



Middlesex County Board of County Commissioners

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Claribel Cortes, *Surrogate*

OFFICE OF THE SURROGATE
**Information About Wills
And Estates**

**75 Bayard Street - First Floor
New Brunswick, NJ 08901**

**732-745-3055
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www.middlesexcountynj.gov



MIDDLESEX
COUNTY • NJ

MIDDLESEX COUNTY SURROGATE COURT
OFFICE LOCATIONS & HOURS

For hours of operation
and a list of satellite offices,
please visit;
www.middlesexcountynj.gov/surrogate

WILL REGISTRY

As directed by the Legislature (N.J.S.A. 3.B:3-2.1(d), effective September 2005), the Office of the Secretary of State maintains a Will Registry wherein a testator, (the person making the will) or his/her attorney, may register with the Will Registry Program which contains basic information about the will. **Registration is entirely voluntary and electing not to register with the Office of the Secretary of State does not have any effect on the validity of the will.**

The fee to file a Will Registry Form is \$10.00.
The fee for retrieval of a Will Registry Form is \$10.00.
Please send a check or money order made payable to:

"The State of New Jersey"
and send to:
The Office of the Secretary of State
PO Box 300
Trenton, NJ 08625 - 0300

To promote privacy, only "interested persons" as defined in N.J.S.A. 3.B:3-2.1(d), or their representatives, may search the Will Registry and only executors or fiduciaries will be given the location of the will.

N.J.S.A. 3.B:3-2.1(d) - interested persons means children, spouses, potential heirs, devisees, fiduciaries, creditors, beneficiaries and any others having a property right in or claim against a trust estate or the estate of a decedent which may be affected by the proceeding.

<https://nj.gov/state/dos-will-registry.shtml>

DIRECTIONS TO MIDDLESEX COUNTY
ADMINISTRATION BUILDING

FROM THE NEW JERSEY TURNPIKE

Take Exit 9 to Route 18 North - New Brunswick. Continue on Route 18 North to New Street Exit. Once on New Street, make first right at light onto Neilson Street. Make a left on Bayard Street. The Middlesex County Administration Building will be on the third block on the right-hand side.

FROM THE GARDEN STATE PARKWAY

NORTH- Take Parkway South to the New Jersey Turnpike South Exit 129. Proceed to New Brunswick, Exit 9, same as you would from the Turnpike.

SOUTH- Take Parkway North to Exit 105. Follow signs to Route 18 North. Proceed to New Brunswick as you would from the Turnpike.

FROM ROUTE 1

Turn at Route 18 North - New Brunswick, proceed as you would from the Turnpike.

FROM ROUTE 287

Take New Brunswick Exit 10 (Route 527). This becomes Easton Avenue. Follow Easton Avenue all the way to New Brunswick. At the end of Easton Avenue (train station on left), make a left onto Albany Street (Route 27). Make a right onto Spring Alley. At the third stop sign make a right onto Bayard Street. The Middlesex County Administration Building will be on the right-hand side.

FROM ROUTE 27

NORTH- into New Brunswick underneath train tracks after the light make a right onto Spring Alley. At the third stop sign make a right onto Bayard Street. The Middlesex County Administration Building will be on the right-hand side.

SOUTH- over Highland Park Bridge into New Brunswick. At second light make a left onto Neilson Street. Make a right onto Bayard Street. The Middlesex County Administration Building will be on the right-hand side.

GLOSSARY

ADMINISTRATOR - (also known as Personal Representative) Person appointed by the court to manage and distribute the estate of a person who dies without a Will.

BENEFICIARY - Person named to receive property or benefits.

BEQUEATH - Gift of personal property by Will.

CODICIL - An addition or supplement made to delete or add provisions of a Will.

DECEDENT - A deceased person

DEVISE - Gift of real estate by Will.

ESTATE - Everything a person owns, all real and personal property.

EXECUTOR - (also known as Personal Representative) - A person or institution named in the Will to carry out the provisions and directions of the Will.

INTESTATE - When a person dies without a valid Will.

PERSONAL PROPERTY - Intangible property; such as stocks, bonds, or bank accounts; and tangible property such as furniture, automobile, jewelry.

PROBATE - Official proof of the validity of a Will.

REAL PROPERTY - Land and buildings

TENANTS IN COMMON - Two or more persons owning individual interests in property.

TESTATOR - The person who makes a Will.

