§ 103. Definitions

When used in this act, unless otherwise required by the context, or unless a contrary intent is expressly declared in the provision to be construed, the words, phrases or clauses hereafter shall be construed as follows:

1. Acknowledged. Acknowledged or proved in the same manner as a deed is required to be acknowledged or proved and authenticated to be recorded in that county, except that when executed within the state, no certificate of the county clerk shall be required.

2. Administrator. Any person to whom letters of administration have been issued.

3. Administrator c. t. a. Any person to whom letters of administration with the will annexed have been issued.

4. Administrator d. b. n. Any person to whom letters of administration have been issued as a successor to an administrator.

5. Ancillary administrator. Any person to whom ancillary letters of administration have been issued.

6. Ancillary executor or administrator c. t. a. Any person to whom ancillary letters testamentary or ancillary letters of administration c. t. a. have been issued.

7. Ancillary guardian. Any person to whom ancillary letters of guardianship, whether of the person, property, or both, of an infant have been issued.

8. Beneficiary. Any person entitled to any part or all of an estate.

9. Bequest or legacy. A transfer of personal property by will.

9-a. Corporate trustee. Any trust company, any bank authorized to

exercise fiduciary powers and any national bank having a principal, branch or trust office in this state and duly authorized to exercise fiduciary powers.

10. Court. The surrogate's court, including any judge or surrogate assigned, elected or appointed to serve as judge of the court.

11. Creditor. Any person having a claim against a decedent or an estate.

12. Devise. When used as a noun, a transfer of real property by will. When used as a verb, to transfer real property by will.

13. Devisee. Any person to whom real property is transferred by will.

14. Distributee. Any person entitled to take or share in the property of a decedent under the statutes governing descent and distribution.

15. Domicile. A fixed, permanent and principal home to which a person wherever temporarily located always intends to return.

16. Domiciliary. A person whose domicile is within the state of New York.

17. Donee of a power during minority. Any person granted or deemed to have the power during minority to manage property vested in an infant.

18. Eligible to receive letters. Not disqualified on any of the grounds described in 707.

19. Estate. All of the property of a decedent, trust, absentee, internee or person for whom a guardian has been appointed as originally constituted, and as it from time to time exists during administration.

20. Executor. Any person to whom letters testamentary have been issued.

21. Fiduciary. An administrator, administrator c.t.a., administrator d.b.n., ancillary administrator, ancillary administrator c.t.a., ancillary executor, ancillary guardian, executor, guardian, preliminary executor, temporary administrator, testamentary trustee, to any of whom letters have been issued, and also the donee of a power during minority and a voluntary administrator and a public administrator acting as administrator or a public administrator or county treasurer to whom letters have been issued, and a lifetime trustee.

22. Funeral expense. Includes reasonable expense of a funeral, suitable church or other services as an integral part thereof, expense of interment or other disposition of the body, a burial lot and suitable monumental work thereon and a reasonable expenditure for perpetual care of a burial lot of the decedent. For the purpose of subdivision one of section eighteen hundred eleven of this act, funeral expense shall also include burial expenses awarded pursuant to article twenty-two of the executive law.

23. Grantor. The creator of a lifetime trust.

24. Guardian. Any person to whom letters of guardianship have been issued by a court of this state, pursuant to this act, the family court act or article 81 of the mental hygiene law.

25. Incapacitated person. Any person who for any cause is incapable adequately to protect his or her rights, including a person for whom a guardian has been appointed pursuant to article 81 of the mental hygiene law.

26. Incompetent. Any person judicially declared incompetent to manage his affairs.

26-a. Individual trustee. Any trustee who is not a corporate trustee.

27. Infant. Any person under the age of eighteen years; provided, however, that for purposes of appointment of a guardian of an infant, the term infant also shall include a person who is under the age of

twenty-one years who consents to the appointment of a guardian after the age of eighteen. It is further provided that such definition shall not be applicable to any provision relating to the New York Uniform Transfers to Minors Act, nor to section 1716 of this act.

28. Intestate. A person who dies without leaving a valid will. Where it is used with respect to particular property, a person who dies without effectively disposing of that property by will. When used as an adjective, to property not effectively disposed of by will.

29. Judicial settlement. A proceeding whereby the account of a fiduciary is settled and adjudicated by decree of the court.

30. Legal life tenant. Any person entitled for his life or for the life of another to the possession and use of real or personal property.

31. Lifetime trust. An express trust, including all amendments thereto, created during the grantor's lifetime other than a trust for the benefit of creditors, a resulting or constructive trust, a business trust where certificates of beneficial interest are issued to the beneficiary, an investment trust, voting trust, a security instrument such as a deed of trust and a mortgage, a trust created by the judgment or decree of a court, a liquidation or reorganization trust, a trust for the sole purpose of paying dividends, interest, interest coupons, salaries, wages, pensions or profits, instruments wherein persons are mere nominees for others, or a trust created in deposits in any banking institution or savings and loan institution.

32. Lifetime trustee. A trustee acting under a lifetime trust.

33. Legatee. Any person designated to receive a transfer by will of personal property.

34. Letters. Includes letters of administration, letters of administration c. t. a., letters of administration d. b. n., limited letters of administration, ancillary letters of administration, ancillary letters of guardianship, ancillary letters testamentary,

letters of guardianship, letters of temporary administration, letters testamentary, preliminary letters testamentary and letters of trusteeship. A testamentary trustee who has qualified without the issuance of letters shall be deemed for the purposes of this act to have received letters of trusteeship.

35. Mailing or mail. A direction to mail or for mailing of process, notice or other paper requires deposit of such process, notice or other paper enclosed in a sealed postpaid envelope, directed to the person to be served or notified, in any post office or other depositary under the exclusive care and custody of the United States Postal Service.

35-a. Mailing by express mail. Mailing in conformity with the requirements of the United States Postal Service respecting express mail.

36. Mailing by registered or certified mail. A direction for mailing of process, notice or other paper by registered or certified mail requires mailing in conformity with the requirements of the United States Postal Service respecting registered or certified mail, as the case may be.

37. Mailing by registered or certified mail; return receipt requested. Mailing in conformity with the requirements of the United States Postal Service respecting registered mail with return receipt requested or certified mail with return receipt requested, as the case may be.

37-a. Mailing by special mail service. A direction for mailing of process, notice or other paper by special mail service requires mailing by express mail or use of any designated delivery service within the meaning of §7502(f)(2) of the United States Internal Revenue Code of 1986, as from time to time amended.

38. May. When used in this act, in relation to an act to be performed by the court, means in the discretion of the court.

39. Person interested. Any person entitled or allegedly entitled to

share as beneficiary in the estate or the trustee in bankruptcy or receiver of such person. A creditor shall not be deemed a person interested. Where this act provides that a "person interested" may apply for relief, a verified allegation of an interest in fact, suffices for the purpose of the application, although the interest may be disputed, unless or until the fact of interest has been judicially determined and no appeal is pending therefrom.

40. Person under disability. Any person who is (a) an infant, (b) an incompetent, (c) an incapacitated person, (d) unknown or whose whereabouts are unknown or (e) confined as a prisoner who fails to appear under circumstances which the court finds are due to confinement in a penal institution.

40-a. Petition. A verified application in the manner provided in CPLR 3020, requesting action upon a matter or relief provided for in the estates, powers and trusts law or this act.

41. Preliminary executor. Any person to whom preliminary letters testamentary have been issued.

42. Presumptive distributee. Any person who would be a distributee as defined in this act, if the person alleged to be deceased, absentee or internee were dead.

43. Process. Citation, order to show cause, subpoena and any other mandate of the surrogate's court by which jurisdiction is obtained of a party.

44. Property. Anything that may be the subject of ownership and is real or personal property, or is a chose in action.

45. Respondent. Every party to a proceeding except a petitioner.

46. Safe deposit company. Any corporation authorized under the banking law to let out receptacles for safe deposit of personal property.

47. Temporary administrator. Any person to whom letters of temporary administration have been issued.

48. Testamentary trust. A trust created by will.

49. Testamentary trustee. Any person to whom letters of trusteeship have been issued.

50. Trust. A testamentary trust or a lifetime trust.

51. Upon the return of process. The time and place for the return of any process and any adjournment thereof, and implies that due proof has been made that the court has jurisdiction over all parties who appeared, have waived or been duly served.

52. Will. A last will, including all the codicils thereto.