

/* Part 4 of 7 */

Section 3-705. [Duty of Personal Representative; Information to Heirs and Devisees.]

Not later than 30 days after his appointment every personal representative, except any special administrator, shall give information of his appointment to the heirs and devisees, including, if there has been no formal testacy proceeding and if the personal representative was appointed on the assumption that the decedent died intestate, the devisees in any will mentioned in the application for appointment of a personal representative. The information shall be delivered or sent by ordinary mail to each of the heirs and devisees whose address is reasonably available to the personal representative. The duty does not extend to require information to persons who have been adjudicated in a prior formal testacy proceeding to have no interest in the estate. The information shall include the name and address of the personal representative, indicate that it is being sent to persons who have or may have some interest in the estate being administered, indicate whether bond has been filed, and describe the court where papers relating to the estate are on file. The information shall state that the estate is being administered by the personal representative under the [State] Probate Code without supervision by the Court but that recipients are entitled to information regarding the administration from the personal representative and can petition the Court in any matter relating to the estate, including distribution of assets and expenses of administration. The personal representative's failure to give this information is a breach of his duty to the persons concerned but does not affect the validity of his appointment, his powers or other duties. A personal representative may inform other persons of his appointment by delivery or ordinary first class mail.

Section 3-706. [Duty of Personal Representative; Inventory and Appraisalment.]

Within 3 months after his appointment, a personal representative, who is not a special administrator or a successor to another representative who has previously discharged this duty, shall prepare and file or mail an inventory of property owned by the decedent at the time of his death, listing it with reasonable detail, and indicating as to each listed item, its fair market value as of the date of the decedent's death, and the type and amount of any encumbrance that may exist with reference to any item.

The personal representative shall send a copy of the inventory

to interested persons who request it. He may also file the original of the inventory with the court.

Section 3-707. [Employment of Appraisers.]

The personal representative may employ a qualified and disinterested appraiser to assist him in ascertaining the fair market value as of the date of the decedent's death of any asset the value of which may be subject to reasonable doubt.

Different persons may be employed to appraise different kinds of assets included in the estate. The names and addresses of any appraiser shall be indicated on the inventory with the item or items he appraised.

Section 3-708. [Duty of Personal Representative; Supplementary Inventory.]

If any property not included in the original inventory comes to the knowledge of a personal representative or if the personal representative learns that the value or description indicated in the original inventory for any item is erroneous or misleading, he shall make a supplementary inventory or appraisal showing the market value as of the date of the decedent's death of the new item or the revised market value or descriptions, and the appraisers or other data relied upon, if any, and file it with the Court if the original inventory was filed, or furnish copies thereof or information thereof to persons interested in the new information.

Section 3-709. [Duty of Personal Representative; Possession of Estate.]

Except as otherwise provided by a decedent's will, every personal representative has a right to, and shall take possession or control of, the decedent's property, except that any real property or tangible personal property may be left with or surrendered to the person presumptively entitled thereto unless or until, in the judgment of the personal representative, possession of the property by him will be necessary for purposes of administration. The request by a personal representative for delivery of any property possessed by an heir or devisee is conclusive evidence, in any action against the heir or devisee for possession thereof, that the possession of the property by the personal representative is necessary for purposes of administration. The personal representative shall pay taxes on, and take all steps reasonably necessary for the management, protection and preservation of, the estate in his possession. He may maintain an action to recover possession of property or to

determine the title thereto.

Section 3-710. [Power to Avoid Transfers.]

The property liable for the payment of unsecured debts of a decedent includes all property transferred by him by any means which is in law void or voidable as against his creditors, and subject to prior liens, the right to recover this property, so far as necessary for the payment of unsecured debts of the decedent, is exclusively in the personal representative.

Section 3-711. [Powers of Personal Representatives; In General.]

Until termination of his appointment a personal representative has the same power over the title to property of the estate that an absolute owner would have, in trust however, for the benefit of the creditors and others interested in the estate. This power may be exercised without notice, hearing, or order of court.

Section 3-712. [Improper Exercise of Power; Breach of Fiduciary Duty.]

If the exercise of power concerning the estate is improper, the personal representative is liable to interested persons for damage or loss resulting from breach of his fiduciary duty to the same extent as a trustee of an express trust. The rights of purchasers and others dealing with a personal representative shall be determined as provided in Sections 3713 and 3714.

Section 3-713. [Sale, Encumbrance or Transaction Involving Conflict of Interest; Voidable; Exceptions.]

Any sale or encumbrance to the personal representative, his spouse, agent or attorney, or any corporation or trust in which he has a substantial beneficial interest, or any transaction which is affected by a substantial conflict of interest on the part of the personal representative, is voidable by any person interested in the estate except one who has consented after fair disclosure, unless

(1) the will or a contract entered into by the decedent expressly- -

authorized the transaction; or

(2) the transaction is approved by the Court after notice to

interested persons.

Section 3-714. [Persons dealing with Personal Representative; Protection.]