TRUST - Property owned and managed by one person for the benefit of another

TRUSTEE - Person or institution holding property in trust.

WILL - A legal declaration of the manner in which a person wishes his estate divided after death.

WITNESS - Person who observes the signing of a Will and also attests to the signatures.

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This booklet is prepared by the Middlesex County Surrogate's Office and is available to all county residents. This booklet contains information about the importance of having a will and outlines the meaning of "Probate" and the action necessary to complete probate.

The booklet will also explain what happens to an estate when one dies without a will or "Intestate Succession" as well as Federal and State taxes.

Visit <http://www.middlesexcountynj.gov/surrogate> for information about our office. If our office can be of any help to you, if you have a question, or if you wish to arrange a date to have the Surrogate speak to your club or organization, contact our office at 732-745-3055.

LETTER OF LAST INSTRUCTIONS

Those who administer an estate and take care of what is left often find themselves without necessary information. To facilitate their job, it is advisable to give your executor, executrix, personal representative or attorney a letter of last instructions - which is separate and apart from your Will. This letter, to be opened upon your death, should contain the following:

- Names and addresses of those to be notified at death, and relationship of members of family and relatives.
- Statement as to where your Will may be found.
- Instructions as to funeral and burial. You may wish to specify, for example, that, as a Veteran you want to be buried in a national cemetery.
- Where your birth or baptismal certificate, certificate of auto ownership, social security card, marriage or divorce certificate, naturalization and citizenship papers, and discharge papers from the armed forces may be found.
- Where your membership certificates in any lodge or fraternal organizations which provides death or cemetery benefits may be found.
- Location of any safe deposit boxes you may have, and where keys are kept. A list of your insurance policies and where they may be found.
- A list of all bank accounts, checking and saving; their location and where the passbooks are kept.
- A list of all other savings accounts; for example, credit union deposits, etc., and passbook locations.
- A statement concerning any trusts and/or pension systems from which your estate may be entitled to receive benefits.
- A list of all stocks and bonds or other securities you own, and where they may be found.
- A statement of all real property owned by you with the location of deeds, mortgages, abstracts, and insurance policies for real property owned.
- A location of copies of income tax returns for previous 5 years.
- Receipted bills and cancelled checks for last 5 years.
- List of debts and names of creditors - with addresses.
- A statement of reasons for actions taken in your Will, such as disinheritances. It is usually better to place the explanation in a separate but accompanying letter, rather than in your Will, to avoid a complicated will and expensive litigation.
- List of any gifts made and information needed for estate tax.
- A list of any payments made, especially for funeral expenses.

UNIFIED ESTATE AND GIFT TAX CREDIT

The Tax Relief Act of 2017 provided that each person can leave a \$11,180,000 estate tax free.

FEDERAL ESTATE & GIFT TAX **-Contemplation of Death-**

Gifts made within three years of death are not includable in donor's gross estate; exceptions are life insurance, transfers with a retained life estate, transfers and transfers under powers of appointment; gifts made within three years of death are included in gross estate to determine qualification for current use evaluation, deferred payment of estate tax and Section 303 redemptions, etc.

GIFT TAX **(Annual Exclusion)**

Any gift made within 3 years of death is presumed to be in anticipation of death and may be subject to New Jersey Inheritance Tax.

An individual may give an amount up to \$14,000 to any one person during a calendar year, exempt from tax. A married couple can give up to \$28,000 to a person yearly without tax. Any number of tax-free gifts may be made during a year.

If you make gifts to one person of more than \$14,000 during the calendar year, file a Federal Gift Tax Return with the District Director of Internal Revenue.

FEDERAL MARITAL DEDUCTIONS

Presently, unlimited amounts of property can be transferred between spouses without estate or gift tax.

Note: Certain transfers of an interest in property do not apply under this deduction. To determine whether this last note applies to your particular case, you may want to contact your attorney or the Internal Revenue Service.

FILING FEDERAL ESTATE TAX RETURNS

The nearest Internal Revenue office will furnish tax Form 706.

If your estate is subject to Federal Estate Tax, you may want to seek professional assistance in estate planning. Consideration of tax aspects can save heirs money.

SURROGATE

The surrogate who sits in the court in your county is using authorities which trace back to the Archbishop of London and beyond into the Roman Empire and the Bible. As long as there have been Wills, and orphans, and incompetents, there have been judicial officers to probate the wills, to appoint guardians for minors and incompetents and to supervise the handling of their affairs. The word "Surrogate" means one who takes the place of another.

