

WILL DRAFTING

Sample Form and Format

Guidelines for Drafting a Will

- Tailored to individual needs of testator
- Provisions in one will may be inappropriate or dangerous for another's will
- Generic forms that meet requirements of one state are not always appropriate for other states
- **Should minimize death taxes**
- As tax laws change, will should be reevaluated
- Should review will every 5 years

Introductory Paragraphs

- Exordium clause
 - Opening paragraph of will
 - Identify testator
 - State domicile
 - Declare last will and testament
 - Revoke all prior wills

Introductory Paragraphs

- Funeral arrangements
 - Not advisable to include in will
 - Will may not be found until later
- Instructions to pay debts
 - Not necessary because debts required to be paid by law

Ending Paragraphs

- Testimonium Clause
 - Closing paragraph before signature
- Attestation Clause
 - Clause following testator's signature and precedes the witness signatures
- Self-Proof Clause and/or Self-Proving Affidavit
 - Statutory provision that allows the will to be self-proven and avoid the appearance of witnesses at time of probate

Sample Will

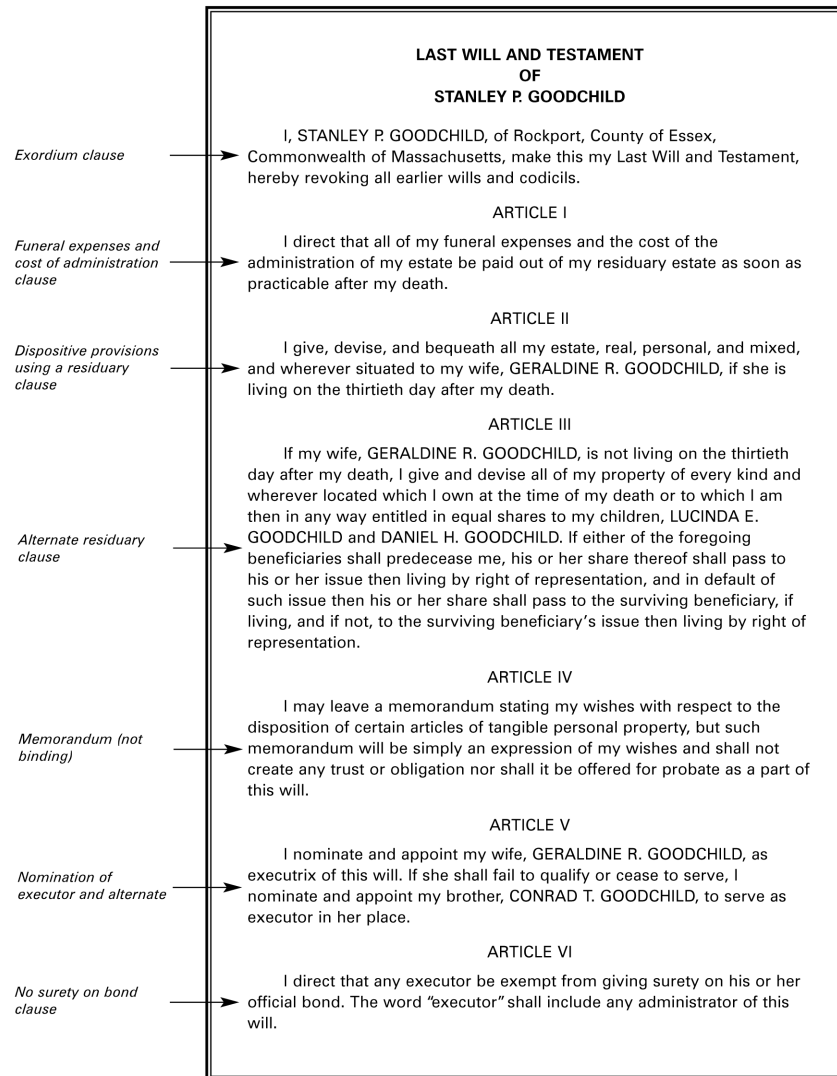


FIGURE 6-1 Sample Will with Clauses Defined

Sample Will

	ARTICLE VII				
<i>Appointment of guardian and alternate no surety on bond clause</i>	I appoint my wife, GERALDINE R. GOODCHILD, as guardian of the person and property of my minor children. If for any reason she shall fail to qualify or cease to serve, I appoint my sister, MAUREEN N. LANDERS, to serve as guardian in her place. No guardian appointed in this will or any codicil need furnish any surety on any official bond.				
	ARTICLE VIII				
<i>Powers of executor</i>	My executor shall have full power of management and authority to sell, either at public or private sale, or to exchange, lease, pledge, or mortgage, in such manner and on such terms as such executor deems advisable, any or all property, real or personal, in my estate and to execute all deeds, assignments, mortgages, leases, or other instruments necessary or proper for these purposes; to compromise claims in favor of or against my estate on such terms as such executor deems advisable; to retain any securities or other property owned by me at the time of my death, although the same may not be considered a proper investment; to make distribution of property in kind, and for such purposes to determine the value of such property; and generally to do any and all such acts and things and execute any and all such written instruments with respect to such property as if the absolute owner thereof.				
<i>Testimonium clause with self-proof affidavit</i>	I, the undersigned testator, do hereby declare that I sign and execute this instrument as my last will, that I sign it willingly in the presence of each of said witnesses, and that I execute it as my free and voluntary act for the purposes herein expressed, this 2nd day of January, 2002. _____ Stanley P. Goodchild				
<i>Attestation clause with self-proof affidavit</i>	We, the undersigned witnesses, each do hereby declare in the presence of the aforesaid testator that the testator signed and executed this instrument as his last will in the presence of each of us, that he signed it willingly, that each of us hereby signs this will as witness in the presence of the testator, and that to the best of our knowledge the testator is eighteen (18) years of age or over, of sound mind, and under no constraint or undue influence. <table border="0" style="width: 100%;"><tr><td>_____ (Witness)</td><td>_____ (Address)</td></tr><tr><td>_____ (Witness)</td><td>_____ (Address)</td></tr></table>	_____ (Witness)	_____ (Address)	_____ (Witness)	_____ (Address)
_____ (Witness)	_____ (Address)				
_____ (Witness)	_____ (Address)				
<i>Self-proof affidavits sworn to before notary public</i>	COMMONWEALTH OF MASSACHUSETTS COUNTY OF ESSEX Subscribed, sworn to, and acknowledged before me by the said testator and witnesses this 2nd day of January, 2002. _____ Notary Public My commission expires:				

FIGURE 6-1 (continued)