



WHO ARE HEIRS? WHO ARE DEVISEES?



Greenville County Probate Court
301 University Ridge, Suite 1200
Greenville, SC 29601
864/467-7170

DEFINITIONS §62-1-201

Heirs are those persons, including the surviving spouse, who are entitled under the statute of intestate succession to the property of a decedent.

Devisees are any persons designated in a will to receive a devise. In the case of a devise to a trust, the trust or trustee is the devisee; the trust beneficiaries are not devisees.

HEIRS

The intestate succession is outlined under S. C. Probate Code, §62-2-101 et seq.:

- a. spouse (50%); children (50%)
- b. if no surviving spouse, to children (100%)
- c. if no children, to spouse (100%)
- d. if no surviving spouse or children, then to parents equally
- e. if no surviving spouse, children, or parents, then to issue of the parents
- f. if no surviving spouse, children, parents or siblings, then to grandparents or issue of grandparents (1/2 to paternal relatives; 1/2 to maternal relatives)
- g. if no surviving spouse, children, parents, siblings or grandparents, then to great-grandparents or issue of great-grandparents

- h. if no surviving spouse, children, parents, siblings, grandparents or great-grandparents, then to step-children or issue of step-children
- i. if there are no takers, to State of S. C.

DEVISEES

Example 1: John dies with a will leaving a spouse and children. His will gives everything to the spouse; should she predecease, everything goes to his children. *The spouse is the devisee; the spouse and children are the heirs.*

Example 2: Jane dies with a will leaving children; her spouse predeceased. Her will gives everything to the spouse; should he predecease, everything goes to trust for the benefit of the children. *The trust is the devisee; the children are the heirs.*

Example 3: Sam dies with a will leaving everything to his brothers, one of whom is now predeceased. He has no spouse or children, but his mother is living. He also has a memorandum designating various items to nephews and nieces. *The devisees are his living brothers, children of the deceased brother (see anti-lapse statute 62-2-603), nephews, and nieces. His mother is an intestate heir.*

For further assistance, consult proper legal counsel.