

History: 1978 Comp., § 45-2-1005, enacted by Laws 1992, ch. 66, § 6; recompiled as 1978 Comp., § 45-2-905 by Laws 1993, ch. 174, § 66; 1995, ch. 210, § 28.

The 1995 amendment, effective July 1, 1995,

substituted "Sections 45-2-901 through 45-2-905 NMSA 1978" for "Sections 45-2-1001 through 45-2-1005 NMSA 1978" in the first sentence in Subsection A.

45-2-906. Supersession.

Sections 45-2-901 through 45-2-905 NMSA 1978 supersede the rule of the common law known as the rule against perpetuities.

History: 1978 Comp., § 45-2-1006, enacted by Laws 1992, ch. 66, § 6; recompiled as 1978 Comp., § 45-2-906 by Laws 1993, ch. 174, § 66; 1995, ch. 210, § 29.

The 1995 amendment, effective July 1, 1995, substituted "Sections 45-2-901 through 45-2-905 NMSA 1978" for "Sections 45-2-1001 through 45-2-1005 NMSA 1978".

45-2-907. Honorary trusts; trusts for pets.

A. Subject to Subsection C of this section, if (i) a trust is for a specific lawful noncharitable purpose or for lawful noncharitable purposes to be selected by the trustee and (ii) there is no definite or definitely ascertainable beneficiary designated, the trust may be performed by the trustee for twenty-one years but no longer, whether or not the terms of the trust contemplate a longer duration.

B. Subject to this subsection and Subsection C of this section, a trust for the care of a designated domestic or pet animal is valid. The trust terminates when no living animal is covered by the trust. A governing instrument shall be liberally construed to bring the transfer within this subsection, to presume against the merely precatory or honorary nature of the disposition, and to carry out the general intent of the transferor. Extrinsic evidence is admissible in determining the transferor's intent.

C. In addition to the provisions of Subsection A or B of this section, a trust covered by either of those subsections is subject to the following provisions:

(1) except as expressly provided otherwise in the trust instrument, no portion of the principal or income may be converted to the use of the trustee or to any use other than for the trust's purposes or for the benefit of a covered animal;

(2) upon termination, the trustee shall transfer the unexpended trust property in the following order:

(a) as directed in the trust instrument;

(b) if the trust was created in a nonresiduary clause in the transferor's will or in a codicil to the transferor's will, under the residuary clause in the transferor's will; and

(c) if no taker is produced by the application of Subparagraph (a) or (b), to the transferor's heirs under the provisions of Section 45-2-711 NMSA 1978;

(3) for the purposes of Section 45-2-707 NMSA 1978, the residuary clause is treated as creating a future interest under the terms of a trust;

(4) the intended use of the principal or income can be enforced by an individual designated for that purpose in the trust instrument or, if none, by an individual appointed by a court upon application to it by an individual;

(5) except as ordered by the court or required by the trust instrument, no filing, report, registration, periodic accounting, separate maintenance of funds, appointment or fee is required by reason of the existence of the fiduciary relationship of the trustee;

(6) a court may reduce the amount of the property transferred, if it determines that amount substantially exceeds the amount required for the intended use. The amount of the reduction, if any, passes as unexpended trust property under the provisions of Paragraph (2) of Subsection C of this section; and

(7) if no trustee is designated or no designated trustee is willing or able to serve, a court shall name a trustee. A court may order the transfer of the property to another trustee, if required to assure that the intended use is carried out and if no successor trustee is designated in the trust instrument or if no designated successor trustee agrees to serve or is able to serve. A court may also make such other orders and determinations as shall be advisable to carry out the intent of the transferor and the purpose of this section.

History: 1978 Comp., § 45-2-907, enacted by Laws 1995, ch. 210, § 30.

Effective dates. — Laws 1995, ch. 210, § 94 makes the act effective on July 1, 1995.

PART 10

INTERNATIONAL WILLS

45-2-1001. Definitions.

As used in Sections 45-2-1101 through 45-2-1110 NMSA 1978 [45-2-1001 to 45-2-1010 NMSA 1978]:

A. "international will" means a will executed in conformity with Sections 45-2-1102 through 45-2-1106 NMSA 1978 [45-2-1002 to 45-2-1006 NMSA 1978]; and

B. "authorized person" or "person authorized to act in connection with international wills" means a person who, by Section 45-2-1109 NMSA 1978 [45-2-1009 NMSA 1978] or by [45-2-1109 NMSA 1978], including members of the diplomatic and consular service of the United States designated by foreign service regulations, is empowered to supervise the execution of international wills.

History: 1978 Comp., § 45-2-907, enacted by Laws 1995, ch. 210, § 30; recompiled as 1978 Laws 1995, ch. 210, § 30. The compiler inserted the bracketed translation in light of the 1995 recompilation of this part. The bracketed material was not enacted by the legislature and is not a part of the act.

Recompilations. — Laws 1995, ch. 210, § 94 recompiler former 45-2-1001 NMSA 1978, as enacted by Laws 1995, ch. 210, § 30, relating to the statutory rule against perpetuities, as 45-2-901 NMSA 1978, effective July 1, 1995.

45-2-1002. International will; validity.

A. A will is valid as regards form, irrespective particularly of the place where it is made, of the location of the assets and of the nationality, domicile or residence of the testator, if it is made in the form of an international will complying with the requirements of Sections 45-2-1101 through 45-2-1110 NMSA 1978 [45-2-1001 to 45-2-1010 NMSA 1978].

B. The invalidity of the will as an international will does not affect its formal validity as a will of another kind.

C. Sections 45-2-1101 through 45-2-1110 NMSA 1978 [45-2-1001 to 45-2-1010 NMSA 1978] do not apply to the form of testamentary dispositions made by two or more persons in the form of an international will.

History: 1978 Comp., § 45-2-907, enacted by Laws 1995, ch. 210, § 30; recompiled as 1978 Laws 1995, ch. 210, § 30. The compiler inserted the bracketed translation in light of the 1995 recompilation of this part. The bracketed material was not enacted by the legislature and is not a part of the act.

Recompilations. — Laws 1995, ch. 210, § 94 recompiler former 45-2-1002 NMSA 1978, as enacted by Laws 1995, ch. 210, § 30, relating to the statutory rule against perpetuities, as 45-2-902 NMSA 1978, effective July 1, 1995.

45-2-1003. International will; requirements.

A. An international will may be written in any language, by hand or by any other means.

B. The testator shall declare in the presence of two witnesses and of a person authorized to act in connection with international wills that this document is his will and that he knows the contents thereof. The testator need not inform the witnesses, or the authorized person, of the contents of the will.

C. In the presence of the two witnesses, and of the authorized person, the testator shall sign the will, or acknowledge his signature, or make a mark, or any other acknowledgment of his signature.