CHAPTER 41

Undertenants of Life Tenants

**SECTION 27‑41‑10.** Recovery of rent from undertenant on death of life tenant.

 When any tenant for life shall happen to die before or on the day on which any rent was reserved or made payable upon any demise or lease of any lands, tenements or hereditaments to an undertenant which determined on the death of such tenant for life, the executors or administrators of such tenant for life shall and may recover of and from such undertenant of such lands, tenements or hereditaments the rent thereof as prescribed in Section 27‑41‑20.

HISTORY: 1962 Code Section 41‑251; 1952 Code Section 41‑251; 1942 Code Section 8797; 1932 Code Section 8797; Civ. C. ‘22 Section 5264; Civ. C. ‘12 Section 3494; Civ. C. ‘02 Section 2480; G. S. 1805; R. S. 1924; 1712 (2) 577.

Library References

Life Estates 25.

Westlaw Topic No. 240.

C.J.S. Estates Sections 35, 51.

NOTES OF DECISIONS

In general 1

1. In general

Quoted in Williamson v. Roberts (S.C. 1947) 211 S.C. 179, 44 S.E.2d 317.

Cited in Newton v. Odom (S.C. 1903) 67 S.C. 1, 45 S.E. 105.

**SECTION 27‑41‑20.** Proportion of rent to be paid at death of life tenant.

 If such tenant for life die on the day on which the rent was payable, the whole of such rent shall be so recovered but if such tenant for life die before such day a proportion of such rent, according to the time such tenant for life lived of the last year or quarter of a year, or other time in which the rent was growing due as aforesaid, making all just allowances, shall be so recovered; or a reasonable part thereof, respectively, shall be so recovered if the recovery of the whole or such portion thereof as aforesaid shall be unreasonable.

HISTORY: 1962 Code Section 41‑252; 1952 Code Section 41‑252; 1942 Code Section 8798; 1932 Code Section 8798; Civ. C. ‘22 Section 5265; Civ. C. ‘12 Section 3495; Civ. C. ‘02 Section 2409; G. S. 1806; R. S. 1924; 1712 (2) 577.

Library References

Life Estates 25.

Westlaw Topic No. 240.

C.J.S. Estates Sections 35, 51.

NOTES OF DECISIONS

In general 1

1. In general

Where a life tenant dies during the crop year, the estate of such life tenant is only entitled to a proportion of such rent according to the time such tenant for life lived during the last year, quarter of a year, or other time in which such rent was growing due. Williamson v. Roberts (S.C. 1947) 211 S.C. 179, 44 S.E.2d 317. Life Estates 25

Additional related case, see Newton v. Odom (S.C. 1903) 67 S.C. 1, 45 S.E. 105.

**SECTION 27‑41‑30.** Undertenant’s right to possession.

 If any person shall rent or hire lands of a tenant for life and such tenant for life dies, the person hiring such land shall not be dispossessed until the crop of that year is finished, he securing the payment of the rent when due.

HISTORY: 1962 Code Section 41‑253; 1952 Code Section 41‑253; 1942 Code Section 8799; 1932 Code Section 8799; Civ. C. ‘22 Section 5266; Civ. C. ‘12 Section 3496; Civ. C. ‘02 Section 2410; G. S. 1807; R. S. 1926; 1789 (5) 111.

Library References

Life Estates 25.

Westlaw Topic No. 240.

C.J.S. Estates Sections 35, 51.

NOTES OF DECISIONS

In general 2

Validity 1

1. Validity

This section [Code 1962 Section 41‑253] is constitutional, though construed to render the remaindermen subject to the lease for the remainder of the year. May v. Thomas (S.C. 1913) 94 S.C. 158, 78 S.E. 85.

2. In general

The rental contract entered into by the life tenant should be divisible as to payments so that, upon the death of the life tenant, the remaindermen will be entitled to that proportion of the rent for the whole period which arises after the accrual of the remainder, and so that remaindermen cannot be defeated of their right to such proportion by any payment made to the life tenant by cash in advance. Williamson v. Roberts (S.C. 1947) 211 S.C. 179, 44 S.E.2d 317.

This section plainly puts the undertenant on notice that if he leases land from a tenant for life who dies during the year, he must secure the payment of a proportion of the rent to the remaindermen; otherwise the remaindermen may dispossess him. Williamson v. Roberts (S.C. 1947) 211 S.C. 179, 44 S.E.2d 317. Life Estates 25

While it is true that a life tenant has the power under this section to lease the land so held “until the crop of that year is finished,” and while such lease will be held to be valid even though the life tenant should die before its termination, this does not give the life tenant the right to collect the entire amount of rent agreed upon in advance and thus completely defeat the rights of the remaindermen. Williamson v. Roberts (S.C. 1947) 211 S.C. 179, 44 S.E.2d 317. Life Estates 25

Where a tenant for life has rented the estate and dies, the remaindermen are not entitled to possession until the end of the year, but are entitled to compel the lessee to secure the rent for the unexpired portion of such year. May v. Thomas (S.C. 1913) 94 S.C. 158, 78 S.E. 85. Life Estates 25

Right of personal representative. Newton v Odom (1903) 657 SC 1, 45 SE 105. Bowen v. True (S.C. 1906) 74 S.C. 486, 54 S.E. 1018.

This security must be given to the remainderman for the proportion that arises after death of tenant for life. Freeman & Freeman v. Tompkins (S.C. 1846).