 1995, c. 694, Pt. B, §2 (NEW); PL 1995, c. 694, Pt. E, §2 (AFF).]

B. The value of the property set apart to each spouse; [PL 2021, c. 122, §3 (AMD).]

C. The economic circumstances of each spouse at the time the division of property is to become effective, including the desirability of awarding the family home or the right to live in the home for reasonable periods to the spouse having custody of the children; and [PL 2021, c. 122, §3 (AMD).]

D. Economic abuse by a spouse. For the purposes of this paragraph, "economic abuse" has the same meaning as in section 4102, subsection 5. [PL 2023, c. 646, Pt. C, §3 (AMD).]

[PL 2023, c. 646, Pt. C, §3 (AMD).]

2. Definition. For purposes of this section, "marital property" means all property acquired by either spouse subsequent to the marriage, except:

A. Property acquired by gift, bequest, devise or descent; [PL 1995, c. 694, Pt. B, §2 (NEW); PL 1995, c. 694, Pt. E, §2 (AFF).]

B. Property acquired in exchange for property acquired prior to the marriage or in exchange for property acquired by gift, bequest, devise or descent; [PL 1995, c. 694, Pt. B, §2 (NEW); PL 1995, c. 694, Pt. E, §2 (AFF).]

C. Property acquired by a spouse after a decree of legal separation; [PL 1995, c. 694, Pt. B, §2 (NEW); PL 1995, c. 694, Pt. E, §2 (AFF).]

D. Property excluded by valid agreement of the parties; and [PL 1995, c. 694, Pt. B, §2 (NEW); PL 1995, c. 694, Pt. E, §2 (AFF).]

E. The increase in value of property acquired prior to the marriage and the increase in value of a spouse's nonmarital property as defined in paragraphs A to D.

(1) "Increase in value" includes:

(a) Appreciation resulting from market forces; and

(b) Appreciation resulting from reinvested income and capital gain unless either or both spouses had a substantial active role during the marriage in managing, preserving or improving the property.

(2) "Increase in value" does not include:

(a) Appreciation resulting from the investment of marital funds or property in the nonmarital property;

(b) Appreciation resulting from marital labor; and

(c) Appreciation resulting from reinvested income and capital gain if either or both spouses had a substantial active role during the marriage in managing, preserving or improving the property. [PL 1999, c. 665, §1 (AMD); PL 1999, c. 665, §2 (AFF).]

[PL 1999, c. 665, §1 (AMD); PL 1999, c. 665, §2 (AFF).]

3. Acquired subsequent to marriage. All property acquired by either spouse subsequent to the marriage and prior to a decree of legal separation is presumed to be marital property regardless of whether title is held individually or by the spouses in some form of coownership such as joint tenancy, tenancy in common, tenancy by the entirety or community property. The presumption of marital property is overcome by a showing that the property was acquired by a method listed in subsection 2.
[PL 1995, c. 694, Pt. B, §2 (NEW); PL 1995, c. 694, Pt. E, §2 (AFF).]

4. Disposition of marital property. If both parties to a divorce action also request the court in writing to order disposition of marital property acquired by either or both of the parties to the divorce prior to January 1, 1972, or nonmarital property owned by the parties to the divorce action, the court shall also order disposition in accordance with subsection 1.
[PL 1995, c. 694, Pt. B, §2 (NEW); PL 1995, c. 694, Pt. E, §2 (AFF).]

5. Decree contents. If the final divorce decree disposes of real property, it must name the party or parties responsible for preparing and recording the decree of divorce or abstract of the decree and paying the recording fee after the clerk has prepared or approved the abstract. The decree may name different parties to be responsible for different parcels.
[PL 1995, c. 694, Pt. B, §2 (NEW); PL 1995, c. 694, Pt. E, §2 (AFF).]

6. Nonowner spouse claims. Notwithstanding the actual notice provisions of Title 14, section 4455 or any other laws, a claim of a nonowner spouse to real estate as "marital property," as defined in this section, does not affect title to the real estate of the owner spouse until the nonowner spouse records in the appropriate registry of deeds either:

A. A copy of the divorce complaint as filed in court; [PL 1995, c. 694, Pt. B, §2 (NEW); PL 1995, c. 694, Pt. E, §2 (AFF).]

B. A clerk's certificate of the divorce complaint, as described in Title 14, section 4455, subsection 2; or [PL 1995, c. 694, Pt. B, §2 (NEW); PL 1995, c. 694, Pt. E, §2 (AFF).]

C. A decree or abstract of the decree as described in this section. [PL 1995, c. 694, Pt. B, §2 (NEW); PL 1995, c. 694, Pt. E, §2 (AFF).]

This recording requirement applies to all divorce proceedings in this State or in any other jurisdiction.
[PL 1995, c. 694, Pt. B, §2 (NEW); PL 1995, c. 694, Pt. E, §2 (AFF).]

