SIDE-BY-SIDE

Article 1- General Provisions- Parts 4 and 5

Existing Law	Bill # S. 1243
Article 1.Part 4. Notice, Parties, and Representation in Estate Litigation	Article 1.Part 4.
SECTION 62-1-401. Notice; method and time of giving. (a) If notice of a hearing on any petition is required and, except for specific notice requirements as otherwise provided, the petitioner shall cause notice of the time and place of hearing of any petition to be given to any interested person or his attorney if he has appeared by attorney or requested that notice be sent to his attorney. Notice shall be given: (1) by mailing a copy thereof at least twenty days before the time set for the hearing by certified, registered, or ordinary first class mail addressed to the person being notified at the post office address given in his demand for notice, if any, or at his office or place of residence, if known; (2) by delivering a copy thereof to the person being notified personally at least twenty days before the time set for the hearing; or (3) if the address or identity of any person is not known and cannot be ascertained with reasonable diligence by publishing a copy thereof in the same manner as required by law in the case of the publication of a summons for an absent defendant in the court of common pleas. (b) The court for good cause shown may provide for a different method or time of giving notice for any hearing. (c) Proof of the giving of notice shall be made on or before the hearing and filed in the proceeding. (d) Notwithstanding a provision to the contrary, the notice provisions in this section do not, and are not intended to, constitute a summons that is required for a petition. REPORTER'S COMMENTS This section provides that, where notice of hearing on a petition is required, the petitioner shall give notice to any interested person or his attorney (1) by mailing at least twenty days in advance of the hearing,	**SECTION 62-1-401.** (a) If notice of a hearing on any petition is required and, except for specific notice requirements as otherwise provided, the petitioner shall cause notice of the time and place of hearing of any petition to be given to any interested person or his attorney if he has appeared by attorney or requested that notice be sent to his attorney. Notice shall be given: (1) by mailing a copy thereof at least twenty days before the time set for the hearing by certified, registered, or ordinary first class mail addressed to the person being notified at the post office address given in his demand for notice, if any, or at his office or place of residence, if known; (2) by delivering a copy thereof to the person being notified personally at least twenty days before the time set for the hearing; or (3) if the address or identity of any person is not known and cannot be ascertained with reasonable diligence by publishing a copy thereof in the same manner as required by law in the case of the publication of a summons for an absent defendant in the court of common pleas. (b) The court for good cause shown may provide for a different method or time of giving notice for any hearing. (c) Proof of the giving of notice shall be made on or before the hearing and filed in the proceeding. (d) Notwithstanding a provision to the contrary, the notice provisions in this section do not, and are not intended to, constitute a summons that is required for a petition. REPORTER'S COMMENTS This section provides that, where notice of hearing on a petition is required, the petitioner shall give notice to any interested person or his attorney (1) by mailing at least twenty days in advance of the hearing, or

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or (2) by personal delivery at least twenty days in advance of the hearing, or (3) if the person's address or identity is not known and cannot be ascertained, by publication as in the court of common pleas. Under this Code, when a petition is filed with the court, the court is to fix a time and place of hearing and it is then the responsibility of the petitioner to give notice as provided in Section 62-1-401. See, for example, Sections 62-3-402 and 62-3-403. The procedure set forth in Section 14-23-280 of the 1976 Code and Probate Court Rule 5, whereunder the court issues a summons to the defendants named in the petition advising them that unless they plead thereto within twenty days relief will be granted on the petition, is changed to place the responsibility for giving notice on the petitioner.	(2) by personal delivery at least twenty days in advance of the hearing, or (3) if the person's address or identity is not known and cannot be ascertained, by publication as in the court of common pleas. Under this Code, when a petition is filed with the court, the court is to fix a time and place of hearing and it is then the responsibility of the petitioner to give notice as provided in Section 62-1-401. See, for example, Sections 62-3-402 and 62-3-403. The 2010 amendment added subsection (d) to clarify and avoid confusion that previously existed regarding the notice provisions in this section. The effect of the 2010 amendment was intended to make it clear that the notice provisions in this section are not intended to and do not constitute a summons, which is required for a petition in formal proceedings. See 2010 amendments to certain definitions in S.C. Code §62-1-201 and also see §§14-23-280, 62-1-304, and Rules 1 and 81, SCRCP.
SECTION 62-1-402. Notice; waiver. A person, including a guardian ad litem, conservator, or other fiduciary, may waive notice by a writing signed by him or his attorney and filed in the proceeding.	**SECTION 62-1-402.** A person, including a guardian ad litem, conservator, or other fiduciary, may waive notice by a writing signed by him or his attorney and filed in the proceeding.
SECTION 62-1-403. Pleadings; when parties bound by others; notice. In formal proceedings involving trusts or estates of decedents, minors, protected persons, or incapacitated persons and in judicially supervised settlements the following apply: (1) Interests to be affected must be described in pleadings that give reasonable information to owners by name or class by reference to the instrument creating the interests or in other appropriate manner. (2) Persons are bound by orders binding others in the following cases: (i) Orders binding the sole holder or all coholders of a power of revocation or a presently exercisable general power of appointment, including one in the form of a power of amendment, bind other persons	**SECTION 62-1-403.** In formal proceedings involving trusts or estates of decedents, minors, protected persons, or incapacitated persons and in judicially supervised settlements the following apply: (1) Interests to be affected must be described in pleadings that give reasonable information to owners by name or class by reference to the instrument creating the interests or in other appropriate manner. (2) Persons are bound by orders binding others in the following cases: (i) Orders binding the sole holder or all coholders of a power of revocation or a presently exercisable general power of appointment,