In New Jersey, the person who passes on the validity of a will, gives the executor proof of his authority to administer the estate and sees to it that the executor handles the estate properly, is called the Surrogate. Each county has a Surrogate's Court and the Surrogate is the Judge of that court. The Surrogate is elected for a term of five years, pursuant to the Constitution of New Jersey.

The Surrogate administers a court which is almost certain to touch the lives of every person in the county at some time. Aside from the appointment of a guardian for a minor who comes into an estate, or the supervision and preparation of adoptions, or incompetency hearings, it is common, after death, to visit the Surrogate's Court for the appointment of someone to handle the estate of the deceased.

FUNCTIONS OF SURROGATE'S OFFICE

- Probate Wills
- Process adoptions
- Process contested probate matters
- Process alleged incompetents
- Film and record all probate proceedings
- Invest minors' funds
- Appoint guardians of minors

WILLS

WHY EVERYONE SHOULD MAKE ONE

Everyone owns something and therefore is an owner of property - real or personal - and has an estate. REAL PROPERTY is land and buildings. Everything else that may be owned is called PERSONAL PROPERTY, such as bank accounts, stocks, bonds, furniture, automobiles, money, life insurance, jewelry, and personal effects.

It is the owner's privilege to select to whom his/her estate will go. You may choose one of several ways to dispose of your estate - by a Will, by creating a trust or joint ownership, or by letting the law distribute your property.

This informational booklet is meant to familiarize you with your rights and to point out necessary steps to be taken to transfer property to your heirs. It is not a substitute for sound advice.

YOUR WILL

Making a Will is an important step in your financial management program. To save your heirs time and money, you can plan now for the orderly transfer of your property.

Making a Will will avoid the cost of a bond and possible disagreement among those who are to receive your property. You decide to whom, when, and in what amounts your assets should go. You select your executor or personal representative, the one who shall be responsible for the disposition of the estate. You may avoid a forced sale of your property, or costly and tedious applications to the courts for the right to sell it. You have greater assurance that your plans will be carried out as you desire.

Without a Will your estate must be distributed according to the intestate laws, the provisions of which are general and inflexible. The law will say who shall administer your estate, among whom, and how it shall be divided. If you do not name an executor or personal representative, your property may not be distributed as you wish, and thus cause hardship for those you want to safeguard most. Without a Will you lose the privilege of naming a guardian for your minor children. This is vital, particularly if your spouse should not survive you. If you leave no immediate family, failure to leave a Will may result in your property going to persons in whom you have no particular interest.

STEPS IN PREPARING A WILL

A document that will stand up in court, and tailor-made to meet the needs of your family, must be thought out carefully by you. The Will can be prepared by an attorney who specializes in Will drafting or estate planning. The attorney can guide you to the best decisions - but only after obtaining all the facts that you alone can give. Thus, you can be sure that your Will is properly phrased, witnessed, and has all the technicalities observed.

THINGS TO KNOW WHEN MAKING A WILL

1. You don't need to make an itemized statement of your assets, nor do you need to state the disposition of your property item by item.
2. You can change your Will at anytime you wish, as your assets, beneficiaries or desires change.
3. Your Will is not recorded before death; no one need know of it if that is your wish.

REAL PROPERTY

Unpaid inheritance taxes constitute a lien on real property and tax waivers are required to transfer real estate. However, real property held by husband and wife as "tenants by the entirety" (names of both husband and wife appear on the deed) in the estate of the spouse first dying need not be reported and may be transferred without waiver, regardless of the date of death.

In addition, a membership certificate or stock in a cooperative housing corporation held in the name of a decedent and a surviving spouse as joint tenants with right of survivorship is also exempt, but a waiver is required for this transfer.

AUTOMOBILES, HOUSEHOLD AND PERSONAL EFFECTS

Waivers are not required for automobiles, household goods, accrued wages or mortgages, but these must be reported in the return.

FORMS, INSTRUCTIONS

Necessary forms and instructions concerning the procedure to be followed in completing an inheritance tax return may be obtained at the Division of Taxation Regional Office. There is one office where residents of Middlesex County can obtain these forms. The address of the office is:

NJ Division of Taxation
Inheritance Tax
P.O. Box 249
Trenton, NJ 08695-0249
609-292-5033

FEDERAL ESTATE TAX RETURN

The law requires that a copy of the Federal estate tax return be filed with the Inheritance Tax Branch within 30 days after the filing of the original with the Federal government. Also, the Branch must receive a copy of any communication from the Federal government making any final change in the return, or confirming, increasing or reducing the tax shown to be due.

