

**75-2-109 Advancements.**

- (1) If an individual dies intestate as to all or a portion of his estate, property the decedent gave during the decedent's lifetime to an individual who, at the decedent's death, is an heir is treated as an advancement against the heir's intestate share only if:
  - (a) the decedent declared in a contemporaneous writing or the heir acknowledged in writing that the gift is an advancement; or
  - (b) the decedent's contemporaneous writing or the heir's written acknowledgment otherwise indicates that the gift is to be taken into account in computing the division and distribution of the decedent's intestate estate.
- (2) For purposes of Subsection (1), property advanced is valued as of the time the heir came into possession or enjoyment of the property or as of the time of the decedent's death, whichever first occurs.
- (3)
  - (a) If the recipient of the property fails to survive the decedent, the property is not taken into account in computing the division and distribution of the decedent's intestate estate, unless the decedent's contemporaneous writing provides otherwise.
  - (b) If the amount of the advancement exceeds the share of the heir receiving the same, the heir is not required to refund any part of the advancement.

Repealed and Re-enacted by Chapter 39, 1998 General Session