

DEFINITIONS

- (1) Abate. "Abate" means to reduce a devise on account of the insufficiency of the estate to pay all claims, expenses and devises in full.
- (2) Action. "Action" includes suits and legal proceedings.
- (3) Administration. "Administration" means any proceeding relating to the estate of a decedent, whether the decedent dies testate, intestate or partially intestate.
- (4) Advancement. "Advancement" is an irrevocable gift in praesenti by the decedent to an heir to enable the donee to anticipate his inheritance to the extent of the gift.
- (5) All purposes of intestate succession. "All purposes of intestate succession" means succession by, through or from a person, both lineal and collateral.
- (6) Assets. "Assets" include real, personal and intangible property.
- (7) Bequeath. "Bequeath" includes the word "devise" when used as a verb.
- (8) Bequest. "Bequest" includes the words "devise" and "legacy" when used as a noun.
- (9) Claims. "Claims" include liabilities of the decedent which survive, whether arising in contract, in tort or otherwise,

and liabilities of the estate which arise at or after the death of the decedent, including funeral expenses, the expense of a monument, expenses of administration and all estate and inheritance taxes.

(10) Court. "Court" means the circuit court.

(11) Decedent. "Decedent" is any person who has died leaving property that is subject to administration, and the term includes any person whose life was taken by a slayer.

(12) Devise. "Devise" when used as a noun is property disposed of by a will and includes "legacy" and "bequest".

(13) Devise. "Devise" when used as a verb means to dispose of real and personal property by a will.

(14) Devisee. "Devisee" includes "legatee" and "beneficiary".

(15) Distributee. "Distributee" is a person entitled to any property of the decedent under his will or under the statutes of intestate succession.

(16) Domicile. "Domicile" is the place of a person's abode where he intends to remain and to which, if absent, he intends to return.

(17) Estate. "Estate" denotes the real and personal property of a decedent, as from time to time changed in form by sale, reinvestment or otherwise, and augmented by any accretions or additions thereto and substitutions therefor or diminished by any decreases and distributions therefrom.

(34) Specific devise. "Specific devise" is a devise of a specific thing or specified part of a testator's estate which is so described as to be capable of identification from all others of the same fund. It is a gift of a part of the estate identified and differentiated from all other parts.

(35) Will. "Will" includes codicil; it also includes a testamentary instrument that merely appoints an executor or merely revokes or revives another will.

Proposed revised Oregon probate code
DEFINITION OF TERMS
2nd Draft
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Prepared by
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COMMENTS

The use of statutory definitions in legislative acts promotes clearness in the meaning of the text of laws dealing with technical matters. The proposed new Oregon Probate Code would follow the pattern of Iowa, Washington, Wisconsin and the Model and 1967 Draft Uniform Probate Codes in placing a comprehensive definitions section at the beginning of the Code. The sources of some of the less obvious definitions are given as follows:

(3) Administration. This definition is adapted from Section 851.01 of the 1967 Wisconsin Code.

(4) Advancement is adapted from 26 C.J.S. Descent and Distribution, Section 91.

(5) All purposes of intestate succession is Section 2-110, 1967 Draft Uniform Probate Code.

(16) Domicile is taken from State vs. Atti, 21 A2d 603, 127 NJL 39.

(26) Net Intestate Estate is adapted from Section 2-101 of the 1967 draft Uniform Code.

The definitions of (19) General Devise and (34) Specific Devise are taken from In re Preston's Estate, 157 Or 631, and In re Boice's Estate, 209 Or 521.

The definitions of (9) Claims, (16) Estate, (20) Heirs, (21) Interested Person, (24) Issue, (25) Net Estate, (27) Obligations, (33) Settlement, and (35) Will are taken or adapted from the definitions in the 1967 Draft Uniform Probate Code.

Proposed revised Oregon probate code
DEFINITION OF TERMS
1st Draft
April 27, 1967

This rough draft is not intended to be final, and it is not intended to include all of the terms that will appear in the sections of definitions in the final draft.

