



PRELIMINARY DRAFT
No. 3152

PREPARED BY
LEGISLATIVE SERVICES AGENCY
2014 GENERAL ASSEMBLY

DIGEST

Citations Affected: IC 30-5-6-4.

Synopsis: Power of attorney administration. Specifies that a child of the principal who requests an accounting from an attorney in fact is entitled to delivery of the requested accounting. Specifies that the 60 day delivery deadline set forth in current law for requested accountings applies to court ordered accountings. Provides that in the case of a principal who has died: (1) the court may order an accounting at any time; and (2) the 60 day delivery deadline applies to a written request for an accounting that is submitted to the attorney in fact not later than nine months after the date of the principal's death.

Effective: July 1, 2014.



A BILL FOR AN ACT to amend the Indiana Code concerning trusts and fiduciaries.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 30-5-6-4, AS AMENDED BY P.L.42-2012,
2 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2014]: Sec. 4. (a) The attorney in fact shall keep complete
4 records of all transactions entered into by the attorney in fact on behalf
5 of the principal:

6 (1) for six (6) years after the date of the transaction; or
7 (2) until the records are delivered to the successor attorney in fact;
8 whichever occurs first.

9 (b) Except as otherwise:

10 (1) stated in the power of attorney; or
11 (2) required by subsection (c);
12 the attorney in fact is not required to render an accounting.

13 (c) Except as provided in subsection (f), the attorney in fact shall
14 render a written accounting if an accounting is ordered by a court,
15 requested by the principal, a guardian appointed for the principal, a
16 child of the principal, or, upon the death of the principal, the personal
17 representative of the principal's estate, or an heir or legatee of the
18 principal.

19 (d) Except as provided in subsection (f), an attorney in fact
20 shall deliver an accounting requested under subsection (b) (c) to:

21 (1) the principal;
22 (2) a guardian appointed for the principal;
23 (3) the personal representative of the principal's estate;
24 (4) an heir of the principal after the death of the principal; or
25 (5) a legatee of the principal after the death of the principal; or
26 (6) a child of the principal.

27 not later than sixty (60) days after the date the attorney in fact receives
28 the written request for an accounting. In the event of the principal's
29 death, an accounting under this subsection must be requested not later
30 than nine (9) months after the date of the principal's death.

31 (e) Except as provided in subsection (f)(2), an attorney in fact



1 shall deliver an accounting ordered or requested under subsection
2 (c) to the court or the person requesting the accounting not later
3 than sixty (60) days after the date the attorney in fact receives the
4 court order or written request for an accounting.

5 (f) In the case of a principal who has died, the following apply:

6 (1) The court may order an accounting under subsection (c)
7 at any time.

8 (2) In the absence of a court ordered accounting, an attorney
9 in fact is not required to deliver an accounting to a person
10 described in subsection (d)(2) through (d)(6) unless the person
11 requests the accounting not later than nine (9) months after
12 the date of the principal's death.

13 (3) The delivery deadline set forth in subsection (e) applies to
14 a written request for an accounting that is timely submitted
15 under subdivision (2).

16 ~~(d)~~ (g) Not more than one (1) accounting is required under this
17 section in each twelve (12) month period unless the court, in its
18 discretion, orders additional accountings.

19 ~~(e)~~ (h) If an attorney in fact fails to deliver an accounting as required
20 under ~~subsection (e)~~; **this section**, the person requesting the accounting
21 may initiate an action in mandamus to compel the attorney in fact to
22 render the accounting. The court may award the attorney's fees and
23 court costs incurred under this subsection to the person requesting the
24 accounting if the court finds that the attorney in fact failed to render an
25 accounting as required under this section without just cause.