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to the extent their interests (as objects, takers in default, or otherwise) are subject to the power. (ii) To the extent there is no conflict of interest between them or among persons represented, orders binding a conservator bind the person whose estate he controls; orders binding a guardian bind the ward if no conservator of his estate has been appointed; orders binding a trustee bind beneficiaries of the trust in proceedings to probate a will establishing or adding to a trust to review the acts or accounts of a prior fiduciary and in proceedings involving creditors or other third parties; and orders binding a personal representative bind persons interested in the undistributed assets of a decedent's estate in actions or proceedings by or against the estate. If there is no conflict of interest and no conservator or guardian has been appointed, a person may represent his minor or unborn issue. (iii) A minor or unborn or unascertained person who is not otherwise represented is bound by an order to the extent his interest is adequately represented by another party having a substantially identical interest in the proceeding. (3) Service of summons, petition, and notice is required as follows: (i) Service of summons, petition, and notice must be given to every interested person or to one who can bind an interested person as described in (2)(i) or (2)(ii) above. Service of summons and petition upon, as well as notice, may be given both to a person and to another who may bind him. (ii) Service upon and notice is given to unborn or unascertained persons who are not represented under (2)(i) or (2)(ii) above by giving notice to all known persons whose interests in the proceedings are substantially identical to those of the unborn or unascertained persons. (4) At any point in a proceeding, a court may appoint a guardian ad litem to represent the interest of a minor, an incapacitated, unborn, or unascertained person, or a person whose identity or address is unknown, if the court determines that representation of the interest otherwise would be inadequate. If not precluded by conflict of interests, a guardian ad litem may be appointed to represent several persons or interests. The court shall set out its reasons for appointing a	including one in the form of a power of amendment, bind other persons to the extent their interests (as objects, takers in default, or otherwise) are subject to the power. (ii) To the extent there is no conflict of interest between them or among persons represented, orders binding a conservator bind the person whose estate he controls; orders binding a guardian bind the ward if no conservator of his estate has been appointed; orders binding a trustee bind beneficiaries of the trust in proceedings to probate a will establishing or adding to a trust to review the acts or accounts of a prior fiduciary and in proceedings involving creditors or other third parties; and orders binding a personal representative bind persons interested in the undistributed assets of a decedent's estate in actions or proceedings by or against the estate. If there is no conflict of interest and no conservator or guardian has been appointed, a person may represent his minor or unborn issue. (iii) A minor or unborn or unascertained person who is not otherwise represented is bound by an order to the extent his interest is adequately represented by another party having a substantially identical interest in the proceeding. (3) Service of summons, petition, and notice is required as follows: (i) Service of summons, petition, and notice must be given to every interested person or to one who can bind an interested person as described in (2)(i) or (2)(ii) above. Service of summons and petition upon, as well as notice, may be given both to a person and to another who may bind him. (ii) Service upon and notice is given to unborn or unascertained persons who are not represented under (2)(i) or (2)(ii) above by giving notice to all known persons whose interests in the proceedings are substantially identical to those of the unborn or unascertained persons. (4) At any point in a proceeding, a court may appoint a guardian ad litem to represent the interest of a minor, an incapacitated, unborn, or unascertained person, or a person whose identity or address is unknown, if the court determines that representation of the interest otherwise would be inadequate. If not precluded by conflict of interests, a guardian ad litem may be appointed to represent several persons or

