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REPRESENTATIVES Hughes, Goodman, Sullivan, Setzer, Patton, Allen,
Jolivette, Niehaus, Webster, Redfern, Latta, DePiero, Reidelbach, Sulzer,
Seitz, Womer Benjamin, Manning, Jones, Grendell, Schmidt, G. Smith, Cates,
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Blasdel, Rhine, Collier, Barrett, Fessler, Kearns, Latell, Schneider, Oakar,
Salerno, Gilb

A B I L L

To amend sections 2106.01, 2106.02, 2106.13, 2107.19, 1
2107.76, 2109.07, 2109.09, 2109.11, 2109.12, 2
2109.18, 2109.24, 2109.30, 2109.31, 2109.32, 3
2113.25, 2113.28, 2113.53, 2113.64, 2115.09, and 4
5905.11, to amend the version of section 2117.06 5
that was in effect immediately prior to January 27, 6
1997, to enact sections 2106.25, 2109.301, 7
2109.302, and 2109.303 and to repeal section 8
2113.533 of the Revised Code relative to a 9
surviving spouse's election whether to take under 10
the will, will contests, the final and distributive 11
account of an estate's administration, and other 12
provisions of probate law. 13
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BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That sections 2106.01, 2106.02, 2106.13, 2107.19, 15
2107.76, 2109.07, 2109.09, 2109.11, 2109.12, 2109.18, 2109.24, 16

2109.30, 2109.31, 2109.32, 2113.25, 2113.28, 2113.53, 2113.64, 17
2115.09, and 5905.11 and the version of section 2117.06 that was 18
in effect immediately prior to January 27, 1997, be amended and 19
sections 2106.25, 2109.301, 2109.302, and 2109.303 of the Revised 20
Code be enacted to read as follows: 21

Sec. 2106.01. (A) After the ~~probate of a will and the filing~~ 22
~~of the inventory and the appraisement~~ initial appointment of an 23
administrator or executor of the estate, the probate court shall 24
issue a citation to the surviving spouse, if any is living at the 25
time of the issuance of the citation, to elect whether to exercise 26
the surviving spouse's rights under Chapter 2106. of the Revised 27
Code, including, after the probate of a will, the right to elect 28
to take under the will or under section 2105.06 of the Revised 29
Code. 30

(B) If the surviving spouse elects to take under section 31
2105.06 of the Revised Code and if the value of the property that 32
the surviving spouse is entitled to receive is equal to or greater 33
than the value of the decedent's interest in the mansion house as 34
determined under section 2106.10 of the Revised Code, the 35
surviving spouse also is entitled to make an election pursuant to 36
division (A) of section 2106.10 of the Revised Code. 37

(C) If the surviving spouse elects to take under section 38
2105.06 of the Revised Code, the surviving spouse shall take not 39
to exceed one-half of the net estate, unless two or more of the 40
decedent's children or their lineal descendants survive, in which 41
case the surviving spouse shall take not to exceed one-third of 42
the net estate. 43

For purposes of this division, the net estate shall be 44
determined before payment of federal estate tax, estate taxes 45
under Chapter 5731. of the Revised Code, or any other tax that is 46
subject to apportionment under section 2113.86 or 2113.861 of the 47

Revised Code.

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(D) Unless the will expressly provides that in case of an election under division (A) of this section there shall be no acceleration of remainder or other interests bequeathed or devised by the will, the balance of the net estate shall be disposed of as though the surviving spouse had predeceased the testator. If there is a disposition by a will to an inter vivos trust that was created by the testator, if under the terms of the trust the surviving spouse is entitled to any interest in the trust or is granted any power or nomination with respect to the trust, and if the surviving spouse makes an election to take under section 2105.06 of the Revised Code, then, unless the trust instrument provides otherwise, the surviving spouse is deemed for purposes of the trust to have predeceased the testator, and there shall be an acceleration of remainder or other interests in all property bequeathed or devised to the trust by the will, in all property held by the trustee at the time of the death of the decedent, and in all property that comes into the hands of the trustee by reason of the death of the decedent.

