

CHAPTER ~~22~~ 25.

ACTS BARRING PROPERTY RIGHTS.

Drafting note: Existing Chapter 22 of Title 55 has been relocated to proposed Subtitle V due to its applicability to both probate and nonprobate transfers.

~~§ 55-401~~ 64.2-2500. Definitions.

As used in this chapter:

“Decedent” means any person whose life has been taken as a result of murder or voluntary manslaughter.

“Property” includes any real and personal property and any right or interest therein.

~~1.~~ “Slayer” shall mean means any person (i) who is convicted of the murder or voluntary manslaughter of the decedent or, (ii) in the absence of such conviction, who is determined, whether before or after his death, by a court of appropriate jurisdiction by a preponderance of the evidence to have committed one of the offenses listed in ~~subdivision clause~~ (i) resulting in the death of the decedent. For the purposes of ~~subdivision clause~~ (ii), the party seeking to establish that a decedent was slain by such person shall have the burden of proof.

~~2. “Decedent” shall mean any person whose life is so taken.~~

~~3. “Property” shall include any real and personal property and any right or interest therein.~~

Drafting note: Definition of “decedent” has been amended to correspond to the crimes listed in the definition of “slayer.” There are also technical changes.

~~§ 55-402~~ 64.2-2501. ~~Slayers~~ Slayer not to acquire property as result of slaying.

Neither the A slayer ~~nor, or~~ any transferee, ~~assignees~~ assignee, or other person claiming through ~~him~~ the slayer, shall not in any way acquire any property or receive any benefits as the result of the death of the decedent, but such property or benefits shall pass as provided in ~~the sections following this chapter~~.

Drafting note: Technical changes.

~~§ 55-403~~ 64.2-2502. ~~Descent, distribution and statutory rights as survivor~~ Property passing by will or intestate succession; surviving spouse.

A. The slayer shall be deemed to have predeceased the decedent as to property ~~which that~~ would have passed from the estate of the decedent to the slayer ~~under the statutes of descent and distribution by intestate succession~~ or ~~which that the slayer~~ would have ~~been~~ acquired by statutory right as the decedent’s surviving spouse. An heir or distributee who establishes his kinship to the decedent by way of his kinship to a slayer shall be deemed to be claiming from the decedent and not through the slayer.

B. The slayer shall be deemed to have predeceased the decedent as to property that would have passed to the slayer by the will of the decedent; however, the antilapse provisions of § 64.2-418 are applicable to such property.

Drafting note: Existing § 55-404 has been relocated to subsection B. There are also technical changes.

~~§ 55-404. Devise or legacy.~~

~~The slayer shall be deemed to have predeceased the decedent as to property which would have passed to the slayer by devise or legacy from the decedent, but § 64.1-64.1, preventing lapse of devises or legacies when the person named in the will dies before the testator, is applicable to such devise or legacy.~~

Drafting note: Relocated to subsection B of proposed § 64.2-2502 with technical changes.

~~§ 55-405 64.2-2503. Concurrent ownership with or without survivorship.~~

~~As to property held by the slayer and the decedent as tenants by the entirety or any other form of ownership with right of survivorship, the resulting A. The death of the decedent caused by the slayer ~~thereby effects a results in the~~ vesting of the slayer's interest of in property held by the decedent and the slayer as tenants by the entirety or any other form of ownership with the right of survivorship in the estate of the decedent as though the slayer had predeceased the decedent.~~

B. The death of the decedent caused by the slayer results in the severance of the slayer's interest in property held by the decedent and the slayer as joint tenants, joint owners, or joint obligees without the right of survivorship and the share of the decedent passes as a part of his estate.

Drafting note: Existing § 55-406 has been relocated to proposed subsection B. There are also technical changes.

~~§ 55-406. Concurrent ownership without survivorship.~~

~~As to property held by the slayer and the decedent as joint tenants, joint owners, or joint obligees, without right of survivorship, the resulting death of the decedent caused by the slayer thereby effects a severance of the interest of the decedent, and the share of the decedent passes as a part of his estate.~~

Drafting note: Relocated to subsection B of proposed § 64.2-2503 with technical changes.

~~§ 55-407 64.2-2504. Reversions and vested remainders.~~

Property in which the slayer holds a reversion or vested remainder and would have obtained the right of present possession upon the death of the decedent shall pass to the estate of the decedent, if the decedent held the particular estate, during the period of the life expectancy of the decedent ~~if he held the particular estate~~, or if the particular estate is held by a third person and measured by the life of the decedent, it shall remain in the possession of the third person during the period of the life expectancy of the decedent.

Drafting note: Technical changes.

~~§ 55-408 64.2-2505. Interests dependent on survivorship or continuance of life.~~

Any interest in property, whether vested or not, held by the slayer subject to be divested, diminished in any way, or extinguished if the decedent survives him or lives to a certain age, shall be held by the slayer during his lifetime or until the decedent would have reached such age, but shall then pass as if the decedent had died immediately after the death of the slayer or the reaching of such age.

Drafting note: No change.

§ ~~55-409~~ 64.2-2506. Contingent remainders and future interests.