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guardian ad litem as a part of the record of the proceeding. REPORTER'S COMMENTS This section applies to formal proceedings and judicially supervised settlements. It provides that in certain specified instances a person will be bound by orders which are binding on others. Subitem (i) of item (2) provides that an order which is binding upon the person or persons holding a power of revocation or a general power of appointment will bind others, such as objects or takers in default, to the extent that their interests are subject to the power. This would mean that an order which is binding on one who has discretion will bind those in whose favor he might act. Absent a conflict of interest, subitem (ii) of item (2) provides that orders binding a conservator or guardian are binding on the protected person. In certain limited instances, orders binding on a trustee or a personal representative are binding on beneficiaries and interested persons. Further, under subitem (iii) of item (2) an unborn or unascertained person is bound by orders affecting persons having a substantially identical interest. These provisions facilitate proceedings by limiting multiplicity of parties. Item (4) permits the court at any point in a proceeding to appoint a guardian ad litem to represent a minor, an incapacitated person, an unborn or unascertained person, or one whose identity or address is unknown if the court determines that representation of that interest would otherwise be inadequate. Accordingly, in a proceeding where there are adult parties having the same interest as the minor or incapacitated person, the court may not deem it necessary to appoint a guardian ad litem if it appears that the common interest will be adequately represented. However, in protective proceedings under Article 5 involving appointment of a guardian for an incapacitated person (Section 62-5-301, et seq.), or a conservator of the estate of an incapacitated person (Section 62-5-401 et seq.), this Code mandates appointment of an attorney for the alleged incompetent person should he not have counsel of his own choosing, such appointed attorney to	interests. The court shall set out its reasons for appointing a guardian ad litem as a part of the record of the proceeding. REPORTER'S COMMENTS This section applies to formal proceedings and judicially supervised settlements. It provides that in certain specified instances a person will be bound by orders which are binding on others. Subitem (i) of item (2) provides that an order which is binding upon the person or persons holding a power of revocation or a general power of appointment will bind others, such as objects or takers in default, to the extent that their interests are subject to the power. This would mean that an order which is binding on one who has discretion will bind those in whose favor he might act. Absent a conflict of interest, subitem (ii) of item (2) provides that orders binding a conservator or guardian are binding on the protected person. In certain limited instances, orders binding on a trustee or a personal representative are binding on beneficiaries and interested persons. Further, under subitem (iii) of item (2) an unborn or unascertained person is bound by orders affecting persons having a substantially identical interest. These provisions facilitate proceedings by limiting multiplicity of parties. Item (4) permits the court at any point in a proceeding to appoint a guardian ad litem to represent a minor, an incapacitated person, an unborn or unascertained person, or one whose identity or address is unknown if the court determines that representation of that interest would otherwise be inadequate. Accordingly, in a proceeding where there are adult parties having the same interest as the minor or incapacitated person, the court may not deem it necessary to appoint a guardian ad litem if it appears that the common interest will be adequately represented. In the case of minors, the appointment of a guardian ad litem (or an attorney having the powers and duties of a guardian ad litem) is discretionary with the court. However, this Code does require that notice of the proceeding be given to adults presumably having an interest in the minor's welfare, such as the person having care and custody of the minor, parent(s), or nearest adult relatives.