EXCEPTIONS

Notwithstanding the waiver provisions above, any financial institution may release up to 50% of any bank account, certificate of deposit, etc. to the survivor, in the case of a joint account, the executor, administrator or other legal representative of a RESIDENT decedent's estate. This procedure is referred to as a BLANKET WAIVER. This procedure is not available for the transfer of stocks and bonds. For a detailed explanation see N.J.A.C 18:26-11.16.

A SELF EXECUTING WAIVER, FORM L-8 has been created for Class "A" beneficiaries in the estates of RESIDENT decedents. This form may be used in two instances:

1. Transfers to a surviving spouse in estates of decedents dying on or after January 1, 1985.
2. Transfers to a surviving spouse or any other Class "A" beneficiary in estates of decedents dying on or after July 1, 1988.

Use of this form MAY eliminate the need to file a formal Inheritance Tax return.

This form is to be filed with the financial institution which will then be authorized to release the subject asset without the necessity of receiving a waiver from the Division.

A REQUEST FOR A REAL PROPERTY TAX WAIVER, FORM L-9, has been created for Class "A" beneficiaries in the estates of RESIDENT decedents. This form may be used in two instances:

1. Transfers to a surviving spouse in estates of decedents dying on or after January 1, 1985 and the decedent's interest was in the decedent's name alone.
2. Transfers to a surviving spouse or any other Class "A" beneficiary in estates of decedents dying on or after July 1, 1988 and the decedent's interest in the real estate was in the name of the decedent alone or with any Class "A" beneficiary.

Use of this form MAY eliminate the need to file a formal Inheritance Tax return.

This form is to be filed directly with the Transfer Inheritance Tax Branch. If the form is in order the necessary waiver/waivers will be promptly issued.

NEITHER THE L-8 NOR THE L-9 may be used where it is claimed that a relationship of mutually acknowledged child exists or for the release of a safe deposit box.

PARTIAL RELEASE OF FUNDS

Banks, savings and loan associations, and building and loan associations may release 50% of all funds on deposit with them to the proper party prior to the issuing of a waiver. The full amount on deposit as of the date of death of the decedent must be listed in the inheritance tax return.

4. The existence of the Will does not affect your ability to sell or dispose of property. You may continue as though you had not written the document.
5. While the law permits a beneficiary to witness a Will, it is recommended that a beneficiary witness be used only when a disinterested party is not available, in order to avoid future challenges as to conflict.

Start by making a list of everything you own and owe - a statement that will show exactly where you stand financially. Decide to whom you will leave your real and personal property. Be certain you have stated just what your wishes are by making a list of the persons involved, their relationship to you, your objectives, when their bequest is to be given, and how it is to be provided.

NOTE: You may make bequests to friends or charities. It is not mandatory for you to make bequests only to family members.

Select an executor, executrix, or personal representative to administer the Will. This may be a beneficiary of your estate, a member of the family, your legal or financial advisor, a trusted friend or business associate. You should name a contingent executor or personal representative to act in case your first selection dies before you, or is unable to serve.

A bank can act as an executor, personal representative, trustee under a trust, or guardian of either a minor or incompetent person. A bank is experienced and familiar with accounting and management details. It is financially responsible and a continuing institution - an individual may die, but a bank has continued life.

In selecting your executor or personal representative and trustee, the choice should be business like, not sentimental. Your executor or personal representative has the important responsibility of settling your estate and seeing that the wishes expressed are faithfully carried out.

Here are a few of the things an executor or personal representative may be required to do, in addition to seeing that the Will is offered for probate:

1. Qualify as executor, (also known as Personal Representative), obtain a certificate of authority, and if necessary, execute a bond.
2. Locate and take possession of all property, discover and assert all rights and line up claims owed by the estate.
3. Prepare and file an inventory of all property and interest of any kind belonging to the estate, listing the appraised value.
4. Review all assets, liquidating those of doubtful character.
5. Advertise for claims and pay them in the order cited by law.
6. Collect monies due the estate.

