

**CHAPTER 35. TRUSTS: Subchapter I. Appointment of Trustee by Court;
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**CHAPTER 35. TRUSTS: Subchapter I. Appointment of Trustee by Court;
Title of Appointee to Trust Property § 3501 - § 3510**

§ 3501. Appointment authorized; effect of execution of power by appointee.

When any person or persons or any of such persons as may be the donee or donees of any power or powers under any trust are out of the jurisdiction of or not amenable to the process of the Court of Chancery or are mentally ill or it is uncertain whether such person or persons or any of such persons are living or dead, the Court of Chancery may, when in its discretion it may deem the objects and purposes of any such trust are in danger of not being performed or effectuated, appoint a person or persons to execute the power or powers under any such trust and such execution shall be made, by such person or persons so appointed, in the same manner and by the same method as shall be pointed out by the trust, whereby such power or powers were created. Such execution of any such power or powers by any person or persons so appointed shall be as effectual, to all intents and purposes, and with the same force and effect as if the same had been executed by such donee or donees. The Court of Chancery shall be satisfied that the beneficial interests of the donees or other beneficiaries under such trust are not by such action impaired.

21 Del. Laws, c. 122, § 1; Code 1915, § 3863; Code 1935, § 4387; 12 Del. C. 1953, § 3501; 49 Del. Laws, c. 57, § 1.;

§ 3502. Procedure for appointment of trustee.

The Court of Chancery may make any appointment or direction under § 3501 of this title, by an order made in any cause pending in that Court or upon petition of 1 or more of those interested in the trust or by the remaining or surviving donee or donees of any such power or powers. The Court of Chancery may, upon presentation of any such petition, take such testimony as it deems necessary to satisfy the Court that the granting of such petition will not impair the beneficial interest of any of the donees and other beneficiaries under such trust. Such testimony may be taken orally, at the bar of the Court, or by depositions.

21 Del. Laws, c. 122, § 2; Code 1915, § 3864; Code 1935, § 4388; 12 Del. C. 1953, § 3502.;

§ 3503. Appointment of trustee to convey realty; effect of conveyance by appointee.

When any person seised of lands, tenements or hereditaments upon any trust is out of the jurisdiction of or not amenable to the process of the Court of Chancery or is mentally ill or it is uncertain where there were several trustees which of them was the survivor or it is uncertain whether the trustee last known to have been seised as aforesaid is living or dead or, if known to be dead, it is not known who are the

trustee's heirs at law or if any trustee seised as aforesaid or the heirs at law of any such trustee neglect or refuse to convey such lands, tenements or hereditaments to the person entitled to receive such conveyance, for 20 days next after a proper deed for making such conveyance has been tendered for such person or their execution, by the person so entitled or the person's agent or attorney, the Court of Chancery for the county wherein such lands, tenements or hereditaments are situated may appoint a person to convey the same to such person and in such manner as the Court directs. Any conveyance so made shall be as effectual, to all intents and purposes, as if the same had been executed by the trustee or the trustee's heirs at law.

11 Del. Laws, c. 90, § 1; Code 1915, § 3865; Code 1935, § 4389; 12 Del. C. 1953, § 3503; 49 Del. Laws, c. 57, § 1; 70 Del Laws, c. 186, § 1.;

§ 3504. Appointment of trustee to assign term of years; effect of assignment by appointee.

When any person possessed of lands, tenements or hereditaments for a term of years upon trust is out of the jurisdiction or not amenable to the process of the Court of Chancery or it is uncertain whether the trustee last known to have possessed as aforesaid is living or dead or if any trustee or the executor of any such trustee neglects or refuses to assign such term to the person entitled to receive such assignment, for 20 days next after a proper legal instrument for making such assignment has been tendered for such person's execution by the person so entitled or such person's agent or attorney, the Court of Chancery for the county wherein such lands, tenements or hereditaments are situated may appoint a person to make such assignment to such person and in such manner as the Court directs. Any assignment so made shall be as effectual to all intents and purposes as if the same had been made by the trustee or the trustee's executor.

11 Del. Laws, c. 90, § 2; Code 1915, § 3866; Code 1935, § 4390; 12 Del. C. 1953, § 3504; 70 Del Laws, c. 186, § 1.;

§ 3505. Appointment of trustee to transfer stock or collect and pay over dividends; effect of appointee's acts.

