

DISTRICT OF COLUMBIA
OFFICIAL CODE

TITLE 16.
PARTICULAR ACTIONS, PROCEEDINGS
AND MATTERS.

CHAPTER 11.
EJECTMENT AND OTHER REAL PROPERTY
ACTIONS.

2001 Edition

DISTRICT OF COLUMBIA OFFICIAL CODE
CHAPTER 11. EJECTMENT AND OTHER REAL
PROPERTY ACTIONS.

TABLE OF CONTENTS

Subchapter I. Ejectment.

- § 16-1101. Parties defendant; joint tenants and tenants in common.
- § 16-1102. Failure of tenant to give notice to landlord.
- § 16-1103. Contents of complaint; adverse possession.
- § 16-1104. Proof necessary.
- § 16-1105. Legal title in mortgagee or trustee; possession.
- § 16-1106. Performance of contract by vendee as precluding vendor from recovery.
- § 16-1107. Several judgments against defendants occupying distinct parcels.
- § 16-1108. Recovery of less than is claimed.
- § 16-1109. Recovery of mesne profits and damages; separate count.
- § 16-1110. Recovery, by landlord, of furniture, arrears in rent, and damages; separate counts.
- § 16-1111. Separate action for rent or damages.
- § 16-1112. Expiration of title pending suit; damages.
- § 16-1113. Defense of adverse possession; enclosure.
- § 16-1114. Verdict; judgment; costs; future actions.
- § 16-1115. Conclusiveness of final judgment.
- § 16-1116. Improvements; notice; good faith; directions to jury; measure of damages.
- § 16-1117. New trial as to assessment.
- § 16-1118. Judgment for damages in excess of improvements.
- § 16-1119. Judgment when improvements and damages are equal.
- § 16-1120. Election of plaintiff if value of improvements exceeds damages.
- § 16-1121. Judgment and writ of possession after payment for improvements.
- § 16-1122. Judgment and writ of possession after tender of deed and defendant's refusal to pay.
- § 16-1123. Judgment for defendant after plaintiff's refusal to pay excess or tender deed.
- § 16-1124. Ejectment for non-payment of rent; time limitation on relief from judgment; set-off; dismissal upon payment.

Subchapter II. Proceedings to Discover the Death of a Tenant for Life.

- § 16-1151. Petition by person entitled to claim; form and contents.
- § 16-1152. Order to produce life tenant; service of order.
- § 16-1153. Failure to produce as ordered; subsequent proceedings; commissioners; presumption of death; right of possession.
- § 16-1154. Investigation outside the District; report to court; presumption of death; right to possession.
- § 16-1155. Restoration of property to life tenant.
- § 16-1156. Recovery of profits by person evicted.
- § 16-1157. Preservation of life tenants' rights if living at time of return.
- § 16-1158. Persons holding over after life estate; damages.

CHAPTER 11. EJECTMENT AND OTHER REAL PROPERTY ACTIONS.

SUBCHAPTER I. EJECTMENT.

§ 16-1101. PARTIES DEFENDANT; JOINT TENANTS AND TENANTS IN COMMON.

- (a) A civil action based upon a cause of action in ejectment, may be brought against:
- (1) the person actually occupying the premises claimed, either in person or by tenant; or
 - (2) both the claimant and his tenant, or other occupant claiming under him; or
 - (3) if the premises are not actually occupied, a person exercising acts of ownership thereon adversely to the plaintiff.

When a lessee is made a defendant at the suit of a party claiming against the title of the lessee's landlord, the landlord may appear and be made a party defendant in the place of his lessee.

Any person claiming to be in possession may, on motion, be admitted to defend the action.

- (b) Joint tenants shall sue jointly in ejectment, but tenants in common may sue either jointly or separately, and any number of tenants in common, less than the whole number entitled, may sue jointly in reference to their undivided interests.

(Dec. 23, 1963, 77 Stat. 564, Pub. L. 88-241, § 1.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 16-1101.

1973 Ed., § 16-1101.

§ 16-1102. FAILURE OF TENANT TO GIVE NOTICE TO LANDLORD.

