

A man died domiciled in State B. Under his will, he devised his cabin located in State A to a nephew. The man devised the balance of his estate to his son.

The man's son, who also lived in State B, survived the man.

The man's nephew predeceased the man. The nephew had lived in State C. The nephew's daughter, who lived in State D, survived the nephew and the man.

Which state's law will determine whether the bequest to the nephew lapsed?

- A. The law of State A, because State A is where the cabin is located.
- B. The law of State B, because State B is where the man was domiciled at the time of his death.
- C. The law of State C, because State C is where the nephew lived at his death.
- D. The law of State D, because State D has the most significant contacts.

Correct

Collecting Statistics

40 secsTime Spent

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Explanation:

Conflict-of-laws rule for real property issues

General rule	In cases involving real property, law applied by forum court should be determined by conflict-of-laws rule that would be applied by state where property is located
Exceptions	Document specifies application of specific jurisdiction's laws Issues regarding effect of marriage on interest in land Collateral issues (eg, whether transferor perpetrated fraud) Issues regarding mortgage note (eg, validity of note) Foreclosure-related issues that do not affect interest in land (eg, mortgagee's right to sue mortgagor for underlying debt before foreclosure)

Conflict-of-laws issues arise when significant aspects of a legal action are divided between two or more states, creating a conflict as to which state's law applies. If the conflict involves **real property**, then the general rule is that the **law applied by the forum court** should be **determined by the conflict-of-laws rule** that would be applied by the courts of the state **where the property is located** (ie, the situs state). The conflict-of-laws rule of the situs state typically calls for the application of its own law (ie, the law of the situs).

Here, the conflict involves the man's devise of his cabin (real property) to the nephew. Since the cabin is located in State A, State A law will determine whether the bequest to the nephew lapsed—ie, failed because the beneficiary (nephew) predeceased the testator (man).

(Choice B) The location of the testator's domicile at the time of his death (State B) will be used in determining the validity and construction of the will regarding all property located in that state—but not real property located in another state (State A).

(Choice C) The nephew is the beneficiary under the man's will, but the beneficiary's domicile (State C) is irrelevant to determining which conflict-of-law rule to apply to a real-property dispute.

(Choice D) Which state has the most significant contacts is irrelevant. The location of the real property at issue determines which law to use.

Educational objective:

When there is a conflict-of-laws issue in a case involving real property, the general rule is that the applicable law should be determined by the conflict-of-laws rule of the state where the property is located (ie, situs state). This usually results in application of the situs state's local law.

References

Restatement (Second) of Conflict of Laws § 223 (Am. Law Inst. 1971) (discussing the choice-of-law rules for conflicts involving real property).

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