

75-2-201 Definitions.

As used in this part:

- (1) "Decedent's nonprobate transfers to others," as used in sections other than Section 75-2-205, means the amounts that are included in the augmented estate under Section 75-2-205.
- (2) "Fractional interest in property held in joint tenancy with the right of survivorship," whether the fractional interest is unilaterally severable or not, means the fraction, the numerator of which is one and the denominator of which, if the decedent was a joint tenant, is one plus the number of joint tenants who survive the decedent and which, if the decedent was not a joint tenant, is the number of joint tenants.
- (3) "Marriage," as it relates to a transfer by the decedent during marriage, means any marriage of the decedent to the decedent's surviving spouse.
- (4) "Nonadverse party" means a person who does not have a substantial beneficial interest in the trust or other property arrangement that would be adversely affected by the exercise or nonexercise of the power that the person possesses respecting the trust or other property arrangement. A person having a general power of appointment over property is considered to have a beneficial interest in the property.
- (5) "Power" or "power of appointment" includes a power to designate the beneficiary of a beneficiary designation.
- (6) "Presently exercisable general power of appointment" means a power of appointment under which, at the time in question, the decedent, whether or not the decedent then had the capacity to exercise the power, held a power to create a present or future interest in himself, his creditors, his estate, or creditors of his estate, and includes a power to revoke or invade the principal of a trust or other property arrangement.
- (7) "Probate estate" means property that would pass by intestate succession if the decedent died without a valid will.
- (8) "Property" includes values subject to a beneficiary designation.
- (9) "Right to income" includes a right to payments under a commercial or private annuity, an annuity trust, a unitrust, or a similar arrangement.
- (10) "Transfer," as it relates to a transfer by or of the decedent, includes:
 - (a) an exercise or release of a presently exercisable general power of appointment held by the decedent;
 - (b) a lapse at death of a presently exercisable general power of appointment held by the decedent; and
 - (c) an exercise, release, or lapse of a general power of appointment that the decedent created in himself and of a power described in Subsection 75-2-205(2)(b) that the decedent conferred on a nonadverse party.

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