

Table of Contents

Volume 1

CHAPTER 1. INTRODUCTION

- § 1:1 The Probate Act
- § 1:2 Definitions
- § 1:3 General provisions
- § 1:4 Construction of Act
- § 1:5 General requirements regarding forms

CHAPTER 2. PRELIMINARY PROBATE CONSIDERATIONS

- § 2:1 Introduction
- § 2:2 Initial meeting
- § 2:2.50 —Attorney-client privilege
- § 2:3 Information gathering checklist
- § 2:4 Locating decedent's property
- § 2:5 Duty to file will and present will for probate
- § 2:5.50 Form—Application to transfer will and proposed order
- § 2:6 Powers prior to appointment—Executor of a decedent's estate
- § 2:7 — —Estates of minors and disabled persons
- § 2:8 Form of administration
- § 2:9 —Small estates
- § 2:10 —Small estate affidavit
- § 2:11 —Summary administration
- § 2:12 Criteria for summary administration
- § 2:13 —Probate administration
- § 2:14 Effect of Soldiers' and Sailors' Civil Relief Act on probate matters
- § 2:15 —Stay of proceeding

CHAPTER 3. JURISDICTION

I. JURISDICTIONAL REQUIREMENTS

- § 3:1 Generally
- § 3:2 Nature of jurisdiction
- § 3:3 Death
- § 3:4 —Statutory presumption of death

- § 3:5 —Presumption of death from absence
- § 3:6 Petition to issue letters on presumption of death—
Checklist
- § 3:7 Basis for jurisdiction in Illinois
- § 3:8 Estates of missing persons

II. LOCATION OF PROBATE OR ESTATE ADMINISTRATION

- § 3:9 Place of probate (venue)
- § 3:10 Judicial conflict of interest

CHAPTER 4. ADMINISTRATORS TO COLLECT

- § 4:1 Generally
- § 4:2 Letters of administration to collect—Checklist
- § 4:3 Eligibility
- § 4:4 Petition for letters—Checklist
- § 4:5 Oath and bond
- § 4:6 Acceptance of office
- § 4:7 Bond
- § 4:8 Form of letters
- § 4:9 Rights, powers and duties
- § 4:10 —Collection and sale of assets
- § 4:11 Termination of authority

CHAPTER 5. PROBATE OF WILLS

I. PROBATE OF DOMESTIC WILLS

A. IN GENERAL

- § 5:1 Historical perspective
- § 5:2 Duty to deliver and present will for probate
- § 5:3 Altering, destroying or secreting will
- § 5:4 Custody of wills

B. PETITION TO ADMIT WILL

- § 5:5 Necessary documents
- § 5:5.50 Necessity of lawyer for formal probate proceeding
- § 5:6 Commencing probate—Checklist
- § 5:7 Commencing probate and administration—Checklist
- § 5:8 Petition to admit will to probate or to issue letters—
Checklist
- § 5:9 —Use of court forms
- § 5:9.50 —Amendment to petition
- § 5:9.70 —Omitted or unnotified person—Form

TABLE OF CONTENTS

C. ADMISSION OF WILL

- § 5:10 Proof of execution and validity
- § 5:11 —Nature, character and amount of proof
- § 5:12 —Testimony or statements of attesting witnesses
- § 5:13 —Sufficiency of evidence of execution
- § 5:13.50 —Formal proof of will
- § 5:14 —Evidence admissible in contest of admission of will
- § 5:15 Right to jury trial
- § 5:16 Proof by deposition
- § 5:17 Form—Notice of petition for issuance of commission
- § 5:18 Proof of handwriting of deceased, disabled or inaccessible witness
- § 5:19 —Secondary evidence
- § 5:20 Admission or denial of will to probate
- § 5:20.50 Form—Order admitting will to probate and appointing representative
- § 5:21 — —On amended petition
- § 5:22 Amending or setting aside petition

D. NOTICE

- § 5:23 Notice
- § 5:24 —Form—Appearance of interested parties and consent to probate of will
- § 5:25 —Amendment to petition to admit will
- § 5:26 —Presumption of death
- § 5:27 —Notice for publication—Will admitted
- § 5:28 — —Will denied
- § 5:29 — —Foreign will admitted
- § 5:30 — —Foreign will denied
- § 5:31 —Proof of mailing and publication
- § 5:32 Appointment of guardian ad litem for minors and those under legal disability
- § 5:33 Failure to file petition for admission to probate

E. DEPOSIT OF WILLS

- § 5:33.10 Deposit of wills—Definitions
- § 5:33.20 —Certification, assumptions and fee
- § 5:33.30 —Duty of Secretary of State upon receipt of will
- § 5:33.40 —Duty of Secretary of State during testator's lifetime
- § 5:33.50 —Duty of Secretary of State upon notification of death of testator
- § 5:33.60 —Duty of Secretary of State upon inquiry

II. PROBATE OF LOST OR DESTROYED WILLS

- § 5:34 In general

- § 5:35 Burden of proof
- § 5:36 —Form—Petition to admit lost or destroyed will to probate
- § 5:37 — —Order admitting lost or destroyed will to probate

III. PROBATE OF FOREIGN WILLS

- § 5:38 Foreign wills—Validation in Illinois
- § 5:39 Procedure for probate of foreign will
- § 5:40 Proof of foreign will
- § 5:41 Admission of foreign will to probate
- § 5:42 —Form—Petition to admit foreign will to probate
- § 5:43 — —Certificate to copy of foreign will
- § 5:44 — —Authentication of officer's certificate to foreign will, and letters
- § 5:45 —Form of order for probate of foreign will

IV. EFFECT OF PROBATE

- § 5:46 Generally
- § 5:47 Conclusiveness of order
- § 5:48 —Vacating or setting aside order

CHAPTER 6. RIGHTS, POWERS, DUTIES, AND LIABILITIES OF PERSONAL REPRESENTATIVES

- § 6:1 Generally
- § 6:2 Duty of executor to present will for probate
- § 6:3 Acting as attorney for estate
- § 6:4 Powers of executor before issuance of letters
- § 6:5 Powers of administrator before issuance of letters
- § 6:6 Relation back of letters
- § 6:7 Duty of good faith
- § 6:7.50 Attorneys representing executors or administrators
- § 6:8 Measure of care and diligence required
- § 6:9 Power to contract for estate
- § 6:10 —Delegation of authority—Employment of agents or attorneys
- § 6:11 Joint tax returns
- § 6:12 Registration of stocks, bonds and other personal property in name of nominee
- § 6:13 Liability of estate for acts of personal representative
- § 6:14 Liability of personal representative
- § 6:15 —Self dealing
- § 6:16 —For tortious acts of agents
- § 6:17 —For failure to execute terms of testator's will
- § 6:18 —For loss due to decline in market value of securities

TABLE OF CONTENTS

- § 6:19 —Other specific instances
- § 6:20 —Interest on assets
- § 6:21 —Application of statutory provisions
- § 6:22 —Federal and state tax reporting
- § 6:23 —Interest on excess tax advances

CHAPTER 7. ELIGIBILITY, APPOINTMENT AND QUALIFICATION OF EXECUTORS

- § 7:1 Who may act as executors
- § 7:2 Matters to be considered in selecting executor—
Checklist
- § 7:3 General powers of executor—Drafting checklist
- § 7:4 Duty of court to issue letters to persons appointed by
testator
- § 7:5 Oath or acceptance of office
- § 7:6 Necessity of bond
- § 7:7 Form of oath and bond—Form of order where court
requires security
- § 7:8 —When security not required
- § 7:9 —Form of suggestion to require security
- § 7:10 —Form of order when security is not required under
will
- § 7:11 Requalification of individual previously not qualified to
act
- § 7:12 —Form of petition for letters after removal of
disqualification
- § 7:13 Delegation of power to name executor—Appointment of
successor
- § 7:14 Renunciation of appointment

CHAPTER 8. ELIGIBILITY, APPOINTMENT AND QUALIFICATION OF ADMINISTRATORS

- § 8:1 Generally
- § 8:2 Letters of administration—Checklist
- § 8:3 Who may act as administrator
- § 8:4 Right to nominate administrator
- § 8:5 Preference in obtaining letters
- § 8:6 Discretion of court
- § 8:7 —Claims from multiple equally-entitled persons to be or to
nominate an administrator
- § 8:8 Requirements of petition for letters of
administration—Checklist
- § 8:9 Form of waiver of prior right to administer
- § 8:10 Notice requirements for hearing on petition to issue
letters

- § 8:11 —Letters sought on presumption of death
- § 8:12 Form—Notice
- § 8:13 —Appearance and waiver of notice
- § 8:14 Oath or acceptance of office
- § 8:15 Necessity of bond
- § 8:16 Order of appointment and issuance of letters
- § 8:17 Notice requirements upon issuance of letters of administration
- § 8:17.50 —Newspaper defined
- § 8:18 —Form of publication notice
- § 8:19 —Form of proof of publication by publisher
- § 8:20 Omitted or unnotified heir
- § 8:21 Revocation of letters
- § 8:22 Form—Petition for revocation of letters
- § 8:23 —Notice of hearing
- § 8:24 —Order
- § 8:25 Special administrator for wrongful death action
- § 8:26 Form—Petition to appoint special administrator
- § 8:27 —Order to appoint special administrator
- § 8:28 —Motion for settlement and distribution
- § 8:29 —Final settlement and distribution order
- § 8:30 Nature and effect of appointment

CHAPTER 9. JOINT EXECUTORS AND ADMINISTRATORS

- § 9:1 Generally
- § 9:2 Right of one joint executor to refuse appointment
- § 9:3 Equality of authority
- § 9:3.50 —Participation in legal proceeding
- § 9:4 Exercise by one executor of testamentary power to sell real estate
- § 9:5 Survival of powers
- § 9:6 Liabilities
- § 9:7 Bonds
- § 9:8 Form of bonds

CHAPTER 10. PUBLIC ADMINISTRATORS

- § 10:1 Generally
- § 10:2 Appointment
- § 10:3 Bond
- § 10:4 Powers and duties
- § 10:5 Preference in particular estate
- § 10:6 Right to administer particular estate
- § 10:7 Petition for letters in particular estate
- § 10:8 —Form of petition
- § 10:9 Form of order

TABLE OF CONTENTS

- § 10:10 Issuance of letters
- § 10:11 Notice
- § 10:12 Effect of failure to give notice to persons having preference
- § 10:13 Deposit of files of cases
- § 10:14 Compensation and expenses

CHAPTER 11. PROOF OF HEIRSHIP

- § 11:1 Generally
- § 11:2 Nature of proceeding
- § 11:3 Determination of heirship
- § 11:4 Evidence
- § 11:5 —Form—Affidavit of heirship—By surviving spouse or descendant
- § 11:6 — — —Single individual with no descendants
- § 11:7 — — —Another form
- § 11:8 —Application for leave to testify to heirship
- § 11:9 —Proof of heirship by question and answer
- § 11:10 — —Amended affidavit
- § 11:11 —Proof of heirship by narration
- § 11:12 —Certificate for proof of heirship
- § 11:13 Form—Order amending declaration of heirship
- § 11:14 Effect of order declaring heirship

CHAPTER 12. BONDS OF EXECUTORS AND ADMINISTRATORS

I. GENERAL REQUIREMENTS

- § 12:0.05 Necessity of bond
- § 12:1 Amount of bond
- § 12:2 Kinds, number and justification of sureties
- § 12:3 Form—Application to act as surety (Cook County)

II. NEW OR ADDITIONAL SECURITY

- § 12:4 Generally
- § 12:5 Further bond or security
- § 12:6 —Form of petition of interested party to compel other or additional security
- § 12:7 Counter security
- § 12:8 —Form of petition by surety of representative to compel the giving of counter security or new bond
- § 12:9 Petition for release of surety
- § 12:10 Form—Petition of surety for release
- § 12:11 —Petition by representative to have surety released

- § 12:12 Notice
- § 12:13 Answer and hearing
- § 12:14 Order or judgment generally
- § 12:15 Form—Order requiring representative to file other or additional security
- § 12:16 —Order requiring representative to give new bond
- § 12:17 —Order requiring representative to give counter security
- § 12:18 —Order releasing surety from further liability on own petition
- § 12:19 —Order releasing surety on petition of representative
- § 12:20 Requirements of new or additional bond
- § 12:21 Deposit in lieu or reduction of bond
- § 12:22 —Form of petition to deposit personal estate and reduce bond
- § 12:22.03 Reduction of bond
- § 12:22.05 —Form

III. BREACHES OF BONDS

- § 12:23 Generally
- § 12:24 Devastavit or waste
- § 12:25 Mismanagement
- § 12:26 Liabilities of sureties—Generally

IV. ACTIONS ON BONDS

- § 12:27 Generally
- § 12:28 Necessity of demand
- § 12:29 Necessity of judgment against principal
- § 12:30 Time to sue
- § 12:31 Pleading
- § 12:32 Evidence
- § 12:33 Conclusiveness of prior judgments
- § 12:34 Successive actions
- § 12:35 Costs

CHAPTER 13. ASSETS

I. IN GENERAL

- § 13:1 Generally
- § 13:2 Secured collateral

II. PERSONAL ASSETS

- § 13:3 Generally

TABLE OF CONTENTS

- § 13:4 Damages for wrongful death—Compensation recovered for personal injuries
- § 13:5 Proceeds of insurance policy
- § 13:6 —Policy payable to legal representative
- § 13:7 —Policy payable to heirs or relatives
- § 13:8 —Benefit certificates
- § 13:9 Debt of executor or administrator

III. REAL ESTATE AND INTERESTS THEREIN

- § 13:10 Generally
- § 13:11 Rents and profits
- § 13:12 —Share rent
- § 13:13 Growing crops
- § 13:14 Fixtures

CHAPTER 14. INVENTORY AND APPRAISAL

I. INVENTORY

- § 14:1 Generally
- § 14:2 Inventory—Checklist
- § 14:3 Assets to be inventoried
- § 14:4 Supplemental inventory
- § 14:5 —Form of supplemental inventory
- § 14:6 Citation to compel representative to inventory assets claimed by representative as his or her own
- § 14:7 —Form—Petition for citation to compel personal representative to inventory property of estate
- § 14:8 — —Order requiring personal representative to inventory property
- § 14:9 —Inventory questionnaire for decedent's banking institution
- § 14:10 Inventories as evidence

II. APPRAISAL

- § 14:11 Necessity of appraisal
- § 14:12 Form—Petition for appointment of appraisers
- § 14:13 —Appraisal of goods and chattels
- § 14:14 Setting aside appraisal
- § 14:15 —Form—Petition to set aside appraisal and requesting appointment of new appraisers
- § 14:16 — —Order setting aside appraisal and appointing new appraisers
- § 14:17 Compensation of appraisers
- § 14:18 Appraisals as evidence

CHAPTER 14A. ELECTRONIC NONTTESTAMENTARY ESTATE PLANNING DOCUMENTS

- § 14A:1 Scope, construction, principles of law and equity
- § 14A:2 Use of electronic record or signature not required
- § 14A:3 Recognition of electronic nontestamentary estate planning document and electronic signature
- § 14A:4 Attribution and effect of electronic record and electronic signature
- § 14A:5 Notarization and acknowledgment
- § 14A:6 Witnessing and attestation
- § 14A:7 Retention of electronic record; original
- § 14A:8 Certification of paper copy and admissibility in evidence
- § 14A:9 Relation to the Electronic Signatures in Global and National Commerce Act
- § 14A:10 Application and severability

CHAPTER 15. SURVIVING SPOUSE AND CHILD'S AWARD

- § 15:1 Award to surviving spouse and children
- § 15:2 Necessity that decedent reside in Illinois
- § 15:3 Effect of will on award
- § 15:4 Loss of right to award
- § 15:5 Effect of antenuptial contract
- § 15:6 Effect of postnuptial contract
- § 15:7 Determination of who entitled to award
- § 15:8 Checklist—Award to surviving spouse of Illinois resident with no dependent children
- § 15:9 —Award to surviving spouse with minor or dependent children residing with spouse
- § 15:10 —Award to minor or dependent children not residing with surviving spouse
- § 15:11 —No surviving spouse but adult dependent or minor children
- § 15:12 Form of renunciation and election to take against will
- § 15:13 Amount of allowance
- § 15:14 Nature of award
- § 15:15 Award to surviving spouse and children
- § 15:16 Out of what property award made
- § 15:17 —Sale of land to pay award
- § 15:18 Out-of-state realty
- § 15:19 —Form of release of award
- § 15:20 Selection of property and notice of award
- § 15:21 Form—Election on how spouse's award composed
- § 15:22 —Receipt of award
- § 15:23 Review of award

TABLE OF CONTENTS

- § 15:24 —Form of petition by surviving spouse
- § 15:25 —Petition by heir
- § 15:26 Allowance to child
- § 15:27 —Amount of allowance
- § 15:28 —Selection of property
- § 15:29 Homestead as additional to widow's or child's award

CHAPTER 16. WILL CONTESTS

I. GENERAL CONSIDERATIONS

- § 16:1 Nature and purpose
- § 16:1.50 Attorney-client privilege owed to testator
- § 16:2 Statutory guidelines
- § 16:3 —Contesting validity of admitted will
- § 16:4 —Contesting denial of admission of will
- § 16:5 Foreign wills
- § 16:6 Time to institute proceeding
- § 16:7 —Revocable inter vivos trust agreement or declaration of trust
- § 16:8 Jurisdiction and venue
- § 16:9 Petitioners or proponents
- § 16:10 —Survival of cause of action
- § 16:11 Contestants
- § 16:12 Duty to defend and appeal
- § 16:13 Notice

II. PLEADINGS

- § 16:14 Pleadings and issues generally
- § 16:15 —Issues, proof and variance
- § 16:16 Forms of petitions—Miscellaneous grounds alleged
- § 16:17 —Heirs attacking will
- § 16:18 —Undue influence of confidential agent as ground
- § 16:19 —Unknown interested persons
- § 16:20 Forms of answer
- § 16:21 —By guardian ad litem

III. EVIDENCE

- § 16:22 Presumptions and burden of proof
- § 16:23 —Lack of capacity
- § 16:24 —Undue influence
- § 16:25 —Contesting validity of lost will
- § 16:26 —Contesting denial of admission of will
- § 16:27 Admissibility and competency
- § 16:28 —Will and admission to probate
- § 16:29 —Testimony in other proceedings

- § 16:30 —Other wills and writings
- § 16:31 Circumstantial evidence
- § 16:32 Expert and opinion evidence
- § 16:33 —As to handwriting and forgery
- § 16:34 —Foundation for testimony
- § 16:35 Evidence in rebuttal
- § 16:36 Declarations and admissions
- § 16:37 Records in evidence
- § 16:38 Other documents
- § 16:39 Weight and sufficiency
- § 16:40 Witnesses
- § 16:41 Undue influence

IV. SETTLEMENT

- § 16:42 Compromise and settlement
- § 16:43 Form of judgment confirming compromise
- § 16:44 Agreements relating to contests—Agreement not to contest will
 - § 16:45 —By individual gift recipient
 - § 16:46 —Between testator and heirs
 - § 16:47 — —Equalization payments
 - § 16:48 —Agreement to withdraw contest of will
 - § 16:49 — —Contestant to become surety for executors
 - § 16:50 —Agreement not to defend will contest

V. TRIAL

- § 16:51 Consolidation and severance of causes and issues
- § 16:52 Notaries public
- § 16:53 Trial de novo
- § 16:54 Burden of proof
- § 16:55 Trial by jury
- § 16:56 Form of jury demand
- § 16:57 Questions of law and fact
- § 16:58 Form of order making up issue for the jury
- § 16:59 Instructions to the jury
 - § 16:60 —Applicability to pleadings and evidence
 - § 16:61 —Words used and definitions
 - § 16:62 —Construction as a whole
- § 16:63 Verdict and findings—In general
 - § 16:64 —Conclusiveness
 - § 16:65 —Form of verdict on issue submitted
 - § 16:66 —Form of verdict for the will
 - § 16:67 —Form of verdict against the will
- § 16:68 Directing verdict or taking questions from jury
- § 16:69 Peremptory instruction to jury to find for proponents

TABLE OF CONTENTS

- § 16:70 Judgment
- § 16:71 —Form of judgment sustaining will
- § 16:72 —Form of judgment setting aside will
- § 16:73 Costs and expenses of suit
- § 16:74 Appeal and error

CHAPTER 16A. ALTERNATIVE CAUSES OF ACTION

- § 16A:1 Tortious interference with expectancy under will

CHAPTER 17. TERMINATION OF AUTHORITY OF REPRESENTATIVE

- § 17:1 Generally
- § 17:2 Resignation of executor or administrator
- § 17:3 —Form—Petition of executor for leave to resign
- § 17:4 — —Order accepting resignation
- § 17:5 Revocation of letters on production of or setting aside will
- § 17:6 —Form—Petition for revocation of letters on production of will
- § 17:7 — —Order revoking letters on production of will
- § 17:8 — —Petition for revocation of letters upon setting aside will
- § 17:9 — —Order for revocation of letters on setting aside will
- § 17:9.30 Discharge after administration is complete
- § 17:9.50 Form—Order of discharge
- § 17:10 Removal for cause
- § 17:11 —Securing letters under false pretenses
- § 17:12 —What constitutes waste, mismanagement or other misconduct
- § 17:13 Effect of becoming resident of another country or state
- § 17:14 Procedure for removal generally
- § 17:15 Form—Petition to remove executor or administrator because of false pretenses in securing letters
- § 17:16 —Petition to remove executor or administrator because of adjudication of disability
- § 17:17 —Petition to remove executor or administrator because of waste and mismanagement of estate
- § 17:18 —Petition to remove executor or administrator because of removal of property from state
- § 17:19 —Petition to remove executor or administrator because of failure to give new security
- § 17:20 —Petition to remove executor or administrator because of failure to file inventory

- § 17:21 —Petition to remove executor or administrator
because of removal to place unknown
- § 17:22 Notice
- § 17:23 —Form—Affidavit if representative cannot be found
- § 17:24 —Form of notice if representative cannot be found
- § 17:25 Answer
- § 17:26 —Form of answer
- § 17:27 Hearing
- § 17:28 Order of removal and revocation
- § 17:29 Form of order removing executor or administrator—
Misrepresentation in securing letters
- § 17:30 —Disability
- § 17:31 —Mismanagement
- § 17:32 —Order to remove executor or administrator
because of removal of property from state
- § 17:33 —Order to remove executor or administrator
because of failure to give new security
- § 17:34 —Order to remove executor or administrator
because of failure to file inventory
- § 17:35 —Order to remove executor or administrator
because of removal to place unknown
- § 17:36 Costs of revocation
- § 17:37 Effect of revocation
- § 17:38 —On trustee where representative is both executor
and trustee
- § 17:39 Effect of discharge by final settlement
- § 17:40 Effect of appeal from order of removal

CHAPTER 18. SUCCESSOR REPRESENTATIVES

- § 18:1 Generally
- § 18:2 Procedure for obtaining letters
- § 18:3 Obtaining letters of administration de bonis non—
Checklist
- § 18:4 Preferences in appointment
- § 18:5 Requirements of petition for letters of
administration de bonis non
- § 18:6 —Form of petition for administration de bonis non
or de bonis non with will annexed
- § 18:7 Notice
- § 18:8 Effect of failure to give notice
- § 18:9 Oath or acceptance of office
- § 18:10 —Form of oath or acceptance of office
- § 18:10.50 Acceptance of office—Form—Corporation
- § 18:11 Necessity of bond
- § 18:12 Issuance of letters

TABLE OF CONTENTS

§ 18:13	Form—Letters of administration with will annexed
§ 18:14	—Letters of administration de bonis non with will annexed or de bonis non
§ 18:15	—Order appointing legal representative
§ 18:16	Appointment of representative on reopening of estate
§ 18:17	—Notice and petition
§ 18:18	—Hearing and bond
§ 18:19	Rights, powers and duties
§ 18:20	—As to litigation
§ 18:21	Compensation

Volume 1A

CHAPTER 19. CONTRACTS OF DECEDENT

I. GENERAL CONSIDERATIONS

§ 19:1	Enforceability
§ 19:2	Method of performance

II. AGREEMENTS TO PURCHASE REAL ESTATE

§ 19:3	Generally
§ 19:4	Requisites of petition for completion of contract or for directions
§ 19:5	—Form—Petition for leave to complete decedent's contract to purchase real estate
§ 19:6	— —Petition for direction as to decedent's contract
§ 19:7	Notice of hearing
§ 19:8	Form—Order authorizing completion of decedent's contract to purchase real estate
§ 19:9	—Order directing personal representative as to disposition of decedent's contract

III. CONTRACTS FOR SALE OF REAL ESTATE

§ 19:10	Generally
§ 19:11	Requisites and contents of petition to execute deed
§ 19:12	—Form—Petition by representative for leave to execute deed
§ 19:13	— —3rd party petition to compel representative to file petition for leave to execute deed
§ 19:14	Notice of hearing
§ 19:15	—Form—Notice sent by clerk on petition to execute deed to decedent's real estate (option 1)

- § 19:16 — —Notice sent by clerk on petition to execute deed to decedent's real estate (option 2)
- § 19:17 — —Clerk's certificate of mailing notice
- § 19:18 Entry of appearance
- § 19:19 —Form—Entry of appearance and consent to order on representative's petition to execute decedent's contract
- § 19:20 Appointment of guardian ad litem for wards or persons not in being
- § 19:21 Form—Answer of guardian ad litem
- § 19:22 Hearing
- § 19:23 Order
- § 19:24 —Form—Order granting leave to execute deed
- § 19:25 — —Order directing representative to file petition for leave to execute deed
- § 19:26 Form—Deed