7. Figure and pay taxes.
8. Pay legacies under the Will.
9. Distribute the estate.
10. Make final accounting to the court, if required by the court.

It is important that you name a guardian if you have minor children.

If you consult an attorney, ask for a rough draft of your Will and study it carefully before signing the final copy.

SIGNING YOUR WILL

A Will must be written, signed by the testator (maker) and witnessed. The original copy is the legal document and must be signed.

In New Jersey, a Will, to be admitted to probate at the Surrogate's Court, must have at least two witnesses. The testator and the witnesses are required to be present at the signing, and each must see the others sign. The witnesses do not have to read it or know what it contains. However, they must be told by the testator that it is his/her Will, and asked to sign as witnesses.

The witnesses should be likely to outlive the testator and remain in the community. If you do not have a self-proven Will, the whereabouts of your witnesses should be known at all times.

SELF-PROVEN WILLS

If the witnesses and the testator execute an affidavit before a Notary Public, it will not be necessary for either of the witnesses to appear in Surrogate Court at the time of Probate. Your attorney can review your Will and advise you as to whether it can be made self-proven and prepare the proper Affidavit to comply with the law.

COMMON DISASTER CLAUSE

A well-drawn Will contains a common disaster clause to establish contingent beneficiaries if both husband and wife die within a stated period of time. Without such a clause, if both husband and wife die with no way to determine who died first, their individual property is disposed of as if they had died a widow and widower.

SAFEKEEPING YOUR WILL

Keep your Will in a safe place, but let the executor know where it can be found. If kept in a safe deposit box, it usually can be removed by the executor in the presence of an employee of the bank immediately after death. Husband and wife should have their own wills. They each should know where both are kept.

- Life insurance proceeds to a named beneficiary
- Charitable transfers for the use of any educational institution, church, hospital, orphan asylum, public library, etc.
- Transfers for public purposes made to New Jersey or any political subdivision of the State.
- Payments from the New Jersey Public Employees' Retirement System, the New Jersey Teachers' Pension and Annuity Fund and the New Jersey Police and Fireman's Retirement System.
- Federal civil service retirement benefits payable to a beneficiary other than the estate.
- Annuities payable to survivors of military retirees.

WHEN TAXES ARE DUE

An inheritance tax return must be filed on the transfer of real or personal property within 8 months after the death of either:

- A resident decedent for the transfer of real or tangible personal property located in New Jersey or intangible personal property wherever situated, or
- A nonresident decedent for the transfer of real or tangible personal property located in New Jersey. No tax is imposed on nonresident decedents for intangible personal property where-ever located.
- A tax return must be filed whenever any tax is due. The tax is a lien on all property for 15 years, unless paid sooner or secured by acceptable bond. Interest on unpaid tax will accrue at the rate of 10% a year.

AMENDMENTS TO THE ORIGINAL RETURN

In the case of both resident and non-resident estates, any assets and/ or liabilities not disclosed in the original return and all supplemental data requested by the Transfer Inheritance Tax Branch is to be accompanied by an affidavit form and attested to by the duly authorized statutory representative of the estate, next of kin, or beneficiary certifying in detail a description of the reasons for failure to disclose same in the original return and filed directly with the Transfer Inheritance Tax Branch.

WAIVERS

Certain property in the name of or belonging to the decedent cannot be transferred without the written consent of the Director, Division of Taxation. This consent, commonly known as the "waiver", will not be granted until any tax due has been paid or provided.

INHERITANCE TAXES IN NEW JERSEY RATES

Currently, the law imposes a graduated inheritance or succession tax ranging from 11% to 16% on the real or personal property with a value of \$500.00 or more to certain beneficiaries.

BENEFICIARY CLASSES

Inheritance tax law recognizes five beneficiary classes ranging from "A" to "E" as follows:

Class "A" - father, mother, grandparents, husband, wife, child or children of a decedent, adopted child or children, issue of any child or legally adopted child of a decedent, mutually acknowledged child and step child.

Class "B" - Eliminated by statute effective July 1, 1963.

Class "C" - Brother or sister of decedent, wife or widow of a son of decedent, or husband or widower of a daughter.

Class "D" - Every other transferee, distributee or beneficiary.

Class "E" - Includes transfers for public or charitable purposes to the State of New Jersey or any of its political subdivisions, an educational institution, church, hospital, orphan asylum, public library, and certain other nonprofit agencies, etc.