If a tenant, on whom a complaint in ejectment is served, fails to give notice thereof, without delay, to his landlord or the agent of the landlord, he shall forfeit and pay to the landlord the value of three years' full rent of the premises, to be recovered by a civil action.

(Dec. 23, 1963, 77 Stat. 564, Pub. L. 88-241, § 1.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 16-1102.

1973 Ed., § 16-1102.

§ 16-1103. CONTENTS OF COMPLAINT; ADVERSE POSSESSION.

In his complaint in ejectment, the plaintiff shall:

- (1) describe the premises claimed with reasonable certainty; and
- (2) set forth distinctly the nature and quantity of the estate claimed by him in the premises.

It is sufficient for the plaintiff to state, in addition, that:

- (1) he was possessed of the premises, and while he was so possessed the defendant entered

wrongfully into possession thereof, and withholds the possession of the premises from the plaintiff, or wrongfully detains possession; or

(2) the defendant is wrongfully exercising acts of ownership over the premises.

However, except as provided by this chapter, acts of ownership do not amount to an adversary possession, so as to make it necessary for the plaintiff to sue in order to avoid the bar of the statute of limitations.

(Dec. 23, 1963, 77 Stat. 564, Pub. L. 88-241, § 1.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 16-1103.

1973 Ed., § 16-1103.

§ 16-1104. PROOF NECESSARY.

(a) Except as provided by subsection (b) of this section, in an action of ejectment it is sufficient to entitle the plaintiff to relief to show that he is entitled, as against the defendant, to the immediate possession of the premises claimed, and that the defendant is:

(1) in possession of the premises, and is holding adversely to the plaintiff; or

(2) exercising acts of ownership over the premises, adversely to the plaintiff.

(b) In an action pursuant to this chapter by one or more joint tenants or tenants in common against their cotenants, the plaintiff shall be required to prove an actual ouster or some other act amounting to a denial of the plaintiff's title and his exclusion from the enjoyment of the property.

(Dec. 23, 1963, 77 Stat. 565, Pub. L. 88-241, § 1.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 16-1104.

1973 Ed., § 16-1104.

§ 16-1105. LEGAL TITLE IN MORTGAGEE OR TRUSTEE; POSSESSION.

It is not a bar to the plaintiff's recovery in an action of ejectment that the legal title to the property claimed is outstanding in another as mortgagee or trustee under a mortgage or deed of trust to secure a debt, unless the mortgagee or trustee, or those claiming under him, has taken possession of the premises, or unless the defendant claims under the mortgagor or grantor in the deed of trust.

(Dec. 23, 1963, 77 Stat. 565, Pub. L. 88-241, § 1.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 16-1105.

1973 Ed., § 16-1105.

§ 16-1106. PERFORMANCE OF CONTRACT BY VENDEE AS PRECLUDING VENDOR FROM RECOVERY.

Where real property has been sold under a written contract executed by the vendor, and there has been such a performance of its terms by the vendee as would entitle him to a decree for a conveyance of the legal title, without condition, the vendor may not recover the property from the vendee.

(Dec. 23, 1963, 77 Stat. 565, Pub. L. 88-241, § 1.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 16-1106.

1973 Ed., § 16-1106.

§ 16-1107. SEVERAL JUDGMENTS AGAINST DEFENDANTS OCCUPYING DISTINCT PARCELS.

When it appears on the trial in an action of ejectment that some of the defendants occupy distinct parcels of the property claimed, in severalty, the plaintiff, if entitled to recover, may in the discretion of the court, have several judgments against the respective parties, according to the proof of occupancy.

(Dec. 23, 1963, 77 Stat. 565, Pub. L. 88-241, § 1.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 16-1107.

1973 Ed., § 16-1107.

§ 16-1108. RECOVERY OF LESS THAN IS CLAIMED.

The plaintiff, under a claim to certain described premises, may recover less than the whole property claimed, and, under a claim to an entire property, may recover an undivided part thereof.