CHAPTER 20. ADMINISTRATION OF REAL ESTATE

I. GENERALLY

- § 20:1 Overview
- § 20:2 Notice of probate filing
- § 20:3 Possession of real estate
- § 20:4 —Form—Petition to grant real estate possession
- § 20:5 — —Order granting real estate possession
- § 20:6 Payment of taxes
- § 20:7 —Form—Representative's Petition for authority to pay taxes
- § 20:8 — —Order authorizing tax payment by representative
- § 20:9 Discharge of liens; redemption from sale
- § 20:10 Effect on homestead rights

II. LEASE OF REAL ESTATE

- § 20:11 Generally
- § 20:12 Lease under power in will
- § 20:13 Obtaining court authorization for lease
- § 20:14 —Form—Petition to lease real estate
- § 20:15 — —Order authorizing representative to lease real estate

III. MORTGAGE OF REAL ESTATE

- § 20:16 Generally
- § 20:17 Jurisdiction, venue, and practice

TABLE OF CONTENTS

§ 20:18	Special bond
§ 20:19	—Form—Bond for sale or mortgage of real estate with surety
§ 20:20	—Statement of estate’s condition
§ 20:21	Petition for leave to mortgage
§ 20:22	—Form—Petition for mortgage of decedent’s real estate
§ 20:23	Necessary parties
§ 20:24	—Persons under disability or not in being; guardian ad litem
§ 20:25	—Form—Answer of guardian ad litem
§ 20:26	Process and notice
§ 20:27	Hearing
§ 20:28	Order
§ 20:29	—Form—Order granting leave to mortgage
§ 20:30	Proceeds use and accounting
§ 20:31	Compelling representative to mortgage
§ 20:32	Effect of petitioner’s death before mortgage execution
§ 20:33	Validity of proceedings and of mortgage
§ 20:34	Foreclosure

IV. SALE OF REAL ESTATE

A. GENERALLY

§ 20:35	General considerations
§ 20:36	Sale incidental to partition

B. BY COURT ORDER

§ 20:37	Generally
§ 20:38	Interest subject to sale
§ 20:39	—Interest under agreement for warranty deed
§ 20:40	Amount subject to sale
§ 20:41	Effect of homestead rights
§ 20:42	Homestead premises not exceeding \$7,500 in value
§ 20:43	When sale authorized
§ 20:44	Venue; Civil Practice Law applicability
§ 20:45	Petition to sell real estate
§ 20:46	—Form—Petition
§ 20:47	Parties
§ 20:48	—Persons under disability or not in being; guardian ad litem
§ 20:49	—Form—Answer of guardian ad litem
§ 20:50	—Unknown owners
§ 20:51	— —Form—Affidavit concerning unknown owners
§ 20:52	Process and notice
§ 20:53	—Form—Summons

- § 20:54 Publication notice
- § 20:55 —Form—Affidavit
- § 20:56 — —Publication notice
- § 20:57 Practice
- § 20:58 Answer or other pleadings
- § 20:59 Defenses to petition
- § 20:60 Hearing
- § 20:61 —Court powers
- § 20:62 —Title disputes
- § 20:63 —Assigning homestead and dower
- § 20:64 Special bond
- § 20:65 —Form—Special bond for sale
- § 20:66 — —Bond for sale or mortgage without surety
- § 20:67 Order authorizing sale
- § 20:68 —Designation of sale place and manner
- § 20:69 —Form—Order
- § 20:70 — —Provision regarding additional bond
- § 20:71 Operation and effect of order
- § 20:72 —Record silent as to jurisdiction
- § 20:73 Land appraisal
- § 20:74 —Form—Appraisers' report and oath
- § 20:75 — —Petition to excuse appraisal
- § 20:76 — —Order excusing appraisal
- § 20:77 Time and notice of public sale
- § 20:78 —Manner and terms
- § 20:79 —Form—Notice by publication
- § 20:80 Presence of representative; statute of frauds
- § 20:81 Agreements among bidders not to compete
- § 20:82 Representative as purchaser
- § 20:83 —Setting aside sale; acquiescence
- § 20:84 —Accounting on reconveyance or setting aside of sale
- § 20:85 Sales en masse
- § 20:86 Purchaser's failure to comply with bid terms
- § 20:87 Report of sale and approval; objections
- § 20:88 —Form—Sale report
- § 20:89 — —Objections to sale report
- § 20:90 — —Order sustaining objections to sale report and ordering further sale
- § 20:91 Deed or conveyance
- § 20:92 Proceeds; use and accounting
- § 20:93 Effect of sale—Purchaser's title
- § 20:94 —Error

C. UNDER TESTAMENTARY POWER

- § 20:95 Generally
- § 20:96 Application of Probate Act

TABLE OF CONTENTS

- § 20:97 Generally
- § 20:98 Nature of power
- § 20:99 —Time for exercising
- § 20:100 Representative's death, refusal or disqualification
- § 20:101 Administrator's power
- § 20:102 Effect of sale; purchaser's title

V. TRANSFERRING RESIDENTIAL REAL ESTATE BY INSTRUMENT WITHOUT PROBATE

- § 20:103 Real Property Transfer on Death Instrument Act—
Summary
- § 20:104 —Definitions
- § 20:105 —Nature of transfer of death instrument
- § 20:106 —Capacity of owner and agent's authority
- § 20:107 —Requirements
- § 20:108 —Signing, attestation, and acknowledgement
- § 20:109 —Notice, delivery, acceptance, or consideration not
required
- § 20:110 —Revocation of transfer on death instrument
- § 20:111 —Effect of transfer on death instrument during owner's
life
- § 20:112 —Effect of transfer on death instrument at owner's
death
- § 20:112.50 —Renunciation by spouse
- § 20:112.70 — —Form
- § 20:113 —Joint owners
- § 20:114 —Notice of death affidavit
- § 20:114.50 — —Form
- § 20:115 —Disclaimer
- § 20:116 —Rights of claimants
- § 20:117 —Limitations and bona fide transfers
- § 20:118 —Preparation of a transfer on death instrument or its
revocation

CHAPTER 21. ADMINISTRATION OF PERSONAL ESTATE

I. GENERAL CONSIDERATIONS

- § 21:1 Generally
- § 21:2 Title to personal estate
- § 21:3 Tax liability
- § 21:4 Continuing decedent's business
- § 21:5 —Form—Petition to continue decedent's business
- § 21:6 — —Order to continue decedent's business
- § 21:7 — —Authorization by heirs to administrator to
conduct business

- § 21:8 Negotiable paper
- § 21:9 Judgments in decedent's favor
- § 21:10 —Statutory applicability
- § 21:11 Duty of attending sale to enforce judgment in estate's favor
- § 21:12 Setoff against claims due estate
- § 21:13 Mortgages due to deceased
- § 21:14 Growing crops
- § 21:15 Investments
- § 21:16 Liability for bank failure
- § 21:17 Desperate personal estate
- § 21:18 *[Reserved]*
- § 21:19 Compounding, compromising or exchanging personal estate
- § 21:20 —Form—Suggestion of desperate claims
- § 21:21 — —Notice of application to sell or compound desperate claims
- § 21:22 — —Order to sell or compound claims, debts, and demands due estate
- § 21:23 — —Report of sale and compounding of desperate claims
- § 21:24 Form—Petition to settle wrongful death claim
- § 21:25 —Another form (Petition to settle wrongful death claim)
- § 21:26 —Another form (Petition to settle wrongful death claim)
- § 21:27 —Appearance and consent—Wrongful death action
- § 21:28 —Another form (Order Authorizing Settlement of Action for wrongful death)
- § 21:29 —Order to settle wrongful death claim
- § 21:30 —Another form
- § 21:31 Proceeds of desperate claims
- § 21:32 Removal of property from state

II. MORTGAGE, PLEDGE OR LEASE

- § 21:33 Generally
- § 21:34 Agricultural commodities
- § 21:35 Petition to mortgage, pledge or lease—Contents
- § 21:36 —Form—Petition to mortgage
- § 21:37 — —Agricultural commodities
- § 21:38 Notice of hearing
- § 21:39 Order authorizing mortgage, pledge or lease
- § 21:40 —Form—Order to mortgage personal property

III. SALE

- § 21:41 Generally

TABLE OF CONTENTS

- § 21:42 Effect of power of sale under will
- § 21:43 Petition to sell—Contents
- § 21:44 —Form—Petition
- § 21:45 Notice of hearing
- § 21:46 Order of sale
- § 21:47 —Private sale
- § 21:48 —Public sale
- § 21:49 Form—Order—Public sale
- § 21:50 —Private sale
- § 21:51 —Notice of public sale
- § 21:52 —Report—Public sale
- § 21:53 —Private sale
- § 21:54 Caveat emptor; fraud
- § 21:55 Reliance on warranties
- § 21:56 Purchase of assets by representative

CHAPTER 21A. TRANSFER INSTRUMENT PRESUMED VOID BY STATUTE

- § 21A:1 Definitions
- § 21A:2 Presumption of void transfer
- § 21A:3 Limitations period
- § 21A:4 No independent duty
- § 21A:5 Cost of the proceedings

CHAPTER 21B. LIFETIME TRANSFER OF PROPERTY ACT

- § 21B:1 Lifetime transfer of property with retained powers or rights;
validity

CHAPTER 22. PARTNERSHIP ESTATES

- § 22:1 Uniform Partnership Act
- § 22:2 Existence of partnership
- § 22:3 —Duties of partners
- § 22:4 Effect of partner's death
- § 22:5 —Liability of surviving partners
- § 22:6 —Continuation of partnership
- § 22:7 Surviving partner as trustee
- § 22:8 Rule as to partnership and individual debts
- § 22:9 —Partner's loss of right to have assets marshaled
- § 22:10 Rights of separate creditors
- § 22:11 Limited partnerships
- § 22:12 —Family limited partnerships
- § 22:13 — —Form

CHAPTER 23. CLAIMS AGAINST ESTATES

I. GENERAL CONSIDERATIONS

- § 23:1 Generally
- § 23:2 Suggestions and reminders
- § 23:3 Rights of creditors after debtor's death

II. DEBTS AND LIABILITIES OF ESTATE

- § 23:4 Generally
- § 23:5 —Statutory custodial claims
- § 23:6 Necessaries furnished to spouse; maintenance and child support
- § 23:7 Contracts of decedent
- § 23:8 Implied contract
- § 23:9 Claims for services—Generally
- § 23:10 —Family members
- § 23:11 —Who constitutes a family member
- § 23:12 —Effect of testamentary provision
- § 23:13 —Application of statute of limitations
- § 23:14 Claims for contributions of funds or support to family member
- § 23:15 —Child support orders
- § 23:16 Funeral expenses
- § 23:17 —Burial place markers
- § 23:18 Claims not due
- § 23:19 Representative's claims
- § 23:20 Joint and several obligations
- § 23:21 Money held in trust
- § 23:22 Equitable claims—Historically
- § 23:23 —Current law
- § 23:24 Partnership claims
- § 23:25 Enforcing judgments that are liens at judgment debtor's death
- § 23:26 Claims secured by liens
- § 23:27 Criminal fines
- § 23:28 Public aid claims
- § 23:29 Defenses to claims—Representative's duty
- § 23:30 —Limitations and laches
- § 23:31 Commencement of statute of limitations
- § 23:32 Form of defense

III. NECESSITY OF PRESENTATION

- § 23:33 Generally
- § 23:34 Attorney fees claims
- § 23:35 Contingent claims

TABLE OF CONTENTS

- § 23:36 Tax claims
- § 23:37 Failure to present claim—Effect
- § 23:38 —Secured claims
- § 23:39 —Excuse for not filing claim
- § 23:40 — —Claims and the Sureties Act

IV. PROCEDURE RELATING TO ADJUSTMENT AND ALLOWANCE

A. GENERAL PROCEDURAL MATTERS

- § 23:41 Generally
- § 23:42 Form—Claim notice
- § 23:43 —Proof of publication
- § 23:44 Mailing or delivery of claim copy
- § 23:45 —Form—Summons
- § 23:46 — —Waiver of mailing or delivery of copy of claim
- § 23:47 Filing or presenting claim
- § 23:48 Court where claim filed
- § 23:49 Time of presentation
- § 23:50 Claims after statutory deadline
- § 23:51 Formal requisites of claim
- § 23:52 Form of claims—Checklist
- § 23:53 —Form—Claim
- § 23:54 Amendment of claims
- § 23:55 Pleadings
- § 23:56 —Denial of written instrument's execution
- § 23:57 Parties entitled to file pleadings
- § 23:58 Practice on claim date
- § 23:59 Testamentary authorization of allowance
- § 23:60 Claim allowance and disallowance
- § 23:61 Arbitration of claims
- § 23:62 Classification of claims
- § 23:63 —Form—Allowance and classification
- § 23:64 — —Notice of disallowance

B. TRIAL OF DISPUTED CLAIMS

- § 23:65 Generally
- § 23:66 Right to jury trial
- § 23:67 Evidence—Generally
- § 23:68 —Burden of proof; weight and sufficiency
- § 23:69 —Proof of judgment
- § 23:70 —Decedent's written instruments
- § 23:71 —Decedent's financial records
- § 23:72 —Claimant's financial records
- § 23:73 Witness competency—Generally
- § 23:74 —Claimant

- § 23:75 —Claimant's spouse
- § 23:76 Depositions
- § 23:77 Issues, proof and variance
- § 23:78 Setoff or counterclaim against claim
- § 23:79 —Effect of statute of limitations
- § 23:80 Judgment
- § 23:81 Form—Order allowing claim
- § 23:81.50 —Claim order
- § 23:82 Court's authority to set aside judgments of allowance

V. CLASSIFICATION OF CLAIMS

- § 23:83 Generally
- § 23:84 Governing law
- § 23:85 Provisions for classification as substantive law
- § 23:86 First class—Funeral and administration expenses
- § 23:87 Second class—Surviving spouse and child award
- § 23:88 Third class—Debts due federal government
- § 23:89 Fourth class—Money due employees and expenses attending last illness
- § 23:90 Fifth class—Trust funds and property received
- § 23:91 —Decedent in capacity of executor, administrator, or guardian
- § 23:92 —Public officers
- § 23:93 —Other trust relations within the statute
- § 23:94 —Agents, factors, or bailees
- § 23:95 —Identifiable money or property
- § 23:96 Sixth class—Debts due state, county, or municipality
- § 23:97 Seventh class—All other claims
- § 23:98 Taxes
- § 23:99 —Form by seventh class claimant

VI. OPERATION AND EFFECT OF ALLOWANCE

- § 23:100 Generally
- § 23:101 Granting right to redeem real estate on probated claim

VII. ASSETS AND RESOURCES FOR PAYMENT

- § 23:102 Generally
- § 23:103 Marshalling assets and securities; contribution

VIII. PAYMENT OF CLAIMS

- § 23:104 Generally
- § 23:105 Priority of payment
- § 23:106 Release of creditor's claim against estate

TABLE OF CONTENTS

IX. RECOURSE AGAINST HEIRS, DEVISEES OR REPRESENTATIVES FOR DECEDENTS' DEBTS

- § 23:107 Generally
- § 23:108 Fraudulent conveyances or devises
- § 23:109 Liability of heir or devisee
- § 23:110 Actions against heir or devisee
- § 23:111 Limitation period
- § 23:112 When action is maintainable
- § 23:113 Pleadings
- § 23:114 Judgment

CHAPTER 24. CITATION TO RECOVER PROPERTY AND DISCOVER INFORMATION

- § 24:1 Generally
- § 24:2 Development of law
- § 24:3 Nature and purpose
- § 24:4 Property subject to citation proceeding
- § 24:5 Property not subject to citation proceeding
- § 24:6 Informality of proceedings
- § 24:7 Eligible petitioners
- § 24:8 Formal requisites of petition
- § 24:9 —Form—Petition for citation to discover information
- § 24:9.50 — —Petition for citation to recover assets
- § 24:10 Citation
- § 24:11 —Form—Citation
- § 24:12 — —Another form
- § 24:13 —Service
- § 24:14 Procedure where representative respondent
- § 24:15 Jury trial
- § 24:16 Hearing
- § 24:17 —Burden of proof
- § 24:18 —Evidence
- § 24:19 —Dead Man's Act
- § 24:20 —Gift property
- § 24:21 —Donor's intent
- § 24:22 —Delivery
- § 24:23 —Time of consummation
- § 24:24 —Nature of gift property
- § 24:25 — —Checks
- § 24:26 — —Bank deposits
- § 24:27 — —Negotiable instruments
- § 24:28 — —Stocks and bonds
- § 24:29 —Burden of proof and presumptions
- § 24:30 —Sufficiency of evidence

- § 24:31 Judgment and orders
- § 24:32 Requirement to answer citation questions and enforcement of orders
- § 24:33 Forms—Order to turn over property
- § 24:34 —Petition for attachment against respondent refusing to turn over property
- § 24:35 —Attachment order
- § 24:36 —Attachment
- § 24:37 —Order committing respondent to jail for failure to turn over property
- § 24:38 —Contempt mittimus
- § 24:39 Finality of proceeding
- § 24:40 —Collateral attack; review
- § 24:41 Improper transfer of assets
- § 24:42 Distribution to improper parties
- § 24:43 Receipt of property, benefit, or other interest by reason of death
- § 24:44 Definitions—Financial exploitation
- § 24:45 —Abuse
- § 24:46 —Neglect

CHAPTER 25. DISTRIBUTION

- § 25:1 Generally
- § 25:2 Title to property
- § 25:3 Time for distribution
- § 25:4 —Distribution after six months
- § 25:5 —Partial distribution before expiration of six-month period
- § 25:6 — —Form—Petition for leave to make partial distribution
- § 25:7 — — —Order granting leave to make partial distribution
- § 25:8 — — —Refunding bond given by legatee, distributee, heir or creditor
- § 25:9 Distribution to creditors
- § 25:9.50 Individuals barred from receiving distribution
- § 25:10 Necessity of distribution order
- § 25:10.50 Final distribution of estate
- § 25:11 Form—Order making final distribution among creditors, heirs or residuary legatees
- § 25:12 —Bond to representative on payment of legacy to minor
- § 25:13 Effect of order
- § 25:14 Form—Receipt on distribution
- § 25:15 Refunding bond after expiration of time for filing claims
- § 25:16 Refunding by distributees

TABLE OF CONTENTS

- § 25:17 —Form—Petition for apportioning among distributees debt arising after distribution
- § 25:18 — —Order apportioning amount to be refunded by distributees
- § 25:19 Distribution in kind
- § 25:20 —Form—Petition
- § 25:21 — —Order directing distribution in kind
- § 25:22 — —Order approving payment to distributees
- § 25:23 Heirs of person presumed dead
- § 25:24 Advancements
- § 25:25 —Form—Release in consideration of advancement of money
- § 25:26 — —Release in consideration of advancement of personal property
- § 25:27 Setoff or retention of indebtedness
- § 25:28 Form—Petition by attorney-in-fact for leave to receive distributive share
- § 25:29 —Order authorizing attorney-in-fact to receive share
- § 25:30 —Bond of attorney-in-fact
- § 25:31 Foreign distributees
- § 25:32 —Form—Petition of foreign country representative to receive share
- § 25:33 — —Order allowing foreign country representative to receive share
- § 25:34 — —Report of attorney-in-fact or consul
- § 25:35 — —Receipt of distributee to accompany report

CHAPTER 26. ACCOUNTING

- § 26:1 Generally
- § 26:2 Equitable jurisdiction over representative's accounts
- § 26:3 Account contents
- § 26:4 —Credits to representative
- § 26:5 —Administration expenses
- § 26:6 —Compensation of representatives
- § 26:7 —Attorney fees
- § 26:8 Suggestions and reminders
- § 26:9 Accounts checklist
- § 26:10 Form—Certificate of voucher possession
- § 26:11 —Summary sheet
- § 26:12 —Representative's account
- § 26:13 —Form—Recapitulation
- § 26:14 Notice of accounting
- § 26:15 —Current or final account
- § 26:16 —Form—Affidavit of nonresidence and publication notice
- § 26:17 Form—Appearance on account

- § 26:18 Accounting on behalf of representatives; suit by distributee
- § 26:19 Citation to compel accounting
- § 26:20 —Form—Petition
- § 26:21 — —Citation
- § 26:22 — —Order where representative accounts and settles after citation's issuance
- § 26:23 — —Order to compel accounting
- § 26:24 Attachment to enforce accounting
- § 26:25 —Form—Petition for attachment for failing to account as ordered by court
- § 26:26 — —Order requiring attachment for failure to comply with order to file account
- § 26:27 — —Attachment writ
- § 26:28 —Form in case of contempt
- § 26:29 Attachment on failure to pay and distribute
- § 26:30 —Form—Petition for attachment for failure to pay over money as ordered by court
- § 26:31 — —Order that attachment issue
- § 26:32 Objections to account
- § 26:33 —Form—Objections
- § 26:34 —Time of filing
- § 26:35 —Hearing
- § 26:36 Final account
- § 26:37 Form—Final account and settlement
- § 26:38 Effect of final account approval
- § 26:39 —Presumptions; res judicata
- § 26:40 —Attack on and relief from order
- § 26:41 Deposit of unclaimed money
- § 26:42 —Form—Petition for leave to deposit unclaimed money
- § 26:43 — —Order granting authority to deposit unclaimed money
- § 26:44 Deposit or investment of money of ward
- § 26:45 Settlement where estate does not exceed surviving spouse's award
- § 26:46 —Form—Report that assets are less than surviving spouse's award and petition for discharge
- § 26:47 — —Order finding assets do not exceed surviving spouse's award and discharging representative
- § 26:48 Reopening estate

Volume 2

CHAPTER 27. NONRESIDENT REPRESENTATIVES

- § 27:1 Generally

TABLE OF CONTENTS

§ 27:2	Claims in principal and ancillary administration
§ 27:3	Extraterritorial effect of letters
§ 27:4	Power to collect and remove personal property
§ 27:5	Form - Affidavit of foreign representative
§ 27:6	Penalty for false affidavit
§ 27:7	Right to sue
§ 27:8	Amenability to Illinois action
§ 27:9	Personal property - Lease, sale, or mortgage
§ 27:10	—Checklist
§ 27:11	Real estate - Lease, sale, or mortgage
§ 27:12	—Checklist
§ 27:13	Effect of letters in Illinois upon lease, sale, or mortgage of property
§ 27:14	Conveyances by foreign representative under power in will

CHAPTER 28. ACTIONS BY OR AGAINST REPRESENTATIVES

I. GENERAL CONSIDERATIONS

§ 28:1	Introduction
§ 28:2	Actions which survive
§ 28:3	—Action for personal injuries and death
§ 28:4	—Death of party to action
§ 28:5	Right to bring suit
§ 28:6	Statute of limitations where right of action survives

II. ACTIONS AND PROCEEDINGS MAINTAINABLE

§ 28:7	Actions by representatives generally
§ 28:8	Actions maintainable
§ 28:9	—Action for possession of real estate
§ 28:10	—Action for wrongful death
§ 28:10.50	— —Limitations period
§ 28:11	— —Contributory negligence
§ 28:12	— —Special Representative
§ 28:13	— —Next of kin
§ 28:14	— —Damages recoverable and propriety of award
§ 28:15	Forms—Petition by representative for leave to institute suit and employ counsel
§ 28:16	—Order authorizing representative to institute suit and employ counsel
§ 28:17	—Petition to settle cause of action—Wrongful death
§ 28:18	—Order for leave to settle cause of action—Wrongful death

- § 28:19 —Release of tortfeasor by representative—
Decedent's estate
- § 28:20 Actions against representatives
- § 28:21 Garnishment of representative

III. PRACTICE AND PROCEDURE

- § 28:22 Introduction
- § 28:23 Parties
- § 28:24 Pleading
- § 28:25 Evidence
- § 28:26 Defenses available to representatives
- § 28:27 Judgment
- § 28:28 —Construing will
- § 28:29 —Effect of judgment against representative qualified
in one state upon representative qualified in another
- § 28:30 Costs
- § 28:31 —In proceeding to construe will

IV. COMPETENCY OF WITNESSES

- § 28:32 Introduction
- § 28:33 Deceased or persons under legal disability—
“Dead-Man's Act”
- § 28:34 —Definition of terms used in Dead-Man's Act
- § 28:35 —Competence to testify—Interest adverse to party
representative
- § 28:36 —Partition
- § 28:37 Distribution of estate
- § 28:38 Husband and wife
- § 28:39 Competency of spouse of incompetent witness
- § 28:40 Manner of showing interest of witness
- § 28:41 —Exceptions in Dead-Man's Act
- § 28:42 — —Testimony as to conversations and events
- § 28:43 — —Depositions
- § 28:44 — —Account books and records
- § 28:45 — —Heirship of decedent
- § 28:46 Partners and joint contractors
- § 28:47 Contracts with deceased agent
- § 28:48 Effect on competency of assignment, release or
adjudication of claim

CHAPTER 29. APPEALS

I. IN GENERAL

- § 29:1 Generally
- § 29:2 Who may appeal

TABLE OF CONTENTS

- § 29:3 —Representatives
- § 29:4 Right to counsel—Appeal of order denying restoration of estate

II. PROCEDURE

- § 29:5 Judgments subject to review
- § 29:6 Time for filing notice of appeal
- § 29:7 Appeal after 30 days
- § 29:8 Form of notice of appeal
- § 29:9 Service of notice of appeal
- § 29:10 Notice to self-represented persons
- § 29:11 Stay of judgments pending appeal
- § 29:12 Condition of bond
- § 29:13 Appeal bond
- § 29:14 —Another form of bond on appeal
- § 29:15 Contents of record on appeal
- § 29:16 —Report of proceedings
- § 29:17 Preparation of record
- § 29:18 Record on appeal request form
- § 29:19 Form of certificate of record
- § 29:20 Transmission of record or certificate
- § 29:21 Form of certificate in lieu of record
- § 29:22 Time for filing and docketing record
- § 29:23 Briefs
- § 29:24 —Appendix to the brief
- § 29:25 Abstract
- § 29:26 Time for filing and serving briefs
- § 29:27 Oral argument
- § 29:28 Scope of review and powers of reviewing court
- § 29:29 Rehearing in reviewing court
- § 29:30 Issuance and filing of mandates
- § 29:31 Lien of judgment of reviewing court
- § 29:32 Motions in reviewing court
- § 29:33 Form and corrections of motions