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have the powers and duties of a guardian ad litem. See Sections 62-5-303(b) and 62-5-407(b). In the case of minors, the appointment of a guardian ad litem (or an attorney having the powers and duties of a guardian ad litem) is discretionary with the court. However, this Code does require that notice of the proceeding be given to adults presumably having an interest in the minor's welfare, such as the person having care and custody of the minor, parent(s), or nearest adult relatives.	The 2010 amendment revised subsections (1) and (3) to clarify procedure for a formal proceeding, which requires a summons and petition to commence a formal proceeding. See 2010 amendments to certain definitions in S.C. Code §62-1-201 and also see §§14-23-280, 62-1-304, and Rules 1 and 81, SCRCP. The 2010 amendment also revised subsection (2)(ii) to delete 'parent' and replace it with 'person,' so that it is consistent with the remainder of that subsection and also delete 'child' and replace it with 'issue' to be broader and more inclusive.
Article 1.Part 5.Uniform Simultaneous Death Act	Article 1.Part 5
SECTION 62-1-501. Short title. This part may be cited as the "Uniform Simultaneous Death Act".	**SECTION 62-1-500.** This part may be cited as the 'Uniform Simultaneous Death Act'. REPORTER'S COMMENT The 2012 amendment made significant changes to Part 5. Prior to the 2012 amendment, Part 5 did not include a 120 hour survival requirement similar to §62-2-104. The revisions to Part 5 now incorporate a default 120 hour survival requirement for testate and intestate decedents as well as for nonprobate transfers, subject to the exceptions set forth in §62-1-506. **SECTION 62-1-501.** ~~This part may be cited as the 'Uniform Simultaneous Death Act'.~~ For purposes of this part: (1) 'Co-owners with right of survivorship' includes joint tenants in a joint tenancy with right of survivorship, joint tenants in a tenancy in common with right of survivorship, tenants by the entireties, and other co-owners of property or accounts held under circumstances that entitle one or more to the whole of the property or account on the death of the other or others. (2) 'Governing instrument' means a deed, will, trust, insurance or

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SECTION 62-1-502. Disposition of property when persons die simultaneously. When the title to property or the devolution thereof depends upon priority of death and there is no sufficient evidence that the persons have died otherwise than simultaneously the property of each person shall be disposed of as if he had survived, except as provided otherwise in this part [Sections 62-1-501 et seq.].	annuity policy, account with POD designation, pension, profit-sharing, retirement, or similar benefit plan, instrument creating or exercising a power of appointment or a power of attorney, or a dispositive, appointive, or nominative instrument of any similar type. (3) 'Payor' means a trustee, insurer, business entity, employer, government, governmental agency, subdivision, or instrumentality, or any other person authorized or obligated by law or a governing instrument to make payments. **SECTION 62-1-502.** ~~When the title to property or the devolution thereof depends upon priority of death and there is no sufficient evidence that the persons have died otherwise than simultaneously the property of each person shall be disposed of as if he had survived, except as provided otherwise in this part [Sections 62-1-501 et seq.].~~ (a) Except as otherwise provided by this Code, where the title to property, the devolution of property, the right to elect an interest in property, or any other right or benefit depends upon an individual's survivorship of the death of another individual, an individual who is not established by clear and convincing evidence to have survived the other individual by at least one hundred twenty hours is deemed to have predeceased the other individual. (b) If the language of the governing instrument disposes of property in such a way that two or more beneficiaries are designated to take alternatively by reason of surviving each other and it is not established by clear and convincing evidence that any such beneficiary has survived any other beneficiary by at least one hundred twenty hours, the property shall be divided into as many equal shares as there are alternative beneficiaries, and these shares shall be distributed respectively to each such beneficiary's estate. (c) If the language of the governing instrument disposes of property in such a way that it is to be distributed to the member or members of a class who survived an individual, each member of the class will be deemed to have survived that individual by at least one hundred twenty