A person who in good faith either assists a personal representative or deals with him for value is protected as if the personal representative properly exercised his power. The fact that a person knowingly deals with a personal representative does not alone require the person to inquire into the existence of a power or the propriety of its exercise. Except for restrictions on powers of supervised personal representatives which are endorsed on letters as provided in Section 3-504, no provision in any will or order of court purporting to limit the power of a personal representative is effective except as to persons with actual knowledge thereof. A person is not bound to see to the proper application of estate assets paid or delivered to a personal representative. The protection here expressed extends to instances in which some procedural irregularity or jurisdictional defect occurred in proceedings leading to the issuance of letters, including a case in which the alleged decedent is found to be alive. The protection here expressed is not by substitution for that provided by comparable provisions of the laws relating to commercial transactions and laws simplifying transfers of securities by fiduciaries.

/* Various chapters of the UCC provide that the purchaser of a security or note, even if the instrument is titled to "A, as trustee for B" can simply deal with A without insuring the propriety of A's transfer. Thus this section is in addition to that provided by the UCC. */

Section 3-715. [Transactions Authorized for Personal Representatives; Exceptions.]

Except as restricted or otherwise provided by the will or by an order in a formal proceeding and subject to the priorities stated in Section 3-902, a personal representative, acting reasonably for the benefit of the interested persons, may properly:

(1) retain assets owned by the decedent pending distribution or liquidation including those in which the representative is personally interested or which are otherwise improper for trust investment;

(2) receive assets from fiduciaries, or other sources;

(3) perform, compromise or refuse performance of the decedent's contracts that continue as obligations of the estate, as he may determine under the circumstances. In performing enforceable contracts by the decedent to convey or lease land, the personal representative, among other possible courses of action, may:

(i) execute and deliver a deed of conveyance for cash payment of all sums remaining due or the purchaser's note for the sum remaining due secured by a mortgage or deed of trust on the land; or

(ii) deliver a deed in escrow with directions that the proceeds, when paid in accordance with the escrow agreement, be paid to the successors of the decedent, as designated in the escrow agreement;

(4) satisfy written charitable pledges of the decedent irrespective of whether the pledges constituted binding obligations of the decedent or were properly presented as claims, if in the judgment of the personal representative the decedent would have wanted the pledges completed under the circumstances;

(5) if funds are not needed to meet debts and expenses currently payable and are not immediately distributable, deposit or invest liquid assets of the estate, including moneys received from the sale of other assets, in federally insured interest-bearing accounts, readily marketable secured loan arrangements or other prudent investments which would be reasonable for use by trustees generally;

(6) acquire or dispose of an asset, including land in this or another state, for cash or on credit, at public or private sale; and manage, develop, improve, exchange, partition, change the character of, or abandon an estate asset;

(7) make ordinary or extraordinary repairs or alterations in buildings or other structures, demolish any improvements, raze existing or erect new party walls or buildings;

(8) subdivide, develop or dedicate land to public use; make or obtain the vacation of plats and adjust boundaries; or adjust differences in valuation on exchange or partition by giving or receiving considerations; or dedicate easements to public use without consideration;

(9) enter for any purpose into a lease as lessor or lessee, with or without option to purchase or renew, for a term within or extending beyond the period of administration;

(10) enter into a lease or arrangement for exploration and removal of minerals or other natural resources or enter into a pooling or unitization agreement;

(11) abandon property when, in the opinion of the personal representative, it is valueless, or is so encumbered, or is in condition that it is of no benefit to the estate;

(12) vote stocks or other securities in person or by general or limited proxy;

(13) pay calls, assessments, and other sums chargeable or accruing against or on account of securities, unless barred by the provisions relating to claims;

(14) hold a security in the name of a nominee or in other form without disclosure of the interest of the estate but the personal representative is liable for any act of the nominee in connection with the security so held;

(15) insure the assets of the estate against damage, loss and liability and himself against liability as to third persons;

(16) borrow money with or without security to be repaid from the estate assets or otherwise; and advance money for the protection of the estate;

(17) effect a fair and reasonable compromise with any debtor or obligor, or extend, renew or in any manner modify the terms of any obligation owing to the estate. If the personal representative holds a mortgage, pledge or other lien upon property of another person, he may, in lieu of foreclosure, accept a conveyance or transfer of encumbered assets from the owner thereof in satisfaction of the indebtedness secured by lien;

(18) pay taxes, assessments, compensation of the personal representative, and other expenses incident to the administration of the estate;

(19) sell or exercise stock subscription or conversion rights; consent, directly or through a committee or other agent, to the reorganization, consolidation, merger, dissolution, or

liquidation of a corporation or other business enterprise;

(20) allocate items of income or expense to either estate income or principal, as permitted or provided by law;

(21) employ persons, including attorneys, auditors, investment advisors, or agents, even if they are associated with the personal representative, to advise or assist the personal representative in the performance of his administrative duties; act without independent investigation upon their recommendations; and instead of acting personally, employ one or more agents to perform any act of administration, whether or not discretionary;

(22) prosecute or defend claims, or proceedings in any jurisdiction for the protection of the estate and of the personal representative in the performance of his duties;

(23) sell, mortgage, or lease any real or personal property of the estate or any interest therein for cash, credit, or for part cash and part credit, and with or without security for unpaid balances;

(24) continue any unincorporated business or venture in which the decedent was engaged at the time of his death (i) in the same business form for a period of not more than 4 months from the date of appointment of a general personal representative if continuation is a reasonable means of preserving the value of the business including good will, (ii) in the same business form for any additional period of time that may be approved by order of the Court in a formal proceeding to which the persons interested in the estate are parties; or (iii) throughout the period of administration if the business is incorporated by the personal representative and if none of the probable distributees of the business who are competent adults object to its incorporation and retention in the estate;

(25) incorporate any business or venture in which the decedent was engaged at the time of his death;

/* An idea which would certainly make the sale and continuation of the business easier in many cases. */

(26) provide for exoneration of the personal representative from personal liability in any contract entered into on behalf of the estate;

(27) satisfy and settle claims and distribute the estate as provided in this Code.

