

### IC 29-1-7.5

Chapter 7.5. Unsupervised Administration and Claims Against Personal Representatives and Distributees

#### IC 29-1-7.5-0.1

##### **Application of certain amendments to chapter**

Sec. 0.1. The following amendments to this chapter apply as follows:

(1) The amendments made to section 3.8 of this chapter by P.L.118-1997 do not apply to an individual whose death occurs before July 1, 1997.

(2) The amendments made to section 4 of this chapter by P.L.252-2001 apply to the estate of an individual who dies after June 30, 2001.

*As added by P.L.220-2011, SEC.471.*

#### IC 29-1-7.5-1

##### **Persons entitled to petition; notice to creditors**

Sec. 1. (a) Upon the filing of a petition under IC 29-1-7-5, the following persons may at any time petition the court for authority to have a decedent's estate administered without court supervision:

(1) The decedent's heirs at law if the decedent dies intestate.

(2) The legatees and devisees under the decedent's will.

(3) The personal representative.

(b) The clerk of the court shall give notice of the filing of a petition for unsupervised administration to creditors of the decedent as provided in IC 29-1-7-7(c) and IC 29-1-7-7(d).

*(Formerly: Acts 1975, P.L.288, SEC.11.) As amended by P.L.154-1990, SEC.6.*

#### IC 29-1-7.5-1.5

##### **Notice to distributees**

Sec. 1.5. (a) As soon as letters testamentary or letters of administration have been issued, the clerk of the court shall serve by mail notice of the petition on each of the decedent's heirs at law, if the decedent died intestate, or the devisees and legatees under the decedent's will. The mailing of notice under this subsection may not be waived.

(b) The notice required under subsection (a) shall read substantially as follows:

NOTICE OF UNSUPERVISED ADMINISTRATION TO BE  
MAILED TO A DISTRIBUTEE

In the \_\_\_\_\_ Court of \_\_\_\_\_ County, Indiana.

Notice is hereby given that \_\_\_\_\_, on the \_\_\_\_ day of \_\_\_\_\_, 20\_\_, was appointed as the personal representative of the estate of \_\_\_\_\_, who died on the \_\_\_\_ day of \_\_\_\_\_, 20\_\_, {leaving a will} {not leaving a will}. The estate will be administered without court supervision.

As an heir, a devisee, or a legatee of the estate (a "distributee"), you are advised of the following information:

(1) The personal representative has the authority to take actions concerning the estate without first consulting you.

(2) The personal representative may be serving without posting a bond with the court. You have the right to petition the court to set a bond for your protection. You also have the right to petition the court to remove a corporate personal representative not later than thirty (30) days after this notice if the ownership or control of the corporate personal representative has changed since the execution of the decedent's will.

(3) The personal representative will not obtain court approval of any action, including the amount of attorney's or personal representative's fees.

(4) Within two (2) months after the appointment of the personal representative, the personal representative must prepare an inventory of the estate's assets. You have the right to request and receive a copy of this inventory from the personal representative. However, if you do not participate in the residue of the estate and receive only a specific bequest in money or personal property that will be paid, you are entitled only to the information concerning your specific bequest and not to the assets of the estate as a whole.

(5) The personal representative is required to furnish you with a copy of the closing statement that will be filed with the court, and, if your interests are affected, with a full account in writing of the administration of the estate.

(6) You must file an objection to the closing statement within three (3) months after the closing statement is filed with the court if you want the court to consider your objection.

(7) If an objection to the closing statement is not filed with the court within three (3) months after the filing of the closing statement, the estate is closed and the court does not have a duty to audit or make an inquiry.

IF, AT ANY TIME BEFORE THE ESTATE IS CLOSED, YOU HAVE REASON TO BELIEVE THAT THE ADMINISTRATION OF THE ESTATE SHOULD BE SUPERVISED BY THE COURT, YOU HAVE THE RIGHT TO PETITION THE COURT FOR SUPERVISED ADMINISTRATION.

IF YOU DO NOT UNDERSTAND THIS NOTICE, YOU SHOULD ASK YOUR ATTORNEY TO EXPLAIN IT TO YOU.

The personal representative's address is \_\_\_\_\_, and telephone number is \_\_\_\_\_. The attorney for the personal representative is \_\_\_\_\_, whose address is \_\_\_\_\_ and telephone number is \_\_\_\_\_.