In estates of decedents dying on or after July 1, 1988, only beneficiaries in Classes "C" and "D" are subject to inheritance tax.

TAX RATES

Each class of beneficiaries has its own separate rate schedule.

Class "A" - all Class "A" beneficiaries are totally exempt from tax.

Class "B" - was eliminated by P.L. 1962, c. 61.

Class "C" - were granted a \$25,000 exemption on estates of decedents. After the initial \$25,000 exemption, the rates range from 11% on the next \$1,075,000 to 16% for any transfer over \$1,700,000.

Class "D" - the law imposes a tax on the transfer of property with a value of \$500.00 or more. The rates range from 15% on the first \$700,000 to 16% for amounts over \$700,000.

EXEMPTIONS

In addition to the exemptions listed under "Tax Rates", no tax is imposed on:

- Transfers under \$500.00

KEEPING YOUR WILL UP TO DATE

Periodically review your Will to keep it up to date. Keeping it current is just as important as making one in the first place. Changes in your life such as marriage, birth of a child, death, change of witnesses, purchase or sale of property, a change in your financial status - or a change in the estate tax law may make important revisions or a new Will advisable.

A Will drawn in another state can be valid; however, revision in relation to New Jersey laws may be prudent. You are free to change your Will at any time.

HOW TO CHANGE YOUR WILL

The safe way to change your Will is to have a new one drawn; however a codicil may be effective.

A codicil is a separate document used to make minor changes. It must be signed with the same formality as the Will itself. It is not necessary to have the same witnesses on the codicil and the original Will.

Do not try to change your Will by drawing lines through items, erasing, writing over or adding notations. This may destroy it as a legal document.

"DYING WITHOUT A WILL"

Intestate Succession

When no Will exists, Real and Personal property is not distributed according to the decedent's wishes. Rather, it is distributed according to the statutes of New Jersey.

How will your property be divided if you have no Will? The Chart on pages 7-8 shows how an Estate is distributed in New Jersey if you do not leave a Will.

If you die without leaving a Will and are a resident of New Jersey, the State law provides the manner for distributing your property. Your net estate remaining after deduction of debts, taxes, family exemptions, etc., would be distributed under the Statutes governing Decedent's Estates and, in the case of most common occurrence, the heirs who would receive such property are as follows:

Property owned jointly by husband and wife is automatically owned by the survivor. The following charts show the distribution of separately owned property. (Effective February 27, 2005)

IF YOU DIE LEAVING:

| Survivors (Heirs) | New (2004) UPC |
|---|--|
| Spouse and parent(s), but no children | Spouse: the first 25% (but not less than \$50,000 nor more than \$200,000) plus three fourths of the balance Parent(s): All other estate assets |
| Spouse and children of Decedent, all of whom are also children of spouse (and spouse has no children by any other relationship) | Spouse: 100% of estate Children: nothing |
| Spouse and children of Decedent, some of whom are not children of spouse | Spouse: the first 25% (but not less than \$50,000 nor more than \$200,000) plus one half of the balance Children of the Decedent: all other estate assets |
| Spouse and children of Decedent, all of whom are also children of spouse (and spouse has children by another relationship) | Spouse: the first 25% (but not less than \$50,000 nor more than \$200,000) plus one half of the balance Children of the Decedent: all other estate assets |
| Spouse and step-children (children of spouse who are not Decedent's children) | Spouse: 100% of estate Stepchildren: nothing |
| Children of spouse (stepchildren) but no descendants, parents, descendants of parents or descendants of grandparents | Stepchildren: 100% of estate |

Note: Shares of predeceased children pass to descendants by representation. The new rules of intestacy say that the descendants inherit "per capita, by generation" rather than "per stirpes."

LIFE INSURANCE

A life insurance policy is a contract between the policy holder and the company. The proceeds are paid according to the terms of each contract.

Life insurance should be payable specifically to a designated beneficiary. A contingent beneficiary or beneficiaries as well as a primary beneficiary should be named in each policy. A contingent beneficiary is important in case of simultaneous death of both the policyholder and the beneficiary, or if the beneficiary dies first. Without a contingent beneficiary, life insurance passes to the estate and is subject to New Jersey inheritance tax and the executor's, Administrator's or personal representative's commission.

Although insurance proceeds may be subject to Federal Estate Tax, a named beneficiary will receive the insurance free from New Jersey Inheritance Tax or other charges against the estate.