Section 3-716. [Powers and Duties of Successor Personal Representative.]

A successor personal representative has the same power and duty as the original personal representative to complete the administration and distribution of the estate. as expeditiously as possible but he shall not exercise any power expressly made personal to the executor named in the will.

Section 3-717. [Co-representatives; When Joint Action Required.]

If two or more persons are appointed co-representatives and unless the will provides otherwise, the concurrence of all is required on all acts connected with the administration and distribution of the estate. This restriction does not apply when any co representative receives and receipts for property due the estate, when the concurrence of all cannot readily be obtained in the time reasonably available for emergency action necessary to preserve the estate, or when a co-representative has been delegated to act for the others. Persons dealing with a co-representative if actually unaware that another has been appointed to serve with him or if advised by the personal representative with whom they deal that he has authority to act alone for any of the reasons mentioned herein, are as fully protected as if the person with whom they dealt had been the sole personal representative.

Section 3-718. [Powers of Surviving Personal Representative.]

Unless the terms of the will otherwise provide. every power exercisable by personal co-representatives may be exercised by the one or more remaining after the appointment of one or more is terminated, and if one of 2 or more nominated as co-executors is not appointed. those appointed may exercise all the powers incident to the office.

Section 3-719. [Compensation of Personal Representative.]

A personal representative is entitled to reasonable compensation for his services. If a will provides for compensation of the personal representative and there is no contract with the decedent regarding compensation. he may renounce the provision before qualifying and be entitled to reasonable compensation. A personal representative also may renounce his right to all or any part of the compensation. A written renunciation of fee may be filed with the Court.

Section 3-720. [Expenses in Estate Litigation.]

If any personal representative or person nominated as personal representative defends or prosecutes any proceeding in good faith, whether successful or not he is entitled to receive from the estate his necessary expenses and disbursements including reasonable attorneys' fees incurred.

/* Thus the reimbursement is not made dependent on the success of the case, just objective good faith. This is very similar to the standard for reimbursing corporate directors/executives. */

Section 3---72 1. [Proceedings for Review of Employment of Agents and Compensation of Personal Representatives and Employees of Estate.]

After notice to all interested persons or on petition of an interested person or on appropriate motion if administration is supervised, the propriety of employment of any person by a personal representative including any attorney, auditor, investment advisor or other specialized agent or assistant, the reasonableness of the compensation of any person so employed, or the reasonableness of the compensation determined by the personal representative for his own services, may be reviewed by the Court. Any person who has received excessive compensation from an estate for services rendered may be ordered to make appropriate refunds.

(c) If the heir or devisee is under disability other than minority, the personal representative is authorized to distribute to:

(1) an attorney in fact who has authority under a power of attorney to receive property for that person; or

(2) the spouse, parent or other close relative with whom the person under disability resides if the distribution is of amounts not exceeding [\$10,000] a year, or property not exceeding [\$10,000] in value, unless the court authorizes a larger amount or greater value.

/* Amounts here may mirror the Uniform Transfers to Minors Act in some states. */

Persons receiving money or property for the disabled person are obligated to apply the money or property to the support of that person, but may not pay themselves except by way of reimbursement for out-of-pocket expenses for goods and services

necessary for the support of the disabled person. Excess sums must be preserved for future support of the disabled person. The personal representative is not responsible for the proper application of money or property distributed pursuant to this subsection.

Section 3-916. [Apportionment of Estate Taxes.]

(a) For purposes of this section:

(1) estate means the gross estate of a decedent as determined for the purpose of federal estate tax and the estate tax payable to this state;

(2) person means any individual, partnership, association, joint stock company, corporation, government, political subdivision, governmental agency, or local governmental agency;

(3) "person interested in the estate" means any person entitled to receive, or who has received, from a decedent or by reason of the death of a decedent any property or interest therein included in the decedent's estate. It includes a personal representative, conservator, and trustee;

(4) "state" means any state, territory, or possession of the United States, the District of Columbia, and the Commonwealth of Puerto Rico;

(5) "tax" means the federal estate tax and the additional inheritance tax imposed by and interest and penalties imposed in addition to the tax;

(6) "fiduciary" means personal representative or trustee.

(b) Except as provided in subsection (i) and, unless the will otherwise provides, the tax shall be apportioned among all persons interested in the estate. The apportionment is to be made in the proportion that the value of the interest of each person interested in the estate bears to the total value of the interests of all persons interested in the estate. The values used in determining the tax are to be used for that purpose. If the decedent's will directs a method of apportionment of tax different from the method described in this Code, the method described in the will controls.

(c) (1) The Court in which venue lies for the administration of the estate of a decedent, on petition for the purpose may determine the apportionment of the tax.

(2) If the Court finds that it is inequitable to apportion interest and penalties in the manner provided in subsection (b), because of special circumstances, it may direct apportionment thereof in the manner it finds equitable.

