

DISTRICT OF COLUMBIA
OFFICIAL CODE

TITLE 16.
PARTICULAR ACTIONS, PROCEEDINGS
AND MATTERS.

CHAPTER 31.
PROBATE COURT PROCEEDINGS.

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CHAPTER 31. PROBATE COURT PROCEEDINGS.

§ 16-3101. DEFINITION.

As used in this chapter, the term "Probate Court" means the Superior Court of the District of Columbia. (Dec. 23, 1963, 77 Stat. 598, Pub. L. 88-241, § 1; July 29, 1970, 84 Stat. 561, Pub. L. 91-358, title I, § 145(l)(1).)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 16-3101.

1973 Ed., § 16-3101.

§ 16-3102. SETTLEMENT OF ACCOUNTS AS PRIMA FACIE EVIDENCE ONLY.

Except as provided by section 16-3111, in actions:

- (1) for an accounting, by legatees or next of kin against personal representatives, or wards against their guardians; or
- (2) to subject the real estate of decedents to the payment of their debts, by creditors against personal representatives, or against heirs or devisees --

a prior settlement of accounts in the Probate Court is only prima facie evidence as to the correctness of the accounts.

(Dec. 23, 1963, 77 Stat. 598, Pub. L. 88-241, § 1; Sept. 6, 1980, D.C. Law 3-85, § 5(a), 27 DCR 2900; Apr. 30, 1988, D.C. Law 7-104, § 4(t), 35 DCR 147.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 16-3102.

1973 Ed., § 16-3102.

Legislative History of Laws

Law 3-85, the "enacted Titles Numbering and Amendment Act of 1980," was introduced in Council and assigned Bill No. 3-296, which was referred to the Committee on the Judiciary. The Bill was adopted on first and second readings on May 20, 1980, and June 3, 1980, respectively. Signed by the Mayor on June 20, 1980, it was assigned Act No. 3-202 and transmitted to both Houses of Congress for its review.

Law 7-104, the "Technical Amendments Act of 1987," was introduced in Council and assigned Bill No. 7-346, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on November 24, 1987, and December 8, 1987, respectively. Signed by the Mayor on December 22, 1987, it was assigned Act No. 7-124 and transmitted to both Houses of Congress for its review.

§ 16-3103. SUMMONS; FAILURE TO APPEAR OR GIVE EVIDENCE.

A summons issued by the Probate Court to a person concerned in the affairs of a deceased person, or to a witness or other person whose appearance in the court is deemed necessary or proper, is returnable at the discretion of the court. When it is necessary or proper on the return of the "summoned", and failure of the person to appear, to enforce his appearance, or when a witness before the court refuses to give

evidence, the court may exercise its contempt power, or it may have his estate, or a part thereof attached and sequestered as provided by section 16-3104.

(Dec. 23, 1963, 77 Stat. 599, Pub. L. 88-241, § 1; July 29, 1970, 84 Stat. 561, Pub. L. 91-358, title I, § 145(l)(2).)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 16-3103.

1973 Ed., § 16-3103.

§ 16-3104. SEQUESTRATION WHERE PERSON FAILS TO APPEAR.

(a) If two summonses issued to a person by the Probate Court are regularly returned non est by the United States marshal and it is necessary to proceed further to compel the person's attendance, the court may order and issue an attachment against his real and personal property. On return of the attachment, to which a schedule of the attached property, if any, shall be annexed, the court, by order, or commission under seal, may authorize a person or persons to take into his or their care and custody the property returned in the schedule, or a part thereof, and receive the profits thereof, to be accounted for, until the person summoned appears and obeys the order of the court, or until further order. If the marshal or other officer does not deliver the property accordingly, he is liable to be proceeded against as provided by this subsection.

(b) The persons authorized pursuant to subsection (a) of this section to take into their care and custody the property referred to shall first give bond with such security, and in such penalty, as the court directs. The bond shall be recorded, may be sued on, shall be on a footing with an administration bond, and shall be conditioned for rendering a true account of the estate or property, and of the profits thereof, and to deliver the property according to the order of the court, after deducting such allowance for loss, and such commission, not exceeding 5 per centum of the whole, as the court deems proper.

(c) When the purpose for which property sequestered under this section is answered, the court shall direct that the estate or property, and the profits, after making the deductions authorized by subsection (b) of this section, be restored to the person from whom the care and custody of the property were taken. When the person is dead, the court shall order the property to be delivered to his heirs, devisees or legal representatives, as soon as the purpose of the sequestration is answered, or immediately, on application, and on satisfying the court of the person's right, if the purpose, after the death of the original person, can not be answered.

(Dec. 23, 1963, 77 Stat. 599, Pub. L. 88-241, § 1; July 29, 1970, 84 Stat. 561, Pub. L. 91-358, title I, § 145(l)(3).)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 16-3104.

1973 Ed., § 16-3104.

§ 16-3105. PLENARY PROCEEDING; REFUSAL TO ANSWER AS REQUIRED.

When either of the parties having a contest in the Probate Court requires, the court may direct a plenary proceeding, by bill or petition, to which there shall be an answer, on oath or affirmation. If the party, refuses to answer on oath or affirmation, as the case may require, to any matter alleged in the bill or petition, and proper for the court to decide upon, the court may exercise its contempt power, or it may have his property attached and sequestered as provided by section 16-3104.

(Dec. 23, 1963, 77 Stat. 599, Pub. L. 88-241, § 1; July 29, 1970, 84 Stat. 561, Pub. L. 91-358, title I, § 145(l)(2).)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 16-3105.

1973 Ed., § 16-3105.

§ 16-3106. ISSUES TO BE MADE UP IN PLENARY PROCEEDING; JURY;

COMPELLING PAYMENT OF COSTS.