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(E) The election of a surviving spouse to take under a will or under section 2105.06 of the Revised Code may be made at any time after the death of the decedent, but the surviving spouse shall be made not make the election later than one month five months from the service date of the citation to elect initial appointment of an administrator or executor of the estate. On a motion filed before the expiration of the one-month five-month period, and for good cause shown, the court may allow further time for the making of the election. If no action is taken by the surviving spouse before the expiration of the one-month five-month period, it is conclusively presumed that the surviving spouse elects to take under the will. The election shall be entered on the journal of the court.

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When proceedings for advice or to contest the validity of a will are begun within the time allowed by this division for making the election, the election may be made within three months after the final disposition of the proceedings, if the will is not set aside.

(F) When a surviving spouse succeeds to the entire estate of the testator, having been named the sole devisee and legatee, it shall be presumed that the spouse elects to take under the will of the testator. ~~No citation shall be issued to the surviving spouse as provided in division (A) of this section, and no election shall be required,~~ unless the surviving spouse manifests a contrary intention.

Sec. 2106.02. (A) The citation to make the election referred to in section 2106.01 of the Revised Code shall be sent to the surviving spouse by certified mail. Notice that the citation has been issued by the court shall be given to the administrator or executor of the estate of the deceased spouse.

(B) The citation shall be accompanied by a general description of the effect of the election to take under the will or under section 2105.06 of the Revised Code and the general rights of the surviving spouse under Chapter 2106. of the Revised Code. The description shall include a specific reference to the procedures available to the surviving spouse under section 2106.03 of the Revised Code and to the presumption that arises if the surviving spouse does not make the election in accordance with division (E) of section 2106.01 of the Revised Code. The description of the general rights of the surviving spouse under Chapter 2106. of the Revised Code shall include a specific reference to the presumption that arises if the surviving spouse does not make the election within the time period specified by section 2106.25 of the Revised Code. The description of the effect

of the election and of the general rights of the surviving spouse 111
need not relate to the nature of any particular estate. 112

(C) A surviving spouse electing to take under the will may 113
manifest the election in writing within the times described in 114
division (E) of section 2106.01 of the Revised Code. 115

Sec. 2106.13. (A) If a person dies leaving a surviving spouse 116
and no minor children, leaving a surviving spouse and minor 117
children, or leaving minor children and no surviving spouse, the 118
surviving spouse, minor children, or both shall be entitled to 119
receive, subject to division (B) of this section, in money or 120
property the sum of forty thousand dollars as an allowance for 121
support. If the surviving spouse selected two automobiles under 122
section 2106.18 of the Revised Code, the allowance for support 123
prescribed by this section shall be reduced by the value of the 124
automobile having the lower value of the two automobiles so 125
selected. The money or property set off as an allowance for 126
support shall be considered estate assets. 127

(B) The probate court shall order the distribution of the 128
allowance for support described in division (A) of this section as 129
follows: 130

(1) If the person died leaving a surviving spouse and no 131
minor children, one hundred per cent to the surviving spouse; 132

(2) If the person died leaving a surviving spouse and minor 133
children, and if all of the minor children are the children of the 134
surviving spouse, one hundred per cent to the surviving spouse; 135

(3) If the person died leaving a surviving spouse and minor 136
children, and if not all of the minor children are children of the 137
surviving spouse, in equitable shares, as fixed by the probate 138
court in accordance with this division, to the surviving spouse 139
and the minor children who are not the children of the surviving 140
spouse. In determining equitable shares under this division, the 141

probate court shall do all of the following: 142

(a) Consider the respective needs of the surviving spouse, 143
the minor children who are children of the surviving spouse, and 144
the minor children who are not children of the surviving spouse; 145

(b) Allocate to the surviving spouse, the share that is 146
equitable in light of the needs of the surviving spouse and the 147
minor children who are children of the surviving spouse; 148

(c) Allocate to the minor children who are not children of 149
the surviving spouse, the share that is equitable in light of the 150
needs of those minor children. 151

(4) If the person died leaving minor children and no 152
surviving spouse, in equitable shares, as fixed by the probate 153
court in accordance with this division, to the minor children. In 154
determining equitable shares under this division, the probate 155
court shall consider the respective needs of the minor children 156
and allocate to each minor child the share that is equitable in 157
light of the child's needs. 158