When any person in whose name as trustee or executor (either alone or together with the name of any other person) or in the name of whose testator (whether as trustee or beneficiary) any stock shall be standing or any other person who otherwise has power to transfer or join with any person in transferring any stock to which some other person is beneficially entitled is out of the jurisdiction or not amenable to the process of the Court of Chancery or it is uncertain whether such person is living or dead or if any such trustee or executor or other person neglects or refuses to transfer such stock or receive and pay over the dividends thereof to the person entitled to such stock or dividends, for 20 days next after request in writing by such person so entitled, the Court of Chancery may appoint a person to transfer such stock or to receive and pay over such dividends to the person entitled

to the same. Such transfer, receipt or payment shall be as effectual to all intents and purposes as if made by such trustee, executor or other person.

11 Del. Laws, c. 90, § 3; Code 1915, § 3867; Code 1935, § 4391; 12 Del. C. 1953, § 3505.;

§ 3506. Appointment of trustee to convey, assign or transfer trust property from discharged or removed trustee to successor.

When any person who, having been discharged or removed from any trust by an order or decree of the Court of Chancery, neglects or refuses to convey, assign or transfer the subject matter of such trust to the person who has been appointed by such Court to be the trustee in lieu of the person so discharged or removed, the Court may, upon petition of the person appointed, order a conveyance, assignment or transfer of the subject matter of such trust to be made by a person by such order appointed for that purpose. Any conveyance, assignment or transfer so made shall be as effectual, to all intents and purposes, as if the same were made by the trustee so discharged or the trustee's heirs or executors.

11 Del. Laws, c. 90, § 5; Code 1915, § 3869; Code 1935, § 4393; 12 Del. C. 1953, § 3506; 70 Del Laws, c. 186, § 1.;

§ 3507. Order of appointment.

The Court of Chancery shall make any appointment or direction under §§ 3503-3506 of this title by an order made in any case pending in that Court or upon petition of the person entitled to such conveyance, assignment, transfer or payment. When the title of the person claiming such conveyance, assignment, transfer or payment may require investigation or it otherwise appears improper to make an order for the same on petition, the Court may direct a complaint to be filed to establish the right.

11 Del. Laws, c. 90, § 4; Code 1915, § 3868; Code 1935, § 4392; 12 Del. C. 1953, § 3507.;

§ 3508. Appointment of fiduciary to receive benefits payable by the United States.

(a) Whenever any military or administrative body or agency of the government of the United States of America is authorized or directed to pay monetary benefits to any person and the said body or agency requires that a trustee or guardian be appointed by a court to receive such benefits, the Court of Chancery, upon the presentation of a petition drawn and executed in conformity with the rules of the Court, upon evidence satisfactory to the Court, shall appoint a trustee or guardian with authority to receive said moneys and all other property, and to disburse and account for the same in accordance with the rules and orders of the Court.

(b) There shall be no charge made by any public officer nor any costs taxed or allowed by the Court in any proceeding brought under this section or in subsequent proceedings brought by a fiduciary appointed under this section.

(c) A trustee or guardian appointed under this section shall be entitled to such reasonable expenses and compensation as the Court allows. (Code 1915, § 3869A; 31 Del. Laws, c. 64, § 1; 34 Del. Laws, c. 217, § 1; Code 1935, § 4394; 12 Del. C. 1953, § 3508; 54 Del. Laws, c. 245.)

§ 3509. Vesting of title to trust property in successor trustee.

Whenever the sole or surviving trustee dies or is removed or a trustee renounces a trust or a trust is created and no person is appointed by name or description to execute the same and whenever in such or any case a trustee shall be appointed by the Court of Chancery, then upon the giving by said trustee of the security required to be given by the trustee, all the trust property, estate and effects, of every kind whatsoever and wheresoever situate and being, shall forthwith and without any act or deed pass to and be vested in such new or succeeding trustee.

23 Del. Laws, c. 197, § 1; Code 1915, § 3870; Code 1935, § 4395; 12 Del. C. 1953, § 3509; 70 Del Laws, c. 186, § 1.;

§ 3510. Vesting of title to trust realty in successor trustee appointed pursuant to trust instrument; deed of appointment.

Whenever any trust of real estate has been or shall hereafter be created by deed or will duly recorded or proved within this State and such deed or will contains provisions for the appointment by deed or instrument of writing of new trustees, either by a surviving trustee or trustees or by any other person or persons designated in and by such deed or will, upon the due execution and acknowledgment of a deed of appointment by the proper party or parties, and its being filed for record in the office of the recorder of deeds in and for the county in which the land which is the subject of the trust is situated, the legal title to the lands so held in trust shall thereupon vest in such new trustee or trustees in the same manner and with the same effect, to all intents and purposes, as if such trustees had been originally appointed by the deed or will creating the trust and no conveyance shall be necessary to vest such title.

19 Del. Laws, c. 250, § 1; Code 1915, § 3871; Code 1935, § 4396; 12 Del. C. 1953, § 3510.;

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