

**59-6a201. Definitions.** As used in this section [article]:

(a) "Decedent's nonprobate transfers to others" means the decedent's nonprobate transfers to persons, other than the decedent's spouse, surviving spouse, the decedent, or the decedent's creditors, estate, or estate creditors, that are included in the augmented estate under K.S.A. 59-6a205, and amendments thereto.

(b) "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, unless there is proof of some other proportional ownership, legal or equitable.

(c) "Marriage," as it relates to a transfer by the decedent during marriage, means any marriage of the decedent to the decedent's surviving spouse.

(d) "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 such person possesses respecting the trust or other property arrangement. A person having a general power of appointment over property is deemed to have a beneficial interest in the property.

(e) "Power" or "power of appointment" includes a power to designate the beneficiary of a beneficiary designation.

(f) "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 the decedent's self, the decedent's creditors, the decedent's estate, or creditors of such decedent's estate, and includes a power to revoke or invade the principal of a trust or other property arrangement.

(g) "Probate estate" means property that would pass by intestate succession if the decedent died without a valid will.

(h) "Property" includes values subject to a beneficiary designation.

(i) "Right to income" includes a right to payments under a commercial or private annuity, an annuity trust, a unitrust or a similar arrangement.

(j) "Transfer" as it relates to a transfer by or of the decedent, includes (1) an exercise or release of a presently exercisable general power of appointment held by the decedent, (2) a lapse at death of a presently exercisable general power of appointment held by the decedent, and (3) an exercise, release, or lapse of a general power of appointment that the decedent created in the decedent's self and of a power described in subsection (b)(2) of K.S.A. 59-6a205, and amendments thereto, that the decedent conferred on a nonadverse party.

(k) "Value of the homestead." For the purposes of article 6a of chapter 59 of the Kansas Statutes Annotated, and amendments thereto, where the surviving spouse exercises the right to the homestead, the homestead shall be valued as a life estate interest in the equity of the real estate comprising the homestead in the manner provided by the federal estate tax in 26 U.S.C. 2031, and amendments thereto.

**History:** L. 1994, ch. 132, § 1; L. 1996, ch. 53, § 2; July 1.