

DISTRICT OF COLUMBIA
OFFICIAL CODE

TITLE 18.

WILLS.

CHAPTER 3.

DEVISES AND BEQUESTS.

2001 Edition

DISTRICT OF COLUMBIA OFFICIAL CODE

CHAPTER 3. DEVISES AND BEQUESTS.

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CHAPTER 3. DEVICES AND BEQUESTS.

§ 18-301. ESTATES DISPOSABLE BY WILL.

The real and personal estate of a person, which may pass by deed or gift, or which would, in case of the owner's dying intestate, descend to or devolve upon his heirs or other legal representatives, may be disposed of, transferred, and passed by his last will, testament, or codicil in accordance with this part.

(Sept. 14, 1965, 79 Stat. 687, Pub. L. 89-183, § 1.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 18-301.

1973 Ed., § 18-301.

References in Text

"This part," referred to in this section, is Division III of the D.C. Official Code, Decedents' Estates and Fiduciary Relations.

§ 18-302. DEVICES OR BEQUESTS FOR RELIGIOUS PURPOSES.[REPEALED]

(June 24, 1980, D.C. Law 3-72, § 203(b), 27 DCR 2155.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 18-302.

Legislative History of Laws

Law 3-72, the "District of Columbia Probate Reform Act of 1980," was introduced in Council and assigned Bill No. 3-91, which was referred to the Committee on the Judiciary. The Bill was adopted on first and second readings on April 1, 1980, and April 22, 1980, respectively. Signed by the Mayor on May 7, 1980, it was assigned Act No. 3-181 and transmitted to both Houses of Congress for its review.

§ 18-303. GENERAL DEVISE AND BEQUEST OF ALL PROPERTY.

A devise and bequest purporting to be of all real or personal property, or both, belonging to the testator, includes also all property of either or both kinds, respectively, over which he has a general power of appointment, unless a contrary intention appears in the testamentary instrument containing the devise or bequest.

(Sept. 14, 1965, 79 Stat. 688, Pub. L. 89-183, § 1.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 18-303.

1973 Ed., § 18-303.

§ 18-304. DEVISE OF LAND TO INCLUDE LEASEHOLDS.

A devise of the land of a testator, or of his land in any place, or in the occupation of a person named or otherwise described in a general manner, includes his leasehold estates or those to which the

descriptions extend, as well as freehold estates, unless a contrary intention appears in the testamentary instrument containing the devise.

(Sept. 14, 1965, 79 Stat. 688, Pub. L. 89-183, § 1.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 18-304.

1973 Ed., § 18-304.

§ 18-305. AFTER-ACQUIRED REAL PROPERTY.

(a) A will executed after January 17, 1887, and before January 1, 1902, devising real property, from which it appears that it was the intention of the testator to devise property acquired after the execution of the will, operates as a valid devise of all after-acquired real property.

(b) A will executed after January 1, 1902, which by words of general import devises all the estate or all the property of the testator, operates as a valid devise of real property acquired by the testator after the execution of the will, unless it appears therefrom that it was not the intention of the testator to devise the after-acquired real property.

(Sept. 14, 1965, 79 Stat. 688, Pub. L. 89-183, § 1.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 18-305.

1973 Ed., § 18-305.

§ 18-306. "POUR OVER" TRUSTS.

(a) *Bequests or Devises to Trustee Under, or in Accordance With Terms of, Existing Trusts.* -- A devise or bequest may be made in a will or codicil, otherwise valid, in form or substance to the trustees under, or in accordance with the terms of, a written inter vivos trust, including an unfunded life insurance trust, although the settlor has reserved rights of ownership in the insurance contracts, which has been executed and is in existence prior to or contemporaneously with the execution of the will or codicil and is identified in the will or codicil, without regard to the size or character of the corpus of the trust, or whether the settlor is the testator or a third person.

The devise or bequest is not invalid because the trust is subject to amendment or modification or may be terminated or revoked after the will or codicil is executed, whether by the settlor or any other person or persons, nor because the trust instrument or an amendment thereto was not executed in the manner required by law for wills or codicils.

Unless the will or codicil otherwise provides:

(1) the devise or bequest is not invalid because the trust was amended or modified after the will or codicil was executed, and the devise or bequest shall be given effect in accordance with the terms of the trust as they appear in writing on the date of death of the testator, including any amendment or modification;

(2) property passing under the devise or bequest passes directly to the trustees of the inter vivos trust and becomes a part of the assets of the trust, and is not deemed to be held under a separate testamentary trust;

(3) an entire revocation of the trust prior to the death of the testator invalidates the devise or bequest even though the revocation was not effected in the manner provided by law for the revocation of wills and codicils;

(4) a termination of the trust, except by way of revocation, in accordance with the terms of the trust or by its exhaustion or by operation of law or otherwise does not invalidate the devise or bequest.

(b) *Bequests or Devises to Trustee Under, or in Accordance With Terms of, Testamentary Trusts.* -- A devise or bequest may be made in a will or codicil, otherwise valid, in form or substance to the trustees under, or in accordance with the terms of, a testamentary trust established under another valid will or codicil. The devise or bequest is not invalid because the testamentary trust or the will or codicil establishing the testamentary trust was not in existence when the will or codicil containing the devise or bequest was executed, if the testator of the will or codicil establishing the testamentary trust predeceases the testator of the will or codicil containing the devise or bequest, and the will or codicil establishing the testamentary trust is admitted to probate.

