

### **633A.2106 Resulting trusts.**

1. Where the owner of property gratuitously transfers the property and manifests in the trust instrument an intention that the transferee should hold the property in trust but the trust fails, the transferee holds the trust estate as a resulting trust for the transferor or the transferor's estate, unless either of the following is true:

*a.* The transferor manifested in the trust instrument an intention that no resulting trust should arise.

*b.* The intended trust fails for illegality and the policy against unjust enrichment of the transferee is outweighed by the policy against giving relief to a person who has entered into an illegal transaction.

2. Where the owner of property gratuitously transfers the property subject to a trust which is properly declared and which has been fully performed without exhausting the trust estate, the trustee holds the surplus as a resulting trust for the transferor or the transferor's estate, unless the transferor manifested in the trust instrument an intention that no resulting trust of the surplus should arise.

3. If the transferor's estate is the recipient of property under this section and the administration of that estate has been closed and there is no question as to the proper recipients of the property, it is not necessary to reopen the estate administration for the purpose of distribution.

99 Acts, ch 125, §13, 109; 2000 Acts, ch 1150, §8

C2001, §633.2106

2005 Acts, ch 38, §54

CS2005, §633A.2106