(Dec. 23, 1963, 77 Stat. 565, Pub. L. 88-241, § 1.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 16-1108.

1973 Ed., § 16-1108.

§ 16-1109. RECOVERY OF MESNE PROFITS AND DAMAGES; SEPARATE COUNT.

(a) The plaintiff may embody in his complaint, in a separate count, a claim for the:

(1) mesne profits received by the defendant from the property sued for; or

(2) clear value of the use and occupation of the property sued for -- extending to the time of the verdict, and also damages for waste or injury to the premises during that period.

(b) If the jury find for the plaintiff, they may, at the same time, find and assess the mesne profits, or the value of the use and occupation and the amount of damages, specified by subsection (a) of this section. Except in the case provided for by § 16-1116, there shall be rendered, besides a judgment for the recovery of the property, a judgment against the defendant for the amount so found by the jury.

(Dec. 23, 1963, 77 Stat. 565, Pub. L. 88-241, § 1; Mar. 24, 1998, D.C. Law 12-81, § 10(m), 45 DCR 745.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 16-1109.

1973 Ed., § 16-1109.

Legislative History of Laws

Law 12-81, the "Technical Amendments Act of 1998," was introduced in Council and assigned Bill No. 12-408, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on November 4, 1997, and December 4, 1997, respectively. Signed by the Mayor on December 22, 1997, it was assigned Act No. 12-246 and transmitted to both Houses of Congress for its review. D.C. Law 12-81 became effective on March 24, 1998.

§ 16-1110. RECOVERY, BY LANDLORD, OF FURNITURE, ARREARS IN RENT, AND DAMAGES; SEPARATE COUNTS.

(a) In an action in ejectment against his tenant, a landlord may embody in his complaint, in separate counts, claims for:

(1) furniture, if leased with the realty;

(2) arrears of rent due at the termination of the tenancy;

(3) double rent in cases authorized by this Code from the termination of the tenancy to the verdict for possession; and

(4) damages for waste or injury to the premises or furniture during the defendant's occupancy of the premises and before commencement of the action.

(b) If the jury find for the landlord, they may, at the same time, find the amounts due for arrears of rent and for double rent and for damages, as provided by subsection (a) of this section, and judgment shall be rendered accordingly.

(Dec. 23, 1963, 77 Stat. 566, Pub. L. 88-241, § 1.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 16-1110.

1973 Ed., § 16-1110.

§ 16-1111. SEPARATE ACTION FOR RENT OR DAMAGES.

The plaintiff in ejectment is not required to join his claim for rent or damages with his claim for the recovery of the land and his omission to do so does not prevent him from bringing his action for rent or damages separately.

(Dec. 23, 1963, 77 Stat. 566, Pub. L. 88-241, § 1.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 16-1111.

1973 Ed., § 16-1111.

§ 16-1112. EXPIRATION OF TITLE PENDING SUIT; DAMAGES.

If the title of the plaintiff in ejectment expires after the commencement of his action but before the trial, and but for the expiration he would have been entitled to recover, the verdict shall find the facts, and the plaintiff may recover his damages sustained by the wrongful withholding of the possession.

(Dec. 23, 1963, 77 Stat. 566, Pub. L. 88-241, § 1; Mar. 24, 1998, D.C. Law 12-81, § 10(n), 45 DCR 745.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 16-1112.

1973 Ed., § 16-1112.

Legislative History of Laws

For legislative history of D.C. Law 12-81, see Historical and Statutory Notes following § 16-1109.

§ 16-1113. DEFENSE OF ADVERSE POSSESSION; ENCLOSURE.

In an action to recover vacant and unimproved lots of ground it is not necessary, in order to maintain the defense of adversary possession, to show that the premises in controversy had been enclosed; but if it appears that the property had been assessed for taxation to the defendant, or those under whom he claims, and that he or they had regularly paid the taxes on the property and were the only persons who had exercised control over the property for a period of fifteen years before the bringing of the action, the facts shall be the equivalent of possession by actual enclosure.

(Dec. 23, 1963, 77 Stat. 566, Pub. L. 88-241, § 1.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 16-1113.