(C) If the surviving spouse selected two automobiles under 159
section 2106.18 of the Revised Code, the probate court, in 160
considering the respective needs of the surviving spouse and the 161
minor children when allocating an allowance for support under 162
division (B)(3) of this section, shall consider the benefit 163
derived by the surviving spouse from the transfer of the 164
automobile having the lower value of the two automobiles so 165
selected. 166

(D) If, pursuant to this section, the probate court must 167
allocate the allowance for support, the administrator or executor, 168
within five months of the initial appointment of an administrator 169
or executor, shall file with the probate court an application to 170
allocate the allowance for support. 171

(E) The administrator or executor shall pay the allowance for 172

support unless a competent adult or a guardian with the consent of 173
the court having jurisdiction over the guardianship waives the 174
allowance for support to which the adult or the ward represented 175
by the guardian is entitled. 176

(F) For the purposes of this section, the value of an 177
automobile that a surviving spouse selects pursuant to section 178
2106.18 of the Revised Code is the value that the surviving spouse 179
specifies for the automobile in the affidavit executed pursuant to 180
division (B) of section 4505.10 of the Revised Code. 181

Sec. 2106.25. Unless otherwise specified by a provision of 182
the Revised Code or this section, a surviving spouse shall 183
exercise all rights under Chapter 2106. of the Revised Code within 184
five months of the initial appointment of an executor or 185
administrator of the estate. It is conclusively presumed that a 186
surviving spouse has waived any right not exercised within that 187
five-month period or within any longer period of time allowed by 188
the court pursuant to this section. Upon the filing of a motion to 189
extend the time for exercising a right under Chapter 2106. of the 190
Revised Code and for good cause shown, the court may allow further 191
time for exercising the right that is the subject of the motion. 192

Sec. 2107.19. (A)(1) Subject to divisions (A)(2) and (B) of 194
this section, when a will has been admitted to probate, the 195
fiduciary for the estate or another person specified in division 196
(A)(4) of this section promptly shall give a notice as described 197
in this division and in the manner provided by Civil Rule 73(E) to 198
the surviving spouse of the testator, to all persons who would be 199
entitled to inherit from the testator under Chapter 2105. of the 200
Revised Code if ~~he~~ the testator had died intestate, and to all 201
legatees and devisees named in the will. The notice shall mention 202
the probate of the will and, if a particular person being given 203

the notice is a legatee or devisee named in the will, shall state 204
that the person is named in the will as beneficiary. A copy of the 205
will admitted to probate is not required to be given with the 206
notice. 207

(2) A person entitled to be given the notice described in 208
division (A)(1) of this section may waive that right by filing a 209
written waiver of the right to receive the notice in the probate 210
court. The person may file the waiver of the right to receive the 211
notice at any time prior to or after the will has been admitted to 212
probate. 213

(3) The fact that the notice described in division (A)(1) of 214
this section has been given, subject to division (B) of this 215
section, to all persons described in division (A)(1) of this 216
section who have not waived their right to receive the notice, 217
and, if applicable, the fact that certain persons described in 218
that division have waived their right to receive the notice in 219
accordance with division (A)(2) of this section, shall be 220
evidenced by a certificate that shall be filed in the probate 221
court in accordance with division (A)(4) of this section. 222

(4) The notice of the admission of the will to probate 223
required by division (A)(1) of this section and the certificate of 224
giving notice or waiver of notice required by division (A)(3) of 225
this section shall be given or filed by the fiduciary for the 226
estate or by the applicant for the admission of the will to 227
probate, the applicant for a release from administration, any 228
other interested person, or the attorney for the fiduciary or for 229
any of the preceding persons. The certificate of giving notice 230
shall be filed not later than two weeks after the appointment of 231
the fiduciary unless the court grants an extension of that time. 232
Failure to file the certificate in a timely manner shall subject 233
the fiduciary to the citation and penalty provisions of section 234
2109.31 of the Revised Code. 235

(B) The fiduciary or another person specified in division 236
(A)(4) of this section is not required to give a notice pursuant 237
to division (A)(1) of this section to persons who have been 238
notified of the application for probate of the will or of a 239
contest as to jurisdiction or to persons whose names or places of 240
residence are unknown and cannot with reasonable diligence be 241
ascertained, and a person authorized by division (A)(4) of this 242
section to give notice shall file in the probate court a 243
certificate to that effect. 244

