

DISTRICT OF COLUMBIA
OFFICIAL CODE

TITLE 42.
REAL PROPERTY.

CHAPTER 10.
POWERS RELATING TO REALTY.

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TABLE OF CONTENTS

§ 42-1001. "Power" defined.	
§ 42-1002. General power.	
§ 42-1003. Special power.	
§ 42-1004. Beneficial power.	
§ 42-1005. Giving of absolute power--To owner of limited estate.	
§ 42-1006. Giving of absolute power--To owner of unlimited estate.	
§ 42-1007. Giving of absolute power--Where no remainder on grantee's estate.	
§ 42-1008. Construction of power to devise inheritance given to tenant with limited estate.	
§ 42-1009. Right of grantor to reserve power.	
§ 42-1010. Liability of special and beneficial power in equity.	
§ 42-1011. General powers in trust.	
§ 42-1012. Special powers in trust.	
§ 42-1013. Trust powers imperative--Duty upon grantee.	
§ 42-1014. Trust powers imperative--Effect of grantee's right of selection of objects of trust.	
§ 42-1015. Beneficiaries to take equally unless otherwise directed; effect of giving trustee discretion.	
§ 42-1016. Execution of trust powers for benefit of creditors and assignees.	
§ 42-1017. Writing needed to execute power.	
§ 42-1018. Power to be executed by devise, will, or grant, as directed.	
§ 42-1019. Grantee may execute power without direct reference to such.	

CHAPTER 10. POWERS RELATING TO REALTY.

§ 42-1001. "POWER" DEFINED.

A power is an authority to do some act in relation to lands or the creation of estates therein or of charges thereon which the owner granting or reserving such power might himself lawfully perform.

(Mar. 3, 1901, 31 Stat. 1353, ch. 854, § 1037.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 45-101.

1973 Ed., § 45-1001.

Miscellaneous Notes

Uniform Disclaimer of Property Interests Act: See § 19-1501 et seq.

§ 42-1002. GENERAL POWER.

A power is general where it authorizes the alienation in fee, by means of a conveyance, will, or charge, of the lands embraced in the power to any alienee whatever.

(Mar. 3, 1901, 31 Stat. 1353, ch. 854, § 1038.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 45-102.

1973 Ed., § 45-1002.

§ 42-1003. SPECIAL POWER.

A power is special:

- (1) Where the persons or class of persons to whom the disposition of the lands under the power is to be made is designated;
- (2) Where the power authorizes the alienation, by means of a conveyance, will, or charge, of a particular estate or interest less than a fee.

(Mar. 3, 1901, 31 Stat. 1353, ch. 854, § 1039.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 45-103.

1973 Ed., § 45-1003.

§ 42-1004. BENEFICIAL POWER.

A general or special power is beneficial where no person other than the grantee has, by the terms of its creation, any interest in its execution.

(Mar. 3, 1901, 31 Stat. 1353, ch. 854, § 1040.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 45-104.

1973 Ed., § 45-1004.

§ 42-1005. GIVING OF ABSOLUTE POWER--TO OWNER OF LIMITED ESTATE.

Where an absolute power of disposition, not accompanied by any trust, shall be given to the owner of a particular estate for life or years, such estate shall be changed into a fee, absolute in respect to the rights of creditors and purchasers but subject to any future estates limited thereon in case the power should not be executed or the lands should not be sold for the satisfaction of debts.

(Mar. 3, 1901, 31 Stat. 1353, ch. 854, § 1041.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 45-105.

1973 Ed., § 45-1005.

§ 42-1006. GIVING OF ABSOLUTE POWER--TO OWNER OF UNLIMITED ESTATE.

Where a like power of disposition shall be given to any person to whom no particular estate is limited, such person shall also take a fee, subject to any future estates that may be limited thereon but absolute in respect to creditors and purchasers.

(Mar. 3, 1901, 31 Stat. 1353, ch. 854, § 1042.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 45-106.

1973 Ed., § 45-1006.

§ 42-1007. GIVING OF ABSOLUTE POWER--WHERE NO REMAINDER ON GRANTEE'S ESTATE.

In all cases where such power of disposition is given and no remainder is limited on the estate of the grantee of the power, such grantee shall be entitled to an absolute fee.

(Mar. 3, 1901, 31 Stat. 1353, ch. 854, § 1043.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 45-107.

1973 Ed., § 45-1007.

§ 42-1008. CONSTRUCTION OF POWER TO DEVISE INHERITANCE GIVEN TO TENANT WITH LIMITED ESTATE.

Where a general and beneficial power to devise the inheritance shall be given to a tenant for life or for years, such tenant shall be deemed to possess an absolute power of disposition, within the meaning and subject to the provisions of §§ 42-1005 to 42-1007.

(Mar. 3, 1901, 31 Stat. 1353, ch. 854, § 1044.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 45-108.

1973 Ed., § 45-1008.

§ 42-1009. RIGHT OF GRANTOR TO RESERVE POWER.