1973 Ed., § 16-1113.

§ 16-1114. VERDICT; JUDGMENT; COSTS; FUTURE ACTIONS.

(a) In an action of ejectment, if the plaintiff's title is established by proof, the verdict of the jury shall be generally for the plaintiff as to the whole or part of the property or interest claimed in the complaint, as the case may be. If the plaintiff fails to make satisfactory proof of title, the verdict shall be for the defendant as to the whole or part of the property, as the case may be. The verdict may be for the plaintiff as to part and for the defendant as to other part thereof. Except as provided by this chapter, judgment shall be rendered according to the verdict.

(b) When it appears on the trial that the defendant did not wrongfully enter into possession of the property sued for, or exercise acts of ownership over the same adversely to the plaintiff, the verdict of the jury shall be that the defendant is not guilty. Thereupon, judgment shall be rendered in favor of the defendant against the plaintiff for the costs of the action, but the judgment is not a bar to a future action by the plaintiff against the defendant for the recovery of the property.

(Dec. 23, 1963, 77 Stat. 566, Pub. L. 88-241, § 1.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 16-1114.

1973 Ed., § 16-1114.

§ 16-1115. CONCLUSIVENESS OF FINAL JUDGMENT.

A final judgment rendered in an action of ejectment is conclusive as to the title thereby established as between the parties to the action and all persons claiming under them since the commencement of the action.

(Dec. 23, 1963, 77 Stat. 567, Pub. L. 88-241, § 1.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 16-1115.

1973 Ed., § 16-1115.

§ 16-1116. IMPROVEMENTS; NOTICE; GOOD FAITH; DIRECTIONS TO JURY; MEASURE OF DAMAGES.

In an action of ejectment, at any time before the trial, the defendant may give notice that if the verdict of the jury is in favor of the plaintiff's title the defendant will claim the benefit of permanent improvements that may have been placed on the property by the defendant or those under whom he claims, and offer evidence at the trial tending to show that he or those under whom he claims had peaceably entered into possession of the premises in controversy under a title which he or they had reason to believe and did believe to be good, and had erected valuable and permanent improvements on the property, which were begun in good faith before the commencement of the action. The court shall then direct the jury, in case they find in favor of the plaintiff's title and also find that the permanent improvements were made by the defendant, or those under whom he claims, under the circumstances described in this section, to assess the:

(1) damages of the plaintiff, being the clear value over and above taxes and necessary expenses of the use and occupation of the property, exclusive of the improvements, during the whole period of the occupation of the property to the date of the verdict, and any damage done to the property, by waste or otherwise, by the parties during the occupation;

(2) present value of any permanent improvements that may have been placed on the premises by the defendant or those under whom he claims; and

(3) present value of the property of the plaintiff without and exclusive of the improvements.

(Dec. 23, 1963, 77 Stat. 567, Pub. L. 88-241, § 1; Mar. 24, 1998, D.C. Law 12-81, § 10(o), 45 DCR 745.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 16-1116.

1973 Ed., § 16-1116.

Legislative History of Laws

§ 16-1117. NEW TRIAL AS TO ASSESSMENT.

Either party who feels aggrieved by the assessment provided for by section 16-1116, may, within four days after the verdict, move to set the assessment aside, and the court may, for good cause shown, set the verdict aside and order another jury to be empaneled in the cause to make a new assessment.

(Dec. 23, 1963, 77 Stat. 567, Pub. L. 88-567, § 1.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 16-1117.

1973 Ed., § 16-1117.

§ 16-1118. JUDGMENT FOR DAMAGES IN EXCESS OF IMPROVEMENTS.

When the damages of the plaintiff, assessed as provided by section 16-1116, exceed the value of the permanent improvements as ascertained by the jury, the plaintiff shall be entitled to a judgment for the excess in like manner as directed by section 16-1109.

(Dec. 23, 1963, 77 Stat. 567, Pub. L. 88-241, § 1.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 16-1118.