(3) If the Court finds that the assessment of penalties and interest assessed in relation to the tax is due to delay caused by the negligence of the fiduciary, the Court may charge him with the amount of the assessed penalties and interest.

(4) In any action to recover from any person interested in the estate the amount of the tax apportioned to the person in accordance with this Code the determination of the Court in respect thereto shall be prima facie correct.

(d) (1) The personal representative or other person in possession of the property of the decedent required to pay the tax may withhold from any property distributable to any person interested in the estate, upon its distribution to him, the amount of tax attributable to his interest. If the property in possession of the personal representative or other person required to pay the tax and distributable to any person interested in the estate is insufficient to satisfy the proportionate amount of the tax determined to be due from the person, the personal representative or other person required to pay the tax may recover the deficiency from the person interested in the estate. If the property is not in the possession of the personal representative or the other person required to pay the tax, the personal representative or the other person required to pay the tax may recover from any person interested in the estate the amount of the tax apportioned to the person in accordance with this act.

(2) If the property held by the personal representative is distributed prior to final apportionment of the tax, the distributee shall provide a bond or other security for the apportionment liability in the form and amount prescribed by the personal representative.

(e) (1) In making an apportionment, allowances shall be made for any exemptions granted, any classification made of persons interested in the estate and for any deductions and credits allowed by the law imposing the tax.

(2) Any exemption or deduction allowed by reason of the relationship of any person to the decedent or by reason of the purposes of the gift inures to the benefit of the person bearing such relationship or receiving the gift; but if an interested is

subject to a prior present interest which is not allowable as a deduction, the tax apportionable against the present shall be paid from principal.

(3) Any deduction for property previously taxed and any credit for gift taxes or death taxes or a foreign country paid by the decedent or his estate inures to the proportionate benefit of all persons liable to apportionment.

(4) Any credit for inheritance, succession or estate taxes or taxes in the nature thereof applicable to property or interests includable in the estate, inures to the benefit of the persons or interests chargeable with the payment thereof to the extent proportionately that the credit reduces the tax.

(5) To the extent that property passing to or in trust for a surviving spouse or any charitable, public or similar purpose is not an allowable deduction for purposes of the tax solely by reason of an inheritance tax or other death tax imposed upon and deductible from the property, the property is not included in the computation provided for in subsection (b) hereof, and to that extent no apportionment is made against the property. The sentence immediately does not apply to any case if the result would be to deprive the estate of a deduction otherwise allowable under Section 2053(d) of the Internal Revenue Code of the United States, relating to deduction for state death taxes on transfers for public, charitable, or religious uses.

(f) No interest income and no estate for years or for life or other temporary interest in any property of fund is subject to apportionment as between the temporary interest and the remainder

The tax on the temporary interest and the tax, if any, on the remainder is chargeable against the corpus of the property or funds subject to the temporary interest and remainder.

(g) Neither the personal representative nor other person required to pay the tax is under any duty to institute any action to recover from any person interested in the estate the amount of the tax apportioned to the person until the expiration of the 3 months next following final determination of the tax. A personal representative or other person required to pay the tax who institutes the action within a reasonable time after the 3 months period is not subject to any liability or surcharge because any portion of the tax apportioned to any person interested in the estate was collectible at a time following the death of the decedent but thereafter became uncollectible. If

the personal representative or other person required to pay the tax cannot collect from any person interested in the estate the amount of the tax apportioned to the person, the amount not recoverable shall be equitably apportioned among the other persons interested in the estate who are subject to apportionment.

(h) A personal representative acting in another state or a person required to pay the tax domiciled in another state may institute an action in the courts of this state and may recover a proportionate amount of the federal estate tax, of an estate tax payable to another state or of a death duty due by a decedent's estate to another state, from a person interested in the estate who is either domiciled in this state or who owns property in this state subject to attachment or execution. For the purposes of the action the determination of apportionment by the Court having jurisdiction of the administration of the decedent's estate in the other state is prima facie correct.

(i) If the liabilities of persons interested in the estate as prescribed by this act differ from those which result under the Federal Estate tax law, the liabilities imposed by the federal law will control and the balance of this Section shall apply as if the resulting liabilities had been prescribed herein.

PART 10

CLOSING ESTATES

Section 3-1001. (Formal Proceedings Terminating Administration; Testate or Intestate; Order of General Protection.)

(a) A personal representative or any interested person may petition for an order of complete settlement of the estate. The personal representative may petition at any time, and any other interested person may petition after one year from the appointment of the original personal representative except that no petition under this section may be entertained until the time for presenting claims which arose prior to the death of the decedent has expired. The petition may request the Court to determine testacy, if not previously determined, to consider the final account or compel or approve an accounting and distribution, to construe any will or determine heirs and adjudicate the final settlement and distribution of the estate. After notice to all interested persons and hearing the Court may enter an order or orders, on appropriate conditions, determining the persons entitled to distribution of the estate, and, as circumstances require, approving settlement and directing or

approving distribution of the estate and discharging the personal representative from further claim or demand of any interested person.