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	hours unless it is established by clear and convincing evidence that the individual survived the class member or members by at least one hundred twenty hours.
SECTION 62-1-503. Successive beneficiaries of disposition of property. When two or more beneficiaries are designated to take successively by reason of survivorship under another person's disposition of property and there is no sufficient evidence that these beneficiaries have died otherwise than simultaneously, the property thus disposed of shall be divided into as many equal portions as there are successive beneficiaries and these portions shall be distributed respectively to those who would have taken in the event that each designated beneficiary had survived.	**SECTION 62-1-503.** ~~When two or more beneficiaries are designated to take successively by reason of survivorship under another person's disposition of property and there is no sufficient evidence that these beneficiaries have died otherwise than simultaneously, the property thus disposed of shall be divided into as many equal portions as there are successive beneficiaries and these portions shall be distributed respectively to those who would have taken in the event that each designated beneficiary had survived.~~ Except as otherwise provided by this Code, for purposes of a provision of a governing instrument that relates to an individual surviving an event, including the death of another individual, an individual who is not established by clear and convincing evidence to have survived the event by at least one hundred twenty hours is deemed to have predeceased the event.
SECTION 62-1-504. Joint tenants or tenants by the entirety. When there is no sufficient evidence that two joint tenants or tenants by the entirety have died otherwise than simultaneously, the property so held shall be distributed one half as if one had survived and one half as if the other had survived. If there are more than two joint tenants and all of them have so died, the property shall be so distributed in the proportion that one bears to the whole number of joint tenants.	**SECTION 62-1-504.** ~~When there is no sufficient evidence that two joint tenants or tenants by the entirety have died otherwise than simultaneously, the property so held shall be distributed one half as if one had survived and one half as if the other had survived. If there are more than two joint tenants and all of them have so died, the property shall be so distributed in the proportion that one bears to the whole number of joint tenants.~~ Except as otherwise provided by this Code, if: (a) it is not established by clear and convincing evidence that one of two co-owners with right of survivorship survived the other co-owner by at least one hundred twenty hours, one-half of the property passes as if one had survived by at least one hundred twenty hours and one-half as if the other had survived by at least one hundred twenty hours; (b) there are more than two co-owners and it is not established by

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	clear and convincing evidence that at least one of them survived the others by at least one hundred twenty hours, the property passes to the estates of each of the co-owners in the proportion that one bears to the whole number of co-owners. REPORTER'S COMMENT This section applies to property or accounts held by co-owners with right of survivorship. As defined in §62-1-501, the term 'co-owners with right of survivorship' includes multiple-party accounts with right of survivorship.
SECTION 62-1-505. Insured and beneficiary. When the insured and the beneficiary in a policy of life or accident insurance have died and there is no sufficient evidence that they have died otherwise than simultaneously, the proceeds of the policy shall be distributed as if the insured had survived the beneficiary.	**SECTION 62-1-505.** ~~When the insured and the beneficiary in a policy of life or accident insurance have died and there is no sufficient evidence that they have died otherwise than simultaneously, the proceeds of the policy shall be distributed as if the insured had survived the beneficiary.~~ Notwithstanding any other provisions of the Code, solely for the purpose of determining whether a decedent is entitled to any right or benefit that depends on surviving the death of a decedent's killer under Section 62-2-803, the killer is deemed to have predeceased the decedent, and the decedent is deemed to have survived the killer by at least one hundred twenty hours, or any greater survival period required of the decedent under the killer's will or other governing instrument, unless it is established by clear and convincing evidence that the killer survived the victim by at least one hundred twenty hours.
SECTION 62-1-506. Part is not retroactive. This part shall not apply to the distribution of the property of a person who died prior to April 3, 1948.	**SECTION 62-1-506.** ~~This part shall not apply to the distribution of the property of a person who died prior to April 3, 1948.~~ Survival by one hundred twenty hours is not required if any of the following apply: (1) the governing instrument contains language dealing explicitly with simultaneous deaths or deaths in a common disaster and that language is operable under the facts of the case;

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	(2) the governing instrument expressly indicates that an individual is not required to survive an event, including the death of another individual, by any specified period or expressly requires the individual to survive the event for a specified period; but survival of the event or the specified period must be established by clear and convincing evidence; (3) the imposition of a one hundred twenty hour requirement of survival would cause a nonvested property interest or a power of appointment to be invalid under other provisions of the Code; but survival must be established by clear and convincing evidence; (4) the application of a 120-hour requirement of survival to multiple governing instruments would result in an unintended failure or duplication of a disposition; but survival must be established by clear and convincing evidence; (5) the application of a one hundred twenty hour requirement of survival would deprive an individual or the estate of an individual of an otherwise available tax exemption, deduction, exclusion, or credit, expressly including the marital deduction, resulting in the imposition of a tax upon a donor or a decedent's estate, other person, or their estate, as the transferor of any property. 'Tax' includes any federal or state gift, estate or inheritance tax; (6) the application of a one hundred twenty hour requirement of survival would result in an escheat. REPORTER'S COMMENT The 2012 amendment rewrote this section. Subsection (1). Subsection (1) provides that the 120-hour requirement of survival is inapplicable if the governing instrument 'contains language dealing explicitly with simultaneous deaths or deaths in a common disaster and that language is operable under the facts of the case.' The application of this provision is illustrated by the following example. Example. G died leaving a will devising her entire estate to her husband, H, adding that 'in the event he dies before I do, at the same time that I do, or under circumstances as to make it doubtful who died