CHAPTER 30. INDEPENDENT ADMINISTRATION

- § 30:1 Generally
- § 30:2 Overview—Checklist
- § 30:3 Petition
- § 30:4 Hearing for probate of will and appointment as representative—Checklist
- § 30:5 Form—For probate of will and for letters testamentary
- § 30:6 —For letters of administration

HORNER PROBATE PRACTICE AND ESTATES

- § 30:7 — —For probate of will and for letters of administration with will annexed
- § 30:8 —Notice to Heirs-Petition for Letters of Administration
- § 30:9 —Order Declaring Heirship
- § 30:10 —Oath and Bond or Representative - No Surety
- § 30:11 Order granting independent administration
- § 30:12 —Objecting interested persons
- § 30:13 —Form—Testate estate
- § 30:14 — —Intestate estate
- § 30:15 Notice - to heirs and legatees
- § 30:16 Notice - to creditors
- § 30:17 Form-Notice to heirs and legatees-Will admitted
- § 30:18 —Form—Explanation of rights
- § 30:19 — —Form—Publication notice and notice of claims
- § 30:20 — —Proof of mailing and publication
- § 30:21 — —Waiver of notice
- § 30:22 Converting from supervised to independent administration
- § 30:23 —Form—Petition to convert to independent administration
- § 30:24 — —Order converting to independent administration (estate to remain open)
- § 30:25 — —Order converting to independent administration for purpose of closing estate
- § 30:26 Termination of independent administration status
- § 30:27 —Petition to terminate
- § 30:28 —Another form—Petition to terminate
- § 30:29 — —Notice of termination/independent administration
- § 30:30 Request for court instruction
- § 30:31 Personal fiduciary for ward
- § 30:31.50 —Form—Acceptance of Office
- § 30:32 —Selection—Checklist
- § 30:33 Administrative powers of independent representative—Checklist
- § 30:34 Inventory
- § 30:35 Spouse and child awards
- § 30:36 —Notice of probate and release of estate's interest in real estate under independent administration
- § 30:37 Distribution of estate assets
- § 30:38 —Minor and disabled distributees
- § 30:39 —Form—Refunding bond
- § 30:40 Closing the estate—Checklist
- § 30:41 —Final report
- § 30:42 — —Form—Notice of final report
- § 30:43 — —Receipt and approval on closing of decedent's estate in independent administration

TABLE OF CONTENTS

§ 30:44 — —Order of discharge

**CHAPTER 31. SUMMARY
ADMINISTRATION**

- § 31:1 Generally
- § 31:2 Overview—Checklist
- § 31:3 Preliminary matters
- § 31:4 Petition
- § 31:5 —Form—Petition—Testate
- § 31:6 — —Intestate
- § 31:7 Notice
- § 31:8 —Form - Notice
- § 31:9 Bond of distributee
- § 31:10 —Form-Bond of distributee
- § 31:11 Claims
- § 31:12 Hearing and order
- § 31:13 —Form—Order—Testate
- § 31:14 — —Form—Order—Intestate
- § 31:15 Distribution

**CHAPTER 32. SETTLEMENT OF SMALL
ESTATES**

- § 32:1 Generally
- § 32:2 Estates of decedents
- § 32:3 —Form—Small estate affidavit
- § 32:4 Minor or ward's estate
- § 32:5 —Form—Affidavit for ward's estate
- § 32:6 — —Affidavit for minor's estate
- § 32:7 Appointment of agent
- § 32:8 Payment or delivery of personal estate to persons
authorized
- § 32:9 Recovery upon refusal to pay or deliver
- § 32:10 Penalties for false affidavit
- § 32:11 Sale of ward's realty at private sale
- § 32:12 —Bond in sale of small real estate interest

**CHAPTER 33. INTRODUCTION TO
GUARDIANSHIP**

- § 33:1 Guardianship in general
- § 33:2 Guardianship at common law
- § 33:3 Minors—Definition
- § 33:4 —Parental right to custody
- § 33:5 —Grandparents' visitation rights
- § 33:6 —Emancipation
- § 33:7 Guardians for adults with disabilities—Definitions

- § 33:8 Person with a disability—Power of court
- § 33:9 —Transactions with a person with a disability
- § 33:10 Alternative to guardianship for adults with disabilities—
Supported Decision-Making Agreement Act

CHAPTER 34. ELIGIBILITY, APPOINTMENT, AND QUALIFICATION OF GUARDIANS OF MINORS

- § 34:1 Overview—Checklist
- § 34:2 Testamentary guardian—Selection
- § 34:3 —Method of appointment
- § 34:4 —Form - Will provisions for appointment
- § 34:5 Nomination by minor
- § 34:6 Eligibility
- § 34:7 —Order of protection
- § 34:8 Petition for appointment—Contents
- § 34:9 Petition for appointment-Defects
- § 34:10 —Form - Petition for Guardian of Minor
- § 34:11 *[Reserved]*
- § 34:12 Petition for appointment-Defects—Form -
Nomination by minor
- § 34:13 Petition for appointment—Defects—Notice of
hearing on petition
- § 34:14 Petition for appointment-Defects—Notice of
hearing on petition—Form
- § 34:15 Best interests of minor
- § 34:16 Appointment
- § 34:16.50 Special immigrant minor findings
- § 34:17 Oath or acceptance of office
- § 34:18 Necessity of bond
- § 34:19 —Appointment by court
- § 34:20 —Form—Order appointing plenary guardian of a minor
- § 34:21 Standby guardian
- § 34:22 —Form designating standby guardian
- § 34:23 —Petition for appointment or termination of
authority
- § 34:24 Short-term guardian
- § 34:25 —Form - appointment
- § 34:26 Form - Letters of office—Guardian of estate
- § 34:27 —Guardian of person
- § 34:28 Effect of appointment
- § 34:29 Costs and fees
- § 34:30 Successor guardians
- § 34:31 Revocation of letters

TABLE OF CONTENTS

**CHAPTER 35. ELIGIBILITY,
APPOINTMENT, AND QUALIFICATION OF
GUARDIANS OF DISABLED PERSONS**

§ 35:1	Overview—Checklist
§ 35:2	Jurisdiction and venue
§ 35:3	Eligibility
§ 35:4	Appointment
§ 35:5	—Agencies and corporations
§ 35:6	—Designation by ward
§ 35:7	Order of protection
§ 35:8	Petition for appointment—Contents
§ 35:9	—Form
§ 35:10	—Dismissal or withdrawal
§ 35:11	— —Form - Petition for dismissal or withdrawal
§ 35:12	— —Form - Order
§ 35:13	Report
§ 35:14	—Form—Physician’s report
§ 35:15	Temporary guardian
§ 35:16	—Form—Petition for appointment of temporary guardian
§ 35:17	— —Order of appointment of temporary guardian
§ 35:18	Procedure upon filing of petition
§ 35:19	—Summons and notice
§ 35:20	— —Form—Summons
§ 35:21	—Form - Notice of rights of respondents
§ 35:22	— —Form - Notice
§ 35:23	Guardian ad litem
§ 35:24	—Form—Order of appointment
§ 35:24.50	— —Order appointing or extending guardian ad litem for specific purpose
§ 35:25	— —Answer of guardian ad litem
§ 35:26	Appearance of interested party
§ 35:27	Right to jury trial
§ 35:28	—Form - Jury demand
§ 35:29	Emergency procedures for medical treatment
§ 35:30	Hearing to adjudicate a person disabled
§ 35:31	—Proceeding relating to veteran
§ 35:32	Instructions to jury
§ 35:33	Form - Jury verdict—Finding of no disability— Guardian of estate
§ 35:34	— —Guardian of person—Verdict
§ 35:35	—Finding of disability—Setting aside petition for appointment of guardian of estate
§ 35:36	— —Guardian of estate
§ 35:37	— —Guardian of person—Verdict
§ 35:38	— —Limited guardian of estate

- § 35:39 — —Limited guardian of person
- § 35:40 Appointment of plenary or limited guardian
- § 35:40.50 —Order appointing plenary co-guardians of a person with a disability
- § 35:41 Effect of appointment
- § 35:42 Costs
- § 35:43 —Form—Order appointing plenary guardian
- § 35:44 — —Form—Order appointing plenary guardian—
Disability previously established
- § 35:45 — —Limited guardian
- § 35:46 Notice of right to seek discharge of guardian or
modification of guardianship
- § 35:47 —Form—Statement of right to petition for termination of
adjudication of disability, revocation of letters or
modification of duties
- § 35:48 Oath or acceptance of office
- § 35:49 Necessity of bond
- § 35:50 Standby guardian
- § 35:51 —Petition for appointment
- § 35:52 —Form—Designation of standby guardian
- § 35:53 Short-term guardian
- § 35:54 —Form—Designation of short-term guardian
- § 35:55 Form - Letters of office—Guardian of estate
- § 35:56 —Guardian of person—Letters of Office

CHAPTER 36. PUBLIC GUARDIANS

- § 36:1 Appointment
- § 36:2 Oath of office
- § 36:3 Bond
- § 36:4 —Form
- § 36:5 —Failure to give bond or additional security
- § 36:6 Powers and duties
- § 36:7 Compensation of public guardian
- § 36:8 Tenure of office

CHAPTER 37. BONDS OF REPRESENTATIVES

I. GENERAL REQUIREMENTS

- § 37:1 Generally
- § 37:2 Amount of bond and sureties
- § 37:3 Insurance producers
- § 37:4 Form—Guardian’s bond—Surety
- § 37:5 — —No surety
- § 37:6 Form - Guardian’s bond—No surety—Form
- § 37:7 Breach of bond

TABLE OF CONTENTS

II. NEW OR ADDITIONAL SECURITY

- § 37:8 Generally
- § 37:9 Further bond or security
- § 37:10 —Form - Petition - by guardian
- § 37:11 —Form - Petition - by interested party
- § 37:12 Countersecurity
- § 37:13 —Form - Petition
- § 37:14 Surety desiring release
- § 37:15 —Form - Surety's petition
- § 37:16 Notice to representative
- § 37:17 —Form
- § 37:18 Answer of representative
- § 37:19 Form - Order—Requiring different or additional security
- § 37:20 —Requiring new bond
- § 37:21 —Requiring countersecurity
- § 37:22 —Releasing surety from further liability
- § 37:23 Form—Additional bond—Surety
- § 37:24 Form—Additional bond—No Surety
- § 37:25 Form - Additional bond - No Surety—Alternate form

III. LIABILITIES AND RIGHTS OF SURETIES

- § 37:26 Generally
- § 37:27 Additional security or new bond—Effect
- § 37:28 Subsequent laws and orders
- § 37:29 Subrogation
- § 37:30 Contribution among sureties

IV. ACTIONS ON BONDS

- § 37:31 Generally
- § 37:32 Necessity of demand
- § 37:33 Evidence
- § 37:34 Defenses
- § 37:35 Statute of limitations
- § 37:36 Costs
- § 37:37 Successive actions
- § 37:38 Effect of dismissal as to some defendants

CHAPTER 38. RIGHTS, POWERS, DUTIES, AND LIABILITIES

- § 38:1 Generally
- § 38:2 Standard of care in performing duties
- § 38:3 Nature of judicial supervision
- § 38:4 Duties of guardian of person—Minors

- § 38:5 —Disabled persons
- § 38:6 —Refusal of medical treatment
- § 38:7 Rights and duties of guardian of person—Reliance
by third party on authority of guardian
- § 38:8 Duties of guardian of estate—Generally
- § 38:9 —Minors
- § 38:10 — —estate planning
- § 38:11 — —contracts and legal agreements
- § 38:12 — —legal proceedings
- § 38:13 —Disabled persons
- § 38:14 — —Veterans Administration payments
- § 38:15 — —actions and applications of funds
- § 38:16 — —estate planning
- § 38:16.50 — —Execution of will or codicil
- § 38:17 — —contracts and legal agreements
- § 38:18 — —contracts and legal agreement—conditional
gifts
- § 38:19 — —legal proceedings
- § 38:19.30 Sterilization of ward
- § 38:19.40 —Procedure for court approval
- § 38:19.50 —Hearing
- § 38:20 Maintenance of ward
- § 38:21 —Necessity of judicial authorization
- § 38:22 —Form for authority to spend—Petition
- § 38:23 —Order
- § 38:24 Effect of parental duty to support minor ward
- § 38:25 Contrary to terms of will
- § 38:26 Encumbrances on land
- § 38:27 Repairs and improvements
- § 38:28 Partition
- § 38:29 Power to bind ward—By contract
- § 38:30 —By admissions, settlements, or wrongful acts
- § 38:31 Delegation of powers by guardian
- § 38:32 Contracts between guardian and ward
- § 38:33 Money and other personal property
- § 38:34 Renunciation of will
- § 38:35 Liability generally
- § 38:36 Powers and duties of testamentary guardians
- § 38:37 Duties and fees of guardian ad litem
- § 38:38 Duties of standby guardian—Of minor
- § 38:39 —Of disabled person
- § 38:40 Duties of short-term guardian—Of minor
- § 38:41 —Of disabled person

CHAPTER 39. NONRESIDENT REPRESENTATIVES

- § 39:1 Generally

TABLE OF CONTENTS

§ 39:2	Power to collect and remove ward's personal estate
§ 39:3	—Form - Affidavit
§ 39:4	Penalty for false affidavit
§ 39:5	Right to sue; substitution of resident representative
§ 39:6	Sale of personal estate
§ 39:7	—Requirements of petition—Checklist
§ 39:8	Lease, sale or mortgage of real estate
§ 39:9	—Requirements of petition—Checklist
§ 39:10	—Form - Petition
§ 39:11	—Effect of grant of letters in Illinois
§ 39:12	Transfer of estate to nonresident representative
§ 39:13	—Forms—Petition to transfer estate
§ 39:14	— —Notice to resident representative
§ 39:15	— —Order to transfer estate

CHAPTER 39A. GUARDIANSHIPS AND PROTECTIVE PROCEEDINGS BETWEEN STATES

I. GENERAL PROVISIONS

§ 39A:1	Generally
§ 39A:2	Definitions
§ 39A:3	International application of Act
§ 39A:4	Communication between courts
§ 39A:5	Cooperation between courts
§ 39A:6	Taking testimony in another state

II. JURISDICTION

§ 39A:7	Definitions regarding significant connection factors
§ 39A:8	Exclusive jurisdictional basis
§ 39A:9	Jurisdiction of Illinois court
§ 39A:10	Special jurisdiction of Illinois court
§ 39A:11	Exclusive and continuing jurisdiction
§ 39A:12	Appropriate forum
§ 39A:13	Jurisdiction declined by reason of conduct
§ 39A:14	Notice of proceeding
§ 39A:15	Proceedings in more than one state

III. TRANSFER OF GUARDIANSHIP OR CONSERVATORSHIP

§ 39A:16	Transfer of guardianship or conservatorship to another state
§ 39A:17	Accepting guardianship or conservatorship transferred from another state

IV. REGISTRATION AND RECOGNITION OF ORDERS FROM OTHER STATES

- § 39A:18 Registration of guardianship orders
- § 39A:19 Registration of protective orders
- § 39A:20 Effect of registration

V. MISCELLANEOUS PROVISIONS

- § 39A:21 Uniformity of application and construction
- § 39A:22 Relation to Electronic Signatures in Global and National Commerce Act

CHAPTER 40. INVENTORY AND APPRAISAL

- § 40:1 Inventory
- § 40:2 —Required contents and format
- § 40:3 —Form—Inventory
- § 40:4 Appraisals
- § 40:5 —Form—Petition for appointment of appraisers
- § 40:6 — —Authorization to appraise
- § 40:7 — —Oath of real estate appraiser
- § 40:8 —Appraisal of personal property
- § 40:9 —Compensation of appraisers
- § 40:10 Inventories and appraisals as evidence
- § 40:11 Supplemental inventory
- § 40:12 Citation to compel guardian to inventory assets
- § 40:13 —Form—Petition for citation
- § 40:14 — —Citation
- § 40:15 — —Order requiring guardian to inventory estate

CHAPTER 41. CONTRACTS OF DISABLED PERSONS

- § 41:1 Generally
- § 41:2 Contracts made before adjudication of disability
- § 41:3 Contracts made after adjudication of disability
- § 41:4 Performance by guardian
- § 41:5 —Form for leave to perform—Petition
- § 41:6 — —Order

CHAPTER 42. ACTIONS BY OR AGAINST MINORS AND DISABLED PERSONS

I. IN GENERAL

- § 42:1 Introduction

TABLE OF CONTENTS

II. ACTIONS BY OR AGAINST MINORS

- § 42:2 At common law
- § 42:3 Effect of existence of guardianship
- § 42:4 Minor as defendant
- § 42:5 Protection of minor's interests by court
- § 42:6 Extent minor is bound by judgment—Minor plaintiff
- § 42:7 —Minor defendant
- § 42:8 Settlement of minor's personal injury action
- § 42:9 —Form of order—Proceeds under \$5,000
- § 42:10 — —Proceeds exceed \$5,000
- § 42:11 —Wrongful death action
- § 42:12 — —Form of order distributing funds in excess of \$5,000
- § 42:13 —Structured settlement
- § 42:14 —Forms—Payments to minor starting beyond 18th birthday
- § 42:15 — —Payments to minor starting at once and continuing beyond 18th birthday
- § 42:16 — —Payments to disabled adult

III. ACTIONS BY OR AGAINST DISABLED PERSONS

- § 42:17 Generally
- § 42:18 Applicability of laches or statute of limitations to disabled person
- § 42:19 Effect of judgments for and against disabled persons

CHAPTER 43. ACTIONS BY OR AGAINST REPRESENTATIVES

- § 43:1 Actions by Representatives
- § 43:2 Forms—Petition to settle cause of action in minor's estate
- § 43:3 —Order to settle cause of action for personal injury in minor's estate
- § 43:4 —Settlement agreement
- § 43:5 Actions against representatives
- § 43:6 Evidence in actions by or against representatives
- § 43:7 Competency of witnesses
- § 43:8 Actions between representative and ward

CHAPTER 44. CLAIMS AGAINST WARD'S ESTATE

- § 44:1 Generally
- § 44:2 Claim of representative
- § 44:3 Formal requirements

- § 44:4 Form—Claim
- § 44:5 Mailing or delivery of copy
- § 44:6 Pleading
- § 44:7 Demand for jury
- § 44:8 —Form
- § 44:9 Evidence
- § 44:10 Competency of witnesses
- § 44:11 Procedure for hearing
- § 44:12 Judgment
- § 44:13 Costs
- § 44:14 Payment—Before allowance
- § 44:15 —Availability of funds
- § 44:16 Disallowance
- § 44:17 Form—Notice of disallowance of claim

CHAPTER 45. CITATION TO RECOVER PROPERTY AND DISCOVER INFORMATION

- § 45:1 Generally
- § 45:2 Petition—Who may file
- § 45:3 —Formal requirements
- § 45:4 —Form
- § 45:5 Citation—Issuance and service
- § 45:5.50 Order—Citation to discover information
- § 45:6 Citation—Form
- § 45:7 —Additional form
- § 45:8 Representative as respondent
- § 45:9 Trial by jury
- § 45:10 Hearing by court
- § 45:11 Form - Order to turn over property
- § 45:12 Finality of proceeding
- § 45:13 —Collateral attack; Review

CHAPTER 46. ORDERS OF PROTECTION

I. GENERALLY

- § 46:1 Introduction
- § 46:2 Nature of action
- § 46:3 Remedies
- § 46:4 —Considerations of court
- § 46:5 Definitions

II. PROCEDURE

- § 46:6 Commencement of action
- § 46:7 —Jurisdiction
- § 46:8 —Venue

TABLE OF CONTENTS

§ 46:9	—Summons
§ 46:10	Petition for order of protection
§ 46:11	—Form—Petition
§ 46:12	Dismissal and consolidation
§ 46:13	Trial by jury
§ 46:14	Requirements of order of protection—Checklist
§ 46:15	—Emergency order of protection
§ 46:16	— —Form—Emergency order
§ 46:17	—Thirty-day interim order of protection
§ 46:18	— —Form—Interim order
§ 46:19	—Plenary order of protection—Checklist
§ 46:20	— —Form - Plenary order
§ 46:21	Notice of Order of Protection
§ 46:22	—Notice of Order of Protection—Short Form Notification
§ 46:23	— —Short Form Notification—Requirements
§ 46:24	Modification and reopening of order
§ 46:25	Filing of an order of protection issued in another state
§ 46:26	Modification and reopening of order
§ 46:27	Enforcement of order of protection

Volume 2A

CHAPTER 47. ADMINISTRATION OF PERSONAL ESTATE

I. IN GENERAL

§ 47:1 Introduction

II. ADMINISTRATION OF MONEY ASSETS

§ 47:2 Deposit or investment of money

III. SALE OF PERSONAL ESTATE

§ 47:3 Generally

§ 47:4 Petition to sell; notice

§ 47:5 —Form of petition to sell personal property

§ 47:6 — —Private sale

§ 47:7 — —Public sale

§ 47:8 Order of sale

§ 47:9 —Form of order to sell personal property

§ 47:10 — —Private sale

§ 47:11 — —Public sale

§ 47:12 Notice of Public Sale

- § 47:13 —Form
- § 47:14 Employment of auctioneer or clerk for public sale
- § 47:15 Form of report—Public sale
- § 47:16 —Private sale

IV. LEASE, MORTGAGE OR PLEDGE OF PERSONAL ESTATE

- § 47:17 Generally
- § 47:18 Mortgage of agricultural commodities
- § 47:19 Petition; notice
- § 47:20 —Forms—Petition to mortgage personal property
- § 47:21 — —Order to mortgage personal property

V. ADMINISTRATION OF OTHER PERSONAL PROPERTY

- § 47:22 Operating business of ward
- § 47:23 —Forms—Petition for authority to operate ward's business
- § 47:24 — —Order granting authority to continue ward's business
- § 47:25 Compounding, compromising, or exchanging personal estate
- § 47:26 —Forms—Suggestion to court that certain claims are uncollectable
- § 47:27 — —Notice of application to sell or compound uncollectable claims
- § 47:28 — —Order to sell or compound claims, debts and demands due estate
- § 47:29 — —Report of sale and compounding of uncollectable claims
- § 47:30 Compromise and settlement of cause of action
- § 47:31 —Forms—Petition to settle cause of action—Minor's estate
- § 47:32 — —Leave to settle and to appoint guardian
- § 47:33 — —Order to settle cause of action—Minor's estate
- § 47:34 — — —Funds to be administered in probate proceeding
- § 47:35 — — —Funds to be deposited with restrictions on withdrawal
- § 47:36 Release by guardian—Checklist
- § 47:37 Removal of property from Illinois

CHAPTER 48. INVESTMENTS

- § 48:1 Generally
- § 48:2 Necessity of court approval
- § 48:3 Notice regarding veterans' benefits

TABLE OF CONTENTS

- § 48:4 Liability—Losses on investments
- § 48:5 —Interest on funds not invested
- § 48:6 — —Compound interest
- § 48:7 Retention of investments received at time of appointment
- § 48:8 —Forms—Petition to approve retention of investment
- § 48:9 — —Order approving retention
- § 48:10 Investments prior to appointment
- § 48:11 Classes of investments—Checklist
- § 48:12 —Purchase of notes or bonds secured by first mortgage on real estate
- § 48:13 —Split mortgages or trust deed notes or bonds
- § 48:14 Forms—Petition to secure authority to invest
- § 48:15 —Order authorizing investment of funds

CHAPTER 49. ADMINISTRATION OF REAL ESTATE

I. IN GENERAL

- § 49:1 Introduction

II. LEASE OF WARD'S REAL ESTATE

- § 49:2 Generally
- § 49:3 Duration of lease
- § 49:4 Practice and procedure—Real estate
- § 49:5 —Oil, gas, and other mineral rights
- § 49:6 —Forms—Petition to lease
- § 49:7 — —Order authorizing lease
- § 49:8 — —Lease by minor's guardian

III. MORTGAGE OF WARD'S REAL ESTATE

- § 49:9 Generally
- § 49:10 Venue
- § 49:11 Mortgage of Real Estate—Procedure
- § 49:12 —Requirements of petition—Checklist
- § 49:13 —Form—Petition for leave to mortgage
- § 49:14 Parties
- § 49:15 Appointment of guardian ad litem for persons under disability or not in being
- § 49:16 Service of process
- § 49:17 —Form—Summons
- § 49:18 Forms—Affidavit for service by publication
- § 49:19 —Publication notice
- § 49:20 —Answer of guardian ad litem
- § 49:21 Powers of court on hearing—Checklist

- § 49:22 —Order
- § 49:23 —Forms—Order granting leave to mortgage
- § 49:24 — —Provisions in order regarding additional bond
- § 49:25 Special bond
- § 49:26 —Bond for sale or mortgage of real estate—Surety
- § 49:27 — —No surety
- § 49:28 Accounting for proceeds
- § 49:29 Compelling representative to mortgage
- § 49:30 Effect of death of representative
- § 49:31 Validity of proceedings to mortgage and of mortgage
- § 49:32 Foreclosure of mortgage
- § 49:33 —Defenses
- § 49:34 Joining with spouse of ward in mortgage
- § 49:35 —Forms—Petition for leave to join in mortgage
- § 49:36 — —Order granting leave to join in mortgage