The grantor in any conveyance may reserve to himself any power, beneficial or in trust, which he might lawfully grant to another, and every power thus reserved shall be subject to the provisions of this chapter as if granted to another.

(Mar. 3, 1901, 31 Stat. 1353, ch. 854, § 1045.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 45-109.

1973 Ed., § 45-1009.

§ 42-1010. LIABILITY OF SPECIAL AND BENEFICIAL POWER IN EQUITY.

Every special and beneficial power shall be liable, in equity, to the claims of creditors, and the execution of the power may be decreed for the benefit of the creditors entitled.

(Mar. 3, 1901, 31 Stat. 1353, ch. 854, § 1046.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 45-110.

1973 Ed., § 45-1010.

§ 42-1011. GENERAL POWERS IN TRUST.

A general power is in trust when any person or class of persons other than the grantee of such power is designated as entitled to the proceeds, or any portion of the proceeds or other benefits to result from the alienation of the lands, according to the power.

(Mar. 3, 1901, 31 Stat. 1353, ch. 854, § 1047.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 45-111.

1973 Ed., § 45-1011.

§ 42-1012. SPECIAL POWERS IN TRUST.

A special power is in trust:

(1) When the disposition which it authorizes is limited to be made to any person or class of persons other than the grantee of such power;

(2) When any person or class of persons other than the grantee is designated as entitled to any benefit from the disposition or change authorized by the power.

(Mar. 3, 1901, 31 Stat. 1353, ch. 854, § 1048.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 45-112.

1973 Ed., § 45-1012.

§ 42-1013. TRUST POWERS IMPERATIVE--DUTY UPON GRANTEE.

Every trust power, unless its execution or non-execution is made expressly to depend on the will of the

grantee, is imperative and imposes a duty on the grantee the performance of which may be compelled in equity for the benefit of the parties interested.

(Mar. 3, 1901, 31 Stat. 1354, ch. 854, § 1049.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 45-113.

1973 Ed., § 45-1013.

§ 42-1014. TRUST POWERS IMPERATIVE--EFFECT OF GRANTEE'S RIGHT OF SELECTION OF OBJECTS OF TRUST.

A trust power does not cease to be imperative where the grantee has the right to select any and exclude others of the persons designated as the objects of the trust.

(Mar. 3, 1901, 31 Stat. 1354, ch. 854, § 1050.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 45-114.

1973 Ed., § 45-1014.

§ 42-1015. BENEFICIARIES TO TAKE EQUALLY UNLESS OTHERWISE DIRECTED; EFFECT OF GIVING TRUSTEE DISCRETION.

Where a disposition under a power is directed to be made to or among or between several persons, without any specifications of the share or sum to be allotted to each, all the persons designated shall be entitled to an equal proportion. But when the terms of the power import that the estate or fund is to be distributed between the persons so designated, in such manner or proportions as the trustee of the power may think proper, the trustee may allot the whole to any 1 or more of such persons in exclusion of the others.

(Mar. 3, 1901, 31 Stat. 1354, ch. 854, § 1051.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 45-115.

1973 Ed., § 45-1015.

§ 42-1016. EXECUTION OF TRUST POWERS FOR BENEFIT OF CREDITORS AND ASSIGNEES.

The execution in whole or in part of any trust power may be decreed in equity for the benefit of the creditors or assignees of any person entitled to compel its execution when the interest of the objects of such trust is assignable.

(Mar. 3, 1901, 31 Stat. 1354, ch. 854, § 1052.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 45-116.

1973 Ed., § 45-1016.

§ 42-1017. WRITING NEEDED TO EXECUTE POWER.

No power can be executed except by some instrument in writing, which would be sufficient in law to pass the estate or interest intended to pass under the power if the person executing the power were the actual owner.

(Mar. 3, 1901, 31 Stat. 1354, ch. 854, § 1053.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 45-117.

1973 Ed., § 45-1017.

§ 42-1018. POWER TO BE EXECUTED BY DEVISE, WILL, OR GRANT, AS DIRECTED.

Where a power to dispose of lands is confined to a disposition by devise or will, the instrument of execution must be a will duly executed; and where a power is confined to a disposition by grant it cannot be executed by will, although the disposition is not intended to take effect until after the death of the party executing the power.

(Mar. 3, 1901, 31 Stat. 1354, ch. 854, § 1054.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 45-118.

1973 Ed., § 45-1018.

§ 42-1019. GRANTEE MAY EXECUTE POWER WITHOUT DIRECT REFERENCE TO SUCH.

Every instrument executed by the grantee of a power conveying an estate or creating a charge, which such grantee would have no right to convey or create unless by virtue of his power, shall be deemed a valid execution of the power, although such power be not recited or referred to therein.

(Mar. 3, 1901, 31 Stat. 1354, ch. 854, § 1055.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 45-119.

1973 Ed., § 45-1019.