SOCIAL SECURITY

The Social Security Act provides for survivor's benefits to the family and other dependents of eligible persons. Benefits may include monthly payments and a lump-sum death payment. Benefits are not paid automatically. Upon the death of a person who has worked under social security, a member of the family must file application for benefits with the local social security office.

The telephone number for the Social Security Administration is 1-800-772-1213.

VETERANS' BURIAL AND OTHER BENEFITS FOR DEPENDENTS

For assistance or questions pertaining to burial and other veterans' benefits available to dependants, call Henry Busby at the Middlesex County Veteran's Services Office at 732-745-5918.

TAXABLE ASSETS

All jointly held personal and real property is exempt from the probate process. But all property, whether jointly or individually held, is taxable provided that it is not categorically exempted; e.g. (marital residence).

TAXES THAT INFLUENCE YOUR WILL

Three kinds of taxes can influence the provisions of your Will; Inheritance, estate and gift.

An inheritance by Will, by law, by surviving joint owner, or from life insurance is not income and is not subject to income tax.

1. The executor or administrator shall contact the Probation Division of the Superior Court to arrange for the satisfaction of the child support judgment.
2. The administrator or executor shall notify the beneficiary of the intent to satisfy the child support judgment prior to the disbursement of any funds to the beneficiary.
3. Upon receipt of a warrant of satisfaction for the child support judgment, the executor or administrator shall pay the balance of the inheritance to the beneficiary.
4. If the net proceeds are less than the amount of the child support judgment, the entire amount of the net proceeds shall be paid to the Probation Division as partial satisfaction of the judgment.

A Note About Private Search Companies:
One is listed in NJ

Signature Information Solutions, LLC
PO Box 18368
Trenton , NJ 08650-0488
Phone: (800) 792-8888

We will update this space as we receive more information.

A TRUST

If there is a question as to the ability of your beneficiaries to manage money or if you are in a high tax bracket, ask your lawyer or inquire at a bank about setting up a trust. A trust may be created by an agreement or by your Will giving property to a third person - trustee - to hold and administer for the benefit of the person named in the trust. A trust may reduce estate, legal and administrative expenses. The trustee is entitled to a fee for such service.

JOINT OWNERSHIP

Another way to transfer property is through joint ownership. Real Estate owned by both husband and wife automatically becomes the sole property of the survivor.

If two or more persons other than husband or wife own real estate together, each owns an undivided share as tenants in common, unless the deed states they are to own "as joint tenants and not as tenants in common." With exceptions, real estate held in joint ownership goes to the survivor or survivors when one of the joint owners dies. An interest in real estate owned by tenants in common passes to the heirs of the deceased.

Personal property may be owned jointly with right of survivorship, the survivor becoming the sole owner with certain exceptions. Checking accounts, saving accounts, or stocks and bonds may be held in joint ownership with right of survivorship, or as tenants in common.

More Remote Cases (under this classification are not covered in this section of the Booklet)

However, the State of New Jersey takes your property if you leave no wife or husband; child or its descendants; parent; brother or sister or their descendants; grandparent; or uncle or aunt or their children; or their grandchildren or stepchildren.

NOTE: Any person who fails to survive the decedent by 120 hours is deemed to have predeceased the decedent for purposes of intestate succession.

APPOINTMENT OF ADMINISTRATOR OR PERSONAL REPRESENTATIVE

When there is no Will, an administrator, administratrix, or personal representative is appointed by the Court. Any close relative may be appointed.

For an individual or a bank to be appointed administrator or personal representative, all other heirs must renounce their rights. In most cases, a surety bond must be furnished by paying a premium to a surety company for signing this bond.

The county surrogate, or the Superior Court, grants letters of administration showing the authority to act.

PROBATE REQUIREMENTS

- Decedent must be a resident of Middlesex County or if a non-resident, decedent died intestate seized of real property in this County
- Certified death certificate
- Original Will or if no Will, immediate next of kin
- Probate fee - personal check, VISA, Discover or MasterCard

APPOINTMENT OF GUARDIAN

A guardian may be appointed by the court for minor children. In order to sell or dispose of a minor's interest in a parent's land, a guardian must be appointed by the Superior Court to sign the deed for them. The expense of having the guardian appointed, bond for the guardian, appraisals, court costs and attorney's fees are charged to the minor.