(b) If one or more heirs or devisees were omitted as parties in, or were not given notice of, a previous formal testacy proceeding, the Court, on proper petition for an order of complete settlement of the estate under this section, and after notice to the omitted or unnotified persons and other interested parties determined to be interested on the assumption that the previous order concerning testacy is conclusive as to those given notice of the earlier proceeding, may determine testacy as it affects the omitted persons and confirm or alter the previous order of testacy as it affects all interested persons as appropriate in the light of the new proofs. In the absence of objection by an omitted or unnotified person, evidence received in the original testacy proceeding shall constitute prima facie proof of due execution of any will previously admitted to probate, or of the fact that the decedent left no valid will if the prior proceedings determined this fact.

Section 3-1002. [Formal Proceedings Terminating Administration; Order Construing Will Without Adjudicating Testacy.]

A personal representative administering an estate under an informally probated will or any devisee under an informally probated will may petition for an order of settlement of the estate which will not adjudicate the testacy status of the decedent. The personal representative may petition at any time, and a devisee may petition after one year, from the appointment of the original personal representative, except that no petition under this section may be entertained until the time for presenting claims which arose prior to the death of the decedent has expired. The petition may request the Court to consider the final account or compel or approve an accounting and distribution, to construe the will and adjudicate final settlement and distribution of the estate. After notice to all devisees and the personal representative and hearing, the Court may enter an order or orders, on appropriate conditions, determining the persons entitled to distribution of the estate under the will, and, as circumstances require, approving settlement and directing or approving distribution of the estate and discharging the personal representative from further claim or demand of any devisee who is a party to the proceeding and those he represents. If it appears that a part of the estate is intestate, the proceedings shall be dismissed or amendments made to meet the provisions of Section 3-1001

Section 3-1003. [Closing Estates; By Sworn Statement of Personal Representative.]

(a) Unless prohibited by order of the Court and except for estates being administered in supervised administration proceedings, a personal representative may close an estate by filing with the court no earlier than six months after the date of original appointment of a general personal representative for the estate, a verified statement stating that the personal representatives or a previous personal representative, has:

(1) determined that the time limited for presentation of creditors' claims has expired.

(2) fully administered the estate of the decedent by making payment, settlement, or other disposition of all claims that were presented, expenses of administration and estate, inheritance and other death taxes, except as specified in the statement, and that the assets of the estate have been distributed to the persons entitled. If any claims remain undischarged, the statement must state whether the personal representative has distributed the estate subject to possible liability with the agreement of the distributees or state in detail other arrangements that have been made to accommodate outstanding liabilities; and

(3) sent a copy of the statement to all distributees of the estate and to all creditors or other claimants of whom the personal representative is aware whose claims are neither paid nor barred and has furnished a full account in writing of the personal representative's administration to the distributees whose interests are affected thereby.

(b) If no proceedings involving the personal representative are pending in the Court one year after the closing statement is filed, the appointment of the personal representative terminates. As amended in 1989.

Section 3-1004. (Liability of Distributees to Claimants.)

After assets of an estate have been distributed and subject to Section 3-1006, an undischarged claim not barred may be prosecuted in a proceeding against one or more distributees. No distributee shall be liable to claimants for amounts received as exempt property, homestead or family allowances, or for amounts in excess of the value of his distribution as of the time of distribution. As between distributees, each shall bear the cost

of satisfaction of unbarred claims as if the claim had been satisfied in the course of administration. Any distributee who shall have failed to notify other distributees of the demand made upon him by the claimant in sufficient time to permit them to join in any proceeding in which the claim was asserted against him loses his right of contribution against other distributee

Section 3-1005. Limitations on Proceedings Against Personal Representative.]

Unless previously barred by adjudication and except as provided in the closing statement, the rights of successors and of creditors whose claims have not otherwise been barred against the personal representative for breach of fiduciary duty are barred unless a proceeding to assert the same is commenced within 6 months after the filing of the closing statement. The rights thus barred do not include rights to recover from a personal representative for fraud, misrepresentation, or inadequate disclosure related to the settlement of the decedent's estate.

Section 3-1006. [Limitations on Actions and Proceedings Against Distributees.]

Unless previously adjudicated in a formal testacy proceeding or in a proceeding settling the accounts of a personal representative or otherwise barred, the claim of a claimant to recover from a distributee who is liable to pay the claim, and the right of an heir or devisee, or of a successor personal representative acting in their behalf, to recover property improperly distributed or its value from any distributee is forever barred at the later of three years after the decedent's death or one year after the time of its distribution thereof, but all claims of creditors of the decedent, are barred one year after the decedent's death. This section does not bar an action to recover property or value received as a result of fraud.

Section 3-1007. [Certificate Discharging Liens Securing Fiduciary Performance.]

After his appointment has terminated, the personal representative, his sureties, or any successor of either, upon the filing of a verified application showing, so far as is known by the applicant, that no action concerning the estate is pending in any court, is entitled to receive a certificate from the Registrar that the personal representative appears to have fully administered the estate in question. The certificate

evidences discharge of any lien on any property given to secure the obligation of the personal representative in lieu of bond or any surety, but does not preclude action against the personal representative or the surety.

Section 3-1008. [Subsequent Administration.]

If other property of the estate is discovered after an estate has been settled and the personal representative discharged or after one year after a closing statement has been filed, the Court upon petition of any interested person and upon notice as it directs may appoint the same or a successor personal representative to administer the subsequently discovered estate. If a new appointment is made, unless the Court orders otherwise, the provisions of this Code apply as appropriate; but no claim previously barred may be asserted in the subsequent administration.