1973 Ed., § 16-1118.

§ 16-1119. JUDGMENT WHEN IMPROVEMENTS AND DAMAGES ARE EQUAL.

When the value of the improvements, ascertained as provided by this chapter, equal but do not exceed the plaintiff's damages, as found by the jury, the plaintiff shall be entitled to judgment only for the recovery of the property sued for and costs.

(Dec. 23, 1963, 77 Stat. 567, Pub. L. 88-241, § 1.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 16-1119.

1973 Ed., § 16-1119.

§ 16-1120. ELECTION OF PLAINTIFF IF VALUE OF IMPROVEMENTS EXCEEDS DAMAGES.

If the value of the improvements referred to in this chapter is found by the jury to exceed the damages of the plaintiff, the plaintiff may elect either to pay to the defendant the amount of the excess or to demand of the defendant the value of the plaintiff's property, without the improvements, as fixed by the jury, and tender to the defendant a deed for the property, with all the plaintiff's right, title, and interest therein.

(Dec. 23, 1963, 77 Stat. 567, Pub. L. 88-241, § 1.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 16-1120.

1973 Ed., § 16-1120.

§ 16-1121. JUDGMENT AND WRIT OF POSSESSION AFTER PAYMENT FOR IMPROVEMENTS.

When the plaintiff pays to the defendant, within the time fixed therefor by the court, or, in case of the defendant's refusal to accept the payment, pays into court for the defendant's use the amount of the excess of the value of the improvements over the damages of the plaintiff, the plaintiff shall be entitled forthwith to a judgment and writ of possession.

(Dec. 23, 1963, 77 Stat. 568, Pub. L. 88-241, § 1.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 16-1121.

1973 Ed., § 16-1121.

§ 16-1122. JUDGMENT AND WRIT OF POSSESSION AFTER TENDER OF DEED AND DEFENDANT'S REFUSAL TO PAY.

If the plaintiff tenders to the defendant a deed as provided by section 16- 1120 and demands the value of his property without the improvements, as found by the jury, and the defendant fails or refuses to pay the value within the time fixed therefor by the court, the plaintiff shall, in like manner, be entitled to a judgment and writ of possession; and if the plaintiff is a minor, the court may authorize the deed to be executed by his guardian.

(Dec. 23, 1963, 77 Stat. 568, Pub. L. 88-241, § 1.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 16-1122.

1973 Ed., § 16-1122.

§ 16-1123. JUDGMENT FOR DEFENDANT AFTER PLAINTIFF'S REFUSAL TO PAY EXCESS OR TENDER DEED.

If the plaintiff fails or refuses either to pay the defendant the excess of the value of the improvements over the amount of the plaintiff's damages, or, as provided by the chapter, to tender a deed to the defendant and accept from him the value of the plaintiff's property, exclusive of the improvements, the defendant may pay the value into court for the use of the plaintiff. Thereupon, the defendant shall be entitled to a judgment in his favor, but without costs, which judgment shall be a bar to any future action by the plaintiff against the defendant to recover the property for cause theretofore existing.

(Dec. 23, 1963, 77 Stat. 568, Pub. L. 88-241, § 1.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 16-1123.

1973 Ed., § 16-1123.

§ 16-1124. EJECTMENT FOR NON-PAYMENT OF RENT; TIME LIMITATION ON RELIEF FROM JUDGMENT; SET-OFF; DISMISSAL UPON PAYMENT.

(a) In a case between landlord and tenant, where one-half year's rent or more is in arrear and unpaid, and the landlord or lessor to whom the rent is due has the right by law, in default of a sufficiency of goods and chattels whereon to distrain for the satisfaction of the rent due, to re-enter for non-payment of the rent, he may, without any formal demand or re-entry, commence a civil action in ejectment for the recovery of the demised premises.

(b) When a judgment is given for the plaintiff in an action pursuant to this section, and execution is had on the judgment, before the rent in arrear and costs of suit are paid, the lease of the property shall cease and be determined, unless the judgment is reversed on appeal or certiorari or, within six months after execution on the judgment, the defendant or a person who has succeeded to his interest, or a mortgagee of the lease or of any party thereof who was not in possession when final judgment was rendered, applies to the court for an order granting equitable relief from the judgment, which is subsequently granted.

