

LEX 250
WILLS, ESTATES, AND TRUSTS

COURSE DESCRIPTION

Prerequisites: None

Corequisites: None

This course covers various types of wills, trusts, probate, estate administration, and intestacy. Topics include types of wills and execution requirements, caveats and dissents, intestate succession, inventories and accountings, distribution and settlement, and other related topics. Upon completion, students should be able to draft simple wills; prepare estate forms; understand administration of estates, including taxation; and explain terms regarding trusts. Course Hours Per Week: Class, 2. Lab, 2. Semester Hours Credit, 3.

COURSE OBJECTIVES

Upon completion of the course, the student should be able to

- a. Perform the various functions necessary of a paralegal in a law office that specializes in probate and trust law
- b. Effectively draft and use appropriate check lists
- c. Draft a will and trust instrument
- d. Complete the required documents and estate forms necessary in perfecting the disposition of a decedent's estate

OUTLINE OF INSTRUCTION

- I. Intestate succession
 - A. Explanation of terminology of familiar relationships
 - B. Concepts of spouses, collateral and lineal heirs, half-bloods, illegitimates, aliens, simultaneous death, and escheat
 - C. The Intestate Succession Act
- II. Protection of the decedent's family in probate law
 - A. Intestate share of surviving spouse
 - B. Dower and curtesy and elective life estates
 - C. Laws protecting children from disinheritance and claims of deceased parent's creditors
 - D. Exemptions and allowances
- III. Property interests passing outside the decedent's estate
 - A. Joint tenancies with the right of survivorship
 - B. Tenancies by the entirety
 - C. Trust properties
 - D. Life insurance policies payable to individual beneficiaries
 - E. Pension benefits
 - F. Governmental benefits

IV. Wills

- A. Definition of basic will terms
- B. Legal capacity to make a will
- C. Classification of wills in North Carolina

Written attested wills

Self-proving wills

Holographic wills

Noncupative wills

- D. Integration of wills and incorporation by reference
- E. Undue influence and fraud in the execution
- F. Effects of mistakes in the writing and execution of wills
- G. Revocation of wills
- H. Nonrevoked or destroyed wills

V. Trusts

- A. Introduction to the basic trust concepts and the purposes of trusts
- B. Elements of a trust
- C. Distinctions between trusts and similar legal relationships
- D. Classifications of trusts

Express, resulting and constructive trusts

Active and passive trusts

Declarations of trust, transfers in trust, and trusts by statute

- E. The trustee capacity and succession
- F. The trust property (res)
- G. The Statute of Frauds and the Rule Against Perpetuities

VI. Administration of Decedent's Estates

- A. Domiciliary and ancillary administrations
- B. Overview of the process of decedent's estate settlement
- C. Procedures for handling small estates in North Carolina: statutory expedited procedures
- D. Interviewing client and family of decedent to obtain information
- E. Application for letters of administration and letters testamentary
- F. Marshaling and valuing assets
- G. Handling claims against the estate and publication for creditors
- H. Inventories and accounting, including 90 day inventory
- I. Powers and rights of the personal representative
- J. Preparation of inheritance and estate tax returns
- K. Gift tax considerations

REQUIRED TEXTBOOK:

To be determined

STATEMENT FOR STUDENTS WITH DISABILITIES:

Students who require academic accommodations due to any physical, psychological, or learning disability are encouraged to request assistance from a disability services counselor within the first two weeks of class. Likewise, students who potentially require emergency medical attention due to any chronic health condition are encouraged to disclose this information to a disability services counselor within the first two weeks of class. Counselors can be contacted by calling 686-3652 or by visiting the Student Development Office in the Phail Wynn Jr. Student Services Center, room 1309.