Sec. 2107.76. ~~No person who has received or waived the right 245
to receive the notice of the admission of a will to probate 246
required by section 2107.19 of the Revised Code may commence an 247
action permitted by section 2107.71 of the Revised Code to contest 248
the validity of the will more than four months after the filing of 249
the certificate described in division (A)(3) of section 2107.19 of 250
the Revised Code certifying the giving of that notice to or the 251
waiver of that notice by that person. No other person may commence 252
an action permitted by section 2107.71 of the Revised Code to 253
contest the validity of the will more than four months after the 254
initial filing of a certificate described in division (A)(3) of 255
section 2107.19 of the Revised Code. The filing of an amendment or 256
supplement to the inventory, or a report of newly discovered 257
assets does not extend the time for contesting the validity of the 258
will. A person under any legal disability nevertheless may 259
commence an action permitted by section 2107.71 of the Revised 260
Code to contest the validity of the will within four months after 261
the disability is removed, but the rights saved shall not affect 262
the rights of a purchaser, lessee, or encumbrancer for value in 263
good faith and shall not impose any liability upon a fiduciary who 264
has acted in good faith, or upon a person delivering or 265
transferring property to any other person under authority of a 266
will, whether or not the purchaser, lessee, encumbrancer, 267~~

fiduciary, or other person had actual or constructive notice of 268
the legal disability. 269

Sec. 2109.07. (A) The bond required of an administrator by 270
section 2109.04 of the Revised Code shall not be required in 271
either of the following cases: 272

(1) It shall not be required of a surviving spouse to 273
administer the deceased spouse's estate if the surviving spouse is 274
entitled to the entire net proceeds of the estate. 275

(2) It shall not be required of an administrator to 276
administer an estate if there is no will, if the administrator is 277
the next of kin, and if the administrator is entitled to the 278
entire net proceeds of the estate. 279

(B) The bond otherwise required by section 2109.04 of the 280
Revised Code of an administrator shall be conditioned as follows: 281

(1) To file with the probate court within the time required 282
by section 2115.02 of the Revised Code an inventory of all 283
tangible and intangible personal property of the deceased that is 284
to be administered and that comes to the administrator's 285
possession or knowledge and an inventory of the deceased's 286
interest in real estate located in this state; 287

(2) To administer and distribute according to law all 288
tangible and intangible personal property of the deceased, the 289
proceeds of any action for wrongful death or of any settlement, 290
with or without suit, of a wrongful death claim, and the proceeds 291
of all real estate in which the deceased had an interest, that is 292
located in this state, and that is sold, when the property or 293
proceeds have come to the possession of the administrator or to 294
the possession of a person for the administrator; 295

(3) To render a just and true account of the administrator's 296
administration at the times required by section ~~2109.30~~ 2109.301 297

of the Revised Code; 298

(4) To deliver the letters of administration into court if a 299
will of the deceased is proved and allowed. 300

Sec. 2109.09. (A) Unless the testator has specified otherwise 301
in the will, the bond required of an executor by section 2109.04 302
of the Revised Code shall not be required of the executor to 303
administer an estate in accordance with the will of the testator 304
if the executor is the next of kin and if the executor is entitled 305
to the entire net proceeds of the estate. 306

(B) The bond otherwise required of an executor by section 307
2109.04 of the Revised Code shall be conditioned as follows: 308

(1) To file with the probate court within the time required 309
by section 2115.02 of the Revised Code an inventory of all the 310
tangible and intangible personal property of the testator that is 311
to be administered and that comes to the executor's possession or 312
knowledge and an inventory of the testator's interest in real 313
estate located in this state; 314

(2) To administer and distribute according to law and the 315
will of the testator all the testator's tangible and intangible 316
personal property, the proceeds of any action for wrongful death 317
or of any settlement, with or without suit, of a wrongful death 318
claim, and the proceeds of all real estate in which the testator 319
had an interest, that is located in this state, and that is sold, 320
when the property or proceeds have come to the possession of the 321
executor or to the possession of another person for the executor; 322

(3) To render a just and true account of the executor's 323
administration at the times required by section ~~2109.30~~ 2109.301 324
of the Revised Code. 325

