

## Overview - A Person Not Named to Inherit in a Will, Related to Decedent

### **General Information:**

People related to the decedent, who are not named in the decedent's will, are sometimes entitled to inherit even though they are left out of the will. These relatives are known as "beneficially interested parties"

"Decedent" is the term used to refer to the person who died.

When the decedent leaves a will, naming certain people and organizations to inherit, the court still needs to know the names of certain relatives of the decedent who are not named in the will. This is because NH law says that these people are entitled to be notified that the decedent died and had a will because they might be entitled by law to inherit even though they are left out of the will.

### **Beneficially Interested Parties and Heirs at Law:**

Certain relatives (surviving spouse and children of the deceased) who are left out of the will may be entitled to inherit under NH law, even if the will is found by the court to be valid. These relatives are known as "pretermitted heirs". This makes them "beneficially interested parties". (See RSA 560 and RSA 551:10)

Certain other relatives need to be notified because they may be entitled to inherit under NH law if the will is found by the court to be invalid. These relatives are known as "heirs at law". This makes them "beneficially interested parties". (See RSA 561:1)

When a Petition for Estate Administration is filed by a petitioner, asking the court to open an estate for the decedent, the court notifies all named beneficiaries, and all potential beneficiaries letting them know that the decedent died leaving a will and letting them now they are beneficially interested parties.

An estate case needs to be opened so that the court can appoint an Executor to gather and protect the decedent's assets (personal property and real estate), to oversee the payment of debts and distribution of the assets to the correct beneficiaries.

### **Timeframes for Distribution of Assets:**

Three months after the Executor is appointed, an Inventory must be filed. An Inventory is a listing of all known estate assets owned by the decedent alone at the time of death. Estate assets include, but are not limited to, bank accounts, real estate, jewelry and vehicles. Persons and entities named to inherit under the will should receive a copy of the Inventory from the Executor when it is filed with the court.

Every estate must be held open for a minimum of 6 months to allow for anyone with a financial claim against the estate to request payment. Sometimes estates do not have enough assets to pay all estate debts and obligations. When there are not enough assets to pay all debts and obligations of the estate, beneficiaries may not receive anything.

After the estate has been open for 6 months, and all debts and obligations of the estate have been paid, the Executor may distribute the assets and close the estate case. This can be done in one of two ways:

1. The quicker way is to file a Petition for Summary Administration which can be filed with the assents of all beneficiaries, or,
2. The longer way is to file an Accounting. The Accounting must show all assets and transactions relating to assets handled by the Executor.

Some estates are unable to conclude within a year. In cases that are still unresolved a year after opening, the Executor must file an annual Accounting with the court. An Accounting is a report of all the transactions that have taken place during the accounting period (which is usually a one year period). If the estate remains open more than a year, an Accounting must be filed each year the estate remains open.

#### **Other Details:**

Beneficially interested parties are not required to file any document with the court in order to receive their inheritance. It is the responsibility of the Executor to keep beneficially interested parties informed about the status of the estate case.

Beneficially interested parties may choose to receive electronic copies from the Executor and from the court. Registering into the case is required in order to receive court notices. This is done by signing-up with the electronic filing system.

#### **Other Helpful Resources:**

RSA:

RSA 551:10

RSA 560

RSA 561:1

Form(s):

Estate Case - Important Information (**NHJB-3007-Pe**)

Petition for Estate Administration (**NHJB-2145-Pe**)

Motion for Summary Administration (**NHJB-2149-Pe**)

Inventory of Fiduciary (**NHJB-2125-Pe**)

Executor's/Administrator's Accounting (**NHJB-2117-Pe**)

Administering an Estate Booklet

Glossary of Terms

Pamphlets:

Pamphlet – What is Waiver of Administration?

Pamphlet – Have you considered Summary Administration?

What to Expect:

After Petition for Estate Administration

After Inventory

#### **For Further Information:**

If you have questions, please contact the Information Center at 1-855-212-1234.