IV. SALE OF WARD'S REAL ESTATE

- § 49:37 Generally
- § 49:38 Nature of proceeding
- § 49:39 When sale authorized
- § 49:40 Jurisdiction, venue and practice
- § 49:41 Sale of Real Estate—Procedure
- § 49:42 Requirements of petition—Checklist
- § 49:43 —Form—Petition for sale of real estate
- § 49:44 — —Another Form
- § 49:45 Assent to sale free of ward's interest
- § 49:46 Joining with spouse of ward in sale
- § 49:47 Forms—Petition for leave to join in sale
- § 49:48 Parties
- § 49:49 Appointment of guardian ad litem
- § 49:50 —Form—Answer of guardian ad litem
- § 49:51 Process and notice
- § 49:52 —Forms—Summons
- § 49:53 — —Publication notice
- § 49:54 Hearing—Checklist
- § 49:55 Order or judgment
- § 49:56 —Place and terms of sale
- § 49:57 —Compelling sale
- § 49:58 —Form—Order to sell real estate
- § 49:59 — —Another form
- § 49:60 Order granting leave to join spouse in sale
- § 49:61 Forms—Assent to sale of homestead interest
- § 49:62 Operation and effect of order
- § 49:63 Appraisement of land to be sold
- § 49:64 —Form of appraiser's oath
- § 49:65 Additional bond

TABLE OF CONTENTS

- § 49:66 —Form of bond—With surety
- § 49:67 — —No surety
- § 49:68 Time and notice of public sale
- § 49:69 —Form—Notice by publication
- § 49:70 Guardian's presence at sale
- § 49:71 Guardian as purchaser
- § 49:72 Report of sale
- § 49:73 —Form of report—General form
- § 49:74 — —Public sale of real estate
- § 49:75 — —Private sale of real estate
- § 49:76 Objections to report of sale
- § 49:77 —Forms—Objections to report of sale
- § 49:78 —Hearing, approval, and confirmation of report of sale
- § 49:79 —Disposition of and accounting for proceeds
- § 49:80 — —Order approving report of sale and overruling objections
- § 49:81 — —Order sustaining objections to report of sale and ordering further sale
- § 49:82 Validity of sale
- § 49:83 Execution of deed or conveyance
- § 49:84 Death of petitioner before executing deed or conveyance
- § 49:85 —Form—Guardian's deed

CHAPTER 50. ACCOUNTING AND SETTLEMENT

- § 50:1 Generally
- § 50:2 Credits to guardians—In general
- § 50:3 —Support and education of ward
- § 50:4 —Compensation
- § 50:5 —Attorney's fees
- § 50:6 Duty to Account
- § 50:7 Requirements of account
- § 50:8 —Forms—Current account
- § 50:9 — —Final account
- § 50:10 — —Affidavit of ward in connection with final account
- § 50:11 — —Receipt of ward on final distribution
- § 50:12 Notice of accounting
- § 50:13 —Form of notice
- § 50:13.50 Requirements of Account—Approval by beneficiary of trust on closing of decedent's estate
- § 50:14 Court approval of account
- § 50:15 Effect of current account
- § 50:16 Effect of final settlement and discharge

- § 50:17 Accounting on behalf of deceased or disabled guardian
- § 50:18 Delivery of estate to ward
- § 50:19 —Failure or refusal of representative to pay
- § 50:20 —Receipt on final distribution
- § 50:21 Citation to compel accounting and settlement
- § 50:22 —Forms—Petition for citation
- § 50:23 — —Citation
- § 50:24 — —Orders
- § 50:25 — —Another form
- § 50:26 Attachment for failure to appear and account
- § 50:27 —Forms—Petition for attachment for failure to account as ordered by court
- § 50:28 — —Order finding representative in contempt
- § 50:29 — —Order issuing attachment
- § 50:30 — —Attachment order
- § 50:31 — —Order finding representative in contempt for failure to account
- § 50:32 —Contempt mittimus
- § 50:33 Attachment or failure to pay and deliver
- § 50:34 —Forms—Petition for attachment on failure to pay and deliver
- § 50:35 — —Order of attachment for failure to pay over and deliver
- § 50:36 Deposit of unclaimed money or assets
- § 50:37 —Forms—Petition for leave to deposit unclaimed money
- § 50:38 — —Order granting leave to deposit unclaimed money

CHAPTER 51. TERMINATION OF AUTHORITY

I. IN GENERAL

- § 51:1 Introduction
- § 51:2 Marriage of minor ward
- § 51:3 Death of ward

II. RESIGNATION

- § 51:4 Generally
- § 51:5 Form—Petition for leave to resign
- § 51:6 —Notice of hearing on petition to resign
- § 51:7 —Order accepting resignation
- § 51:8 —Discharge of guardian and termination of wardship—Petition

TABLE OF CONTENTS

- § 51:9 — —Order of discharge and appointment of new guardian

III. TERMINATION OF ADJUDICATION OF DISABILITY

- § 51:10 Generally
- § 51:11 Petition to terminate adjudication of disability
- § 51:12 Appointment of guardian ad litem and counsel
- § 51:13 —Form
- § 51:14 Notice of hearing
- § 51:15 —Form—To guardian
- § 51:16 — —To several persons
- § 51:17 Answer by guardian or other interested person
- § 51:18 —Form of answer—By guardian
- § 51:19 — —By interested party
- § 51:20 Right to demand jury
- § 51:21 Hearing and order
- § 51:22 Form of order—On jury verdict—Finding disability and continuing guardianship
- § 51:23 — —Terminating adjudication of disability and revoking guardianship
- § 51:24 —Discharging guardian and setting aside prior guardianship order
- § 51:25 Accounting and settlement
- § 51:26 Drafting settlement agreement on termination of guardianship—Checklist
- § 51:27 Form of settlement agreement on termination of guardianship between guardian and former ward

IV. REMOVAL FOR CAUSE

- § 51:28 Generally
- § 51:29 —Other good cause
- § 51:30 Procedure generally
- § 51:31 Petition for citation to show cause
- § 51:32 Form of petition to remove representative—False pretenses in securing letters
- § 51:33 —Failure to file inventory
- § 51:34 —Adjudication of disability
- § 51:35 —Becoming nonresident
- § 51:36 —Failure to give new bond
- § 51:37 —Form—Citation
- § 51:38 Transfer of administration to another county
- § 51:39 Notice
- § 51:40 —Affidavit for notice by mail
- § 51:41 —Notice
- § 51:42 Answer and hearing

- § 51:43 Order of revocation and costs
- § 51:44 Form of order removing representative—False pretenses in securing letters
- § 51:45 —Failure to file inventory
- § 51:46 —Adjudication of disability
- § 51:47 —Becoming nonresident
- § 51:48 —Failure to give new bond
- § 51:49 Effect of revocation
- § 51:50 Appointment of successor

CHAPTER 52. APPEALS

I. IN GENERAL

- § 52:1 Generally
- § 52:2 Parties
- § 52:3 Right to counsel—Appeal of order denying restoration of estate
- § 52:4 Appealable orders

II. PROCEDURE

- § 52:5 Judgments subject to review
- § 52:6 Time for filing notice of appeal
- § 52:7 Appeal after 30 days
- § 52:8 Form of notice of appeal
- § 52:9 Service of notice of appeal
- § 52:10 Notice to Self-Represented Persons
- § 52:11 Stay of judgments pending appeal
- § 52:12 Condition of bond
- § 52:13 Appeal Bond
- § 52:14 —Another form of bond on appeal

CHAPTER 53. DURABLE POWERS OF ATTORNEY

I. IN GENERAL

- § 53:1 Introduction
- § 53:2 Definitions
- § 53:3 Applicability
- § 53:4 Duration, amendment, and revocation
- § 53:5 Standard of care
- § 53:6 Good faith reliance on durable power of attorney agency
- § 53:6.50 Liability of reliant—Agent's certification and acceptance of authority
- § 53:6.60 Presumption of valid agency under power of attorney

TABLE OF CONTENTS

§ 53:6.70	Compliance with power of attorney document
§ 53:6.75	—Unreasonable refusal to honor
§ 53:6.76	—Reasonable refusal to honor
§ 53:7	Effect of disability
§ 53:8	Effect of dissolution of marriage
§ 53:9	Preservation of estate plan and trusts
§ 53:10	Judicial intervention
§ 53:10.10	Successor agents
§ 53:10.20	—Successor agent’s certification and acceptance of authority
§ 53:10.30	Co-agents
§ 53:10.40	—Co-agent’s certification and acceptance of authority
§ 53:10.50	Power of attorney executed in foreign state or country
§ 53:10.60	Pre-existing (prior to July 1, 2011) powers of attorney

II. POWER OF ATTORNEY FOR PROPERTY

§ 53:11	Purpose of legislation
§ 53:12	Authority of agent—Checklist
§ 53:13	Statutory short form power of attorney for property—Use
§ 53:13.10	—Notice to the individual signing as principal
§ 53:14	—Form
§ 53:14.10	—Form (effective July 1, 2011)
§ 53:14.20	—Notice to agent form
§ 53:14.30	—Limitations on who may witness property powers

III. POWER OF ATTORNEY FOR HEALTH CARE

§ 53:15	Purpose of legislation
§ 53:16	Authority of agent—In general
§ 53:16.50	Format of appointing document
§ 53:17	Definitions
§ 53:18	Limitations on health care agencies
§ 53:19	—Powers specifically authorized
§ 53:20	Nonstatutory health care powers of attorney
§ 53:21	Duties of health care providers—Checklist
§ 53:22	Statutory short form power of attorney for health care—Use
§ 53:23	—Form
§ 53:23.30	—Limitations on who may witness health care agencies
§ 53:24	Revocation and amendment
§ 53:25	Liability of reliants—Checklist
§ 53:26	Penalties
§ 53:27	Applicability regarding inconsistent Illinois Acts

IV. POWER OF ATTORNEY FOR MENTAL HEALTH TREATMENT

§ 53:28	Introduction
---------	--------------

- § 53:29 Attorney-in-fact
- § 53:30 Authority of agent
- § 53:31 Revocation and amendment
- § 53:32 Form of declaration for mental health treatment

V. ANATOMICAL GIFTS

- § 53:33 Generally
- § 53:34 Definitions
- § 53:35 Persons who may execute an anatomical gift
- § 53:35.50 Preclusive effect of anatomical gift, amendment, or revocation
- § 53:36 Persons who may become donees and purposes for which anatomical gifts may be made
- § 53:36.50 —Disability of recipient
- § 53:37 Manner of executing anatomical gift
- § 53:38 Amendment or revocation of anatomical gift
- § 53:38.10 Refusal to make anatomical gift
- § 53:38.50 Notification, authorization, and rights
- § 53:39 Rights and duties at death
- § 53:39.10 Rights and duties of procurement organizations and others
- § 53:39.20 Payment for anatomical gift
- § 53:39.30 Law governing validity and choice of law

VI. HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT OF 1996 (HIPAA)

- § 53:40 Health Insurance Portability and Accountability Act (HIPAA)
- § 53:41 Health Insurance Portability and Accountability Act (HIPAA)—HIPAA release form

CHAPTER 53A. REVISED UNIFORM FIDUCIARY ACCESS TO DIGITAL ASSETS ACT (2015)

- § 53A:1 Introduction
- § 53A:2 Definitions
- § 53A:3 Applicability
- § 53A:4 User direction for disclosure of digital assets
- § 53A:5 Application of act to a terms-of-service agreement
- § 53A:6 Procedure for disclosing digital assets
- § 53A:7 Disclosure of content of electronic communications of deceased user
- § 53A:8 Disclosure of other digital assets of deceased user
- § 53A:9 Disclosure of content of electronic communications under power of attorney
- § 53A:10 Disclosure of other digital assets of principal

TABLE OF CONTENTS

§ 53A:11	Disclosure of digital assets held in trust when trustee is original user
§ 53A:12	Disclosure of contents of electronic communications held in trust when trustee not original user
§ 53A:13	Disclosure of other digital assets held in trust when trustee not original user
§ 53A:14	Disclosure of contents of electronic communications and digital assets to guardian of person with a disability
§ 53A:15	Fiduciary duty and authority
§ 53A:16	Custodian compliance and immunity
§ 53A:17	Relation to Electronic Signatures in Global and National Commerce Act and severability of provisions

CHAPTER 53B. UNIFORM POWERS OF APPOINTMENT ACT

I. GENERAL PROVISIONS

§ 53B:1	Generally
§ 53B:2	Definitions
§ 53B:3	Governing law
§ 53B:4	Common law and principles of equity

II. CREATION, REVOCATION, AND AMENDMENT OF POWER OF APPOINTMENT

§ 53B:5	Creation of power of appointment
§ 53B:6	Nontransferability
§ 53B:7	Presumption of unlimited authority
§ 53B:8	Exception to presumption of unlimited authority
§ 53B:9	Rules of classification
§ 53B:10	Power to revoke or amend

III. EXERCISE OF POWER OF APPOINTMENT

§ 53B:11	Requisites for exercise of power of appointment
§ 53B:12	Intent to exercise: determining intent from residuary clause
§ 53B:13	Intent to exercise: after-acquired power
§ 53B:14	Substantial compliance with donor-imposed formal requirement
§ 53B:15	Permissible appointment
§ 53B:16	Appointment to deceased appointee
§ 53B:17	Impermissible appointment
§ 53B:18	Selective allocation doctrine
§ 53B:19	Capture doctrine: disposition of ineffectively appointed property under general power

- § 53B:20 Disposition of unappointed property under released or unexercised general power
- § 53B:21 Disposition of unappointed property under released or unexercised nongeneral power
- § 53B:22 Disposition of unappointed property if partial appointment to taker in default
- § 53B:23 Appointment to taker in default
- § 53B:24 Powerholder's authority to revoke or amend exercise
- § 53B:25 Disposition of trust property subject to power

IV. DISCLAIMER OR RELEASE; CONTRACT TO APPOINT OR NOT TO APPOINT

- § 53B:26 Disclaimer
- § 53B:27 Authority to release
- § 53B:28 Method of release
- § 53B:29 Revocation or amendment of release
- § 53B:30 Power to contract: presently exercisable power of appointment
- § 53B:31 Power to contract: power of appointment not presently exercisable
- § 53B:32 Remedy for breach of contract to appoint or not to appoint

V. RIGHTS OF POWERHOLDER'S CREDITORS IN APPOINTIVE PROPERTY

- § 53B:33 Creditor claim: general power created by powerholder
- § 53B:34 Creditor claim: general power not created by powerholder
- § 53B:35 Power to withdraw
- § 53B:36 Creditor claim: nongeneral power

VI. MISCELLANEOUS PROVISIONS

- § 53B:37 Uniformity of application and construction
- § 53B:38 Application to existing relationships

CHAPTER 54. LIVING WILLS

- § 54:1 Purpose
- § 54:2 Living Will Act
- § 54:3 —Definitions
- § 54:4 —General provisions
- § 54:5 Execution of declaration
- § 54:6 Form of declaration to withhold or withdraw life-sustaining procedures in event of terminal condition
- § 54:7 Revocation of declaration
- § 54:7.40 Operation of living will
- § 54:7.50 Physician responsibilities

TABLE OF CONTENTS

§ 54:8 Immunities; penalties

**CHAPTER 54A. DISPOSITION OF
REMAINS ACT**

§ 54A:1 Generally
§ 54A:2 Directions by decedent for disposition of his or her remains
§ 54A:3 Body parts
§ 54A:4 Prohibition of cremation
§ 54A:5 Written requirements
§ 54A:6 Form
§ 54A:7 Duties of authorized agent
§ 54A:8 Misrepresentation and liability
§ 54A:9 Liability
§ 54A:10 Disputes

**CHAPTER 55. HEALTH CARE SURROGATE
ACT**

§ 55:1 Generally
§ 55:2 Definitions
§ 55:3 Applicability
§ 55:4 Determining decisional capacity
§ 55:5 Format of documents
§ 55:6 Notice
§ 55:7 Private decision-making process—Checklist
§ 55:8 Implementing decision to forgo treatment
§ 55:9 Surrogates
§ 55:10 Decisions involving surrogates
§ 55:11 Liability of reliants
§ 55:12 Health Care Right of Conscience Act
§ 55:13 Do-not-resuscitate advance directive forms
§ 55:14 Illinois Department of Public Health Uniform Practitioner for
Life-Sustaining Treatment (POLST) Order (Do-Not-
Resuscitate Order) Form
§ 55:15 *[Reserved]*
§ 55:16 Termination of life-sustaining treatment

**CHAPTER 55A. UNIFORM PARTITION OF
HEIRS PROPERTY ACT**

§ 55A:1 Generally
§ 55A:2 Definitions
§ 55A:3 Applicability; relation to other law
§ 55A:4 Service; notice by posting
§ 55A:5 Commissioners
§ 55A:6 Determination of value
§ 55A:7 Cotenant buyout

- § 55A:8 Partition alternatives
- § 55A:9 Consideration for partition in kind
- § 55A:10 Open-market sale, sealed bids, or auction
- § 55A:11 Report of open-market sale
- § 55A:12 Costs

CHAPTER 56. PROCEEDINGS UNDER MENTAL HEALTH AND DEVELOPMENTAL DISABILITIES CODE

I. IN GENERAL

- § 56:1 Introduction
- § 56:2 Definitions
- § 56:3 Jurisdiction

II. ADMISSION

- § 56:4 Types of admission—Checklist
- § 56:5 Informal admission
- § 56:6 Voluntary admission
- § 56:7 Admission by petitioning court
- § 56:8 —Evidentiary standard
- § 56:9 —Conversion to voluntary admission
- § 56:10 —Compliance with statute
- § 56:11 —Order of protection
- § 56:12 Emergency admission
- § 56:13 —Certificate
- § 56:14 —Notice and disclosures
- § 56:15 —Hearing
- § 56:16 —Standard of Proof
- § 56:17 —Petition—Checklist
- § 56:17.10 Admission on an outpatient basis by court order—Petition
for involuntary admission
- § 56:17.20 —Certificate
- § 56:17.30 —Examination
- § 56:17.40 —Detention
- § 56:17.50 —Notice
- § 56:17.60 —Court hearing

III. TREATMENT CONSIDERATIONS

- § 56:18 Review of need for continued hospitalization of
respondent
- § 56:18.50 Administration of psychotropic medication or
electroconvulsive therapy under agency
- § 56:19 Refusal of services

TABLE OF CONTENTS

- § 56:20 Administration of involuntary treatment—On an emergency basis
- § 56:21 Administration of authorized involuntary treatment—On application to court
 - § 56:21.30 — —Appointment of guardian ad litem
 - § 56:21.50 —Review and notice
- § 56:22 Liability for treatment charges
- § 56:23 —Self-sufficiency trust fund
- § 56:24 Control over contact or communication
- § 56:25 Right to habeas corpus
- § 56:26 Discharge or restoration to legal status without disability

IV. HEARINGS AND APPEALS

- § 56:27 Costs
- § 56:28 Venue
- § 56:29 —Continuances
- § 56:30 Right to counsel
- § 56:31 —Right to jury trial
- § 56:32 Application of Civil Practice Law
- § 56:33 —Evidence
- § 56:34 Examiners
- § 56:35 —Testimony
- § 56:36 Respondent as witness
- § 56:37 Presence of respondent at hearing
- § 56:38 —Standard of proof
- § 56:39 Order for discharge or commitment
- § 56:40 —Duration of orders
- § 56:41 Alternative treatment
- § 56:42 Appeals
- § 56:43 —Standard of review

VI. FORMS

- § 56:44 Mental Health and Developmental Disabilities Code forms
- § 56:45 —Applications—Administrative admission
- § 56:46 — —Voluntary admission
- § 56:47 —Notices—Admission
- § 56:48 — —Denial of admission and right to request review
- § 56:49 —Examination of minor for admission or continued hospitalization
- § 56:50 [*Reserved*]
- § 56:51 Mental Health and Developmental Disabilities Code forms—Application by adult for admission of minor
- § 56:52 Mental Health and Developmental Disabilities Code forms—Outpatient Certificate

- § 56:53 Mental Health and Developmental Disabilities Code forms—
Inpatient Certificate
- § 56:54 —Petition for involuntary/judicial admission
- § 56:55 —Notice of hearing
- § 56:56 —Order for hearing
- § 56:57 —Orders—Detention, examination, diagnostic
evaluation
- § 56:58 — —Detention, examination and appearance before
court
- § 56:59 —Verdict of jury
- § 56:60 —Orders—Treatment or discharge
- § 56:61 — —Habilitation or release
- § 56:62 —Petition for administration of psychotropic medication/
electroconvulsive therapy
- § 56:63 —Order for administration of psychotropic medication and/or
electro-convulsive therapy
- § 56:64 —Request for treatment/habilitation plan review
- § 56:65 —Petition for transfer
- § 56:66 —Notice of transfer between state-operated centers
- § 56:67 —Petition for discharge
- § 56:68 —Notices—Notice of discharge from a state-operated center
- § 56:69 —Petition for restoration of legal competence
- § 56:70 —Physician’s report/certificate
- § 56:71 —Order of restoration to competency
- § 56:72 —Notices—Facility director’s decision
- § 56:73 — —Change in status
- § 56:74 —Rights of recipients
- § 56:75 —Rights of informal admittee
- § 56:76 —Authorization to disclose or obtain information
- § 56:77 —Consent to medication

CHAPTER 57. TRANSFERS TO MINORS

- § 57:1 Scope and jurisdiction
- § 57:2 Definitions
- § 57:3 Nomination of custodian
- § 57:4 Powers of custodian
- § 57:5 —Care of custodial property
- § 57:6 —Use of custodial property
- § 57:7 Custodian’s expenses, compensation and bond
- § 57:8 Transfer and creation of custodial property—
Checklist
- § 57:9 —Forms—Acknowledgment describing custodial
property
- § 57:10 — —Transfer under the Illinois Uniform Transfer to
Minors Act
- § 57:11 —Validity and effect of transfer
- § 57:12 —Irrevocable transfers

TABLE OF CONTENTS

- § 57:13 Liability to third persons—Checklist
- § 57:14 Exemption of third persons from liability—Checklist
- § 57:15 Accounting
- § 57:16 Change of custodian and designation of successor
custodian
- § 57:17 Termination of custodianship

CHAPTER 58. ADOPTION

I. IN GENERAL

- § 58:1 Introduction
- § 58:2 General overview
- § 58:3 Legislative history in Illinois
- § 58:4 Purpose of statute
- § 58:5 Validity of legislation
- § 58:6 Statutory construction
- § 58:7 Definitions
- § 58:7.20 Approval and regulation of adoption agencies
- § 58:7.40 Interstate adoptions
- § 58:7.60 Intercountry adoptions

II. SPECIFIC CONSIDERATIONS

- § 58:8 Availability for adoption
- § 58:9 Child's welfare as prime consideration
- § 58:10 Who may adopt
- § 58:11 —Religious beliefs of adoptive parents
- § 58:12 Determination of unfitness
- § 58:13 —Statutory definition of "unfit person"—Checklist
- § 58:14 — —Failure to maintain reasonable degree of interest
- § 58:15 — —Abandonment or desertion of child
- § 58:16 — —Depravity
- § 58:17 — —Failure to make reasonable efforts to correct
conditions which were basis for removal of child
- § 58:18 — —Failure to make reasonable progress toward
return of child
- § 58:19 Who may be adopted
- § 58:20 —Child of other spouse
- § 58:21 Compensation for placing child
- § 58:22 —Affidavit forms—Biological parent
- § 58:23 — —Person making placement
- § 58:24 — —Agency
- § 58:25 — —Adopting parents
- § 58:26 HIV Testing of child
- § 58:27 Adoption contracts
- § 58:28 —Enforcement

III. PRACTICE AND PROCEDURE

- § 58:29 Generally
- § 58:30 Jurisdiction and venue
- § 58:31 Party defendant
- § 58:32 Petition for adoption
- § 58:33 —Verification
- § 58:34 —Sufficiency of Petition
- § 58:35 —Contents of petition to adopt unrelated child—
Checklist
- § 58:36 —Petition forms—Adoption of unrelated newborn
child in hospital
- § 58:37 — —Mother or parents consent
- § 58:38 — —Unfit father; mother consents
- § 58:39 — —Child surrendered to agency
- § 58:40 — —Parental rights terminated in Juvenile
Court
- § 58:41 —Contents of petition to adopt related child
- § 58:41.50 —Contents of petition to re-adopt a child
- § 58:42 —Contents of petition to adopt related child—
Mother remarries after death of husband
- § 58:43 — —Mother remarries after dissolution of
marriage—Father unfit
- § 58:44 — —Father consents
- § 58:45 — —Adoption by father and new spouse; mother
willing to consent
- § 58:46 — —Adoption by relatives; mother or parents
consent
- § 58:47 — —Unknown father
- § 58:48 — —Form of amendment joining unknown father
- § 58:49 —Contents of petition to adopt adult
- § 58:50 — —Form of petition
- § 58:50.10 —Former parent defined
- § 58:50.20 —Contents of petition to adopt by former parent
- § 58:51 Investigation
- § 58:52 —Forms—Order designating investigator
- § 58:53 —Affidavit of information for investigator
- § 58:54 Process, notice or summons
- § 58:55 —Form of adoption summons
- § 58:56 — —Another form
- § 58:57 —Notice to putative father
- § 58:58 — —Request for notice and affidavit for father
identification
- § 58:59 — —Notice to putative father
- § 58:60 — —Notice to putative father (Cook County)
- § 58:61 — —Putative father registry
- § 58:61.50 —Adoptive Parents Rights and Responsibilities-Private
Form