Sec. 2109.11. The bond required by section 2109.04 of the 326
Revised Code of a testamentary trustee shall be conditioned as 327

follows: 328

(A) To make and return to the probate court within the time 329
required by section 2109.58 of the Revised Code a true inventory 330
of all moneys, chattels, rights, credits and real estate belonging 331
to the trust that come to ~~his~~ the trustee's possession or 332
knowledge; 333

(B) To administer and distribute according to law and the 334
will of the testator all moneys, chattels, rights, credits, and 335
real estate belonging to the trust that come to the possession of 336
the trustee or to the possession of any other person for ~~him~~ the 337
trustee; 338

(C) To render a just and true account of ~~his~~ the trustee's 339
administration at the times required by section ~~2109.30~~ 2109.303 340
of the Revised Code. 341

Sec. 2109.12. Any bond required by or pursuant to section 342
2109.04 of the Revised Code of a guardian shall be conditioned as 343
follows: 344

(A) If applicable, to make and return to the probate court 345
within the time required by section 2111.14 of the Revised Code a 346
true inventory of all moneys, chattels, rights, credits, and real 347
estate belonging to the ward that come to ~~his~~ the guardian's 348
possession or knowledge; 349

(B) To administer and distribute according to law all moneys, 350
chattels, rights, credits, and real estate belonging to the ward 351
that come to the possession of the guardian or to the possession 352
of any other person for ~~him~~ the guardian; 353

(C) To render a just and true account of ~~his~~ the guardian's 354
administration at any times required by or pursuant to section 355
~~2109.30~~ 2109.302 of the Revised Code. 356

Sec. 2109.18. A surety of a fiduciary or the executor or administrator of a surety may make application at any time to the probate court to be released from the bond of such fiduciary. Such surety shall file ~~his~~ a written request therefor with the probate judge of such court and give at least five days' notice in writing to such fiduciary. If, upon the hearing, the court is of the opinion that there is good reason therefor, it shall release such surety. The death of a surety shall always be good cause.

A fiduciary may make application at any time to the court for the release of ~~his~~ the fiduciary's sureties. Such fiduciary shall file ~~his~~ a written request therefor with the judge of such court and give at least five days' notice in writing to such sureties. If, upon the hearing, the court is of the opinion that there is good reason to release such sureties, it shall order the fiduciary to file an account, as provided by section ~~2109.30~~ 2109.301, 2109.302, or 2109.303 of the Revised Code, and such sureties shall be released after the fiduciary files a new bond which is approved by the court.

If such fiduciary fails to give new bond as directed, ~~he~~ the fiduciary shall be removed and ~~his~~ the fiduciary's letters of appointment superseded. Such original sureties shall not be released until the fiduciary gives a bond, but shall be liable for such fiduciary's acts only from the time of executing the original bond to the filing and approval by the court of the new bond.

The costs of such proceeding shall be paid by the surety applying to be released, unless it appears to the court that the fiduciary is insolvent, incompetent, or is wasting the assets of the estate.

Sec. 2109.24. The probate court at any time may accept the resignation of any fiduciary upon ~~his~~ the fiduciary's proper

accounting, if the fiduciary was appointed by, is under the 387
control of, or is accountable to the court. 388

If a fiduciary fails to make and file an inventory as 389
required by sections 2109.58, 2111.14, and 2115.02 of the Revised 390
Code or to render a just and true account of ~~his~~ the fiduciary's 391
administration at the times required by section ~~2109.30~~ 2109.301, 392
2109.302, or 2109.303 of the Revised Code, and if the failure 393
continues for thirty days after the fiduciary has been notified by 394
the court of the expiration of the relevant time, the fiduciary 395
forthwith may be removed by the court and shall receive no 396
allowance for ~~his~~ the fiduciary's services unless the court enters 397
upon its journal its findings that the delay was necessary and 398
reasonable. 399

The court may remove any such fiduciary, after giving the 400
fiduciary not less than ten days' notice, for habitual 401
drunkenness, neglect of duty, incompetency, or fraudulent conduct, 402
because the interest of the trust demands it, or for any other 403
cause authorized by law. 404