In a plenary proceeding provided for by section 16-3105, the Probate Court shall give judgment, or decree upon the bill an answer, or upon bill, answer, depositions, or finding of the jury. In all cases of contest, the court may award costs to the party deemed entitled thereto, and may compel payment by exercising its contempt power, or by attachment and sequestration of the property as provided by section 16-3104.

(Dec. 23, 1963, 77 Stat. 600, Pub. L. 88-241, § 1; July 29, 1970, 84 Stat. 561, Pub. L. 91-358, title I, § 145(l)(2); Mar. 24, 1998, D.C. Law 12- 81, § 10(nn), 45 DCR 745.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 16-3106.

1973 Ed., § 16-3106.

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.

§ 16-3107. ENFORCEMENT OF JUDGMENTS, ORDERS AND DECREES; APPLICATION OF PROPERTY SEQUESTERED.

The Probate Court may enforce its judgments, orders, decrees, and decisions in the manner provided by sections 16-3103 and 16-3104. When a judgment, order, decree, or decision is for the payment of money, the court may apply the property sequestered to the purpose for which the judgment, order, decree, or decision is given.

(Dec. 23, 1963, 77 Stat. 600, Pub. L. 88-241, § 1.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 16-3107.

1973 Ed., § 16-3107.

§ 16-3108. ORDERING INVESTMENT OF FUNDS; REVOCATION OF LETTERS FOR NONCOMPLIANCE.

The Probate Court may order a personal representative, special administrator, or guardian, whom it has appointed, to bring into court or invest in securities, to be approved by the court, any funds received by the personal representative, special administrator, or guardian. If the party does not, within a reasonable time, to be fixed by the court, comply with the order, the court may revoke his letters.

(Dec. 23, 1963, 77 Stat. 600, Pub. L. 88-241, § 1; Sept. 6, 1980, D.C. Law 3-85, § 5(b), 27 DCR 2900.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 16-3108.

1973 Ed., § 16-3108.

Legislative History of Laws

For legislative history of D.C. Law 3-85, see Historical and Statutory Notes following § 16-3102.

§ 16-3109. COMPELLING PERFORMANCE OF DUTIES BY PERSONAL REPRESENTATIVES, SPECIAL ADMINISTRATORS, ETC.; REVOCATION OF LETTERS.

The Probate Court may order a personal representative, special administrator, guardian, or testamentary trustee, who appears to be in default in respect to the rendering of an inventory or account or the fulfillment of a duty in the court, to be summoned to appear therein and fulfill his duty in the premises, on pain of

revocation of his power to act. On his appearance, the court may make such order as is just. On his failure to appear, after having been duly summoned, the court may revoke his power to act and make such further order and other appointment as justice requires. If the summons to appear is returned by the marshal "not to be found," an alias summons shall be mailed to the last-known post-office address of the fiduciary or served upon his attorney of record, if he is within the jurisdiction of the court. On the failure of the fiduciary to appear, the court may revoke his power to act and make such further order and other appointment as justice requires.

(Dec. 23, 1963, 77 Stat. 600, Pub. L. 88-241, § 1; Sept. 6, 1980, D.C. Law 3-85, § 5(b), 27 DCR 2900.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 16-3109.

1973 Ed., § 16-3109.

Legislative History of Laws

For legislative history of D.C. Law 3-85, see Historical and Statutory Notes following § 16-3102.

§ 16-3110. ORDER ADMITTING WILL TO PROBATE AS CONCLUSIVE EVIDENCE.

With respect to the trial of issues in the Probate Court, including the taking and use of testimony of non-resident witnesses, the Federal Rules of Civil Procedure, unless otherwise provided by law, are applicable thereto. A final order or decree admitting a will to probate, unless and until it is reversed, is conclusive evidence of the validity of the will in a collateral proceeding in which the will is brought into question, and a transcript of the record of the will, and of the decree admitting it to probate, is sufficient proof thereof.

(Dec. 23, 1963, 77 Stat. 601, Pub. L. 88-241, § 1; Sept. 6, 1980, D.C. Law 3-85, § 5(c), 27 DCR 2900.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 16-3110.

1973 Ed., § 16-3111.

Legislative History of Laws

For legislative history of D.C. Law 3-85, see Historical and Statutory Notes following § 16-3102.

§ 16-3111. ARBITRATION; EXCEPTIONS.

The Probate Court may, with the consent in writing of both parties, arbitrate between a complainant and a personal representative, or between a personal representative and a person against whom the estate represented by him has a claim, or, with like consent, may refer the matter in dispute to an arbitrator. If reserved by the parties in their submission, exception as to matters of law may be filed to the award of the arbitrator, and the court may confirm or overrule the award. The award when confirmed is conclusive between the parties.

(Dec. 23, 1963, 77 Stat. 601, Pub. L. 88-241, § 1; Sept. 6, 1980, D.C. Law 3-85, § 5(c), (d), 27 DCR 2900.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 16-3111.

1973 Ed., § 16-3112.

Legislative History of Laws

For legislative history of D.C. Law 3-85, see Historical and Statutory Notes following § 16-3102.

§ 16-3112. COSTS AND EXECUTION.

The Probate Court may render judgment for costs against the unsuccessful party in any proceeding conducted in the court, and issue execution thereof.

(Dec. 23, 1963, 77 Stat. 601, Pub. L. 88-241, § 1; Sept. 6, 1980, D.C. Law 3-85, § 5(c), 27 DCR 2900.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 16-3112.

1973 Ed., § 16-3113.

Legislative History of Laws

For legislative history of D.C. Law 3-85, see Historical and Statutory Notes following § 16-3102.