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	first,' my estate is to go to my brother Melvin. H died about 38 hours after G's death, both having died as a result of injuries sustained in an automobile accident. Under this section, G's estate passes under the alternative devise to Melvin because H's failure to survive G by 120 hours means that H is deemed to have predeceased G. The language in the governing instrument does not, under subsection (1), nullify the provision that causes H, because of his failure to survive G by 120 hours, to be deemed to have predeceased G. Although the governing instrument does contain language dealing with simultaneous deaths, that language is not operable under the facts of the case because H did not die before G, at the same time as G, or under circumstances as to make it doubtful who died first. Subsection (2). Subsection (2) provides that the 120-hour requirement of survival is inapplicable if 'the governing instrument expressly indicates that an individual is not required to survive an event, including the death of another individual, by any specified period or expressly requires the individual to survive the event for a stated period.' Mere words of survivorship in a governing instrument do not expressly indicate that an individual is not required to survive an event by any specified period. If, for example, a trust provides that the net income is to be paid to A for life, remainder in corpus to B if B survives A, the 120-hour requirement of survival would still apply. B would have to survive A by 120 hours. If, however, the trust expressly stated that B need not survive A by any specified period, that language would negate the 120-hour requirement of survival. Language in a governing instrument requiring an individual to survive by a specified period also renders the 120-hour requirement of survival inapplicable. Thus, if a will devises property 'to A if A survives me by 30 days,' the express 30-day requirement of survival overrides the 120-hour survival period provided by this Act. Subsection (4). Subsection (4) provides that the 120-hour requirement of survival is inapplicable if 'the application of this section to multiple governing instruments would result in an unintended failure

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	or duplication of a disposition.' The application of this provision is illustrated by the following example. Example. Pursuant to a common plan, H and W executed mutual wills with reciprocal provisions. Their intention was that a $50,000 charitable devise would be made on the death of the survivor. To that end, H's will devised $50,000 to the charity if W predeceased him. W's will devised $50,000 to the charity if H predeceased her. Subsequently, H and W were involved in a common accident. W survived H by 48 hours. Were it not for subsection (4), not only would the charitable devise in W's will be effective, because H in fact predeceased W, but the charitable devise in H's will would also be effective, because W's failure to survive H by 120 hours would result in her being deemed to have predeceased H. Because this would result in an unintended duplication of the $50,000 devise, subsection (4) provides that the 120-hour requirement of survival is inapplicable. Thus, only the $50,000 charitable devise in W's will is effective. Subsection (4) also renders the 120-hour requirement of survival inapplicable had H and W died in circumstances in which it could not be established by clear and convincing evidence that either survived the other. In such a case, an appropriate result might be to give effect to the common plan by paying half of the intended $50,000 devise from H's estate and half from W's estate. Under subsection (5), if the application of the 120-hour survival requirement would cause the loss of an available tax exemption, deduction, exclusion, or credit, creating a federal or State gift, estate or inheritance tax, the 120-hour survival requirement will not be applied. Additionally, under subsection (6), the 120-hour survival requirement is not applicable if it would cause an escheat.
SECTION 62-1-507. Part is not applicable if instrument provides otherwise. This part [Sections 62-1-501 et seq.] shall not apply in the case of wills, living trusts, deeds, or contracts of insurance wherein provision has	**SECTION 62-1-507.** ~~This part [Sections 62-1-501 et seq.] shall not apply in the case of wills, living trusts, deeds, or contracts of insurance wherein provision has been made for distribution of property different from the distribution~~

