

Regulating Survivorship Agreements and Other Will Substitutes

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This Note won the Dean's Award for Best Thesis of Class 2004. It deals with will substitutes which it defines as dispositions of property created by a property owner in favor of others by contract, deed, trust, or gift in such a way that the same ultimate distribution of the estate that could have been made by will is achieved but are not governed by the laws on succession and need not pass through probate.

The Note first gives some background on various types of will substitutes. It then discusses the state of will substitutes at common law and civil law. The Note holds that the use of will substitutes, such as joint bank accounts with right of survivorship, has been validated by the Supreme Court. Nevertheless, structural consistency of the law which means applying the same legal principles to analogous situations is necessary to preserve the legitimacy of law, particularly the laws on succession and probate administration.