

§ 31-39. Probate necessary to pass title; rights of lien creditors and purchasers; recordation in county where real property lies.

(a) A duly probated will is effective to pass title to real and personal property.

(b) A will is not effective to pass title to real or personal property as against lien creditors or purchasers for valuable consideration from the intestate heirs at law of a decedent, unless the will is probated or offered for probate before the earlier of (i) the date of the approval by the clerk of the superior court having jurisdiction of the decedent's estate of the final account filed by the personal representative of the decedent's estate, or (ii) the date that is two years from the date of death of the decedent. If the will is fraudulently suppressed, stolen, or destroyed, or is lost, and an action or proceeding is instituted within the time limitation set forth in this subsection to obtain that will or establish that will as provided by law, the time limitation under this subsection begins to run from the termination of that action or proceeding.

(c) A will duly probated in one county of this State is not effective to pass title to an interest in real property located in any other county of this State as against lien creditors or purchasers for valuable consideration from the intestate heirs at law of a decedent unless a certified copy of the will and a certified copy of the certificate of probate of the will are filed in the office of the clerk of superior court in the county where the real property lies within the time limitation set forth in subsection (b) of this section.

(d) A conveyance made by the intestate heirs at law of a decedent before the expiration of the time limitation set forth in subsection (b) of this section shall, upon the expiration of that time, become effective to the same extent as if the conveyance were made after the expiration of that time, unless before the expiration of that time, a proceeding is instituted in the proper court to probate a will of the decedent. (1784, c. 225, s. 6; R.C., c. 119, s. 20; Code, s. 2174; Rev., s. 3139; 1915, c. 219; C.S., s. 4163; 1953, c. 920, s. 1; 2012-68, s. 2; 2014-107, s. 2.2.)