Dated at \_\_\_\_\_, Indiana, this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

CLERK OF THE \_\_\_\_\_ COURT

*As added by P.L.130-1992, SEC.1. Amended by P.L.2-2005, SEC.74; P.L.238-2005, SEC.12; P.L.143-2009, SEC.11.*

### **Conditions to grant of petition; collateral attack; revocation**

Sec. 2. (a) The court may grant a petition for administration without court supervision if:

- (1) all the persons referred to in either section 1(a)(1) or 1(a)(2) of this chapter have joined in the petition;
- (2) the estate is solvent;
- (3) the personal representative is qualified to administer the estate without court supervision;
- (4) the heirs, or legatees and devisees, or the parent (as defined in IC 29-3-1-11), or if none, the guardian (as defined in IC 29-3-1-6) of an heir, legatee, or devisee, as the case may be, freely consent to and understand the significance of administration without court supervision; and
- (5) the will does not request supervised administration.

(b) As an alternative to the requirements of subsection (a), the court may also grant a petition for administration without court supervision if:

- (1) the decedent in the will authorized the administration of the estate to be unsupervised;
- (2) the estate is solvent; and
- (3) the personal representative is qualified to administer the estate without court supervision.

(c) Once a petition for administration without court supervision has been granted under subsection (a) or (b), a personal representative's authority, under such order, shall not be subject to any requirement of court approval or confirmation or be open to collateral attack on account of any defect or irregularity in the proceedings resulting in issuance of the order of no supervision, if the court issuing the order had jurisdiction of the estate.

(d) The court may, on its own motion or the motion of an interested person, revoke an order of unsupervised administration and require an administration on terms and conditions which the court specifies if the court finds that such a revocation is in the best interests of the estate, creditors, taxing authorities, heirs, legatees, or devisees.

*(Formerly: Acts 1975, P.L.288, SEC.11.) As amended by Acts 1977, P.L.297, SEC.1; Acts 1978, P.L.132, SEC.3; Acts 1982, P.L.172, SEC.1; P.L.169-1988, SEC.3; P.L.264-1989, SEC.1; P.L.182-1999, SEC.3.*

### **IC 29-1-7.5-2.5**

#### **Personal representative's bond**

Sec. 2.5. (a) Except as provided in subsection (c), a personal representative is not required to execute and file a bond relating to the duties of the personal representative's office under this chapter unless:

- (1) the will provides for the execution and filing of a bond; or
- (2) the court finds, on the court's own motion or on motion by an interested person, that a bond is necessary to protect creditors, heirs, devisees, and legatees.

(b) If a bond is required under subsection (a):

(1) the amount of the bond shall be determined by the court; and

(2) the bond shall be administered;

under IC 29-1-11.

(c) If a personal representative is not an Indiana resident or ceases to be an Indiana resident, the personal representative shall execute and file a bond under IC 29-1-10-1. The amount of the bond may be adjusted at the court's discretion.

*As added by P.L.130-1992, SEC.2.*

### **IC 29-1-7.5-3**

#### **Powers of personal representative to act without order of court**

Sec. 3. (a) Subject to section 2(d) of this chapter, a personal representative who administers an estate under this chapter may do the following without order of the court:

(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 the personal representative 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:

(A) 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

(B) 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 representatives, 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) Hold, manage, safeguard, and control the estate's real and personal property, insure the assets of the estate against damage, loss, and liability, and insure the personal representative personally 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, the personal representative 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) Hold an interest in a proprietorship, partnership, limited liability company, business trust, corporation, or another domestic or foreign form of business or enterprise.

(20) Continue a business.

(21) Take any action that may be taken by shareholders,

partners, members, or property owners, including contributing additional capital to or merging, consolidating, reorganizing, recapitalizing, dissolving, or otherwise changing the form of the business organization.

(22) Allocate items of income or expense to either estate income or principal, as permitted or provided by IC 30-2-14.

(23) 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 the personal representative's administrative duties; act without independent investigation upon their recommendations; and instead of acting personally, employ one (1) or more agents to perform any act of administration, whether or not discretionary.

(24) Do any of the following concerning a claim or demand made in favor of or against the estate for the protection of the estate and of the personal representative in the performance of the personal representative's duties:

(A) Release, assign, settle, compromise, or contest the claim or demand.

(B) Participate in mediation or submit to arbitration to resolve any dispute concerning the claim or demand.

(C) Extend the time for payment of the claim or demand.

(D) Abandon the claim or demand.

(25) 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.

(26) Select a settlement option under any qualified or nonqualified benefit or retirement plan, annuity, or life insurance payable to the estate, and take appropriate action to collect the proceeds.

(27) Inspect and investigate property held, directly or indirectly, by the personal representative for the purpose of:

(A) determining the application of environmental law with respect to the property; and

(B) doing the following:

(i) Take action to prevent, abate, or remedy an actual or a potential violation of an environmental law affecting the property, whether taken before or after the assertion of a claim or the initiation of governmental enforcement by federal, state, or local authorities.

(ii) Compromise claims against the estate that may be asserted for an alleged violation of environmental law.

