

*was not in existence when the will containing such legacy was executed, if the testator of the will establishing such testamentary trust predeceased the testator of the will containing such legacy, and such will establishing such testamentary trust has been or is subsequently admitted to probate.*

*(b) Unless the will otherwise provides:*

*(i) Property passing under such legacy shall be deemed to pass from the personal representative directly to the trustee of the testamentary trust, shall become a part of the assets of such trust, and shall not be deemed held under a separate testamentary trust;*

*(ii) A termination of the trust in accordance with its terms, by its exhaustion, by operation of law, or otherwise shall not invalidate the legacy.*

*(c) The provisions of this Section shall apply to any legacy made by a testator living on June 1, 1959, or born subsequent thereto, without regard to the date of execution of the will containing such legacy. This Section shall not be construed as casting any doubt upon the validity as heretofore existing of (i) any legacy made by a testator who shall have died prior to June 1, 1959, or (ii) any legacy which does not come within the provisions of this Section.*

*4-413. In terrorem clause.*

*A provision in a will purporting to penalize any interested person for contesting the will or instituting other proceedings relating to the estate is void if probable cause exists for instituting proceedings.*

## SUBTITLE V

### OPENING THE ESTATE

*Part 1—General Provisions.*

*5-101. Scope of Subtitle.*

*This Subtitle is applicable to that portion of the probate proceeding which relates to the probate of a will, if any, and the grant of letters. Such action may be taken, after the filing of a Petition for Probate as provided in Part 2 of this Subtitle, either—*

*(a) Administratively, by the Register of Wills, in the manner described in Part 3 of this Subtitle, which shall be known as administrative probate; or*

*(b) Judicially, by the Court, in the manner described in Part 4 of this Subtitle, which shall be known as judicial probate.*

*5-102. Necessity of proceeding.*

*(a) Probate of will. Unless it is admitted to probate administratively or judicially (or recorded as provided in Section 5-504), a will is ineffective to transfer property or to nominate a personal representative.*

*(b) Letters. Except for foreign personal representatives, no person shall be entitled to qualify as a personal representative or exercise powers and duties as such unless he has been appointed administratively or judicially.*