PART 11

COMPROMISE OF CONTROVERSIES

Section 3-1101. [Effect of Approval of Agreements Involving Trusts, Inalienable Interests, or Interests of Third Persons.]

A compromise of any controversy as to admission to probate of any instrument offered for formal probate as the will of a decedent, the construction, validity, or effect of any probated will, the rights or interests in the estate of the decedent, of any successor, or the administration of the estate, if approved in a formal proceeding in the Court for that purpose, is binding on all the parties thereto including those unborn, unascertained or who could not be located. An approved compromise is binding even though it may affect a trust or an inalienable interest. A compromise does not impair the rights of creditors or of taxing authorities who are not parties to it.

Section 3-1102. (Procedure for Securing Court Approval of Compromise.)

The procedure for securing court approval of a compromise is as follows:

(1) The terms of the compromise shall be set forth in an agreement in writing which shall be executed by all competent persons and parents acting for any minor child having beneficial interests or having claims which will or may be affected by the compromise. Execution is not required by any person whose identity cannot be ascertained or whose whereabouts is unknown

and cannot reasonably be ascertained.

(2) Any interested person, including the personal representative or a trustee, then may submit the agreement to the Court for its approval and for execution by the personal representative, the trustee of every affected testamentary trust, and other fiduciaries and representatives.

(3) After notice to all interested persons or their representatives, including the personal representative of the estate and all affected trustees of trusts, the Court, if it finds that the contest or controversy is in good faith and that the effect of the agreement upon the interests of persons represented by fiduciaries or other representatives is just and reasonable, shall make an order approving the agreement and directing all fiduciaries subject to its jurisdiction to execute the agreement. Minor children represented only by their parents may be bound only if their parents join with other competent persons in execution of the compromise. Upon the making of the order and the execution of the agreement, all further disposition of the estate is in accordance with the terms of the agreement.

PART 12

COLLECTION OF PERSONAL PROPERTY BY AFFIDAVIT AND SUMMARY ADMINISTRATION PROCEDURE

Section 3-1201. [Collection of Personal Property by Affidavit.]

(a) Thirty days after the death of a decedent, any person indebted to the decedent or having possession of tangible personal property or an instrument evidencing a debt, obligation, stock or chose in action belonging to the decedent shall make payment of the indebtedness or deliver the tangible personal property or an instrument evidencing a debt, obligation, stock or chose in action to a person claiming to be the successor of the decedent upon being presented an affidavit made by or on behalf of the successor stating that:

(1) the value of the entire estate, wherever located, less liens and encumbrances, does not exceed \$5,000;

(2) 30 days have elapsed since the death of the decedent;

(3) no application or petition for the appointment of a personal representative is pending or has been granted in any

jurisdiction; and

(4) the claiming successor is entitled to payment or delivery of the property.

(b) A transfer agent of any security shall change the registered ownership on the books of a corporation from the decedent to the successor or successors upon the presentation of an affidavit as provided in subsection (a).

Section 3-1202. [Effect of Affidavit.]

The person paying, delivering, transferring, or issuing personal property or the evidence thereof pursuant to affidavit is discharged and released to the same extent as if he dealt with a personal representative of the decedent. He is not required to see to the application of the personal property or evidence thereof or to inquire into the truth of any statement in the affidavit. If any person to whom an affidavit is delivered refuses to pay, deliver, transfer, or issue any personal property or evidence thereof, it may be recovered or its payment, delivery, transfer, or issuance compelled upon proof of their right in a proceeding brought for the purpose by or on behalf of the persons entitled thereto. Any person to whom payment, delivery, transfer or issuance is made is answerable and accountable therefor to any personal representative of the estate or to any other person having a superior right.

Section 3-1203. [Small Estates; Summary Administration Procedure.]

If it appears from the inventory and appraisal that the value of the entire estate, less liens and encumbrances, does not exceed homestead allowance, exempt property, family allowance, costs and expenses of administration, reasonable funeral expenses, and reasonable and necessary medical and hospital expenses of the last illness of the decedent, the personal representative, without giving notice to creditors, may immediately disburse and distribute the estate to the persons entitled thereto and file a closing statement as provided in Section 3-1204.

Section 3-1204. (Small Estates; Closing by Sworn Statement of Personal Representative

(a) Unless prohibited by order of the Court and except for estates being administered by supervised personal representatives, a personal representative may close an estate administered under the summary procedures of Section 3-1203 by

filing with the Court, at any time after disbursement and distribution of the estate, a verified statement stating that:

(1) to the best knowledge of the personal representative, the value of the entire estate, less liens and encumbrances, did not exceed homestead allowance, exempt property, family allowance, costs and expenses of administration, reasonable funeral expenses, and reasonable, necessary medical and hospital expenses of the last illness of the decedent;

(2) the personal representative has fully administered the estate by disbursing and distributing it to the persons entitled thereto; and

(3) the personal representative has sent a copy of the closing statement to all distributees of the estate and to all creditors or other claimants of whom he is aware whose claims are neither paid nor barred and has furnished a full account in writing of his administration to the distributees whose interests are effected.

(b) If no actions or proceedings involving the personal representative are pending in the Court one year after the closing statement is filed, the appointment of the personal representative terminates.