(iii) Pay the expense of inspection, review, abatement, or remedial action to comply with the environmental law.

(28) Distribute assets of the estate upon such terms as the personal representative may impose. To the extent practicable, taking into account the decedent's probable intention, the power to distribute assets includes the power to:

(A) pay an amount to a distributee who is under a legal disability or whom the personal representative reasonably believes to be incapacitated by:

- (i) paying the amount directly to the distributee or applying the amount for the distributee's use and benefit;
- (ii) paying the amount to the guardian appointed for the distributee;
- (iii) paying the amount to a custodian under the Indiana Uniform Transfers to Minors Act (IC 30-2-8.5) or a custodial trustee under the Uniform Custodial Trust Act (IC 30-2-8.6); or
- (iv) paying the amount to the trustee of a trust established by the decedent or by the personal representative under subsection (b); and

(B) make distributions of estate income and principal in kind, in cash, or partly in each, in shares of differing composition.

(29) Perform any other act necessary or appropriate to administer the estate.

(b) A personal representative who administers an estate under this chapter may, without court order, establish a trust to make distributions to a distributee who is under a legal disability or whom the personal representative reasonably believes is incapacitated. In establishing a trust under this subsection, a personal representative may exercise:

- (1) the authority given to custodians under the Indiana Uniform Transfers to Minors Act (IC 30-2-8.5) to create a trust that satisfies the requirements of Section 2503(c) of the Internal Revenue Code and the regulations adopted under that Section; or
- (2) the authority given to an attorney in fact under IC 30-5-5-15(a)(3) to establish a revocable trust for the benefit of a principal.

*(Formerly: Acts 1975, P.L.288, SEC.11.) As amended by Acts 1976, P.L.125, SEC.3; Acts 1981, P.L.260, SEC.1; P.L.182-1999, SEC.4; P.L.84-2002, SEC.1; P.L.61-2006, SEC.3; P.L.95-2007, SEC.6.*

### **IC 29-1-7.5-3.2**

#### **Inventories**

Sec. 3.2. (a) Not more than two (2) months after the appointment of a personal representative under this chapter, the personal representative shall prepare a verified inventory of the estate's assets. The inventory may consist of at least one (1) written instrument.

(b) The inventory required under subsection (a) must indicate the fair market value of each item of property of the decedent of which the personal representative has possession or knowledge, including a statement of all known liens and other charges on any item. The property shall be classified in the inventory as follows:

- (1) Real property, with plat or survey description, and if a homestead, designated as a homestead.

- (2) Furniture and household goods.
- (3) Emblements and annual crops raised by labor.
- (4) Corporate stocks, including the class, the par value or that the stock has no par value, and if preferred stock, the dividend rate.
- (5) Mortgages, bonds, notes, or other written evidences of debt or of ownership described by the name of the debtor, recording data, and other identification.
- (6) Bank accounts, money, and insurance policies if payable to the estate of the decedent or to the decedent's personal representative.
- (7) All other personal property accurately identified, including the decedent's proportionate share in any partnership. However, no inventory of the partnership property is required.

(c) In preparing the inventory required under subsection (a), the personal representative may employ a disinterested appraiser to ascertain the fair market value as of the date of the decedent's death of an asset that has a value that 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 the appraiser appraised.

(d) The personal representative shall furnish a copy of the inventory required under subsection (a), or a supplement or amendment to the inventory, to a distributee who requests a copy.

(e) The personal representative may certify to the court that the inventory required under subsection (a), a supplement, or an amendment to the inventory has been prepared and is available. However, the court may not require the personal representative to file a copy of the inventory, a supplement, or an amendment to the inventory with the court.

*As added by P.L.130-1992, SEC.3. Amended by P.L.182-1999, SEC.5.*

#### **IC 29-1-7.5-3.4**

##### **Distribution of real property**

Sec. 3.4. (a) This section applies to the distribution of real property by a personal representative to a devisee or heir under this chapter.

(b) The conveyance subscribed by the personal representative under this section is sufficient to distribute all title in the real property to the devisee or heir if the conveyance includes substantially the following language:

"A.B. is the personal representative of the estate of C.D., deceased. This estate is pending as Cause Number \_\_\_\_\_ in \_\_\_\_\_ County, Indiana. The personal representative, by virtue of the power given a personal representative under Indiana law, hereby distributes to E.F. the following described real estate: (insert description)."

*As added by P.L.130-1992, SEC.4.*

### **IC 29-1-7.5-3.6**

#### **Conveyance of real property**

Sec. 3.6. (a) This section applies to a conveyance of real property by a personal representative under this chapter.