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been made for distribution of property different from the distribution that would otherwise be made under the provisions of this part [Sections 62-1-501 et seq.].	~~that would otherwise be made under the provisions of this part [Sections 62-1-501 et seq.].~~ In addition to the South Carolina Rules of Evidence, the following rules relating to a determination of death and status apply: (1) Death occurs when an individual is determined to be dead under the Uniform Determination of Death Act, Section 44-43-460. (2) A certified or authenticated copy of a death certificate purporting to be issued by an official or agency of the place where the death purportedly occurred is prima facie proof of the fact, place, date and time of death, and the identity of the decedent. (3) A certified or authenticated copy of any record or report of a governmental agency, domestic or foreign, that a person is missing, detained, dead, or alive is prima facie evidence of the status and of the dates, circumstances, and places disclosed by the record or report. (4) In the absence of prima facie evidence of death under subsection (2) or (3), the fact of death may be established by clear and convincing evidence, including circumstantial evidence. (5) A person whose death is not established under the preceding paragraphs who is absent for a continuous period of five years, during which he has not been heard from, and whose absence is not satisfactorily explained after diligent search or inquiry, is presumed to be dead. His death is presumed to have occurred at the end of the period unless there is sufficient evidence for determining that death occurred earlier. (6) In the absence of evidence disputing the time of death stated on a document described in subsection (2) or (3), a document described in subsection (2) or (3) that states a time of death one hundred twenty hours or more after the time of death of another person, however the time of death of the other person is determined, establishes by clear and convincing evidence that the person survived the other person by one hundred twenty hours. REPORTER'S COMMENT The 2012 amendment rewrote this section. This section incorporates the provisions of former Section 62-1-107.

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SECTION 62-1-508. Construction. This part [Sections 62-1-501 et seq.] shall be so construed and interpreted as to effectuate its general purpose to make uniform the law in those states which enact substantially identical laws.	**SECTION 62-1-508.** ~~This part [Sections 62-1-501 et seq.] shall be so construed and interpreted as to effectuate its general purpose to make uniform the law in those states which enact substantially identical laws.~~ (1) A payor or other third party is not liable for having made a payment or transferred an item of property or any other benefit to a person designated in a governing instrument who, under this part, is not entitled to the payment or item of property, or for having taken any other action in good faith reliance on the person's apparent entitlement under the terms of the governing instrument, before the payor or other third party received written notice of a claimed lack of entitlement under this part. A payor or other third party is liable for a payment made or other action taken after the payor or other third party received written notice of a claimed lack of entitlement under this part. (2) Written notice of a claimed lack of entitlement under subsection (1) must be mailed to the payor's or other third party's main office or home by registered or certified mail, return receipt requested, or served upon the payor or other third party in the same manner as a summons in a civil action. Upon receipt of written notice of a claimed lack of entitlement under this part, a payor or other third party may pay any amount owed or transfer or deposit any item of property, other than tangible personal property, held by it to or with the court having jurisdiction of the probate proceedings relating to the decedent's estate, or if no proceedings have been commenced, to or with the court having jurisdiction of probate proceedings relating to decedents' estates located in the county of the decedent's residence. The court shall hold the funds or item of property and, upon its determination under this part, shall order disbursement in accordance with the determination. Payments, transfers, or deposits made to or with the court discharge the payor or other third party from all claims for the value of amounts paid to or items of property transferred to or deposited with the court. (3) A person who purchases property for value and without notice, or who receives a payment or other item of property in partial or full satisfaction of a legally enforceable obligation, is not obligated under

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	this part to return the payment, item of property, or benefit, and is not liable under this part for the amount of the payment or the value of the item of property or benefit. However, a person who, not for value, receives a payment, item of property, or any other benefit to which the person is not entitled under this part is obligated to return the payment, item of property, or benefit, or is personally liable for the amount of the payment or the value of the item of property or benefit, to the person who is entitled to it under this part. **SECTION 62-1-509.** This part [Sections 62-1-501 et seq.] shall be so construed and interpreted as to effectuate its general purpose to make uniform the law in those states which enact substantially identical laws. REPORTER'S COMMENT Prior to the 2012 amendment this section was previously Section 62-1-508. **SECTION 62-1-510.** (a) This part [Sections 62-1-501 et seq.] takes effect ***January 1, 2013.*** (b) On the effective date of this part [Sections 62-1-501 et seq.]: (1) an act done before the effective date in any proceeding and any accrued right is not impaired by this part. If a right is acquired, extinguished, or barred upon the expiration of a prescribed period of time that has commenced to run by the provisions of any statute before the effective date, the provisions remain in force with respect to that right; and (2) any rule of construction or presumption provided in this part applies to multiple-party accounts opened before the effective date unless there is a clear indication of a contrary intent.