6-A. Nonowner spouse interest in certain payments or accounts. After the filing of a divorce complaint under section 901, a nonowner spouse has an inchoate equitable ownership interest, without the need to obtain an attachment, levy or court order, in the individual retirement account or similar plan or contract on account of illness, disability, death, age or length of service of the owner spouse, to the extent the account or plan is either exempt or beyond the reach of an attaching or judgment lien creditor under state or federal law.
[PL 2005, c. 298, §1 (NEW).]

7. Decree or abstract as deed. All rights acquired under former Title 19, section 721 or 723 on or before December 31, 1971 and all rights acquired under this section by a party in the real estate of the other party are effective against a person when the decree of divorce or an abstract of the decree is filed in the registry of deeds for the county or registry district where the real estate is situated. The decree or abstract, at a minimum, must contain:

A. The caption of the case, including the names of the parties, and any changes to the parties' names after the decree; [PL 2003, c. 18, §1 (NEW).]

B. The date the judgment is final and the court that issued the decree; [PL 2003, c. 18, §1 (NEW).]

C. An adequate description of the real estate, such as by reference to the volume and page number of an instrument recorded in the registry of deeds or the probate court record, or an adequate

description by metes and bounds or by reference to the volume and page number of the registry of deeds' records of a survey plan of the property; [PL 2003, c. 18, §1 (NEW).]

D. Any provision of the decree intended by the court to constitute an encumbrance against real estate, including any conditions pertaining to the encumbrance, in the verbatim language used by the court. If the abstract does not contain the provision required by this paragraph, an encumbrance may not be considered effective against a 3rd party unless the encumbrance has been memorialized in a separate, duly recorded instrument; and [PL 2003, c. 18, §1 (NEW).]

E. A clear statement of the ownership interest of the parties in the real estate intended by the court to result from that decree. [PL 2003, c. 18, §1 (NEW).]

An inconsequential failure to provide all the details required pursuant to paragraphs A to E does not create an invalid abstract for purposes of this section.

The failure of a party to record the decree or an abstract of the decree within a time period prescribed by former Title 19, section 725 does not affect the rights of that party as against the other party or the other party's heirs or devisees. The recording of the decree or abstract of the decree has the force and effect of a quitclaim deed releasing all interest in the real estate described in the decree or abstract of the decree, whether the interest is in fee or by statute.
[PL 2003, c. 18, §1 (RPR).]

8. Out-of-state divorce decrees. When a divorce has been granted out of the State, the plaintiff, or the plaintiff's attorney, shall cause a duly authenticated copy of the order to be recorded with the register of deeds in each of the counties where the real estate or any part of the real estate is situated. The appropriate recording fee must be paid prior to the recording.
[PL 1995, c. 694, Pt. B, §2 (NEW); PL 1995, c. 694, Pt. E, §2 (AFF).]

9. Omitted property. If a final divorce decree fails to set apart or divide marital property over which the court had jurisdiction, the omitted property is deemed held by both parties as tenants in common. On the motion of either party, the court may set aside or divide the omitted property between the parties, as justice may require.
[PL 1995, c. 694, Pt. B, §2 (NEW); PL 1995, c. 694, Pt. E, §2 (AFF).]

10. Companion animals. In the disposition of property pursuant to subsection 1, the court, with respect to a companion animal, shall award ownership of the companion animal to only one party after considering all relevant factors, including, but not limited to:

A. The well-being and basic daily needs of the companion animal; [PL 2021, c. 285, §1 (NEW).]

B. The amount of time each party has spent with the companion animal during the marriage tending to the companion animal's nutritional, grooming, physical and medical needs; [PL 2021, c. 285, §1 (NEW).]

C. The ability of a party to continue to own, support and provide adequate care for the companion animal; [PL 2021, c. 285, §1 (NEW).]

D. The emotional attachment of a party to the companion animal; [PL 2021, c. 285, §1 (NEW).]

E. The emotional attachment of any child in the household to the companion animal and the benefit to the child of the companion animal's remaining in the primary residence of the child; [PL 2021, c. 285, §1 (NEW).]

F. Any domestic violence between the parties or in the household of the parties; and [PL 2021, c. 285, §1 (NEW).]

G. Any history of animal abuse or other unsafe conditions for the companion animal. [PL 2021, c. 285, §1 (NEW).]

For the purposes of this subsection, "companion animal" means an animal kept primarily for companionship rather than as a working animal, service animal or farm animal kept for profit.
[PL 2021, c. 285, §1 (NEW).]

SECTION HISTORY

PL 1995, c. 694, §B2 (NEW). PL 1995, c. 694, §E2 (AFF). PL 1999, c. 665, §1 (AMD). PL 1999, c. 665, §2 (AFF). PL 2003, c. 18, §1 (AMD). PL 2005, c. 298, §1 (AMD). PL 2021, c. 122, §3 (AMD). PL 2021, c. 285, §1 (AMD). PL 2023, c. 646, Pt. C, §3 (AMD).

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