TABLE OF CONTENTS

§ 58:62	—Notice to defendants on whom personal service cannot be obtained
§ 58:63	— —Form of affidavit to secure publication notice
§ 58:64	— —Form of notice by publication
§ 58:65	—Form of waiver of process
§ 58:65.10	—Additional requirements in private adoptions
§ 58:65.30	Appearance—Declaration of paternity with entry of appearance
§ 58:65.70	—Denial of paternity with entry of appearance
§ 58:66	Plea or answer
§ 58:67	—Form of answer; unfitness of mother alleged
§ 58:68	— —Denial of paternity with entry of appearance and consent to adopt
§ 58:69	— —Declaration of paternity with entry of appearance
§ 58:70	Consents and surrenders
§ 58:71	—Sufficiency of consent
§ 58:72	— —Mentally ill parent
§ 58:73	— —Father of child born out of wedlock
§ 58:74	—Requisites of consent
§ 58:75	—Statutory forms
§ 58:76	— —Forms—Consent
§ 58:77	— —Another form (Cook County)
§ 58:77.10	— —Birth Parent Rights and Responsibilities-Private Form
§ 58:77.30	— —Adoption by specified person(s) and non-DCFS case
§ 58:77.50	— — —Certificate of acknowledgement
§ 58:78	— —Consent to adoption of unborn child
§ 58:79	— —Consent to standby adoption
§ 58:80	— —Surrender to agency
§ 58:80.50	— —Surrender to agency by legal parents
§ 58:81	— —Surrender of unborn child to agency
§ 58:82	— —Consent by agency or guardian
§ 58:83	— —Consent of guardian ad litem
§ 58:84	—Acknowledgements
§ 58:85	— —Form of certificate of acknowledgement
§ 58:86	—Certificate to signature
§ 58:87	— —Form of certificate
§ 58:88	—Revocability of consents and surrenders
§ 58:89	— —Affidavit identifying father of child
§ 58:90	— — —Form
§ 58:91	—Consent of older child or adult
§ 58:92	—Forms—Parents' consent to adoption of adult
§ 58:93	— — —Consent of a person aged fourteen or older
§ 58:94	<i>[Reserved]</i>
§ 58:95	Interim orders
§ 58:95.50	—Petition to adopt by former parent

- § 58:96 —Interim order forms—Unrelated newborn child
in hospital
- § 58:97 — —Unrelated child through agency
- § 58:98 — —Unrelated child; parental rights terminated
- § 58:99 — —Related child by mother and new spouse;
father unfit
- § 58:100 — —Related child by father and new spouse;
mother unfit
- § 58:101 —Default order forms—Father unfit
- § 58:102 — —Unknown father
- § 58:103 Appointment and compensation of guardian ad
litem
- § 58:104 —Forms—Order appointing guardian ad litem
- § 58:105 — —Answer of guardian ad litem
- § 58:106 Application for order of adoption
- § 58:107 —Form of notice of application
- § 58:108 Hearing on application for adoption
- § 58:109 Standing to contest adoption
- § 58:110 Evidence of unfitness
- § 58:111 —Hearing on unfitness—Standard of proof
- § 58:111.50 Order for standby adoption
- § 58:112 Judgments of adoption
- § 58:113 —Time of entry
- § 58:114 —Death of child prior to judgment
- § 58:115 —Death of intended adoptive parent prior to
entry of judgment
- § 58:115.50 —Petition to adopt by former parent
- § 58:116 —Judgment of adoption forms—Unrelated child;
mother consents, father unfit
- § 58:117 — —Unrelated child through agency; father unfit
- § 58:118 — —Unrelated child; parental rights terminated
- § 58:119 — —Related child by mother and new spouse—
Father unfit
- § 58:120 — — —Father deceased
- § 58:121 — — —Father consents
- § 58:122 — —Related child by father and new spouse;
mother consents
- § 58:123 — —By relatives; mother consents, father unfit
- § 58:124 — —Adoption of adult
- § 58:125 —Vacation of orders and judgments
- § 58:126 Confidentiality of records
- § 58:127 Identifying information
- § 58:127.50 Release of identifying information
- § 58:128 Confidentiality of records—Identifying
information—Medical and mental health
histories
- § 58:129 —Forms—Birth parent registration identification

TABLE OF CONTENTS

§ 58:130	— —Adopted person registration identification
§ 58:131	— —Surrendered person registration identification
§ 58:131.50	— —Registration identification form for surviving relatives of deceased birth parents
§ 58:131.70	— —Registration identification form for surviving relatives of deceased adopted or surrendered persons
§ 58:132	— —Information exchange authorization
§ 58:133	— —Denial of information exchange
§ 58:133.20	— —Birth parent preference form
§ 58:133.40	— —Request for a noncertified copy of an original birth certificate
§ 58:134	Confidential intermediary
§ 58:135	—Oath of confidentiality
§ 58:135.50	—Request for information
§ 58:136	Certificate of adoption
§ 58:137	Appeal and error
§ 58:138	Collateral attack

IV. EFFECTS OF ADOPTION

§ 58:139	Effect of adoption on rights of parties—Natural parents
§ 58:140	—Grandparents
§ 58:141	—Adopting parents
§ 58:142	—Adopted child
§ 58:143	Inheritance rights
§ 58:144	—Adopted child
§ 58:145	—Adopting and natural parents

V. ADDITIONAL CONSIDERATIONS

§ 58:146	Adoption of child who is abused, dependent, neglected, addicted, delinquent or requiring authoritative intervention
§ 58:147	—Forms—Petition for adoption
§ 58:148	— —Judgment of adoption
§ 58:149	Adoption by foster parents
§ 58:150	—Factors considered in determination
§ 58:151	Adoption registry and medical information exchange

Volume 3

CHAPTER 59. WILLS—IN GENERAL

I. GENERAL CONSIDERATIONS

§ 59:1	Generally
--------	-----------

- § 59:2 Who may make a will—At common law and under Illinois statutes in general
- § 59:3 —Ordinance of 1787 and subsequent legislation
- § 59:4 —The acts of 1872 and of 1939
- § 59:5 —The act of 1975

II. CAPACITY OF TESTATOR

- § 59:6 Sound mind and memory
- § 59:7 —The general rules
- § 59:8 —Test of testamentary capacity
- § 59:9 —Capacity to make the particular will
- § 59:10 —General conclusions
- § 59:11 Impaired mind or memory
- § 59:12 Mental disability
- § 59:13 Delusions
- § 59:14 Suicide
- § 59:15 Alcoholism and drug addiction
- § 59:16 Undue influence
- § 59:17 —Presumption and burden of proof
- § 59:18 —Fiduciary relationships
- § 59:19 —Fiduciary relationship—Attorney client relationship
- § 59:20 —Conduct of attorney drafting will
- § 59:21 —Illicit relationships
- § 59:22 —Standard of proof
- § 59:23 —Presumption—Checklist

III. PROVISIONS AND CONDITIONS

- § 59:24 Disinheritance
- § 59:25 Contracts to make wills
- § 59:26 —Oral contract
- § 59:27 —Specific performance
- § 59:28 —Enforcement
- § 59:29 —Form of contract to convey or devise to children
- § 59:30 Conditional or contingent wills
- § 59:31 Gifts to a class without words of survivorship—In general
- § 59:32 —When distribution postponed beyond testator's death
- § 59:33 —When element of futurity involved
- § 59:34 —Forms—Designating class of persons
- § 59:35 — —Fixing time for determination of class membership
- § 59:36 Validity of conditions and restrictions in will—In general
- § 59:37 —Entire and partial invalidity

TABLE OF CONTENTS

- § 59:38 —Form of forfeiture provisions for contesting will or other cause
- § 59:39 —Form of forfeiture provision for failure to support
- § 59:40 —Carrying out directions of a will

IV. CHANGES AND REVOCATION

- § 59:41 Alterations, interlineations and erasures
- § 59:42 Revocation of wills—In general
- § 59:43 —Cancellation
- § 59:44 —Tearing
- § 59:45 —Subsequent or duplicate wills
- § 59:46 —Form—Revocation by separate instrument
- § 59:47 —Revocation partial and by implication
- § 59:48 —By divorce or annulment
- § 59:49 —Revival
- § 59:50 Contract for sale

V. SETTLEMENT OF CONFLICTS

- § 59:51 In General
- § 59:52 Family settlements or compromise agreements
- § 59:53 —Form of family-settlement agreement
- § 59:54 —Contract for settlement of estate notwithstanding disappearance of child of deceased

CHAPTER 60. FORM AND EXECUTION OF WILLS

I. IN GENERAL

- § 60:1 History of legislation and antiquity of wills
- § 60:2 Will to be in writing
- § 60:3 —Incorporation by reference
- § 60:4 Codicils
- § 60:5 —Codicil provisions—Checklist
- § 60:6 —Form of codicil
- § 60:7 — —Alternate forms
- § 60:8 — —Joint and mutual will
- § 60:9 The signature of the testator
- § 60:10 Signature by another
- § 60:11 Attestation of witnesses—In general
- § 60:12 —Statutory requirements
- § 60:13 —Written attestation clause
- § 60:14 —The attestation clause—Form
- § 60:15 —Attesting witness' signature
- § 60:16 Credibility of witnesses
- § 60:17 —Beneficiary as witness

- § 60:18 —Fiduciaries and their attorneys, and creditors as witnesses
- § 60:19 Presence of testator
- § 60:19.50 Electronic Wills, Electronic Estate Planning Documents, and Remote Witnesses Act
- § 60:20 Nuncupative wills
- § 60:21 Holographic wills
- § 60:22 Pour-over wills
- § 60:23 Joint, mutual, or reciprocal wills generally
- § 60:24 —Joint wills
- § 60:25 — —Characteristics—Checklist
- § 60:26 —Mutual or reciprocal wills
- § 60:27 —Effect of contract on rights of surviving spouse
- § 60:28 Uniform International Wills Act—In general
- § 60:29 —Validity
- § 60:30 —Mandatory requirements
- § 60:31 —Points of form
- § 60:32 —Certificate of authorized person
- § 60:33 — —Form
- § 60:34 —Information registration
- § 60:35 Deeds intended to be testamentary
- § 60:36 Deeds and other documents intended to be testamentary—Designation of beneficiary or payee in certain types of contracts
- § 60:37 Other documents intended to be testamentary
- § 60:38 Gifts causa mortis—In general
- § 60:39 —Anticipation of death—Delivery—Revocation
- § 60:40 After-acquired property
- § 60:41 Choice of law

II. DRAFTING CONSIDERATIONS AND CHECKLISTS

- § 60:42 Information to be obtained from client—Checklist
- § 60:43 Verification of testamentary capacity—Checklist
- § 60:44 Will provisions—Checklist
- § 60:45 Specific bequests—Checklist
- § 60:46 Flexibility—Checklist
- § 60:47 Periodic review—Checklist
- § 60:48 —Testamentary trust—Checklist

III. SELECTED FORMS FOR ENTIRE WILLS AND VARIOUS PROVISIONS

A. COMMENCEMENT, TESTIMONIUM AND ATTESTATION CLAUSES

- § 60:49 Commencement—General forms

TABLE OF CONTENTS

- § 60:50 — —Age of testator
- § 60:51 — —Domicile
- § 60:52 — —Religious form
- § 60:53 — —Fraud and undue influence, absence
- § 60:54 — —Marital status
- § 60:55 — —Joint wills
- § 60:56 — —Number of pages of will
- § 60:57 — —Sound mind and memory
- § 60:58 Testimonium clause—General forms
- § 60:59 — —Identification and number of pages
- § 60:60 — —Joint wills
- § 60:61 Attestation clause—General form
- § 60:62 — —Other forms
- § 60:63 — —Joint or joint and mutual wills
- § 60:64 — —Testator signing by hand of another
- § 60:65 — —Testator signing by mark
- § 60:66 Affidavit of execution

B. COMPLETE WILLS

- § 60:67 Estate planning forms
- § 60:68 Entire estate to spouse
- § 60:69 — —Extended form
- § 60:70 — —Subject to reduction to rights under statute upon remarriage
- § 60:71 Gift in appreciation of kindness, named relatives omitted
- § 60:72 Will creating trust
- § 60:73 — —For spouse for life and then for children, or their issue
- § 60:74 — —For payment of debts
- § 60:75 Will with trust
- § 60:76 Continuation of business
- § 60:77 Pour-over will
- § 60:78 — —partial addition to trust
- § 60:79 Joint will
- § 60:80 — —Of parents—With devise by survivor of farm to son or daughter
- § 60:81 — —Providing that son or daughter shall in all events receive certain property
- § 60:82 — —Devising all property in equal shares to spouse and children
- § 60:83 Mutual will
- § 60:84 Joint and mutual will
- § 60:85 — —Of husband and wife
- § 60:86 — —Disposing of real property
- § 60:87 — —Providing for conversion into cash

- § 60:88 —Estate to survivor and to children on death of survivor
- § 60:89 —Estate to survivor—Reservation of right to revoke
- § 60:90 —Providing for division of estate among children on death of testators

C. GENERAL PROVISIONS

- § 60:91 In General
- § 60:92 Family, names of members
- § 60:93 —Maiden name of testator
- § 60:94 Appointment of person to assist executor and trustee
- § 60:95 Burial provisions—Lot and headstone
- § 60:96 —Cremation
- § 60:97 —Place of burial
- § 60:98 —Crypts for testator and spouse
- § 60:99 —Expenses for funeral and burial payable from principal of residuary estate
- § 60:100 —Inscription on monument
- § 60:101 —Mausoleum
- § 60:102 — —Existing
- § 60:103 —Perpetual care of burial lot
- § 60:104 —Spouse’s funeral and burial expenses payable from trust estate
- § 60:105 Confirmation of antemortem gifts
- § 60:106 Disinheritance clauses
- § 60:107 —Antenuptial agreement as ground
- § 60:108 —Alleged child of descendant
- § 60:109 —Claims filed by beneficiaries as ground
- § 60:110 —Siblings
- § 60:111 —Confidence in spouse as reason for omitting children
- § 60:112 —Daughter of testator
- § 60:113 —Exclusion of one person
- § 60:114 —Heirs not specifically mentioned in will
- § 60:115 — —Another form
- § 60:116 —Issue of deceased child
- § 60:117 —Named children
- § 60:118 —Nominal gift
- § 60:119 —Son of testator
- § 60:120 —Son excluded because of prior gifts to him
- § 60:121 —Son to have trust fund only
- § 60:122 —Son’s conduct toward testator as ground
- § 60:123 —Stepchildren
- § 60:124 —Unborn or adopted children
- § 60:125 —Former husband

TABLE OF CONTENTS

§ 60:126	Option to purchase property of testator
§ 60:127	Papers incorporated in will by reference
§ 60:128	Partition of real estate prohibited
§ 60:129	Assignability of interest under will
§ 60:130	Payment of debts
§ 60:131	—Claims not filed or allowed
§ 60:132	—Debts secured by collateral
§ 60:133	—Loan on insurance policies
§ 60:134	—Mortgages
§ 60:135	—Property from which debts payable
§ 60:136	—Real property charged with debts
§ 60:137	—Real estate to be sold
§ 60:138	—Real estate subject to incumbrances
§ 60:139	Inheritance and other taxes, payment
§ 60:140	—Ascertainment of amount of tax
§ 60:141	—Deduction from bequest
§ 60:142	—Exemption of legacies from payment of taxes
§ 60:143	—Payment of other taxes prohibited
§ 60:144	—Payment of taxes only on property passing by will
§ 60:145	—Recovery of taxes from person benefiting from power of appointment
§ 60:146	—Waiver of recovery of taxes
§ 60:147	Personal estate, law applicable to disposition
§ 60:148	Revocation clauses
§ 60:149	—After-born children, effect
§ 60:150	—Agreement not to revoke
§ 60:151	—Joint act of testators
§ 60:152	—Survivor of mutual will
§ 60:153	Void or invalid provisions, effect

D. BEQUESTS AND DEVICES

§ 60:154	In General
§ 60:155	Class taking per capita and not per stirpes
§ 60:156	Class taking per stirpes
§ 60:157	Conditional gifts—Acceptance of gift to be filed within fixed time
§ 60:158	—Care of graves of testator and family
§ 60:159	—Care of testator and no claim against estate
§ 60:160	—Claiming gift within specified time
§ 60:161	—Contesting will, forfeiting interest
§ 60:162	—Conveyance of interest in land to trustee
§ 60:163	—Legatee to personally occupy land
§ 60:164	—Education of relative at expense of legatee
§ 60:165	—Gift subject to conditions
§ 60:166	—Lease, sale, failure to pay taxes, or judgment, as terminating gift

- § 60:167 —Liquor, nonuse
- § 60:168 —Marriage of surviving spouse terminating his or her rights
- § 60:169 —Parentage of child of certain age
- § 60:170 —Partnership, formation
- § 60:171 —Payment of mortgage
- § 60:172 —Payment of testator's debts
- § 60:173 —Payments by beneficiary to third persons
- § 60:174 —Reformation of legatee
- § 60:175 —Restraints on alienation of property
- § 60:176 —Society to establish and maintain orphanage
- § 60:177 —Support and religious burial for child
- § 60:178 —Support of testator and spouse
- § 60:179 —Survival of legatee
- § 60:180 —Survival of child's spouse
- § 60:181 —Taxes, payment
- § 60:182 —Tobacco, nonuse
- § 60:183 Creditors of beneficiary, barring
- § 60:184 —Revocation of gift if held to be subject to claims of creditors
- § 60:185 Cumulative legacy
- § 60:186 Definitions—"Child," "children," or "descendants" as including only natural born children
- § 60:187 —"Descendant" or "descendants" as including adopted children
- § 60:188 —"Issue"
- § 60:189 —"Next of kin"
- § 60:190 —Stepchild considered as natural child
- § 60:191 Dividing estate into equal shares
- § 60:192 —Testator's siblings making division
- § 60:193 Gift direct to beneficiary and not to trustees
- § 60:194 Gift in recognition of kindness
- § 60:195 Gift in addition to prior settlement or antenuptial agreement
- § 60:196 Gift as constituting entire share of beneficiary
- § 60:197 Gift of particular objects or interests—Bank deposits
- § 60:198 —Books and paintings to spouse for life and then to children
- § 60:199 —Bird
- § 60:200 —Business
- § 60:201 —Cooperative apartment, rent free
- § 60:202 —Income
- § 60:203 — —Surplus
- § 60:204 —Interest in estate of another
- § 60:205 —Interest in estate of spouse
- § 60:206 —Jewelry—Spouse's jewelry
- § 60:207 — —Personal jewelry to child

TABLE OF CONTENTS

§ 60:208	— —Personal jewelry to nonrelative
§ 60:209	— —To children, selection by executor
§ 60:210	—Jointly owned property
§ 60:211	—Land and personal property to be selected by executors or cash
§ 60:212	—Membership in club
§ 60:213	—Money, same amount to various persons
§ 60:214	—Money to various persons
§ 60:215	—Mortgage
§ 60:216	—Partnership interest
§ 60:217	—Personal effects and household goods
§ 60:218	—Personal effects and household goods to spouse, or over to child or children
§ 60:219	—Request for spouse or child to give some article to siblings of testator
§ 60:220	—Safe deposit box, contents
§ 60:221	—Savings and loan deposits
§ 60:222	—Shares of stock
§ 60:223	— —Lapsing of bequest
§ 60:224	— —Pro rata reduction of bequest
§ 60:225	— —Splits, dividends or reclassifications of stock
§ 60:226	—Trust, testator's interest
§ 60:227	—Trust property
§ 60:228	—Trust property, living trust
§ 60:229	—Wearing apparel
§ 60:230	—Works of art
§ 60:231	Gift of proceeds of life insurance policy
§ 60:232	—Application of proceeds
§ 60:233	—Interest of testator as beneficiary of policy
§ 60:234	—Policies payable to legatee
§ 60:235	—Proceeds of life and accident policies
§ 60:236	Gift, persons to receive—Description and designation
§ 60:237	—Beneficiaries, determination according to distribution date
§ 60:238	Gift to attorneys
§ 60:239	Gift to charities
§ 60:240	—Cemetery
§ 60:241	—City for playground
§ 60:242	—College
§ 60:243	—Educational institution
§ 60:244	—Foundation
§ 60:245	—Hospital
§ 60:246	—Hospital to maintain ward, giving preference to employees of named corporation
§ 60:247	—Hospital, residuary gift over
§ 60:248	—Improvement of rural life

- § 60:249 —Naming memorial
- § 60:250 —Orphanage
- § 60:251 —Pastor for benefit of poor
- § 60:252 —Church
- § 60:253 —Public library
- § 60:254 —Other charitable organization
- § 60:255 Gift to children
- § 60:256 —Children born after execution of will
- § 60:257 —Children of testator, subject to right granted to others to occupy land during lifetime
- § 60:258 —Definition of children
- § 60:259 —Named children and their descendants, excluding one child
- § 60:260 —Named children or lineal descendants, or survivor
- § 60:261 —Named children, share and share alike
- § 60:262 —Persons claiming to be children
- § 60:263 —Remainder to named children after death of spouse of testator
- § 60:264 Gift to church for saying masses
- § 60:265 —Another provision
- § 60:266 Gift to corporations
- § 60:267 Gift to creditors
- § 60:268 —In satisfaction of debts
- § 60:269 —Not in satisfaction of debt
- § 60:270 Gift to daughter
- § 60:271 —Daughters free from claims of husbands
- § 60:272 —Support while unmarried
- § 60:273 Gift to debtor
- § 60:274 —Absolute gift of all loans made to sibling
- § 60:275 —Canceling debts, and surrendering collateral
- § 60:276 —Canceling debts of individual
- § 60:277 —Canceling small debts
- § 60:278 —Credit allowed on debt of legatee
- § 60:279 —Credit on note of legatee
- § 60:280 —Debts not released
- § 60:281 —Debts deductible from debtors' shares
- § 60:282 —Equalization as between debtor legatees
- § 60:283 —Release if debtor dies before death of testator
- § 60:284 —Release of debts in existence at death of testator
- § 60:285 —Release of mortgage debt
- § 60:286 —Release of particular debts
- § 60:287 Gift to executor
- § 60:288 —Accepting appointment as condition
- § 60:289 —For advice and other aid
- § 60:290 —For services
- § 60:291 Gift to heirs of deceased persons
- § 60:292 Gift to heirs of testator

TABLE OF CONTENTS

§ 60:293 —Meaning of “heirs”
§ 60:294 —Person claiming to be heir
§ 60:295 Gift to spouse
§ 60:296 —In lieu of other rights
§ 60:297 Gift to minors
§ 60:298 —Payable at specified age with support in meantime
§ 60:299 —Payable when married or at specified age
§ 60:300 —Payable to relative or directly to minor
§ 60:301 Gift to nieces and nephews
§ 60:302 —Nephews
§ 60:303 —Nieces
§ 60:304 Gift to persons taking care of testator
§ 60:305 —Taking care of testator and spouse
§ 60:306 Gift to persons establishing right to inherit
§ 60:307 Gift to persons jointly, or as tenants in common
§ 60:308 Gift to household or business employees
§ 60:309 —Based on period of employment
§ 60:310 —Employed at death of testator
§ 60:311 —Employees and amount to be determined by
executor or trustee
§ 60:312 —Housekeeper in lieu of all claims
§ 60:313 Gift to friends or survivor
§ 60:314 Gift to sibling
§ 60:315 Gift to child
§ 60:316 —Adopted child
§ 60:317 Gift to trustees under will
§ 60:318 —Trustee individually
§ 60:319 Gift to unincorporated society
§ 60:320 Gift to spouse or equally to children
§ 60:321 Gift to spouse—All real estate and leasehold estates
to spouse
§ 60:322 —Annuity
§ 60:323 —Estate to spouse, expressing confidence in him or
her to provide for children
§ 60:324 —For his or her immediate use
§ 60:325 —Former spouse, support and maintenance
§ 60:326 —In lieu of other rights
§ 60:327 —In performance of antenuptial contract
§ 60:328 —Intended spouse
§ 60:329 —Life estate in all property
§ 60:330 —Life estate in real property
§ 60:331 —Renunciation by spouse, effect of
§ 60:332 —Same as if testator had died intestate
§ 60:333 —Until death or remarriage
§ 60:334 Life estate
§ 60:335 —Children with remainder in fee to lineal
descendants and gift over to survivors

- § 60:336 —Child with remainder to lineal descendants or over to child’s siblings
- § 60:337 —Child with remainder to lineal descendants or another child
- § 60:338 —Children, remainder to lineal descendants, with restriction on alienation during lives of children
- § 60:339 —Spouse, in residue
- § 60:340 —Income and principal, use
- § 60:341 —Life tenant given exclusive control of property without bond
- § 60:342 —Minerals, sale, lease or removal by life tenant
- § 60:343 —Remainder to grandchildren per stirpes
- § 60:344 —Remainder to siblings, or over to their descendants excluding one
- § 60:345 —Remainder to named children or their heirs
- § 60:346 —Child, followed by life estate to another child, with remainder to issue of both children per capita
- § 60:347 —Child, with payments to surviving spouse and other child
- § 60:348 —Child with remainder to lineal descendants or heirs at law of testator
- § 60:349 —Son with remainder to his issue, or to daughter, or to her issue, or to children of sister
- § 60:350 —Spouse, base fee to grandchild determinable by death leaving no issue, over to sibling or his or her children
- § 60:351 —Spouse, with broad power of disposition and handling
- § 60:352 —Spouse with part of remainder subject to appointment and part to nephews and nieces
- § 60:353 —Spouse with power of sale without bond, with remainder to child and his or her children as tenants in common, or over to children of another child
- § 60:354 —Spouse with power to sell and consume, remainder to nephews and nieces
- § 60:355 —Spouse with power to sell and consume, remainder to designated persons
- § 60:356 —Spouse with remainder to children or descendants of deceased children
- § 60:357 —Spouse with remainder to lineal descendants of testator, and residue to spouse
- § 60:358 —Spouse until death or remarriage, remainder to named children, or issue of deceased child
- § 60:359 —Spouse, with reversion to testator’s estate at his or her death
- § 60:360 —Payment of legacies, from which fund or property—
Bank deposits