(b) The conveyance subscribed by the personal representative is sufficient to convey all title in the real property to the grantee if the conveyance includes substantially the following language:

"A.B. is the personal representative of the estate of C.D., deceased. This estate is pending as Cause Number \_\_\_\_\_ in \_\_\_\_\_ County, Indiana. The personal representative, by virtue of the power given a personal representative under Indiana law, for good and sufficient consideration conveys to E.F. the following described real estate: (insert description)."

*As added by P.L.130-1992, SEC.5.*

### **IC 29-1-7.5-3.8**

#### **Prompt closing of estates**

Sec. 3.8. (a) A personal representative shall close an estate administered under this chapter as promptly as possible.

(b) If a personal representative does not file a closing statement under section 4 of this chapter within one (1) year after the appointment of the personal representative, the personal representative shall file a statement with the court indicating why the estate has not been closed.

*As added by P.L.130-1992, SEC.6. Amended by P.L.118-1997, SEC.15.*

### **IC 29-1-7.5-4**

#### **Closing estate; procedures; termination of appointment of personal representative**

Sec. 4. (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 three (3) months after the date of the first published notice to creditors under IC 29-1-7-7(b), a verified statement stating that the personal representative, or a prior personal representative, has done the following:

(1) Published notice to creditors as provided in IC 29-1-7-7(b), and that the first publication occurred more than three (3) months prior to the date of the statement.

(2) Provided notice to creditors as required under IC 29-1-7-7(c) and IC 29-1-7-7(d).

(3) Fully administered the estate of the decedent by making payment, settlement, or other disposition of all claims which were presented, expenses of administration and estate, inheritance, and other death taxes, except as specified in the statement. If any claims remain undischarged, the statement shall:

(A) state whether the personal representative has distributed the estate, subject to possible liability, with the agreement of

the distributees; or

(B) detail other arrangements which have been made to accommodate outstanding liabilities.

(4) Executed and recorded a personal representative's deed for any real estate owned by the decedent.

(5) Distributed all the assets of the estate to the persons entitled to receive the assets.

(6) Sent a copy of the statement to all distributees of the estate and to all creditors or other claimants of whom the personal representative has actual knowledge 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.

(7) Provided the court with the names and addresses of all distributees, creditors, and claimants to whom the personal representative has sent a copy of the statement under subdivision (6).

(b) If no proceedings involving the personal representative are pending in the court three (3) months after the closing statement is filed, the appointment of the personal representative terminates and the estate is closed by operation of law.

*(Formerly: Acts 1975, P.L.288, SEC.11.) As amended by P.L.154-1990, SEC.7; P.L.130-1992, SEC.7; P.L.252-2001, SEC.15.*

#### **IC 29-1-7.5-4.5**

##### **Uncontested closing statements; audits and inquiries**

Sec. 4.5. If, after three (3) months following the date that the closing statement required under section 4 of this chapter is filed, an objection to the closing statement has not been filed, the court does not have a duty to audit or make an inquiry.

*As added by P.L.130-1992, SEC.8.*

#### **IC 29-1-7.5-5**

##### **Undischarged claims; actions against distributees; contribution**

Sec. 5. After assets of an estate have been distributed, and subject to section 7 of this chapter, an undischarged claim not barred may be prosecuted in a proceeding against one (1) or more distributees. No distributee is liable to claimants 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 fails 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 distributees.

*(Formerly: Acts 1975, P.L.288, SEC.11.) As amended by P.L.1-1993, SEC.213.*

#### **IC 29-1-7.5-6**

**Claims against personal representatives; limitation**

Sec. 6. Unless previously barred by adjudication and except as provided in the closing statement, all claims against the personal representative, including claims by a person under a disability, are barred unless a proceeding to assert the same is commenced within three (3) 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.

*(Formerly: Acts 1975, P.L.288, SEC.11.) As amended by Acts 1978, P.L.132, SEC.4.*

**IC 29-1-7.5-7**

**Claims against distributees; limitation**

Sec. 7. Unless otherwise barred, the claim of any claimant, including a claimant under a disability, to recover from a distributee who is liable to pay the claim, and the right of any heir or devisee, including an heir or devisee under a disability, or of a successor personal representative acting in their behalf, to recover property improperly distributed or the value thereof from any distributee is forever barred at the later of (a) three (3) years after the decedent's death, or (b) one (1) year after the closing statement is filed.

*(Formerly: Acts 1975, P.L.288, SEC.11.) As amended by Acts 1978, P.L.132, SEC.5.*

**IC 29-1-7.5-8**

**Subsequently discovered estate; appointment of personal representative**

Sec. 8. If other property of the estate is discovered after the estate has been settled and the personal representative discharged or three (3) months 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 title apply as appropriate; but no claim previously barred may be asserted in the subsequent administration.

*(Formerly: Acts 1975, P.L.288, SEC.11.)*