(c) When possession of the property recovered has been delivered to the plaintiff under execution issued upon a judgment in an action pursuant to this section, and, in connection with the application for equitable

relief from the judgment, the defendant or other person referred to in subsection (b) of this section, has, prior to or at the time of his application, paid or tendered to the plaintiff or his legal representative or successor in interest, or paid into court for the use of the person entitled thereto, the amount of rent in arrear, as stated in the judgment and costs of suit and all damages sustained by the plaintiff, the order for restoration of possession of the property to the person who made the payment shall provide for setting off the sum that the plaintiff has made, or that he might, without fraud, deceit, or willful neglect, have made, of the property, during his possession, against the rent accruing after the judgment was rendered, and for reimbursement to the applicant of the balance, if any, of the sum paid into court by him, after making the set-off prescribed by this subsection.

(d) At any time before the trial of an action pursuant to this section, the defendant may pay or tender to the plaintiff, or pay into court, the amount of all the rent then in arrear, and costs of suit. Thereupon, the action shall be dismissed.

(Dec. 23, 1963, 77 Stat. 568, Pub. L. 88-241, § 1.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 16-1124.

1973 Ed., § 16-1124.

SUBCHAPTER II. PROCEEDINGS TO DISCOVER THE DEATH OF A TENANT FOR LIFE.

§ 16-1151. PETITION BY PERSON ENTITLED TO CLAIM; FORM AND CONTENTS.

(a) A person entitled to claim real property, after the death of another person who has a prior estate therein, may, not oftener than once a year, petition the court for an order directing the production of the tenant for life, as prescribed by this subchapter, by a person, named in the petition, against whom a civil action in ejectment to recover the real property can be maintained if the tenant for life is dead, or, if there is no such person, by the guardian, trustee, or other person who has, or is entitled to, the custody of the person of the tenant for life, or the care of his estate.

(b) A petition prescribed by subsection (a) of this section shall be verified by the affidavit of the petitioner, and shall contain an averment that the petitioner has cause to believe that the person, upon whose life the prior estate depends, is dead, and that his or her death is being concealed by the person named in the petition.

(Dec. 23, 1963, 77 Stat. 569, Pub. L. 88-241, § 1.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 16-1151.

1973 Ed., § 16-1151.

§ 16-1152. ORDER TO PRODUCE LIFE TENANT; SERVICE OF ORDER.

Upon the presentation of the petition and affidavit prescribed by section 16-1151, the court shall issue an order to the person named in the petition to produce and show to the persons named in the order by the petitioner not exceeding two in number, at such time and place as the court directs, the person upon whose life the prior estate depends. A certified copy of the order shall be served upon the person required to produce the tenant for life in the manner provided by applicable rules of court.

(Dec. 23, 1963, 77 Stat. 569, Pub. L. 88-241, § 1.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 16-1152.

1973 Ed., § 16-1152.

§ 16-1153. FAILURE TO PRODUCE AS ORDERED; SUBSEQUENT

PROCEEDINGS; COMMISSIONERS; PRESUMPTION OF DEATH; RIGHT OF POSSESSION.

(a) If a person upon whom an order, as prescribed by section 16-1152, is served, refuses or neglects to produce the person upon whose life the prior estate depends in the manner provided by the order, the court shall order him to produce the person in court or before commissioners appointed by the court, at such time and place as the court directs. Two of the commissioners shall be nominated by the petitioner, and they shall serve at his expense. A certified copy of the order shall be served upon the person required to produce the tenant for life in the manner provided by applicable rules of court. The commissioners appointed shall make and file with the court a return showing the results of their investigation and their conclusions.

(b) If the person upon whom the second order prescribed by subsection (a) of this section is served refuses or neglects to produce, in court, or before the commissioners, as the case may be, the person upon whose life the prior estate depends, it shall be presumed that the latter person is dead, and the court shall issue an order permitting the petitioner to take possession of the property, as if that person were actually dead.