A. As to any contingent remainder or executory or other future interest held by the slayer subject to become vested in him or increased in any way for him upon the ~~condition of the~~ death of the decedent:

~~1. If, the slayer shall be deemed to have predeceased the decedent if~~ the interest would not have become vested or increased if ~~he the slayer~~ had predeceased the decedent, ~~he shall be deemed to have so predeceased the decedent;~~

~~2. In any case, the~~ B. Notwithstanding subsection A, any contingent remainder or executory or other future interest shall not be vested in the slayer or increased in any way for him during the period of the life expectancy of the decedent.

Drafting note: Technical changes.

§ ~~55-410~~ 64.2-2507. Powers of appointment.

A. ~~As~~ The slayer shall be deemed to have predeceased the decedent as to any exercise in the decedent's will ~~of the decedent~~ of a power of appointment in favor of the slayer, ~~the slayer and the appointment~~ shall be deemed ~~to have predeceased the decedent and the appointment~~ to have lapsed.

B. Property held either presently or in remainder by the slayer subject to be divested by the exercise by the decedent of a power of revocation or a general power of appointment shall pass to the estate of the decedent; ~~and property so.~~ Property held by the slayer subject to be divested by the exercise by the decedent of a power of appointment to a particular person or persons or to a class of persons shall pass to such person or persons or in equal shares to the members of such class of persons, exclusive of the slayer.

Drafting note: Technical changes.

§ ~~55-411~~ 64.2-2508. Proceeds of insurance ~~and~~; bona fide payment by insurance company or obligor.

A. Insurance proceeds payable to the slayer as the beneficiary or assignee of any policy or certificate of insurance or bond or other contractual agreement on the life of the decedent or as the survivor of a joint life policy shall be paid to the estate of the decedent, unless the policy or certificate designates some person as an alternative beneficiary to ~~him~~ the slayer.

B. If the decedent is the beneficiary or assignee of any policy or certificate of insurance on the life of the slayer, the proceeds shall be paid to the estate of the decedent upon the death of the slayer, unless the policy names some person other than the slayer or his estate as an

alternative beneficiary, or unless the slayer, by naming a new beneficiary or by assigning the policy, performs an act which would have deprived the decedent of his interest in the policy if he had been living.

C. No insurance company shall be subject to liability on a policy insuring the life of the decedent if (i) as a part of the slayer's plan to murder the decedent, such policy was procured and maintained by the slayer or as a result of actions taken or participated in by the slayer whether directly or indirectly, and (ii) the decedent's death resulted from the slayer's act committed within two years from the date such policy was issued by the insurance company.

D. Any insurer making payment according to the terms of its policy or contract or any bank or other person performing an obligation for the slayer as one of several joint obligees shall not be subjected to additional liability by the terms of this section if such payment or performance is made without notice of circumstances bringing it within the provisions of this section.

Drafting note: Technical changes.

§ ~~55-412~~ 64.2-2509. Persons acquiring from slayer protected.

The provisions of this chapter shall not affect the right of any person who, before the interests of the slayer have been adjudicated, acquires from the slayer for adequate consideration property or an interest therein ~~which that~~ the slayer would have received except for the terms of this chapter, provided ~~the same that such property or interest~~ is acquired without notice of circumstances tending to bring it within the provisions of this chapter; ~~but all.~~ All consideration received by the slayer shall be held by him in trust for the persons entitled to the property under the provisions of this chapter, and the slayer shall ~~also~~ be liable ~~both~~ for any portion of such consideration ~~which that~~ he may have dissipated; and for any difference between the actual value of the property and the amount of such consideration.

Drafting note: Technical changes.

§ ~~55-413~~ 64.2-2510. ~~Record~~ Admissibility of judicial record determining slayer admissible.

The record of the judicial proceeding in which ~~the slayer was a person is~~ determined to be ~~such, pursuant to § 55-401, a slayer~~ shall be admissible in evidence for or against a claimant of property in any civil action arising under this chapter. A conviction shall be conclusive evidence of the guilt of the ~~alleged~~ slayer.

Drafting note: Technical changes.

§ ~~55-414~~ 64.2-2511. Construction.

A. This chapter shall not be considered penal in nature, but shall be construed broadly in order to effect the policy of ~~this the~~ Commonwealth that no person shall be allowed to profit by his own wrong, wherever committed. In furtherance of this policy, the provisions of this chapter are not intended to be exclusive and all common law rights and remedies that prevent one who

has participated in the willful and unlawful killing of another from profiting by his wrong shall continue to exist in the Commonwealth.

B. If this chapter or any part thereof is preempted by federal law with respect to a payment, an item of property, or any other benefit covered by this chapter, any person who, not for value, receives a payment, an item of property, or any other benefit to which he is not entitled under this chapter, shall return that payment, item of property, or other benefit or be liable for the amount of the payment or the value of the property or benefit to the person who would have been entitled to it were this chapter or part thereof not preempted.

C. The Uniform Simultaneous Death Act (§ 64.2-2200 et seq.) shall not apply to cases governed by this chapter.

Drafting note: Existing § 55-415 has been relocated to proposed subsection C. There are also technical changes.

~~§ 55-415. Uniform Simultaneous Death Act not applicable.~~

~~The Uniform Simultaneous Death Act (§ 64.1-104.1 et seq.) shall not apply to cases governed by this chapter.~~

Drafting note: Relocated to subsection C of proposed § 64.2-2511.