In some cases, the guardian applies to the court for permission and approval to sell and/or to spend the children's money for their support or education. The guardian must account for income and disbursements - by the court action if necessary.

HOW A WILL IS PROBATED

Upon the death of the testator or testatrix, the Will is probated. This is the legal process which establishes the genuineness of the Will. It is done by the surrogate or the Superior Court in the county where the testator or testatrix resides at the time of death.

The executor, executrix, or personal representative is appointed by going to the Surrogate Court with the original Will, certified death certificate, and if the Will is not self-proven, at least one of the witnesses who signed the Will must prove his or her signature on the Will.

If the Will, for any reason is not properly executed, the Surrogate's court can advise the executor or personal representative as to the proper procedure in order to allow the Will to be admitted to probate.

GUIDELINES FOR EXECUTOR/ADMINISTRATOR

If you have just probated a Will and have been named Executor, or if you have qualified as Administrator for an estate with no Will, you may be asking yourself the question, "What do I do next?" I am pleased to supply you with some basic guidelines to assist you.

1. Notice of probate/Proof of Mailing must be served on all interested parties within sixty days of probate, advising them of the name and address of the Executor. A copy of the Will may accompany this notice or a copy may be requested. If the Will contains any charitable bequests, notice must also be given to the Attorney General of the State of New Jersey, Division of Law, P.O. Box 112, Trenton, NJ 08625. You are to file personal service, or regular and certified mail. The statutory filing fee is \$5.00 per page.
2. The Administrator of an intestate estate (no Will) is obligated to notify the Attorney General of the State of New Jersey, in the event that there are no surviving heirs. In this case, the net proceeds of the estate would escheat to the State of New Jersey.
3. The Executor/Administrator is responsible for determining and marshaling all assets of the estate. An estate checking account is opened from which bills are paid. It may be necessary to secure a Federal ID number for the estate. You can call the IRS at 800-829-1040 for an ID number, or visit www.irs.gov.
4. The Executor/Administrator is responsible for all debts, last illness expenses, inheritance and estate taxes, and administrative expenses from the decedent's assets pursuant to NJSA 3B:22-2.
5. The Executor/Administrator is responsible for filing appropriate State and Federal tax forms as applicable, and forwarding any tax payments due.

6. The Executor/Administrator is entitled to a commission of 5% of the value of the gross estate for estates up to \$200,000.00, 3.5% on the excess over \$200,000.00 up to \$1,000,000.00 and 2% on the excess over \$1,000,000.00. Commissions in the amount of 6% may be taken on all income of the estate.
7. The Executor/Administrator shall prepare an accounting of the estate assets and disbursements and proposed distribution, which accounting may be proved informally by each beneficiary/heir acknowledging his approval of same. In the alternative, the Superior Court of New Jersey approves a Formal Accounting. Filing fee for the Informal Accounting is \$5.00 per page.
8. The Executor has the obligation to distribute the net estate in a timely manner, in accordance with the terms of the will. The Administrator distributes in accordance with the intestate laws of the State of New Jersey. A copy of the relevant New Jersey Statutes is available at the Law Library, which is located on the second floor of the Middlesex County Courthouse.
9. Prior to the distribution, each beneficiary shall execute a Refunding Bond and Release if a surety bond was posted or at the executor's discretion. Upon receipt of the executed document, the Executor/Administrator issues payment. The original refunding Bonds and Releases are filed with the Surrogate. The filing fee is \$10.00 for 1-2 pages. \$5.00 each additional page.
10. Pursuant to NJSA2A:17-56.23b an executor or administrator shall initiate a child support judgment search for ANY beneficiary who is receiving \$2,000 net proceeds (after court costs, attorney's fees, medical costs, etc.) or more from an estate.
 - A. The beneficiary shall provide the attorney, insurance company, or agent responsible for the distribution of such funds with a certification that includes: beneficiary's full name, mailing address, date of birth, and Social Security number.
 - B. The executor or administrator shall initiate a search of child support judgments, through a private search company that maintains information on child support judgments, to determine if the beneficiary is a child support judgment debtor. This search shall not exceed \$10 per name that is searched. This fee is chargeable against the net proceeds as a cost of the inheritance.
 - C. If the certification from the search company shows the beneficiary is NOT a child support judgment debtor, the net proceeds may be disbursed immediately.
 - D. If the certification from the search company shows the beneficiary IS a child support judgment debtor: