§ 1310. Payment of certain debts without administration

1. As used in this section

(a) "Debt" means

(i) money or securities payable on account of a deposit in a bank, national bank, trust company, branch of a foreign banking corporation, savings bank, industrial bank, state or federal savings and loan association or state or federal credit union or with a private banker, or funds or securities invested with, held by or deposited with a broker-dealer or with, by or in securities of a management type investment company or trust payable or returnable to, or to the estate of, or to a beneficiary designated by, the depositor or

(ii) money payable by a state or federal savings and loan association or state or federal credit union to, or to the estate of, or to a beneficiary designated by, a member on account of the withdrawal value of his shares or

(iii) money payable by an insurance company or a savings bank authorized to conduct the business of life insurance under an annuity or pure endowment contract or a policy of life, group life, industrial life or accident and health insurance or a contract made by such an insurer, relating to the payment of proceeds or avails thereof, to, or to the estate of, or to a beneficiary designated by, the owner or the person purchasing the annuity or the person insured or the person effecting the insurance or the person effecting the supplemental contract or

(iv) money payable by a public corporation, a state or the federal government or an agency thereof, to, or to the estate of, or to a beneficiary designated by, any natural person or

(v) a pension or retirement or death benefit, profit share, earnings, wages, salary or bonus payable by an employer or by a pension, retirement or profit-sharing plan or system to, or to the estate of, or to a beneficiary designated by, an employee, or

(vi) a balance of money due on an accepted claim or account payable, on account of dividends payable by the superintendent of financial services in liquidation of bank assets, to, or to the estate of, or to a beneficiary designated by, a depositor or

(vii) any personal property deposited with a county treasurer by a coroner or county medical examiner pursuant to sections 785 and 786 of

the code of criminal procedure, or

(viii) any personal property on deposit with a hospital, nursing home, residential health care facility or out-patient lodge described in section twenty-eight hundred one of the public health law at the time of the death of a decedent that is payable or returnable to the estate of the decedent;

(b) "Debtor" means the person or persons, partnership, corporation, government or government agency by whom a debt defined in this section is to be paid,

(c) "Creditor" means the employee, depositor, member, or other person, to whom, or to whose estate, or to a beneficiary designated by whom, a debt defined in this section is to be paid and shall include any beneficiary validly designated by such a creditor,

(d) A "designation of a beneficiary" means any writing, signed by the creditor and delivered to the debtor purporting to designate the person to whom a debt shall be paid on death of the creditor or any transaction which operates pursuant to statute as such a designation.

2. Upon the death of a creditor, unless otherwise provided by a designation of a beneficiary which is then in effect, it shall be lawful for the debtor forthwith to pay to the surviving spouse of the decedent not more than thirty thousand dollars of the debt, upon an affidavit made by the spouse showing that the payment and all other payments received by the spouse under this subdivision do not in the aggregate exceed thirty thousand dollars.

3. Not less than thirty days after the death of a creditor, unless otherwise provided by a designation of a beneficiary which is then in effect, it shall be lawful for the debtor to pay not more than fifteen thousand dollars of the debt to

(a) the surviving spouse,

(b) one or more of the children eighteen years of age or older,

(c) either parent,

(d) the brother or sister,

(e) the niece or nephew of the decedent, preference being given in the order named if request for payment shall have been made by more than one such person,

(f) a creditor of the decedent or to a person who has paid or incurred the funeral expense of the decedent, upon the request of the surviving spouse or of one of such relatives.

Payment under this subdivision may be made upon an affidavit by the surviving spouse or relative to whom or at whose request the payment is made, showing

(i) the date of the death of the decedent,

(ii) the relationship of the affiant to the decedent,

(iii) that no fiduciary has qualified or been appointed,

(iv) the names and addresses of the persons entitled to and who will receive the money paid, and

(v) that such payment and all other payments made under this section by all debtors, known to the affiant, after diligent inquiry do not in the aggregate exceed fifteen thousand dollars. This subdivision does not limit the right of a debtor to make payment to a surviving spouse within less than thirty days after the death of the creditor as provided in subdivision two.

4. Not less than 6 months after the death of a creditor, unless otherwise provided by a designation of a beneficiary which is then in effect, it shall be lawful for the debtor to pay a debt which does not exceed $5,000, or any part of such debt, to a distributee or, to the extent that the funds are not exempt from claims of creditors, to a creditor or to a person who has paid or incurred the funeral expenses upon an affidavit made by the person paid showing

(a) the date of the death of the decedent,

(b) that no fiduciary has qualified or been appointed,

(c) that the decedent was not survived by a spouse or minor child,

(d) that the affiant is entitled to the payment, and

(e) that such payment and all other payments made under this section by all debtors, known to the affiant, after diligent inquiry, do not in the aggregate exceed $5,000.

5. A payment made in good faith under this section shall be a complete discharge to the debtor to the extent of the payment, even though the affidavit on which payment is made be false, and even though payment

pursuant to subdivision 3 was not made in the order of preference indicated in that subdivision, provided only that the creditor be dead and that the required number of days elapse between death and payment and, in the case of a payment under subdivision 2 or subdivision 3 that the affiant in fact bear the stated relationship to the decedent and in the case of a payment under subdivision 4 that the affiant be in fact a distributee or creditor or have paid or incurred the funeral expenses.

6. Any person receiving payment pursuant to this section is accountable therefor to the fiduciary of the decedent if one be appointed or to the public administrator of the county having authority to take possession of the money or property constituting the debt except that a surviving spouse entitled to have property set aside to him or to her pursuant to EPTL 5-3.1 need not account for such payments to the extent of the exemption provided therein, and the amount so received shall be credited to such exemption.

7. Nothing in this section shall deprive any person of any right which he would otherwise have to receive payment of a debt, except as against a debtor who has made a payment which is a discharge under subdivision 5, nor shall anything in this section deprive any debtor of any right to make or refuse payment which it would otherwise have. This section does not limit article 26 of the tax law.

8. It shall be lawful for the debtor to pay a debt which does not exceed five thousand dollars or any part of such debt, under subdivision four of this section, to the department of social services or a social services district where the debt is money payable on account of a deposit with the debtor for the personal needs of the deceased creditor while residing in a medical institution or other facility, or otherwise, and the deceased creditor is indebted to the department or district on account of medical assistance furnished to or on behalf of the deceased creditor.

9. This section applies only to creditors who die on or after September 1, 1952.