



## Ohio Revised Code

### Section 2107.33 Revocation of will.

Effective: January 1, 2007

Legislation: House Bill 416 - 126th General Assembly

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(A) A will shall be revoked in the following manners:

(1) By the testator by tearing, canceling, obliterating, or destroying it with the intention of revoking it;

(2) By some person, at the request of the testator and in the testator's presence, by tearing, canceling, obliterating, or destroying it with the intention of revoking it;

(3) By some person tearing, canceling, obliterating, or destroying it pursuant to the testator's express written direction;

(4) By some other written will or codicil, executed as prescribed by this chapter;

(5) By some other writing that is signed, attested, and subscribed in the manner provided by this chapter.

(B) A will that has been declared valid and is in the possession of a probate judge also may be revoked according to division (C) of section 2107.084 of the Revised Code.

(C) If a testator removes a will that has been declared valid and is in the possession of a probate judge pursuant to section 2107.084 of the Revised Code from the possession of the judge, the declaration of validity that was rendered no longer has any effect.

(D) If after executing a will, a testator is divorced, obtains a dissolution of marriage, has the testator's marriage annulled, or, upon actual separation from the testator's spouse, enters into a separation agreement pursuant to which the parties intend to fully and finally settle their prospective property rights in the property of the other, whether by expected inheritance or otherwise, any disposition or appointment of property made by the will to the former spouse or to a trust with



powers created by or available to the former spouse, any provision in the will conferring a general or special power of appointment on the former spouse, and any nomination in the will of the former spouse as executor, trustee, or guardian shall be revoked unless the will expressly provides otherwise.

(E) Property prevented from passing to a former spouse or to a trust with powers created by or available to the former spouse because of revocation by this section shall pass as if the former spouse failed to survive the decedent, and other provisions conferring some power or office on the former spouse shall be interpreted as if the spouse failed to survive the decedent. If provisions are revoked solely by this section, they shall be deemed to be revived by the testator's remarriage with the former spouse or upon the termination of a separation agreement executed by them.

(F) A bond, agreement, or covenant made by a testator, for a valuable consideration, to convey property previously devised or bequeathed in a will does not revoke the devise or bequest. The property passes by the devise or bequest, subject to the remedies on the bond, agreement, or covenant, for a specific performance or otherwise, against the devisees or legatees, that might be had by law against the heirs of the testator, or the testator's next of kin, if the property had descended to them.

(G) A testator's revocation of a will shall be valid only if the testator, at the time of the revocation, has the same capacity as the law requires for the execution of a will.

(H) As used in this section:

(1) "Trust with powers created by or available to the former spouse" means a trust that is revocable by the former spouse, with respect to which the former spouse has a power of withdrawal, or with respect to which the former spouse may take a distribution that is not subject to an ascertainable standard but does not mean a trust in which those powers of the former spouse are revoked by section 5815.31 of the Revised Code or similar provisions in the law of another state.

(2) "Ascertainable standard" means a standard that is related to a trust beneficiary's health, maintenance, support, or education.