

LDIR#216
ADMINISTRA-
TION
ART. III
PART 10
DISTRIBUTION
AND DISCHARGE

Part 10. Distribution and Discharge

3.151 etc

Sec. ~~11.01~~. DELIVERY OF SPECIFIC PROPERTY TO DISTRIBUTEE BEFORE FINAL DECREE. Upon application of the personal representative or of any distributee, with or without notice as the court may direct, the court may order the personal representative to deliver to any distributee who consents to it, possession of any specific property to which he is entitled by will or intestacy, provided that other distributees and claimants are not prejudiced thereby. At any time before the decree of final distribution the court may order him to return the property to the personal representative, if it is for the best interests of the estate. The court may require the distributee to give security for the return of the property.

SOURCE: Model, Sec. 182(a); Mo., Sec. 216.

COMMENT: *^*

This section is designed to provide for the disposition of a specific piece of real or personal property which may more conveniently remain in the possession of an heir or devisee than in the possession of the personal representative. See Model, Sec. 182, comment. For example, a musical instrument, painting, or valuable piece of furniture would have to be stored if an heir or devisee could not take possession. ~~It~~. A tract of land may be similarly turned over, to be maintained and enjoyed by a particular distributee,

The delivery provided for in this section is different from the partial distribution of *^* Sec. 11.02 in being permitted immediately, ~~without waiting~~ ^{before} for the end of the nonclaim period ~~and without~~ [^] ~~or giving~~ notice. Sec. *^* 11.02 and comment. No similar provisions

Sec. 11.07. RIGHT OF RETAINER. (Omitted)

COMMENT:

This section dealt with the right of the personal representative to set off indebtedness of a distributee to the estate, and defenses available to the distributee. It described a procedure and has accordingly been eliminated.

Sec. 11.12. DISPOSITION OF UNCLAIMED ASSETS.

• This subject, ~~is~~ being covered by existing statute, 57-8-1 through
• 57-8-10, as amended by Ch. 5, SLA 1949, this section is superfluous
and has been omitted.

Sec. 9.08. Validity of Proceedings.

OMITTED

This section related to the procedure for challenging a sale, mortgage, exchange or conveyance by a personal representative, providing that no collateral attack should be made if the court had jurisdiction. This section, if applicable at all in a state where probate proceedings take place in a court of general jurisdiction, is a matter of procedure.