DEFINITIONS

Section 1. Administration.

"Administration" means any proceeding relating to the estate of a decedent whether the decedent dies testate, intestate or partially intestate.

Section 2. Ancillary administration, etc.

An "ancillary administration" is an administration in Oregon of the estate of a nonresident decedent whose estate is also being administered in the state of his domicile. The term does not mean that the Oregon administration is subordinate or auxiliary to the domiciliary administration, or that the Oregon personal representative is accountable to the domiciliary personal representative except as the Oregon court shall order.

Section 3. Bequeath.

"Bequeath" includes the word "devise" when used as a verb.

Section 4. Bequest.

"Bequest" includes the words "devise" and "legacy" when used as a noun.

Section 5. Claims.

"Claims" include liabilities of the decedent which survive, whether arising in contract, in tort or otherwise,

DEFINITION OF TERMS

1st Draft

April 27, 1967

Page 2

funeral expenses, the expense of a monument, expenses of administration and all estate and inheritance taxes.

Section 6. Court.

"Court" means the circuit court.

Section 7. Decedent.

"Decedent" is any person who has died leaving property that is subject to administration, and the term includes any person whose life was taken by a slayer.

Section 8. Devise.

"Devise" when used as a noun is property disposed of by a will and includes a "legacy", and "bequest".

Section 9. Devise.

"Devise" when used as a verb means to dispose of property by a will.

Section 10. Devisee.

"Devisee" when used as a noun includes "legatee" and "beneficiary".

Section 11. Distributee.

"Distributee" is a person entitled to any property of the decedent under his will or under the statutes of intestate succession.

Section 12. Estate.

"Estate" includes the real and personal property of a decedent, as from time to time changed in form by sale, reinvestment or otherwise and augmented by any accretions or additions thereto and substitutions therefor or diminished by any decreases and distributions therefrom.

DEFINITION OF TERMS

1st Draft

April 27, 1967

Page 3

Section 13. Funeral.

"Funeral" includes burial or other disposition of the remains of the decedent, including the plot or tomb and other necessary incidents to the disposition of the remains.

Section 14. Intestate succession.

"Intestate succession" means succession to property of a decedent that dies intestate or partially intestate.

Section 15. Involuntary encumbrance.

"Involuntary encumbrance" means encumbrance upon property other than a voluntary encumbrance.

Section 16. Issue.

"Issue" when used to refer to persons who take by intestate succession, includes all lawful lineal descendants, except those who are the lineal descendants of living lineal descendants of the intestate.

Section 17. Legacy.

"Legacy" is property disposed of by a will and includes a "devise" and "bequest".

Section 18. Legatee.

"Legatee" includes "devisee" and "beneficiary".

Section 19. Net estate.

"Net estate" is the real and personal property of a decedent, except property used for the support of his surviving spouse and children and for the payment of claims against the estate.

DEFINITION OF TERMS

1st Draft

April 27, 1967

Page 4

Section 20. Personal property.

"Personal property" includes interests in goods, money, choses in action, evidences of debt and chattels real.

Section 21. Personal representative.

"Personal representative" includes executor, administrator [but does not include special administrator] and special administrator.

Section 22. Property.

"Property" means real and personal property.
["Property" means real, personal or mixed property, whether tangible or intangible.]

Section 23. Real property.

"Real property" includes all land, tenements and hereditaments and rights thereto and all interest therein, in fee simple or for the life of another.

Section 24. Slayer.

"Slayer" is a person who with felonious intent takes or procures the taking of the life of another.

Section 25. Voluntary encumbrance.

"Voluntary encumbrance" means any mortgage, trust deed, security agreement or pledge, or any lien arising from labor or services performed or materials supplied or furnished, or any combination thereof, upon or in respect of property.

Section 26. Will.

"Will" includes a codicil or other instrument executed with the same formalities as a will.