TABLE OF CONTENTS

- § 60:361 —Bequest of personal property subject to charge
- § 60:362 —Bequest to testator from relative
- § 60:363 —Cash on hand or out of maturities, without interest
- § 60:364 —Charge upon devise to equalize portions
- § 60:365 —Charge of fixed sum per acre per year for spouse
- § 60:366 —Debts due testator
- § 60:367 —Devise subject to mortgages or liens
- § 60:368 —Devise subject to charge for support of spouse
- § 60:369 —Devise subject to charge of legacies
- § 60:370 —Estate of another person
- § 60:371 —Estate of testator's ancestor
- § 60:372 —Legacies charged on real estate
- § 60:373 —Life insurance
- § 60:374 —Option to take real property at fixed value, subject to payments to other children
- § 60:375 —Personal estate only
- § 60:376 —Personal property and income from real property
- § 60:377 —Personal liability of legatee
- § 60:378 —Real estate if personal property insufficient
- § 60:379 —Real property only
- § 60:380 Payment of legacies within certain time
- § 60:381 —Annuities
- § 60:382 —Bequest to spouse, payable in installments
- § 60:383 —Postponing payment
- § 60:384 Payment of interest on legacies
- § 60:385 Postponement of enjoyment of gift
- § 60:386 Power of appointment
- § 60:387 —Date power of appointment effective
- § 60:388 —Declining to exercise power of appointment
- § 60:389 —Disposition of property on nonexercise of power of appointment
- § 60:390 —Exercising power of appointment
- § 60:391 — —Residuary clause
- § 60:392 —Limited and special power of appointment
- § 60:393 —Notice of exercise
- § 60:394 —Power of appointment given child, and on default trust fund to go to child's issue, or testator's issue or his or her heirs at law
- § 60:395 —Power of appointment over income of trust, exercising
- § 60:396 —Surviving spouse, power of appointment
- § 60:397 Priority of legacies—In order named in will
- § 60:398 —Particular legacy
- § 60:399 —Successive priorities
- § 60:400 —Two or more legacies
- § 60:401 Residuary clauses

- § 60:402 —Effect of death of part of class
- § 60:403 —Heirs
- § 60:404 —Legatees in proportion to respective shares in estate
- § 60:405 —Method of division of shares
- § 60:406 —Niece or nephew as contingent remainderman
- § 60:407 —Next of kin
- § 60:408 —Percent to each named beneficiary or their descendants
- § 60:409 —Property included
- § 60:410 —Real estate
- § 60:411 —Residue of personal and all of real estate
- § 60:412 —To children equally
- § 60:413 —To children, if spouse predeceases testator or both die in common accident
- § 60:414 —Spouse of testator
- § 60:415 Satisfaction of gifts and deductions—Claim of legatee
- § 60:416 —Advancements to be deducted
- § 60:417 —Claim of spouse of legatee
- § 60:418 —Costs and expenses of litigation instituted by legatee
- § 60:419 —Debts barred by limitation
- § 60:420 —Deducting debts of donee to testator
- § 60:421 Source of title, recital
- § 60:422 Specific legacies
- § 60:423 —Description of bequest as specific
- § 60:424 —Specific bequest of all loans to sibling
- § 60:425 Substitutional or alternative gift over if gift ineffectual or invalid—General provisions
- § 60:426 —Invalid gift to charity
- § 60:427 —Lapsed bequest passing into residuary estate
- § 60:428 —Residuary clause invalid
- § 60:429 —Spouse refusing to accept legacy in lieu of homestead, surviving spouse's award and other interest
- § 60:430 Substitutional or alternative gift over on death before death of testator
- § 60:431 —Death in common calamity or simultaneously
- § 60:432 —Gift falling into residuary estate
- § 60:433 —Gift of one-third of estate to spouse, or to residuary trust if spouse dies before or coincident with testator
- § 60:434 —Gift over to heirs of beneficiary
- § 60:435 —Gift over to hospital
- § 60:436 —Gift to named children, or over to spouse or children of deceased child

TABLE OF CONTENTS

- § 60:437 —Gift to named children, or over to survivors
- § 60:438 —Gift to named children, or over to their issue or to survivors
- § 60:439 —Gift to nephews and nieces, or over to their children
- § 60:440 —Residue to two siblings or the survivor or to another, if named parent predeceases testator
- § 60:441 Substitution of subject of gift—General clause
- § 60:442 —Gift in lieu of proceeds of insurance policy
- § 60:443 —Option to accept lump sum in lieu of monthly payments
- § 60:444 —Option to take property or money
- § 60:445 —Proceeds of sale of real estate given in lieu of invalid devise
- § 60:446 —Legacy in lieu of gift sold by testator

E. NOMINATION OF EXECUTORS AND GUARDIANS

- § 60:447 In General
- § 60:448 Nomination of executors
- § 60:449 —Appointment of two or more persons
- § 60:450 —Same persons as executors and trustees
- § 60:451 —Child when of age
- § 60:452 —Substitution in case of death, refusal, or disability to act
- § 60:453 —Substitution of person or corporation for trust company to act outside state
- § 60:454 —Trust company
- § 60:455 —Trust company and individual
- § 60:456 Change of executor by agreement of beneficiaries

F. EXECUTORS, GENERAL PROVISIONS REGARDING

- § 60:457 Nomination
- § 60:458 Bond of executor—Requirement
- § 60:459 —Sureties waived
- § 60:460 —Bond waived
- § 60:461 Compensation
- § 60:462 —Services as attorney included
- § 60:463 —Percent of appraised value
- § 60:464 —Variation during successive years
- § 60:465 Definition of “executors”
- § 60:466 Directions to executors—Attorney to be employed
- § 60:467 —Carrying on business
- § 60:468 —Incorporation of business
- § 60:469 —Disposition of partnership interests

- § 60:470 —Destruction of papers
- § 60:471 —Increased income payments to sibling if needs require
- § 60:472 —Postponement of distribution until taxes paid
- § 60:473 —Sale of personal property
- § 60:474 —Sale of real estate
- § 60:475 —Waiving appraisal and unnecessary proceedings
- § 60:476 —Maintain insurance
- § 60:477 —Rebuilding in case of fire
- § 60:478 —Payment or reduction of mortgage debts
- § 60:479 —Statement rendered by partnership to be accepted as final
- § 60:480 —Securing release of loans for which shares of stock are pledged
- § 60:481 —Employment of certain employee to be continued
- § 60:482 —Spouse to be paid allowances pending settlement of estate
- § 60:483 —Employment of companion for spouse
- § 60:484 Liability—Acts in good faith
- § 60:485 —For acts of coexecutor
- § 60:486 Independent Administration
- § 60:487 Liability—For acts of preceding executor
- § 60:488 Powers
- § 60:489 —Real estate
- § 60:490 —Appraise and distribute property in cash or kind
- § 60:491 —Borrowing money
- § 60:492 —Carry on business
- § 60:493 —Claims, authority to adjust, settle or compromise
- § 60:494 —Commercial paper, execution
- § 60:495 —Construction of will
- § 60:496 —Determination of beneficiary's interest
- § 60:497 —Division of real estate or proceeds
- § 60:498 —Employ professionals
- § 60:499 —Extension of time to debtors
- § 60:500 —Invest and hold property
- § 60:501 —Joinder in tax returns
- § 60:502 —Leases
- § 60:503 —Purchaser not required to see to application of purchase money
- § 60:504 —Right to appoint foreign administrator
- § 60:505 —Same powers as granted to trustee
- § 60:506 —Sell property and settle claims
- § 60:507 —Sell or exchange property and acquire other property
- § 60:508 —Sale of specified property and under conditions
- § 60:509 Powers of part of executors
- § 60:510 —Majority of executors to control

TABLE OF CONTENTS

- § 60:511 —On death of other executors
- § 60:512 —Particular power conferred on only part of executors

G. NOMINATION OF GUARDIANS

- § 60:513 In General
- § 60:514 Nomination of testamentary guardian of person and/or of estate of minor children
 - § 60:515 —Bond not required
 - § 60:516 —Powers of guardian
 - § 60:517 —Purpose in appointing certain persons as guardians
 - § 60:518 —Retaining attorney
 - § 60:519 —Substituted guardian
 - § 60:520 —Two or more guardians

H. TESTAMENTARY TRUST PROVISIONS

- § 60:521 In General
- § 60:522 Appointment, resignation or removal of trustees
 - § 60:523 —Appointment by beneficiaries
 - § 60:524 —Appointment by trustee, recording certificate of appointment
 - § 60:525 —Appointment of additional trustees by trustees
 - § 60:526 —Appointment of particular persons or association as successors
 - § 60:527 —Appointment of child on attaining specified age
 - § 60:528 —Appointment of children and corporate trustee
 - § 60:529 —Appointment of trust company as successor
 - § 60:530 — —Appointment by trustee, with power of direction and revocation
 - § 60:531 —Appointment of trustee to act outside of state
 - § 60:532 —Consolidation or reorganization of corporate trustee
 - § 60:533 —Excluding child from appointment
 - § 60:534 —Individual to appoint corporate trustee
 - § 60:535 —Intention not to have individual successor trustees appointed
 - § 60:536 —Removal and appointment of trustee by beneficiaries
 - § 60:537 —Removal of trustee and appointment of successor by named persons
 - § 60:538 —Removal of trustee and appointment of successor on notice by beneficiaries
 - § 60:539 —Removal of trustee and appointment of successor when beneficiary is incompetent
 - § 60:540 —Removal of trustee by beneficiaries and appointment of trust company as successor

- § 60:541 —Resignation of trustee
- § 60:542 —Resignation of trustee and acceptance of resignation by remaining or successor trustee
- § 60:543 —Resignation of trustee, and appointment of successor by adult beneficiaries
- § 60:544 —Successor trustees, appointment and acceptance
- § 60:545 —Successor trustees, qualifications
- § 60:546 Bond of trustee—Requirement
- § 60:547 —Bond waived
- § 60:548 —Successor trustee
- § 60:549 Charitable gifts—Authorizing change of use of income
- § 60:550 —Devise of farm to trustee to pay net income to hospital
- § 60:551 —Fund for benefit of officer of retirement home, with gift over to home
- § 60:552 —Hospital to receive gift over on death of named beneficiaries
- § 60:553 —Retirement home to be incorporated and given trust fund
- § 60:554 Charitable gifts imposing conditions—Acquisition of property by charity
- § 60:555 —Change of religious doctrine
- § 60:556 —Naming school and charging tuition
- § 60:557 —Other gifts from third persons
- § 60:558 —Reversion on failure of charitable trust
- § 60:559 Charitable purpose—Art museum
- § 60:560 —Assistance of employees of company controlled by testator
- § 60:561 —Civic center
- § 60:562 —Hospital
- § 60:563 —Hospital and medical expenses of citizens of township
- § 60:564 —Library
- § 60:565 —Religion
- § 60:566 —Scholarships
- § 60:567 Charitable remainder trusts—In general
- § 60:568 Charities to be selected by trustee
- § 60:569 Compensation of trustee—Fixed yearly sum
- § 60:570 —Managing trustee
- § 60:571 —Not to exceed certain sum
- § 60:572 —Percentage
- § 60:573 —Services as attorney
- § 60:574 Creating trust—Devise in trust to children and issue, with power of appointment to children
- § 60:575 —Exercising power of appointment
- § 60:576 —Residuary of will to trust

TABLE OF CONTENTS

§ 60:577	—Residuary trust fund to receive property from other bequests
§ 60:578	—Residue to bank or trust company as trustee
§ 60:579	—Specific amount in trust
§ 60:580	—Residue to trustee to establish several trusts
§ 60:581	— —equal amounts
§ 60:582	— —unequal amounts
§ 60:583	—Trust fund for numerous beneficiaries
§ 60:584	—Trust for persons taking care of testator
§ 60:585	Distribution of income, general provisions— Accumulation of income
§ 60:586	—Anticipation or encumbrance of income by beneficiaries
§ 60:587	—Debts of testator, payment
§ 60:588	—Deficiency of income, effect
§ 60:589	—Discretion of trustee as to amount to pay to minors
§ 60:590	—Discretion of trustee as to amount to pay to child
§ 60:591	—Duration of payments
§ 60:592	—Expenses and interest, payment
§ 60:593	—Mortgage debt, payment
§ 60:594	—Fund from which annuity payable
§ 60:595	—Fund to meet extraordinary expenditures
§ 60:596	—Income earned during probate, payable to trustee
§ 60:597	—Increasing payments
§ 60:598	Net income defined
§ 60:599	—Payment of premiums on life insurance policy of testator’s child’s spouse
§ 60:600	—Time for payment of income
§ 60:601	Distribution of income to particular persons— Annuity to parent
§ 60:602	—Annuity to named person, if survivor of spouse and spouse of testator
§ 60:603	—Annuity to surviving spouse of deceased child
§ 60:604	—Children
§ 60:605	—Children after death of spouse
§ 60:606	—Children and descendants
§ 60:607	—Club
§ 60:608	—Employees
§ 60:609	—Grandchildren, with different payments on reaching certain ages
§ 60:610	—Spouse
§ 60:611	— —Another provision
§ 60:612	—On death of part of beneficiaries
§ 60:613	—Nephews and nieces, or over to their lineal descendants
§ 60:614	—Pending division of property, to pay part of income to spouse and hold part for charity

- § 60:615 —Child for life
- § 60:616 —Support of designated persons
- § 60:617 —Support of named grandchildren
- § 60:618 —Spouse
- § 60:619 —Spouse, with provision as to maintenance of children
- § 60:620 —Person free from debts of spouse
- § 60:621 Distribution of principal and income, designating beneficiaries of both
- § 60:622 —Annuity for life payable from income and principal, with remainder to residuary estate
- § 60:623 —Children of testator
- § 60:624 —Child's share over to grandchild at certain age, income to grandchild in meantime
- § 60:625 —Children's shares with provision as to their issue or want of issue
- § 60:626 —Spouse and grandchildren
- § 60:627 —Income for college education of child's children, balance to child or his or her children for life, and corpus to hospital
- § 60:628 —Income to daughter for life and son for specified time, corpus to son and issue of daughter, or contingent beneficiaries
- § 60:629 —Income to grandchildren until youngest reaches certain age, principal to them or their descendants
- § 60:630 —Income to sibling and principal to his or her descendants
- § 60:631 —Income to sibling for life, principal to go into another fund
- § 60:632 —Income to three cousins for life, principal to residuary trust estate
- § 60:633 —Income to spouse for life with alternative provisions for children
- § 60:634 —Income to spouse for life with power of appointment in children
- § 60:635 —Income to spouse for life with provision for single fund for children
- § 60:636 —Niece or nephew and her or his family
- § 60:637 —Payment of lump sum at designated future time
- § 60:638 —Son and his family
- § 60:639 —Child for life, with gift over to descendants or to charities
- § 60:640 —Child in installments, with gift over to his or her issue or to charities
- § 60:641 —Child, with principal payable to him or her on reaching certain age
- § 60:642 —Survivor or survivors of class
- § 60:643 —Spouse and children

TABLE OF CONTENTS

§ 60:644	—Spouse, in event of disability
§ 60:645	Distribution of principal and income—Discretion of trustee to apply income for benefit of beneficiary instead of paying to her or him directly, with provisions as to final distribution
§ 60:646	—Dividing estate into shares
§ 60:647	—Division into shares, holding as common fund
§ 60:648	—Division into unequal shares
§ 60:649	—Division of estate, appraisal by trustee
§ 60:650	—Prohibiting child from receiving trust fund for his or her children
§ 60:651	—Renunciation by spouse accelerating administration and distribution of trust estate
§ 60:652	Distribution of principal and/or income, manner of distribution—In cash or kind
§ 60:653	—Cash or kind at option of beneficiary
§ 60:654	—Guardian not to receive trust estate
§ 60:655	—Excess of income over annuities
§ 60:656	—Income payable to deceased beneficiary
§ 60:657	—Income payable to minor or person with a disability
§ 60:658	—“Person with a disability” defined
§ 60:659	—Nontransferability by beneficiary of payments of income or principal
§ 60:660	—Distribution of accrued income to beneficiaries succeeding in interest
§ 60:661	—Guardian for minor
§ 60:662	—Undistributed income, after beneficiary attains majority
§ 60:663	— —Another provision
§ 60:664	—Undistributed income not to become principal
§ 60:665	Distribution of principal, designating beneficiaries—Appointee of life beneficiary
§ 60:666	—Children of life beneficiary
§ 60:667	—Children of testator
§ 60:668	—Daughters of testator
§ 60:669	—Descendants of beneficiary
§ 60:670	—Descendants of testator
§ 60:671	—Descendants of testator and charities, one-half each
§ 60:672	—Grandchildren of testator
§ 60:673	—Heirs of beneficiary
§ 60:674	—Heirs of body of life beneficiary
§ 60:675	—Heirs of grandchildren
§ 60:676	—Heirs of testator
§ 60:677	—If beneficiaries terminate trust in violation of trust provision
§ 60:678	—If one of beneficiaries dies or loses his or her rights

- § 60:679 —Income beneficiaries
- § 60:680 —Issue of child
- § 60:681 —Named persons, subject to limitations in will of life beneficiary
- § 60:682 —Next of kin of life beneficiary
- § 60:683 —Person supporting testator
- § 60:684 —Remainder of trust fund to go into residue on death of all children without leaving descendants
- § 60:685 —Child, or over to grandchild or issue of another child
- § 60:686 —State
- § 60:687 —Survivors of class of persons
- § 60:688 —Trustee
- § 60:689 —Two siblings, or survivor, or another
- § 60:690 —Two children, or over to their descendants, or the survivor
- § 60:691 —Spouse and another, property to be sold and divided between them
- § 60:692 Distribution of principal, using for beneficiaries—
Children
- § 60:693 —Advancement of part or all of principal to income beneficiary
- § 60:694 —Advancement to spouse
- § 60:695 —Charging advancements on final distribution
- § 60:696 —Emergencies
- § 60:697 —Income insufficient for maintenance of beneficiary
- § 60:698 —Interest on advancements
- § 60:699 —Limitation on amount of principal to be advanced
- § 60:700 —Paying to child
- § 60:701 —Paying to spouse
- § 60:702 —Paying to spouse net income, limited amount of principal at his or her request, and additional amount in emergency
- § 60:703 —Paying to spouse limited amounts of principal at his or her request; amounts not cumulative
- § 60:704 Distribution of principal, time for making
- § 60:705 —Discretion of trustee
- § 60:706 —Discretion of trustee based on ability of children to manage property
- § 60:707 —Staggered distributions
- § 60:708 —Marriage of life beneficiary
- § 60:709 —Share of person not in being at death of testator
- § 60:710 —Time fixed by majority of beneficiaries
- § 60:711 —Twenty-one years after death of last surviving descendant
- § 60:712 —On request to sibling
- § 60:713 Duration and termination of trust—At discretion of trustee

TABLE OF CONTENTS

- § 60:714 —Death of beneficiaries, remainder to descend according to laws of descent
- § 60:715 —Death of last beneficiary living at testator's death
- § 60:716 —Death of named persons and death or remarriage of another
- § 60:717 —Distributees, determined at termination
- § 60:718 —Distribution of funds if beneficiary of trust predeceases testator
- § 60:719 —Final distribution of principal
- § 60:720 —Fixed number of years after death of testator
- § 60:721 —Lives of child and his or her children
- § 60:722 —Lives of named persons and of children in being
- § 60:723 —Lives of persons in being and their survivor plus 21 years
- § 60:724 —Prohibiting termination of trust before time fixed for duration
- § 60:725 —Termination by beneficiary
- § 60:726 —Twenty years after death of last of named beneficiaries
- § 60:727 —Day preceding 21 years after death of last descendant living at time of testator's death
- § 60:728 — —Until beneficiary leads moral and sober life for specified time
- § 60:729 — —Until oldest child attains certain age
- § 60:730 — —On death of named beneficiary
- § 60:731 — —On death or remarriage of spouse
- § 60:732 — —Youngest living child reaches 21
- § 60:733 — —Youngest living grandchild reaches 25, or 20 years after testator's death
- § 60:734 —Economic feasibility
- § 60:735 —Specific value
- § 60:736 Expenses of trustee, reimbursement
- § 60:737 —Reimbursement for taxes paid
- § 60:738 Liability of trustee—Acts of agents
- § 60:739 —Advice of attorney
- § 60:740 —Carrying property in name of another
- § 60:741 —Diligence required of trustee
- § 60:742 —Disbursements made without notice of event affecting right to payment
- § 60:743 —Gross neglect or willful misfeasance
- § 60:744 —Limitation of liability
- § 60:745 — —Successor trustees
- § 60:746 —Loss from investments
- § 60:747 —Loss from retaining investments
- § 60:748 —Relying on documents or information believed genuine
- § 60:749 Powers and duties of trustees—General provisions regarding administration and distribution of estate

HORNER PROBATE PRACTICE AND ESTATES

- § 60:750 —Accounting and report of trustees to court
- § 60:751 —Accounts and statements by trustees to beneficiaries
- § 60:752 —Accounts of trustees, right to inspect
- § 60:753 —Allocating and apportioning dividends
- § 60:754 —Allocating or apportioning capital gain
- § 60:755 —Annuities, purchase
- § 60:756 —Assuming full responsibility in cotrusteeship
- § 60:757 —Attorney, employment of particular person
- § 60:758 —Attorney for guardian, fees payable by trustee
- § 60:759 —Borrow and pledge or mortgage
- § 60:760 —Business, continuing
- § 60:761 —Checks, signing
- § 60:762 —Claims, authority regarding
- § 60:763 —Common investment of several shares
- § 60:764 —Conclusiveness of determinations of trustee
- § 60:765 —Construction of will
- § 60:766 —Conversion of nonincome producing property at request of surviving spouse
- § 60:767 —Conversion of property into real property or personalty
- § 60:768 —Conveyances to beneficiary or his or her appointee
- § 60:769 —Court orders, waiver
- § 60:770 —Currency of foreign countries
- § 60:771 —Delegation of power to cotrustee
- § 60:772 —Delegation of powers by trustee
- § 60:773 —Distributees, determining
- § 60:774 —Disposition of trust assets at trustee's discretion
- § 60:775 —Death of one of trustees, effect
- § 60:776 —Employing agents and assistants
- § 60:777 —Executing papers
- § 60:778 —Expenses, authority to incur
- § 60:779 —Granting rights and defining powers with respect to oil and minerals
- § 60:780 —Investments—Invest and reinvest trust property
- § 60:781 — —Investment and management of estate
- § 60:782 — —Annuity or insurance contracts
- § 60:783 — —Securities authorized by laws of Illinois
- § 60:784 — —Securities in which trustee interested
- § 60:785 — —Approval by child
- § 60:786 — —Not authorized by law for trust funds
- § 60:787 — —Only as authorized by law for trust funds
- § 60:788 — —Reference to security of principal rather than rate of interest or income
- § 60:789 —Joint action by cotrustees
- § 60:790 —Disagreement by cotrustees
- § 60:791 —Leases, term

TABLE OF CONTENTS

§ 60:792 —Mortgages—Prohibition
§ 60:793 — —Continuing after maturity
§ 60:794 — —Foreclosing and bidding in property
§ 60:795 —Net unexpended income, adding to principal
§ 60:796 —Partnerships—Joining
§ 60:797 — —Continuing investments
§ 60:798 — —Loans
§ 60:799 — — —Continuing investment and/or participation
in incorporation
§ 60:800 — —Participation in incorporation
§ 60:801 —Payment of special assessments and
improvements
§ 60:802 —Possession of trust property
§ 60:803 —Power of attorney, authority of trustee to issue
§ 60:804 —Principal or income—Determining, in general
§ 60:805 — —Natural resources
§ 60:806 — —Realized appreciation
§ 60:807 — —Stock dividends
§ 60:808 — —Expenses
§ 60:809 — —Securities purchased at discount or premium
§ 60:810 — —Payment of carrying charges
§ 60:811 —Proportion of certain investments
§ 60:812 —Purchaser not required to see to application of
purchase money
§ 60:813 —Real estate
§ 60:814 —Real or personal property
§ 60:815 —Receiving additional property
§ 60:816 —Reducing interest rates
§ 60:817 —Reorganization agreements
§ 60:818 —Retaining original property
§ 60:819 —Retaining or converting unproductive property
§ 60:820 —Retaining property acquired by foreclosure
§ 60:821 —Retention of investments
§ 60:822 —Safety deposit box for securities
§ 60:823 —Sale, mortgage, or other disposal of property
§ 60:824 —Sale—Consent of beneficiaries
§ 60:825 — —Consent of majority of trustees
§ 60:826 — —Excepting part of property
§ 60:827 — —Prohibition
§ 60:828 — —Property in danger of being injured
§ 60:829 —Sale or investment—Property in danger of being
injured—Consent of beneficiaries
§ 60:830 — —Obtaining approval of named person
§ 60:831 —Securities—Obtaining approval of named person—
Deposit by trustee for specified purposes
§ 60:832 — —Exhibition by trustee
§ 60:833 — —Registration

- § 60:834 —Setting up reserves
- § 60:835 — —Payment of encumbrances and protection of remainderman
- § 60:836 —Specific powers, effect of enumerating
- § 60:837 —Subscription or conversion rights, exercise or sale
- § 60:838 —Successor trustees—Powers and duties
- § 60:839 — —Accounting of prior trustee
- § 60:840 — —Acquiring title to trust estate
- § 60:841 —Survivor or survivors of trustees, powers
- § 60:842 —Valuation of assets
- § 60:843 —Various trusts—Same powers and duties regarding each
- § 60:844 — —To be kept separate and distinct
- § 60:845 — —Holding undivided interests in investments
- § 60:846 —Voting corporate stock—By proxy
- § 60:847 — —In general
- § 60:848 — —In favor of election or employment of the trustees
- § 60:849 Purpose of trust—Awards and prizes
- § 60:850 —Benefit of dog
- § 60:851 —Education
- § 60:852 —Minor, maintenance and support
- § 60:853 —Spendthrift trusts
- § 60:854 — —Gift of corpus in fee to child on condition