Unless the will otherwise provides:

- (1) property passing under the devise or bequest is deemed to pass directly to the trustees of the testamentary trust and becomes a part of the assets of the trust, and is not deemed to be held under a separate testamentary trust;
- (2) a termination of the trust in accordance with the terms of the trust or by its exhaustion or by operation of law or otherwise does not invalidate the devise or bequest.
- (c) This section applies to a devise or bequest made by a testator living on December 5, 1963, or born subsequent thereto, without regard to the date of execution of the will or codicil containing the devise or bequest or of the trust instrument, or an amendment thereto.
- (d) This section does not affect the validity, as existing before December 5, 1963, of:
 - (1) a devise or bequest made by a testator who died prior to December 5, 1963; or
 - (2) a devise or bequest which does not come within this section.

(Sept. 14, 1965, 78 Stat. 688, Pub. L. 89-183, § 1.)

Jurisdiction	Laws	Effective Date	Statutory Citation
California	1965, p. 3734	9-17-1965	West's Ann.Cal.Prob.Code, §§ 6300 to 6303.
District of Columbia	P.L. 89-183, 79 Stat. 688	1-1-1966	D.C. Official Code, 2001 Ed. § 18-306.
Florida	1961, c. 61- 427	8-1-1961	West's F.S.A. § 732.513.
Illinois	1955, p. 47, § 1	7-1-1955	S.H.A. 755 ILCS 5/4-4.
Indiana	1953, c. 112	1-1-1954	West's A.I.C. 29-1-5-9.
Iowa	1963, c. 326	1-1-1964	I.C.A. §§ 633.275, 633.277.
Kansas	1968, c. 203	7-1-1968	K.S.A. 59-3101 to 59-3105.
Maine	1963, c. 34	9-21-1963	18-A M.R.S.A. § 2-511.
Maryland	1959, c. 612	6-1-1959	Code, Estates and Trusts, §§ 4-411, 4-412.
Massachusetts [FN1]	1963, c. 418	12-1-1963	M.G.L.A. c. 203, § 3B.
Mississippi	1958, c. 240	5-6-1958	Code 1972, § 91-5-11.
Nevada	1967, c. 260	4-5-1967	N.R.S. 163.220 to 163.250.
New Jersey	1962, c. 241	2-28-1963	N.J.S.A. 3B:4-1 to 3B:4-6.
New York	1966, c. 952	9-1-1967	McKinney's EPTL 3-3.7.
Oklahoma	1961, p. 637	10-27-1961	84 Okl.St.Ann. §§ 301 to 304.
Oregon	1969, c. 591	7-1-1970	ORS 112.265.
Pennsylvania	1957, P.L. 793	7-11-1957	20 Pa.C.S.A. § 2515.
South Carolina	1961, p. 223	4-14-1961	Code 1976, § 62-2-510.
Tennessee	1961, c. 303	3-17-1961	T.C.A. § 32-3-106.
Texas	1961, c. 29	8-28-1961	V.A.T.S. Probate Code, § 58a.
Vermont	1961, No. 208	7-11-1961	14 V.S.A. § 2329.
Washington	1965, c. 145	7-1-1967	West's RCWA 11.12.250.
Wyoming	1957, c. 180	2-20-1957	Wyo.Stat.Ann. § 2-6-103.
[FN*]			

[FN*] Date of approval.

[FN1] Repeals this act and enacts the Uniform Testamentary Additions to Trusts Act (1991) effective January 2, 2012.

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 18-306.

1973 Ed., § 18-306.

Uniform Law

This section is based upon § 1 of the Uniform Testamentary Additions to Trusts Act (1960 Act). See 8B Uniform Laws Annotated, Master Edition, or ULA Database on WESTLAW.

§ 18-307. ADVANCEMENT AS SATISFACTION OF DEVISE OR BEQUEST.

An advancement or a provision for an advancement to a person is a satisfaction, in whole or in part, of a devise or bequest to that person contained in a previous will if it would be so deemed in case the devisee or legatee were the child of the testator; and, whether he is a child or not, it shall be so deemed where it appears from parol or other evidence to be so intended.

(Sept. 14, 1965, 79 Stat. 689, Pub. L. 89-183, § 1.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 18-307.

1973 Ed., § 18-307.

§ 18-308. DEATH OF DEVISEE OR LEGATEE; LAPSED OR VOID DEVISES OR BEQUESTS.

Unless a different disposition is made or required by the will, if a devisee or legatee dies before the testator, leaving issue who survive the testator, the issue shall take the estate devised or bequeathed as the devisee or legatee would have done if he had survived the testator. Unless a contrary intention appears by the will, the property comprised in a devise or bequest in a will that fails or is void or is otherwise incapable of taking effect, shall be deemed included in the residuary devise or bequest, if any, contained in the will.

(Sept. 14, 1965, 79 Stat. 689, Pub. L. 89-183, § 1.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 18-308.

1973 Ed., § 18-308.