(c) A closing statement filed under this section has the same effect as one filed under Section 3-1003.

PART 1

DEFINITIONS

Section 4-101. [Definitions.]

In this Article

(1) "local administration" means administration by a personal representative appointed in this state pursuant to appointment proceedings described in Article III.

(2) "local personal representative" includes any personal representative appointed in this state pursuant to appointment proceedings described in Article III and excludes foreign personal representatives who acquire the power of a local personal representative pursuant to Section 4-205.

(3) "resident creditor" means a person domiciled in, or doing business in this state, who is, or could be, a claimant

against an estate of a non-resident decedent.

PART 2

POWERS OF FOREIGN PERSONAL REPRESENTATIVES

Section 4-201. [Payment of Debt and Delivery Of Property to Domiciliary Foreign Personal Representative Without Local Administration.]

At any time after the expiration of sixty days from the death of a nonresident decedent, any person indebted to the estate of the nonresident decedent or having possession or control of personal property, or of an instrument evidencing a debt, obligation, stock or chose in action belonging to the estate of the nonresident decedent may pay the debt, deliver the personal property. or the instrument evidencing the debt, obligation, stock or chose in action to the domiciliary foreign personal representative of the nonresident decedent upon being presented with proof of his appointment and an affidavit made by or on behalf of the representative stating:

(1) the date of the death of the nonresident decedent.

(2) that no local administration, or application or petition therefor, is pending in this state,

(3) that the domiciliary foreign personal representative is entitled to payment or delivery.

Section 4-202. [Payment or Delivery Discharges.]

Payment or delivery made in good faith on the basis of the proof of authority and affidavit releases the debtor or person having possession of the personal property to the same extent as if payment or delivery had been made to a local personal representative.

Section 4-203. [Resident Creditor Notice.]

Payment or delivery under Section 4-201 may not be made if a resident creditor of the nonresident decedent has notified the debtor of the nonresident decedent or the person having possession of the personal property belonging to the nonresident decedent that the debt should not be paid nor the property delivered to the domiciliary foreign personal representative.

Section 4-204. [Proof of Authority-Bond.]

If no local administration or application or petition therefor is pending in this state, a domiciliary foreign personal representative may file with a Court in this State in a [county] in which property belonging to the decedent is located, authenticated copies of his appointment and of any official bond he has given.

Section 4-205. [Powers.]

A domiciliary foreign personal representative who has complied with Section 4-204 may exercise as to assets in this state all powers of a local personal representative and may maintain actions and proceedings in this state subject to any conditions imposed upon nonresident parties generally.

Section 4-206. [Power of Representatives in Transition.]

The power of a domiciliary foreign personal representative under Section 4-201 or 4-205 shall be exercised only if there is no administration or application therefor pending in this state. An application or petition for local administration of the estate terminates the power of the foreign personal representative to act under Section 4-205, but the local Court may allow the foreign personal representative to exercise limited powers to preserve the estate. No person who, before receiving actual notice of a pending local administration, has changed his position in reliance upon the powers of a foreign personal representative shall be prejudiced by reason of the application or petition for, or grant of, local administration. The local personal representative is subject to all duties and obligations which have accrued by virtue of the exercise of the powers by the foreign personal representative and may be substituted for him in any action or proceedings in this state.

Section 4-207. [Ancillary and Other Local Administrations; Provisions Governing.]

In respect to a nonresident decedent, the provisions of Article III of this Code govern (1) proceedings, if any, in a Court of this state for probate of the will, appointment, removal, supervision, and discharge of the local personal representative, and any other order concerning the estate; and (2) the status, powers, duties and liabilities of any local personal representative and the rights of claimants, purchasers, distributees and others in regard to a local administration.

PART 3

JURISDICTION OVER FOREIGN REPRESENTATIVES

Section 4-301. [Jurisdiction by Act of Foreign Personal Representative.]

A foreign personal representative submits personally to the jurisdiction of the Courts of this state in any proceeding relating to the estate by (1) filing authenticated copies of his appointment as provided in Section 4-204, (2) receiving payment of money or taking delivery of personal property under Section 4-201, or (3) doing any act as a personal representative in this state which would have given the state jurisdiction over him as an individual. Jurisdiction under (2) is limited to the money or value of personal property collected.

Section 4-302. [Jurisdiction by Act of Decedent.]

In addition to jurisdiction conferred by Section 4-301, a foreign personal representative is subject to the jurisdiction of the courts of this state to the same extent that his decedent was subject to jurisdiction immediately prior to death.

Section 4-303. [Service on Foreign Personal Representative.]

(a) Service of process may be made upon the foreign personal representative by registered or certified mail, addressed to his last reasonably ascertainable address, requesting a return receipt signed by addressee only. Notice by ordinary first class mail is sufficient if registered or certified mail service to the addressee is unavailable. Service may be made upon a foreign personal representative in the manner in which service could have been made under other laws of this state on either the foreign personal representative or his decedent immediately prior to death.

(b) If service is made upon a foreign personal representative as provided in subsection (a), he shall be allowed at least [30] days within which to appear or respond.

PART 4

JUDGMENTS AND PERSONAL REPRESENTATIVE

Section 4-401. [Effect of Adjudication For or Against Personal Representative.]