(Dec. 23, 1963, 77 Stat. 569, Pub. L. 88-241, § 1.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 16-1153.

1973 Ed., § 16-1153.

§ 16-1154. INVESTIGATION OUTSIDE THE DISTRICT; REPORT TO COURT; PRESUMPTION OF DEATH; RIGHT TO POSSESSION.

If before, or at the time of, the presentation of the commissioners' return provided for by section 16-1153, or, where commissioners are not appointed, at any time before a final order is made, the party upon whom the first or second order is served presents to the court presumptive proof, by affidavit, that the person, whose death was in question, is, or lately was, at a place certain, without the District of Columbia, the petitioner, at his own expense, may send one or both of the persons named in the first order to view him. If the person concealing or suspected of concealing the person upon whose life the prior estate depends, or the fact of his death, refuses or neglects to produce him or to procure him to be produced to the personal view of the persons sent for that purpose, the persons sent to view him shall make a true return of the refusal or neglect to the court, and the return shall be filed in the court. Thereupon, it shall be presumed that the tenant for life is dead, and the court shall issue an order permitting the petitioner to take possession of the real property, as if that person were actually dead.

(Dec. 23, 1963, 77 Stat. 570, Pub. L. 88-241, § 1.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 16-1154.

1973 Ed., § 16-1154.

§ 16-1155. RESTORATION OF PROPERTY TO LIFE TENANT.

The possession of real property that has been awarded to a petitioner pursuant to this subchapter, upon the presumption of the death of the person upon whose life the prior estate depends, shall be restored, by an order of the court, to the person evicted, or to his heirs, or legal representatives, upon the petition of the latter, and proof, to the satisfaction of the court, that the person presumed to be dead is living. The proceedings upon such a petition are the same as those prescribed by this subchapter to be followed upon the petition of the person to whom possession is awarded.

(Dec. 23, 1963, 77 Stat. 570, Pub. L. 88-241, § 1.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 16-1155.

1973 Ed., § 16-1155.

§ 16-1156. RECOVERY OF PROFITS BY PERSON EVICTED.

A person evicted, as prescribed by this subchapter, may, when the presumption upon which he is evicted is erroneous, maintain a civil action against the person who has occupied the property, or his executor or administrator, to recover the full profits of the property during the occupation, while the person, upon whose life the prior estate depends, is or was living.

(Dec. 23, 1963, 77 Stat. 570, Pub. L. 88-241, § 1.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 16-1156.

1973 Ed., § 16-1156.

§ 16-1157. PRESERVATION OF LIFE TENANTS' RIGHTS IF LIVING AT TIME OF RETURN.

When a guardian, trustee, or other person holding an estate or interest determinable upon the life of another person, shows by affidavit or otherwise to the satisfaction of the court, that:

- (1) he has used his utmost efforts to procure the tenant for life to appear in the court or elsewhere, according to the order of the court;
- (2) he can not procure or compel him so to appear; and
- (3) the tenant for life is or was living at the time of the return made and filed, as prescribed by this subchapter --

he may continue in the possession of the estate, and receive the rents and profits for and during the infancy of the infant, or for and during the life of any other person on whose life the estate or interest depends.

(Dec. 23, 1963, 77 Stat. 570, Pub. L. 88-241, § 1.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 16-1157.

1973 Ed., § 16-1157.

§ 16-1158. PERSONS HOLDING OVER AFTER LIFE ESTATE; DAMAGES.

A guardian or trustee for an infant, or other person having an estate determinable upon life or lives, who, after the determination of the particular estate or interest, without the express consent of the person or persons who is or are next and immediately entitled thereto, holds over and continues in possession of the real property, is a trespasser. Any person entitled to the real property upon or after the determination of the particular estate or interest, or his executor or administrator, may recover in damages against the person so holding over, or his executor or administrator, the full value of the profits received during the wrongful possession.

(Dec. 23, 1963, 77 Stat. 571, Pub. L. 88-241, § 1.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 16-1158.

1973 Ed., § 16-1158.