I. PROVISIONS REGARDING MARITAL DEDUCTION UNDER REVENUE ACT

- § 60:855 Introduction
- § 60:856 Unlimited marital deduction trust with credit shelter—Pecuniary amount formula
- § 60:857 —Fractional share formula
- § 60:858 Clauses for distribution of income and principal of marital trust
- § 60:859 Qualified terminable interest property trust

J. CODICILS

- § 60:860 In General
- § 60:861 Codicils—Commencement
- § 60:862 —Ratification of will
- § 60:863 —Attestation clause
- § 60:864 —Testimonium clause
- § 60:865 —Affidavit
- § 60:866 Particular codicils—Appointing new executors and trustees
- § 60:867 —Bequest of lapsed legacy
- § 60:868 —Deletions and substitutions

TABLE OF CONTENTS

- § 60:869 —Increasing bequests
- § 60:870 —Reducing principal of trust with authority to use part of principal in addition to income for beneficiary
- § 60:871 —Revoking and reducing bequests
- § 60:872 —Substitution of children of child who has died
- § 60:873 —Form of codicil maximizing marital deduction
- § 60:874 Second codicil changing plan for distribution of trust estate to child

Volume 3A

CHAPTER 61. CONSTRUCTION OF WILLS IN GENERAL

- § 61:1 General considerations
- § 61:2 Prior decisions as controlling
- § 61:3 Intention of testator
- § 61:4 —Consideration of entire will
- § 61:5 —Language as basis of inquiry
- § 61:6 —Words and clauses in will
- § 61:7 —Supplying, rejecting, changing or transposing words
- § 61:8 —Considering circumstances surrounding execution of will
- § 61:9 —Validity and implementation
- § 61:10 Construction in favor of will
- § 61:11 Meaning of words and phrases
- § 61:12 —Use in different parts of will
- § 61:13 —Particular words and phrases
- § 61:14 — —“Children”
- § 61:15 — —“Descendants”
- § 61:16 — —“Heirs”
- § 61:17 — —“Money”
- § 61:18 — —“Or” construed “and”
- § 61:19 — —Per capita and per stirpes
- § 61:20 — — —“Share and share alike,” and equivalent terms
- § 61:21 — — —Gifts to “heirs,” “heirs at law,” “descendants,” or “issue”
- § 61:22 — — —Relationship of beneficiaries
- § 61:23 — — —Form
- § 61:24 Grammar and punctuation
- § 61:25 Considering separate instruments
- § 61:26 Practical construction by parties
- § 61:27 Favoring distribution according to statute of descent
- § 61:28 Construction in favor of heirs and children
- § 61:29 Intent to dispose of entire estate

- § 61:30 —Application of rule
- § 61:31 —Rebuttal of presumption
- § 61:32 —Effect of codicil
- § 61:33 Quantity of interest given—Words of inheritance
- § 61:34 —Limiting or qualifying legacy of estate of inheritance
- § 61:35 —Precatory words
- § 61:36 —Effect of gift over
- § 61:37 Survivorship generally
- § 61:38 —Construction of word “survivor”
- § 61:39 —Accrued interest
- § 61:40 —Time for ascertaining survivorship
- § 61:41 —Evidence of survivorship
- § 61:42 —Simultaneous deaths
- § 61:43 Conditions and contingencies
- § 61:44 Forms of contingent will provisions—Death before death of testator or before distribution
- § 61:45 —Death before death of testator
- § 61:46 —Death of any or either of particular beneficiaries
- § 61:47 —Death of one of a class
- § 61:48 —Death of spouse of testator
- § 61:49 —Death of testator and spouse in common disaster
- § 61:50 —Gift over to children
- § 61:51 —Gift over to executor or administrator of legatee
- § 61:52 —Gift over to heirs
- § 61:53 —Gift over to heirs or beneficiaries under will of deceased legatee
- § 61:54 —Gift over to other legatees in proportion to their legacies
- § 61:55 —Gift over to representatives of legatee
- § 61:56 —Gift over to residuary legatees
- § 61:57 —Gift over to survivors
- § 61:58 —Gift over to children or survivor
- § 61:59 —Death before distribution
- § 61:60 —Gift over to appointee of deceased or, if no appointment, to his or her heirs
- § 61:61 —Gift over on death of legatee in a common calamity
- § 61:62 —Gift over to survivor or survivors
- § 61:63 —Gift to spouse surviving for a certain period or over to children
- § 61:64 Repugnant clauses
- § 61:65 Provisions relating to taxes
- § 61:66 Disposition of income earned or accruing after death
- § 61:67 Suits to construe wills
- § 61:68 —Attorney’s fees

TABLE OF CONTENTS

**CHAPTER 62. EXTRINSIC EVIDENCE IN
CONSTRUCTION OF WILLS**

I. GENERAL PRINCIPLES

- § 62:1 Introductory statement
- § 62:2 Latent and patent ambiguities
- § 62:3 —Cases of patent ambiguity
- § 62:4 —Cases of latent ambiguity
- § 62:5 —No ambiguity
- § 62:6 Allowances in construction
- § 62:7 Circumstances considered in construction
- § 62:8 False description in will
- § 62:9 Evidence of intent as an independent fact
- § 62:10 Evidence of surrounding circumstances
- § 62:11 Correction of mistakes

**CHAPTER 63. RIGHTS IN AND DESCENT
AND DISTRIBUTION OF INTESTATE
PROPERTY**

- § 63:1 General considerations
- § 63:2 Definition of “heirs”
- § 63:3 —Time to determine
- § 63:4 Definition of “descendant”
- § 63:5 Conflicts of law
- § 63:6 Governing statute
- § 63:7 Time of death
- § 63:8 Posthumous children
- § 63:9 Children born after will
- § 63:10 Legacy to deceased legatee
- § 63:11 —Application of statute
- § 63:12 Adopted children
- § 63:13 —Inheritance from biological parents
- § 63:14 —Inheritance by parents
- § 63:15 —Contracts to adopt
- § 63:16 —Form of adoption agreement
- § 63:17 Dower and curtesy estates
- § 63:18 Noncitizens’ right to inherit
- § 63:19 Surviving spouse as heir—No descendants
- § 63:20 —Existence of descendants
- § 63:21 Surviving spouse’s and child’s awards
- § 63:21.50 —Adult dependent child residing with surviving spouse
likely to become a public charge
- § 63:21.60 —Adult dependent child not residing with surviving
spouse likely to become a public charge
- § 63:21.70 —Form—Order

- § 63:22 —No surviving spouse
- § 63:23 No lineal descendants or surviving spouse
- § 63:24 Descent to next of kin
- § 63:25 Escheat
- § 63:26 Children born out of wedlock
- § 63:27 —Heir’s right to damages
- § 63:28 —Heir’s right to inherit
- § 63:29 —Judicial determination of lawful child
- § 63:30 Death caused by heir
- § 63:31 Financial exploitation, abuse or neglect of elderly or disabled
- § 63:32 Conviction for offenses against elderly or disabled
- § 63:33 Heir defrauding testator
- § 63:34 Parent neglecting minor prior to minor’s death
- § 63:35 Property not disposed of by will—Partial intestacy
- § 63:36 Forms—Petition for summary administration
- § 63:37 —Order for summary administration
- § 63:38 —Order appointing representative of intestate estate

CHAPTER 64. ADVANCEMENTS AND EXPECTANCIES

- § 64:1 Advancements—Definition and nature
- § 64:2 Intent to advance and evidence
- § 64:3 Consideration of advancement in making distribution—Value
- § 64:4 Forms of provisions in wills relating to advancements—In general
- § 64:5 —Advances not to be deducted
- § 64:6 —Amount of advancement
- § 64:7 —Debts of son-in-law or daughter-in-law
- § 64:8 —Declaration of intent to advance
- § 64:9 —Past and future advancements
- § 64:10 Release or transfer of heir’s expectancy
- § 64:11 —Statute of frauds; death of releasor, releasee living
- § 64:12 Forms of transfer of expectancy of heir to third person—In general
- § 64:13 —Assignment of expectancy in payment of debt
- § 64:14 —Description of subject matter
- § 64:15 Form of release to ancestor of expectancy of heir

CHAPTER 65. LEGACIES

- § 65:1 General considerations
- § 65:2 Legacies by implication
- § 65:3 General and specific legacies
- § 65:4 Demonstrative legacies

TABLE OF CONTENTS

§ 65:5	“Worthier title” doctrine
§ 65:6	Charges upon real estate
§ 65:7	—Residuary real property
§ 65:8	Time of vesting of legacy
§ 65:9	Interest on legacies
§ 65:10	Satisfaction of legacies and of distributive shares
§ 65:11	—Source of assets
§ 65:12	Ademption of legacies
§ 65:13	Lapsed legacies generally
§ 65:14	—Statute preventing lapse
§ 65:15	—Devolution of lapsed gifts
§ 65:16	—Forms of will provisions in event of lapse
§ 65:17	Satisfaction of legacies and of distributive shares— Advancement
§ 65:18	Abatement of legacies
§ 65:19	—Form of will provision for abatement pro rata
§ 65:20	—Form of provision for abatement of particular legacies
§ 65:21	—Another form
§ 65:22	—Form of provision for variance according to size of estate
§ 65:23	Residuary clauses—In general
§ 65:24	—Lapsed legacies
§ 65:25	—Common law
§ 65:26	Forms of will provisions as to payment of legacies— Time for payment
§ 65:27	—Deferring time of payment
§ 65:28	—Part payment
§ 65:29	—Income payments
§ 65:30	—Legacy to infant
§ 65:31	—When interest to begin to run
§ 65:32	—Residuary clauses

CHAPTER 66. ANNUITIES

§ 66:1	General considerations
§ 66:2	Fund from which annuities and gifts of income to be paid
§ 66:3	Trusts arising from charging annuities on land
§ 66:4	Forms of will provisions as to annuities—In general
§ 66:5	—Time of payment
§ 66:6	—Apportionment of annuity
§ 66:7	—Charge of annuity
§ 66:8	—No charge on corpus of estate
§ 66:9	—Charge on corpus
§ 66:10	—Charge on personal property
§ 66:11	—No charge on real estate
§ 66:12	—Charge as lien on land devised

- § 66:13 —Charge on surplus net income
- § 66:14 —Creation of trust to pay annuity
- § 66:15 —Charitable remainder annuity trust—Mandatory provision—Trust must pay certain sum at least annually
- § 66:16 — — —Corpus must be irrevocably transferred to charity
- § 66:17 — — —Replacement of nonqualified organization
- § 66:18 — — —Obligation to pay annuity amount must begin with date of death
- § 66:19 — — —Optional provision—Expressing current payments as percentage of initial trust value
- § 66:20 — — —Obligation to pay annuity amount must begin with death
- § 66:21 — — —Power of trustee to allocate annuity amount
- § 66:22 — — —Amounts payable to recipients and reduction on death of recipient
- § 66:23 —Direction or authority to purchase annuity
- § 66:24 —Duration of annuity
- § 66:25 —Payment of value in gross sum after fixed time
- § 66:26 —Priority to annuity
- § 66:27 —Reduction in amount
- § 66:28 —Restraint on alienation and protection against creditors
- § 66:29 —Taxes
- § 66:30 —Temporary suspension of annuity
- § 66:31 —Termination of annuity for extrinsic causes
- § 66:32 —Time from which annuity to be computed
- § 66:33 —To whom payment to be made on death of annuitant
- § 66:34 —Devise subject to payment of annuity
- § 66:35 —Assignment of annuity

CHAPTER 67. CHARITABLE GIFTS

I. IN GENERAL

- § 67:1 Definition, nature and general considerations
- § 67:2 Judicial attitude
- § 67:3 Organization and nature of charitable corporations and institutions
- § 67:4 The Statute of Charitable Uses
- § 67:5 Construction of gift to charity
- § 67:6 Certainty of subject or fund
- § 67:7 Certainty of object or beneficiaries
- § 67:8 —Public charities
- § 67:9 Doctrine of cy pres

TABLE OF CONTENTS

- § 67:10 —Intention or purpose of testator
- § 67:11 —Infeasibility or impracticability of charitable scheme
- § 67:12 —Nonexistence or change in status of beneficiary
- § 67:13 —Powers and duties of court
- § 67:14 —Ordering sale of property
- § 67:15 Trustees—When trustee necessary to execution of trust
- § 67:16 —Breach of trust and liability of trustee
- § 67:17 —Appointment and removal
- § 67:18 Gifts to corporations
- § 67:19 Gifts in perpetuity for grave lots, monuments, etc
- § 67:20 Charitable uses and objects
- § 67:21 Disposition of property when charitable use abandoned
- § 67:22 Administration and enforcement of charitable trusts
- § 67:23 —Charitable trust for the benefit of a minor or disabled person; report

II. FORMS

- § 67:24 Charitable gifts
- § 67:25 —Bequest to charitable corporation in trust for particular purpose
- § 67:26 —Bequest in trust for general purposes of community trust as stated in general declaration of trust
- § 67:27 —Bequest in trust for specific purposes of community trust as stated in general declaration of trust
- § 67:28 —Cessation of carrying out purposes of charity
- § 67:29 —Cessation of existence of charity
- § 67:30 —Cy pres power in trustee
- § 67:31 —Home or facility for specific needs
- § 67:32 —Student assistance
- § 67:33 —Library
- § 67:34 Restricted endowment to educational, religious, or charitable institution
- § 67:35 Direction for care of burial lot, care of cemetery, etc
- § 67:36 Bequest in trust to care for lot
- § 67:37 —Bequest in trust to care for historical statuary and monuments
- § 67:38 —Bequest in trust to care for historical sites and parks
- § 67:39 Corporate resolution authorizing charitable contribution
- § 67:40 Acknowledgment by charitable or educational institution of receipt of pledged gift

CHAPTER 68. TRUSTS

I. TRUSTS CREATED BY PRECATORY WORDS

- § 68:1 General rules
- § 68:2 Requirement of certainty of subject
- § 68:3 Rules illustrated

II. TRUSTS GENERALLY

- § 68:4 Definition, nature and creation
- § 68:5 —Express trusts
- § 68:5.50 — —Consumer Fraud and Deceptive Business Practices Act
- § 68:6 —Implied trusts
- § 68:7 Language creating trust
- § 68:8 —Construction of language
- § 68:9 Subject matter of trust
- § 68:10 Beneficiary or object of trust
- § 68:11 Trustee—Definition and nature
- § 68:12 —Successor trustees, appointment or vacancy in office
- § 68:13 — —Corporate trustee
- § 68:14 —Removal
- § 68:15 —Compensation
- § 68:16 Title and estate of trustees
- § 68:17 Powers and duties of trustees—Generally
- § 68:18 —Complying with the terms of the trust
- § 68:19 —Knowing and understanding terms of trust
- § 68:20 —Acting in good faith
- § 68:21 —Keeping adequate books and records
- § 68:22 —Rendering periodic statements of account to beneficiaries
- § 68:23 —Dealing fairly with beneficiaries
- § 68:24 —Not showing partiality among beneficiaries
- § 68:25 —Taking, keeping control and preservation of trust property
- § 68:25.50 — —Written instrument of conveyance and acceptance of real property—Form
- § 68:26 —Enforcing claims due to the trust
- § 68:27 —Abstaining from self dealing
- § 68:28 —Investments
- § 68:29 — —Judgment and care required
- § 68:30 — —Permissible investments
- § 68:31 — —Retention of property
- § 68:32 — —Registration of investments
- § 68:33 —Resulting trust

TABLE OF CONTENTS

§ 68:34	—Trusts and Trustees Act
§ 68:35	—Plural trustees
§ 68:36	—Discretionary powers
§ 68:37	Attorneys representing trustees
§ 68:37.50	—Attorney-client privilege
§ 68:38	—Attorney’s fees
§ 68:39	Terms of trust
§ 68:40	—Checklist
§ 68:41	Certification of trusts
§ 68:42	—Form
§ 68:43	Court alteration of terms of trust
§ 68:44	—Fraud and use of parol evidence
§ 68:45	Savings account trusts
§ 68:46	Land trusts
§ 68:47	—Definitions
§ 68:48	—Land Trust Fiduciary Duties Act
§ 68:49	—The Land Trustee as Creditor Act
§ 68:50	Trusts for domestic or pet animals
§ 68:51	Breach of Trust—Liability of trustees
§ 68:52	—Liability of cotrustees, successor trustees and others
§ 68:53	—Damages
§ 68:54	Limitation of actions
§ 68:54.50	—Trust contest
§ 68:55	—Constructive trusts
§ 68:56	Termination of trust
§ 68:57	—By settlor
§ 68:58	—Impossibility of performance
§ 68:59	—Consent of parties
§ 68:59.50	— —Small trust termination
§ 68:60	—Effect; disposition of property
§ 68:61	Powers after termination of trust
§ 68:62	Severance and consolidation of trust estate
§ 68:63	Effect of death of party to trust
§ 68:64	Trusts arising from charging debts on land
§ 68:65	Trusts arising from charging legacies on land—In general
§ 68:66	—Blending realty and personalty in residuary mass
§ 68:67	—When land is primary and when exclusive fund for payment
§ 68:68	—When devisee personally liable for legacy—How collected
§ 68:69	When devisee personally liable for legacy—Personal liability cases
§ 68:70	—Cases where no personal charge
§ 68:71	Disposal of personal effects

§ 68:71.50 Trust for a beneficiary with a disability

III. CHECKLISTS

- § 68:72 Information from client for drafting trust instrument
- § 68:73 Trust provisions—General powers of trustee
- § 68:74 —Trust beneficiaries
- § 68:75 —Distribution of trust income and principal
- § 68:76 Drafting inter vivos trust
- § 68:77 Drafting testamentary trust
- § 68:78 Drafting charitable remainder annuity trust
- § 68:79 Drafting amendment of trust agreement
- § 68:80 Drafting document to transfer property in trust
- § 68:81 Drafting revocation of trust
- § 68:82 Drafting instrument terminating trust

IV. FORMS

- § 68:83 Declaration of trust—Special needs trust for developmentally disabled child
- § 68:84 —Life insurance trust with marital deduction
- § 68:85 —Irrevocable funded life insurance trust
- § 68:86 —Revocable unfunded life insurance trust
- § 68:87 Testamentary provisions creating trusts—Note to drafter
- § 68:88 —General form
- § 68:89 —Gift of money in trust
- § 68:90 —Creation of trust by precatory words
- § 68:91 —Gift of real estate in trust
- § 68:92 —Gift of all of estate in trust
- § 68:93 — —To corporation
- § 68:94 — —To executors
- § 68:95 —To executor as trustee
- § 68:96 —Precatory clause not cutting down fee
- § 68:97 —Provision imposing charge—To pay debts
- § 68:98 — —To pay legacies
- § 68:99 — —Upon real property if personal property insufficient
- § 68:100 — —Upon residuary estate
- § 68:101 —Provision exonerating bequest or devise from charges
- § 68:102 —Provision imposing personal liability on devisee
- § 68:103 —Form of appointment of trustees
- § 68:104 Appointment of successor trustee—By trustor
- § 68:105 —By trustee
- § 68:106 Bond of trustee
- § 68:107 Termination of trust by trustee

TABLE OF CONTENTS

- § 68:108 —Termination of trust after disclaimer by beneficiary
- § 68:109 Agreement between beneficiaries to terminate trust

V. AMENDING, MODIFYING OR TERMINATING TRUST INSTRUMENTS

- § 68:110 Amendment or modification of trust—In general
- § 68:111 —Virtual representation
- § 68:112 —Directed trusts—In general
- § 68:113 — —Definitions
- § 68:114 — —Investment trust advisor
- § 68:115 — —Distribution trust advisor
- § 68:116 — —Trust protector
- § 68:117 — —Duties and liabilities
- § 68:118 — —Submission to court jurisdiction
- § 68:119 —Distribution of trust principal in further trust (or trust decanting)—In general
- § 68:120 — —Definitions
- § 68:121 — —Purpose
- § 68:122 — —Distribution to second trust if absolute discretion
- § 68:123 — —Distribution to second trust if no absolute discretion
- § 68:124 — —Notice
- § 68:125 — —Court involvement
- § 68:126 — —Term of the second trust
- § 68:127 — —Divided discretion
- § 68:128 — —Later discovered assets
- § 68:129 — —Other authority to distribute in further trust
- § 68:130 — —Need to distribute not required
- § 68:131 — —No duty to distribute
- § 68:132 — —Express prohibition
- § 68:133 — —Restrictions
- § 68:134 — —Exception
- § 68:135 — —Tax limitations
- § 68:136 — —Limits on compensation of trustee
- § 68:137 — —Exercise of decanting power
- § 68:138 — —Terms of second trust
- § 68:139 — —Settlor
- § 68:140 — —Remedies
- § 68:141 — —Application of decanting statute

VI. ILLINOIS TRUST CODE

A. GENERAL PROVISIONS AND DEFINITIONS

- § 68:142 Generally
- § 68:143 Application to existing relationships
- § 68:144 Definitions

- § 68:145 Knowledge of a fact
- § 68:146 Default and mandatory rules
- § 68:147 Common law of trusts; principles of equity
- § 68:148 Governing law
- § 68:149 Principal place of administration
- § 68:150 Notice—Methods and waiver of notice
- § 68:151 Others treated as qualified beneficiaries
- § 68:152 Nonjudicial settlement agreements
- § 68:153 Rules of construction
- § 68:154 Insurable interest of trustee
- § 68:155 Gift to a deceased beneficiary under an inter vivos trust
- § 68:156 Transfer of real property to trust

B. JUDICIAL PROCEEDINGS

- § 68:157 Role of court in administration of trusts
- § 68:158 Jurisdiction over trustee and beneficiary
- § 68:159 Venue

C. REPRESENTATION

- § 68:160 Representation: basic effect
- § 68:161 Representation by holders of certain powers
- § 68:162 Representation by others
- § 68:163 Representation by person having substantially identical interest
- § 68:164 Appointment of representative
- § 68:165 Representation of charity
- § 68:166 Designated representative

D. CREATION, VALIDITY, MODIFICATION, AND TERMINATION OF TRUST

- § 68:167 Methods of creating trust
- § 68:168 Requirements for creation
- § 68:169 Trusts created in other jurisdictions
- § 68:170 Trust purposes
- § 68:171 Charitable purposes; enforcement
- § 68:172 Creation of trust induced by fraud, duress, or undue influence
- § 68:173 Evidence of oral trust
- § 68:174 Trusts for domestic or pet animals
- § 68:175 Noncharitable trust without ascertainable beneficiary
- § 68:176 Modification or termination of trust; proceedings for approval or disapproval
- § 68:177 Modification or termination of noncharitable irrevocable trust by consent
- § 68:178 Modification or termination because of unanticipated circumstances or inability to administer trust effectively

TABLE OF CONTENTS

- § 68:179 Cy pres
- § 68:180 Modification or termination of uneconomic trust
- § 68:181 Reformation to correct mistakes
- § 68:182 Modification to achieve settlor's tax objectives
- § 68:183 Combination and division of trusts

E. CREDITOR'S CLAIMS; SPENDTHRIFT AND DISCRETIONARY TRUSTS

- § 68:184 Rights of beneficiary's creditor or assignee
- § 68:185 Spendthrift provision
- § 68:186 Exceptions to spendthrift provision
- § 68:187 Discretionary distributions; effect of standard
- § 68:188 Creditor's claim against settlor
- § 68:189 Overdue distribution
- § 68:190 Personal obligations of trustee
- § 68:191 Lapse of power to withdraw
- § 68:192 Trust for beneficiary with a disability

F. REVOCABLE TRUSTS

- § 68:193 Capacity of settlor of revocable trust
- § 68:194 Revocation or amendment of revocable trust
- § 68:195 Settlor's powers; powers of withdrawal
- § 68:196 Limitation on action contesting validity of revocable trust; distribution of trust property
- § 68:197 Revocation of provisions in revocable trust by divorce or annulment

G. OFFICE OF TRUSTEE

- § 68:198 Accepting or declining trusteeship
- § 68:199 Trustee's bond
- § 68:200 Co-trustees
- § 68:201 Vacancy in trusteeship; appointment of successor
- § 68:202 Resignation of trustee
- § 68:203 Removal of trustee
- § 68:204 Delivery of property by former trustee
- § 68:205 Compensation of trustee
- § 68:206 Reimbursement of expenses

H. DUTIES AND POWERS OF TRUSTEE

- § 68:207 Duty to administer trust
- § 68:208 Duty of loyalty
- § 68:209 Impartiality
- § 68:210 Prudent administration
- § 68:211 Costs of administration

- § 68:212 Delegation by trustee
- § 68:213 Directed trusts
- § 68:214 Control and protection of trust property
- § 68:215 Recordkeeping and identification of trust property
- § 68:216 Enforcement and defense of claims
- § 68:217 Powers and duties of successor; liability for acts of predecessor; approval of accounts
- § 68:218 Duty to inform and account; trusts irrevocable and trustees accepting appointment after effective date of Code
- § 68:219 Duty to inform and account for pre-2020 trusts
- § 68:220 Discretionary powers; tax savings
- § 68:221 General powers of trustee
- § 68:222 Specific powers of trustee
- § 68:223 Distribution upon termination
- § 68:224 Nominee registration
- § 68:225 Proceeds of eminent domain or partition
- § 68:226 Lands or estates subject to future interest or power of appointment; waste; appointment of trustee

I. ILLINOIS PRUDENT INVESTOR LAW; LIFE INSURANCE; AFFILIATED INVESTMENTS

- § 68:227 Prudent investor rule
- § 68:228 Standard of care; portfolio strategy; risk and return objectives
- § 68:229 Diversification
- § 68:230 Duties at inception of trusteeship
- § 68:231 Court action
- § 68:232 Reviewing compliance
- § 68:233 Delegation of investment and management functions
- § 68:234 Language invoking standard of Article 9
- § 68:235 Application to existing trusts
- § 68:236 Life insurance
- § 68:237 Investments in affiliated investments; transactions with affiliates