An adjudication rendered in any jurisdiction in favor of or against any personal representative of the estate is as binding on the local personal representative as if he were a party to

the adjudication.

PART 1

GENERAL PROVISIONS AND DEFINITIONS

Section 5-101. [Facility of Payment or Delivery.]

(a) Any person under a duty to pay or deliver money or personal property to a minor may perform the duty, in amounts not exceeding \$5,000 a year, by paying or delivering the money or property to:

(1) the minor if 18 or more years of age or married;

(2) any person having the care and custody of the minor with whom the minor resides;

(3) a guardian of the minor; or

(4) a financial institution incident to a deposit in a state or federally insured savings account or certificate in the sole name of the minor with notice of the deposit to the minor.

(b) This section does not apply if the person making payment or delivery knows that a conservator has been appointed or proceedings for appointment of a conservator of the estate of the minor are pending.

(c) Persons, other than the minor or any financial institution, receiving money or property for a minor, are obligated to apply the money to the support and education of the minor, but may not pay themselves except by way of reimbursement for out-of-pocket expenses for goods and services necessary for the minor's support. Any excess sums must be preserved for future support and education of the minor and any balance not so used and any property received for the minor must be turned over to the minor when majority is attained. A person who pays or delivers money or property in accordance with provisions of this section is not responsible for the proper application thereof.

Section 5-102. [Delegation of Powers by Parent or Guardian.]

A parent or guardian of a minor or incapacitated person, by a properly executed power of attorney, may delegate to another person, for a period not exceeding 6 months, any power regarding care, custody or property of the minor child or ward, except the power to consent to marriage or adoption of a minor ward.

Section 5-103. [General Definitions.] As used in Parts 1, 2, 3 and 4 of this Article:

(1) "Claims," in respect to a protected person, includes liabilities of the protected person, whether arising in contract, tort, or otherwise, and liabilities of the estate which arise at or after the appointment of a conservator, including expenses of administration.

(2) "Court" means the [] court.

(3) "Conservator" means a person who is appointed by a Court to manage the estate of a protected person and includes a limited conservator described in Section 5419(a).

(4) "Disability" means cause for a protective order as described in Section 5401.

(5) "Estate" includes the property of the person whose affairs are subject to this Article.

(6) "Guardian" means a person who has qualified as a guardian of a minor or incapacitated person pursuant to parental or spousal nomination or court appointment and includes a limited guardian as described in Sections 5-209(e) and 5-306(c), but excludes one who is merely a guardian ad litem.

(7) "Incapacitated person" means any person who is impaired by reason of mental illness, mental deficiency, physical illness or disability, chronic use of drugs, chronic intoxication, or other cause (except minority) to the extent of lacking sufficient understanding or capacity to make or communicate responsible decisions.

(8) "Lease" includes an oil, gas, or other mineral lease.

(9) "Letters" includes letters of guardianship and letters of conservatorship.

(10) "Minor" means a person who is under [21] years of age.

(11) "Mortgage" means any conveyance, agreement, or arrangement in which property is used as collateral.

(12) "Organization" includes a corporation, business trust, estate, trust, partnership, association, 2 or more persons having a joint or common interest, government, governmental

subdivision or agency, or any other legal entity.

(13) "Parent" includes any person entitled to take, or who would be entitled to take if the child died without a will, as a parent by intestate succession from the child whose relationship is in question and excludes any person who is only a stepparent, foster parent, or grandparent.

(14) "Person" means an individual or an organization.

(15) "Petition" means a written request to the Court for an order after notice.

(16) "Proceeding" includes action at law and suit in equity.

(17) "Property" includes both real and personal property or any interest therein and means anything that may be the subject of ownership.

(18) "Protected person" means a minor or other person for whom a conservator has been appointed or other protective order has been made as provided in Sections 5507 and 5508.

(19) "Protective proceeding" means a proceeding under the provisions of Part 4 of this Article.

(20) "Security" includes any note, stock, treasury stock, bond, debenture, evidence of indebtedness, certificate of interest or participation in an oil, gas, or mining title or lease or in payments out of production under such a title or lease, collateral trust certificate, transferable share, voting trust certificate or, in general, any interest or instrument commonly known as a security, or any certificate of interest or participation, any temporary or interim certificate, receipt or certificate of deposit for, or any warrant or right to subscribe to or purchase any of the foregoing.

(21) `Visitor' means a person appointed in a guardianship or protective proceeding who is trained in law, nursing, or social work, is an officer, employee, or special appointee of the Court, and has no personal interest in the proceeding.

(22) "Ward" means a person for whom a guardian has been appointed. A "minor ward" is a minor for whom a guardian has been appointed solely because of minority.

Section 5-104. [Request for Notice; Interested Person.]

Upon payment of any required fee, an interested person who desires to be notified before any order is made in a guardianship proceeding, including any proceeding subsequent to the appointment of a guardian under Section 5-312, or in a protective proceeding under Section 5-01, may file a request for notice with the clerk of the court in which the proceeding is pending. The clerk shall mail a copy of the request to the guardian and to the conservator if one has been appointed. A request is not effective unless it contains a statement showing the interest of the person making it and the address of that person or an attorney to whom notice is to be given. The request is effective only as to proceedings occurring after the filing. Any governmental agency paying or planning to pay benefits to the person to be protected is an interested person in protective proceedings.