J. LIABILITY OF TRUSTEES AND RIGHTS OF PERSONS DEALING WITH TRUSTEE

- § 68:238 Remedies for breach of trust
- § 68:239 Damages for breach of trust
- § 68:240 No damages in absence of breach
- § 68:241 Attorney's fees and costs
- § 68:242 Limitation on action against trustee
- § 68:243 Reliance on trust instrument
- § 68:244 Event affecting administration or distribution
- § 68:245 Exculpation of trustee
- § 68:246 Beneficiary's consent, release, or ratification

TABLE OF CONTENTS

§ 68:247	Limitation on personal liability of trustee
§ 68:248	Interest as general partner
§ 68:249	Protection of person dealing with trustee
§ 68:250	Certification of trust
§ 68:251	—Form
§ 68:252	Reliance on Secretary of Financial and Professional Regulation

K. TOTAL RETURN TRUSTS

§ 68:253	Total return trust defined; trustee duty to inform
§ 68:254	Conversion by trustee
§ 68:255	Conversion by agreement
§ 68:256	Conversion or reconversion by court
§ 68:257	Post conversion
§ 68:258	Administration
§ 68:259	Allocations
§ 68:260	Restrictions
§ 68:261	Tax limitations
§ 68:262	Releases
§ 68:263	Remedies
§ 68:264	Application
§ 68:265	Application to express trusts

L. TRUST DECANTING

§ 68:266	Trust Decanting Law and definitions
§ 68:267	Scope of Trust Decanting Law
§ 68:268	Fiduciary duty
§ 68:269	Application; governing law
§ 68:270	Reasonable reliance
§ 68:271	Notice
§ 68:272	Court involvement
§ 68:273	Formalities
§ 68:274	Decanting power under expanded distributive discretion
§ 68:275	Decanting power under limited distributive discretion
§ 68:276	Trust for beneficiary with disability
§ 68:277	Protection of charitable interests
§ 68:278	Trust limitation on decanting
§ 68:279	Change in compensation
§ 68:280	Relief from liability and indemnification
§ 68:281	Removal or replacement of authorized fiduciary
§ 68:282	Tax-related limitations
§ 68:283	Duration of second trust
§ 68:284	Need to distribute not required
§ 68:285	Savings provision
§ 68:286	Trust for care of animal

- § 68:287 Settlor
- § 68:288 Later-discovered property
- § 68:289 Obligations

M. UNIFORM POWERS OF APPOINTMENT LAW

- § 68:290 Definitions
- § 68:291 Governing law
- § 68:292 Creation of power of appointment
- § 68:293 Nontransferability
- § 68:294 Presumption of unlimited authority
- § 68:295 Exception to presumption of unlimited authority
- § 68:296 Rules of classification
- § 68:297 Power to revoke or amend
- § 68:298 Requisites for exercise of power of appointment
- § 68:299 Intent to exercise: determining intent from residuary clause
- § 68:300 Intent to exercise: after-acquired power
- § 68:301 Substantial compliance with donor-imposed formal requirement
- § 68:302 Permissible appointment
- § 68:303 Appointment to deceased appointee
- § 68:304 Impermissible appointment
- § 68:305 Selective allocation doctrine
- § 68:306 Capture doctrine: disposition of ineffectively appointed property under general power
- § 68:307 Disposition of unappointed property under released or unexercised general power
- § 68:308 Disposition of unappointed property under released or unexercised nongeneral power
- § 68:309 Disposition of unappointed property if partial appointment to taker in default
- § 68:310 Appointment to taker in default
- § 68:311 Powerholder's authority to revoke or amend exercise
- § 68:312 Disposition of trust property subject to power
- § 68:313 Disclaimer
- § 68:314 Authority to release
- § 68:315 Method of release
- § 68:316 Revocation or amendment of release
- § 68:317 Power to contract
- § 68:318 Remedy for breach of contract to appoint or not to appoint
- § 68:319 Creditor claim: general power created by powerholder
- § 68:320 Creditor claim: general power not created by powerholder
- § 68:321 Power to withdraw
- § 68:322 Creditor claim: nongeneral power
- § 68:323 Application to existing relationships

N. PERPETUITIES

- § 68:324 Purpose

TABLE OF CONTENTS

- § 68:325 Definitions and terms
- § 68:326 Application of rule against perpetuities
- § 68:327 Trusts
- § 68:328 Applicability
- § 68:329 Vesting of any limitation of property

O. MISCELLANEOUS PROVISIONS

- § 68:330 Uniformity of application and construction
- § 68:331 Severability
- § 68:332 Rights retained by Attorney General
- § 68:333 Application to existing relationships

CHAPTER 69. POWERS COUPLED WITH TRUSTS

I. POWERS GENERALLY

- § 69:1 Nature and definition
- § 69:2 Collateral powers
- § 69:3 Powers in gross
- § 69:4 Powers appendant or appurtenant
- § 69:5 Exercise of power of appointment
- § 69:6 —Drafting checklist
- § 69:7 *[Reserved]*

II. TRUSTS ARISING FROM POWERS OF SALE

- § 69:8 In general
- § 69:9 Express or implied power
- § 69:10 Object and extent of power
- § 69:11 Time of sale
- § 69:12 Court aid and supervision
- § 69:13 Conduct, validity and effect of sale

III. OBJECT AND EXERCISE OF POWER

- § 69:14 Naked power of sale distinguished from power coupled with an interest
- § 69:15 —Estate taken by executor or trustee
- § 69:16 Execution of trust by executor appointed to fill vacancy
- § 69:17 Failure of object of power
- § 69:18 Intent to exercise power
- § 69:19 —Circumstances demonstrating intent to execute power
- § 69:20 —Power over and interest in property existing in same person

- § 69:21 Manner of exercise of power
- § 69:22 Compelling exercise of power
- § 69:23 —Appointment to class; illusory appointment
- § 69:24 —Defective exercise of power

IV. FORMS

- § 69:25 Power to sell and convey
- § 69:26 Provision for spouse with power of sale in executor
- § 69:27 Gift for life with power of disposition by will
- § 69:28 Release of power of appointment

Volume 4

CHAPTER 70. DISCLAIMER OF SUCCESSION TO PROPERTY

- § 70:1 Disclaimer of Property—Generally
- § 70:2 —Existence of right to disclaim
- § 70:2.30 Disclaimers of property—Deceased or disabled individual
- § 70:2.50 Disclaimer of property—Avoidance of claims
- § 70:3 Disclaimers of property—Illinois Probate Act requirements—Form of disclaimer
- § 70:4 — —Time for delivery
- § 70:5 — —Delivery, filing, and recording
- § 70:5.50 —Requirements for a “qualified disclaimer”
- § 70:6 —Effect of disclaimer or of waiver of right to disclaim
- § 70:7 Checklist—Drafting qualified disclaimer

CHAPTER 71. ELECTION AND RENUNCIATION

I. IN GENERAL

- § 71:1 General considerations

II. EQUITABLE OR IMPLIED ELECTION

- § 71:2 In general
- § 71:3 Creating necessity to elect
- § 71:4 Making of election

III. RENUNCIATION OF WILL

- § 71:5 In general
- § 71:6 Renunciation of will—Waiver of right; acceptance of will
- § 71:7 —By whom made

TABLE OF CONTENTS

- § 71:8 —Time of making
- § 71:9 —Form and sufficiency
- § 71:9.50 — —Sample form
- § 71:10 —Withdrawal or waiver of renunciation
- § 71:11 —Effect
- § 71:12 — —Upon future interests
- § 71:13 —Effect of antenuptial contract
- § 71:14 —Effect of postnuptial contract
- § 71:15 Share of spouse on renunciation of will—Under
Probate Act
- § 71:16 —Property included or excluded
- § 71:17 Form—Renunciation by surviving spouse of testator
- § 71:18 —Clause provision for acceleration of interests of
other beneficiaries if renunciation by surviving
spouse
- § 71:19 Equalization of legacies

CHAPTER 72. EQUITABLE CONVERSION AND RECONVERSION

- § 72:1 General considerations
- § 72:2 Contracts for the sale of land
- § 72:3 Insurance proceeds
- § 72:4 Other contracts—Reconversion
- § 72:5 Nature of legatee’s interest when conversion of land
is directed
- § 72:6 Vesting of legal title
- § 72:7 Sufficiency of expression of intention for conversion
- § 72:8 Effect on devolution of property of total or partial
failure of object of conversion
- § 72:9 Conversion “out and out”
- § 72:10 Form of direction for conversion—Assets into money
- § 72:11 —Real estate considered personalty

CHAPTER 73. ESTATES IN GENERAL

- § 73:1 General considerations
- § 73:2 Vesting of estates
- § 73:3 Merger of estates
- § 73:4 Joint tenancy generally
- § 73:5 —Personal property
- § 73:6 — —Joint bank accounts and safe-deposit boxes
- § 73:7 — —Joint savings and loan accounts
- § 73:8 —Real property—Tenancy by the entirety
- § 73:9 —Rule where grantor or transferor is grantee or
transferee
- § 73:10 —Incidents of relationship
- § 73:11 —Termination of relationship

CHAPTER 74. LIFE ESTATES

- § 74:1 General considerations
- § 74:2 Ascertainment of principal and income
- § 74:3 Life estate with power of sale
- § 74:4 —Effect of disposition of property remaining at life tenant's death
- § 74:5 —Limitations on power of sale
- § 74:6 Power of disposal confined to life tenant's interest
- § 74:7 Rights, duties and liabilities of life tenant
- § 74:8 —Leases
- § 74:9 Apportionment of expenses between tenants and remaindermen
- § 74:10 —Improvements
- § 74:11 Murder of life tenant by successor-in-interest
- § 74:12 Form of legacy—All of testator's property to spouse for life
- § 74:13 —Money for life
- § 74:14 —Residuary gift for life

CHAPTER 75. ESTATES TAIL

- § 75:1 Origin and history
- § 75:2 Statutory abolition

CHAPTER 76. REMAINDERS, REVERSIONS, AND EXECUTORY INTERESTS

I. IN GENERAL

- § 76:1 Definitions and general considerations
- § 76:2 —Vested and contingent remainders distinguished
- § 76:3 —Determination as to nature of remainder
- § 76:4 —Determination as to intent of transferor

II. VESTED REMAINDERS

- § 76:5 Generally
- § 76:6 Examples of vested estates
- § 76:7 Effect of power of sale
- § 76:8 Remainder to a class
- § 76:9 Remainder to children after death of surviving spouse
- § 76:10 Conditions precedent
- § 76:11 Conditions subsequent
- § 76:12 —Creation
- § 76:13 —Illustrations
- § 76:14 —Performance or breach of condition

TABLE OF CONTENTS

- § 76:15 —Remedies
- § 76:16 Conditional limitations
- § 76:17 Devises to trustees
- § 76:18 Gifts upon beneficiary attaining specified age

III. CONTINGENT REMAINDERS

- § 76:19 Generally
- § 76:20 Depending on survivorship
- § 76:21 Contingencies other than survivorship
- § 76:22 Alternative contingent remainders
- § 76:23 Happening or performance of contingency
- § 76:24 Rule favoring vesting of estates
- § 76:25 Acceleration of remainder
- § 76:26 Destruction or termination of contingent remainders
- § 76:27 —Contingent Remainder Act
- § 76:28 Partition

IV. CROSS-REMAINDERS AND REVERSIONS

- § 76:29 Cross-remainders
- § 76:30 Reversions generally

V. EXECUTORY DEVICES

- § 76:31 Generally
- § 76:32 Fee determinable with power of sale and devise over
- § 76:33 Death within limited period or at any time
- § 76:34 Executory devise too remote or impossible

VI. FORMS

- § 76:35 In deed
- § 76:36 Death of part of remaindermen
- § 76:37 Remainder to children of grantor
- § 76:38 Remainder to named children of testator
- § 76:39 Vested remainder subject to condition subsequent
- § 76:40 Remainder to named children of life tenant
- § 76:41 Remainder to children of life tenant
- § 76:42 Remainder to children living at death of life tenant
- § 76:43 Remainder to children of life tenant with provision in case of no children
- § 76:44 Remainder to children of testator
- § 76:45 Remainder to children of testator with provision as to death of child without issue
- § 76:46 Successive remainders
- § 76:47 Remainder to first-born child of life tenant
- § 76:48 Remainder to heirs
- § 76:49 Provision in case of birth of issue to life tenant

- § 76:50 Remainder to person caring for testator and life tenant
- § 76:51 Alternative remainders
- § 76:52 Alternate contingent remainders
- § 76:53 Death before reaching certain age
- § 76:54 Survival of issue of life tenant or exercise of power of appointment
- § 76:55 Survival of remainderman on death of life tenant
- § 76:56 Death of remainderman unmarried or without surviving children
- § 76:57 Surviving “issue” of life tenant
- § 76:58 Survivor as between life tenant and remainderman
- § 76:59 Remainder to issue of life tenant, with proviso if no issue surviving
- § 76:60 Remainder subject to payments to daughters of testator
- § 76:61 Cross-remainders
- § 76:62 Contingent remainder to brothers and sisters after spouse’s death
- § 76:63 Contingent remainder with double aspect
- § 76:64 Contingent remainder depending upon survivorship
- § 76:65 Gift over to children on remarriage or death of spouse
- § 76:66 Gift over after death without issue
- § 76:67 Reversion by operation of law
- § 76:68 Reversion to children of grantor where grantee dies without children
- § 76:69 Contingent remainder and reversion
- § 76:70 Creation of future estate without precedent estate
- § 76:71 Executory devise to vest on birth
- § 76:72 Executory devise to vest on marriage
- § 76:73 Executory devise to vest at age of 21 years
- § 76:74 Executory devise to vest certain period after death of testator
- § 76:75 Executory devise to children of daughter
- § 76:76 Executory devise to vest on devisee becoming citizen of United States

VII. GIFT OVER OF PERSONAL PROPERTY

- § 76:77 After life estate
- § 76:78 —Possession of life tenant
- § 76:79 —Nature of life tenant’s possession

VIII. TRANSMISSIBILITY OF FUTURE INTERESTS

- § 76:80 In general
- § 76:81 Contingent remainders
- § 76:82 Possibilities of reverter

TABLE OF CONTENTS

- § 76:83 After-acquired title
- § 76:84 Equitable enforcement of assignment
- § 76:85 Devise and descent

CHAPTER 77. RULE IN SHELLEY'S CASE

- § 77:1 Statement of rule
- § 77:2 Abolition of rule in Shelley's case

CHAPTER 78. PERPETUITIES AND ACCUMULATIONS

I. IN GENERAL

- § 78:1 Primary considerations
- § 78:2 Definitions of a perpetuity
- § 78:3 Time of vesting of estate
- § 78:4 Effect of savings clause
- § 78:5 Statute concerning perpetuities
- § 78:6 Gifts to vest on condition precedent with no intervening trust
- § 78:7 Restraints upon alienation
- § 78:8 Gifts to trustees
- § 78:9 —Effect of direction to sell
- § 78:10 Simultaneous vesting of equitable and legal titles at the moment of trust creation
- § 78:11 Spendthrift trusts
- § 78:12 —Termination
- § 78:13 Trusts for accumulation
- § 78:14 —What constitutes accumulation
- § 78:15 When gifts to class are too remote
- § 78:16 Estates, interests and transactions subject to perpetuities rule—In general
- § 78:17 —Contracts affected by rule
- § 78:18 Effect of void executory limitations on residue of will
- § 78:19 Affect of rule on charitable trusts

II. FORMS

- § 78:20 Will provisions—Successive life estates preceding remainder
- § 78:21 —Particular accumulation provisions
- § 78:22 —Accumulation to pay incumbrances
- § 78:23 —Accumulation to pay insurance premiums
- § 78:24 —Accumulation to replace, restore or repair buildings
- § 78:25 —Stock dividend or increase of capitalization of corporation
- § 78:26 —Savings clause to prevent unintentional violation of rule against perpetuities

- § 78:27 —Savings clause to prevent unintentional violation of rule against perpetuities where no election to treat as qualified perpetual trust—Rule against perpetuities avoidance
- § 78:28 Trust provisions—Savings clause to prevent unintentional violation of rule against perpetuities where no election to treat as qualified perpetual trust—Rule against perpetuities avoidance
- § 78:29 —Election to treat trust as a Qualified Perpetual Trust

CHAPTER 79. FEDERAL ESTATE TAX

I. IN GENERAL

- § 79:1 Imposition of estate tax
- § 79:2 Method of determining tax—Estate of U.S. citizen or resident
- § 79:3 —Estate nonresident not a citizen

II. TAX IMPOSED

- § 79:4 Rate of tax
- § 79:5 Valuation of adjusted taxable gifts
- § 79:6 Tax on excess distributions from qualified retirement plans
- § 79:7 Liability for payment
- § 79:8 —Liens
- § 79:9 —Deficiencies
- § 79:10 —Discharge from personal liability
- § 79:11 —Late filing, payment and accuracy-related penalties
- § 79:12 —Fraud-related penalties
- § 79:13 —Criminal penalties

III. CREDITS

- § 79:14 Applicable credit amount
- § 79:14.10 —Applicable exclusion amount
- § 79:14.20 — —Basic exclusion amount
- § 79:14.30 — —Deceased spousal unused exclusion amount
- § 79:15 State death taxes
- § 79:16 Gift tax
- § 79:17 Tax on prior transfers
- § 79:18 Foreign death taxes
- § 79:19 Death taxes on reversions and remainders in property
- § 79:20 Recovery of taxes claimed as credit

IV. GROSS ESTATE

- § 79:21 Definition of gross estate

TABLE OF CONTENTS

- § 79:22 Valuation of property—In general
- § 79:23 —Stocks and bonds
- § 79:24 —Interests in businesses
- § 79:25 —Notes
- § 79:26 —Cash on hand or on deposit
- § 79:27 —Household and personal effects
- § 79:28 —Annuities, interests for life or term of years, and remainder or reversionary interests
- § 79:29 —Certain life insurance and annuity contracts; valuation of shares of an open-end investment company
- § 79:30 —Other property
- § 79:31 Qualified conservation easement
- § 79:32 Alternate valuation
- § 79:33 Valuation of certain farm and other real property
- § 79:34 Property in which the decedent had an interest
- § 79:35 Dower or curtesy interests
- § 79:36 Adjustments for gifts made within three years of decedent's death
- § 79:37 Transfers with retained life estate
- § 79:38 Transfers taking effect at death
- § 79:39 Revocable transfers
- § 79:40 Annuities
- § 79:41 Joint interests
- § 79:42 Powers of appointment
- § 79:43 Proceeds of life insurance
- § 79:44 Transfers for insufficient consideration
- § 79:45 Certain property for which marital deduction was previously allowed (terminable interest property)
- § 79:46 Prior interests
- § 79:47 Disclaimers

V. TAXABLE ESTATE

- § 79:48 Definition of taxable estate
- § 79:49 Expenses, indebtedness, and taxes
- § 79:50 Losses
- § 79:51 Transfers for public, charitable, and religious uses
- § 79:52 —Split interest gifts
- § 79:53 Bequests to surviving spouse (marital deduction)—Qualification
- § 79:54 —Terminable interest rule
- § 79:55 —Property interests not deductible
- § 79:56 —Types of marital deductions
- § 79:57 —Qualified terminable interest property trusts (QTIPs)
- § 79:58 —Qualified domestic trusts (QDOTs)

- § 79:59 Family-owned business deduction
- § 79:60 State death taxes
- § 79:61 Estates of nonresidents not citizens—In general
- § 79:62 —Credits against tax
- § 79:63 —Definition of gross estate
- § 79:64 —Property within the United States
- § 79:65 —Property outside the United States
- § 79:66 —Taxable estate
- § 79:67 —Expatriation to avoid tax
- § 79:68 —Application of pre-1967 estate tax provisions

VI. MISCELLANEOUS PROVISIONS

- § 79:69 Combat zone-related deaths of members of the armed forces, deaths of astronauts, and deaths of victims of certain terrorist attacks
- § 79:70 Definition of executor
- § 79:71 Discharge of fiduciary from personal liability
- § 79:72 Reimbursement out of estate
- § 79:73 Right of recovery where decedent retained interest
- § 79:74 Installment payment of estate tax

VII. GIFT TAX

- § 79:75 In general
- § 79:76 Rate of tax
- § 79:77 Taxable gifts
 - § 79:78 —Future interests in property
 - § 79:79 —Transfers for the benefit of a minor
 - § 79:80 —Tuition and medical payments
 - § 79:81 —Treatment of certain loans of artwork
- § 79:82 Taxable gifts for preceding calendar periods
 - § 79:83 —Gift tax on certain gifts not shown on return
- § 79:84 Net gifts
- § 79:85 Unified credit against gift tax
- § 79:86 Transfers in general
 - § 79:87 —Cessation of donor's dominion and control
 - § 79:88 —Relation-back doctrine
 - § 79:89 —Transfers by nonresidents not citizens
- § 79:90 Valuation of gifts
 - § 79:91 —Highest and best use
 - § 79:92 —Minority interest in close corporation
 - § 79:93 —Stocks and bonds
 - § 79:94 —Interests in businesses
 - § 79:95 —Notes
- § 79:96 —Annuities, unitrust interests, interests for life or term of years, and remainder or reversionary interests

TABLE OF CONTENTS

- § 79:97 —Life insurance and annuity contracts; valuation of shares in an open-end investment company
- § 79:98 Gift-splitting: Gifts by husband or wife to third party
- § 79:99 Powers of appointment
- § 79:100 Treatment of Generation-Skipping Transfer Tax
- § 79:101 Certain property settlements
- § 79:102 Transfers treated as gifts—Certain annuities under qualified plans
- § 79:103 Disclaimers—In general
- § 79:104 —Joint property
- § 79:105 —Disclaimer of less than an entire interest
- § 79:106 Dispositions of certain life estates
- § 79:107 Specific exemption
- § 79:108 Charitable and similar gifts; citizens or residents
- § 79:109 Gift to spouse—In general
- § 79:110 —Life estate or other terminable interest
- § 79:111 —Interest in unidentified assets
- § 79:112 —Joint interests
- § 79:113 —Life estate with power of appointment in donee spouse
- § 79:114 —Election with respect to life estate transferred to donee spouse
- § 79:115 Extent of deductions

VIII. TAX ON GENERATION-SKIPPING TRANSFERS (GST)

- § 79:116 In general
- § 79:117 Liability for tax
- § 79:118 Credit for certain state taxes
- § 79:119 Generation-skipping transfer defined
- § 79:120 Taxable termination; taxable distribution; direct skip
- § 79:121 Valuation
- § 79:122 Skip person and non-skip person defined
- § 79:123 Generation assignment
- § 79:124 GST Exemption
- § 79:125 Applicable rate; inclusion ratio
- § 79:126 —Severance of trusts
- § 79:127 —Non-taxable gifts
- § 79:128 —Special rules
- § 79:129 Other definitions
- § 79:130 Taxation of multiple skips
- § 79:131 Special rules
- § 79:132 Tax return requirements—In general
- § 79:133 —Special rules for transfers to trust

§ 79:134 —Time and manner of filing return

CHAPTER 80. ESTATE INCOME TAX

- § 80:1 In general
- § 80:2 Decedent's final return
- § 80:3 Income in respect of decedent
- § 80:4 —Estate tax deduction
- § 80:5 Final return of deceased soldier
- § 80:6 Revocable trust treated as part of estate
- § 80:7 Estate income
- § 80:8 Tax rates
- § 80:9 Deductions
- § 80:10 Distributions to beneficiaries
- § 80:11 Taxation of beneficiaries
- § 80:12 Partnership interests

CHAPTER 81. POSTMORTEM TAX PLANNING AND DECISIONS

- § 81:1 Overview
- § 81:2 Estate tax matters—In general
- § 81:3 —Valuation date
- § 81:4 —QTIP election
- § 81:5 —Disclaimers and surviving spouse's election
- § 81:6 —Other elections
- § 81:7 —Distributions to beneficiaries
- § 81:8 Decedent's final income tax return
- § 81:9 —Filing
- § 81:10 —Medical expenses
- § 81:11 —Unused losses and other tax benefits
- § 81:12 —Other options
- § 81:13 Income in respect of a decedent
- § 81:14 Gift tax returns
- § 81:15 Estate income tax return—In general
- § 81:16 —Tax year
- § 81:17 —Estate or income tax deductions
- § 81:18 Business decisions
- § 81:19 Estate distribution—In general
- § 81:20 —Distributions in kind
- § 81:21 —Shifting income and timing distributions
- § 81:22 Inherited IRA

CHAPTER 82. STATE INHERITANCE, ESTATE, AND GENERATION-SKIPPING TRANSFER TAXES

- § 82:1 Generally

TABLE OF CONTENTS

§ 82:1.50	Recent history
§ 82:2	Estate tax—Nature
§ 82:3	—Maximum amount of state death tax credit
§ 82:4	Returns and payment
§ 82:5	Enforcement
§ 82:6	Miscellaneous matters
§ 82:7	Resident decedent
§ 82:8	Nonresident decedent
§ 82:9	Foreign states and instrumentalities
§ 82:10	Taxable transfers
§ 82:11	Rate of tax
§ 82:12	Computation of tax
§ 82:13	Filing return and payment of tax
§ 82:14	Prepayment
§ 82:15	Liability for tax
§ 82:16	Tax lien
§ 82:17	Refunds
§ 82:18	Tax on generation-skipping transfers (GST)— Generally
§ 82:19	—Amount of tax
§ 82:20	—Liability for tax
§ 82:21	—Returns and payments
§ 82:22	—Supplemental returns
§ 82:23	—Penalties
§ 82:24	—Interest
§ 82:25	—Liens
§ 82:26	—Reimbursement

Volume 5

Table of Laws and Rules

Table of Cases

Index to Text

Volume 5 form

Index to Forms