The court may remove a trustee upon the written application 405
of more than one-half of the persons having an interest in the 406
estate controlled by the trustee, but the trustee ~~himself~~ is not 407
to be considered as a person having an interest in the estate 408
under the proceedings; except that no trustee appointed under a 409
will shall be removed upon such written application unless for a 410
good cause. 411

Sec. 2109.30. (A) ~~Except as provided in division (B) of this~~ 412
~~section, within nine months after appointment, every~~ Every 413
executor and administrator shall render an account of the 414
executor's and administrator's administration. ~~Except as provided~~ 415
~~in division (B) of this section, after the initial account is~~ 416
~~rendered, every executor and administrator shall render further~~ 417

~~accounts at least once each year. Except as provided in divisions 418
(C) and (D) of this section, every fiduciary, other than an 419
executor, administrator, or guardian of the person only, shall 420
render an account of the administration of the fiduciary's estate 421
or trust at least once in each two years. An account shall be 422
rendered by a guardian of the person only at any time, or, subject 423
to division (D) of this section, by any other fiduciary at any 424
time other than those mentioned in this section, upon the order of 425
the court either at its own instance, or upon the motion of any 426
person interested in the estate or trust, for good cause shown. 427
Except as provided in divisions (B) and (C) of this section, every 428
fiduciary, other than a guardian of the person only, shall render 429
a final account within thirty days after completing the 430
administration of the estate or the termination of the fiduciary's 431
trust or within any other period of time that the court may order. 432~~

~~Every account shall include an itemized statement of all 433
receipts of the fiduciary during the accounting period and of all 434
disbursements and distributions made by the fiduciary during the 435
accounting period. The itemized disbursements and distributions 436
shall be verified by vouchers or proof, except in the case of an 437
account rendered by a corporate fiduciary subject to section 438
1111.28 of the Revised Code. In addition, the account shall 439
include an itemized statement of all funds, assets, and 440
investments of the estate or trust known to or in the possession 441
of the fiduciary at the end of the accounting period and shall 442
show any changes in investments since the last previous account. 443
The accounts of testamentary trustees shall, and the accounts of 444
other fiduciaries may, show receipts and disbursements separately 445
identified as to principal and income. 446~~

~~Every account shall be upon the signature of the fiduciary. 447
When an account is rendered by two or more joint fiduciaries, the 448
court may allow the account upon the signature of one of them. 449~~

~~Upon the filing of every account, the fiduciary, except corporate fiduciaries subject to section 1111.28 of the Revised Code, shall exhibit to the court, for its examination, the securities shown in the account as being in the hands of the fiduciary, or the certificate of the person in possession of the securities, if held as collateral or pursuant to section 2109.13 or 2131.21 of the Revised Code, and a passbook or certified bank statement showing as to each depository the fund deposited to the credit of the trust. The court may designate a deputy clerk, an agent of a corporate surety on the bond of the fiduciary, or another suitable person whom the court appoints as commissioner to make the examination and to report the person's findings to the court. When securities are located outside the county, the court may appoint a commissioner or request another probate court to make the examination and to report its findings to the court. The court may examine the fiduciary under oath concerning the account.~~

~~When a fiduciary is authorized by law or by the instrument governing distribution to distribute the assets of the estate or trust, in whole or in part, the fiduciary may do so and include a report of the distribution in the fiduciary's succeeding account at the time and in the manner prescribed in section 2109.301 of the Revised Code. Every guardian or conservator shall render an account of the ward's estate at the time and in the manner prescribed in section 2109.302 of the Revised Code. Every testamentary trustee and other fiduciary not subject to sections 2109.301 and 2109.302 of the Revised Code shall render an account of the testamentary trustee's or other fiduciary's administration at the time and in the manner prescribed in section 2109.303 of the Revised Code.~~

(B) An account showing complete administration before distribution of assets shall be designated "final account." An account filed subsequent to the final account and showing

distribution of assets shall be designated "account of 482
distribution." An account showing complete administration and 483
distribution of assets shall be designated "final and distributive 484
account." 485

~~(B)(1) In estates of decedents in which the sole legatee, 486
devisee, or heir also is the executor or administrator, no partial 487
accountings are required, and no final account or final and 488
distributive account shall be filed. The executor or administrator 489
shall be discharged by filing with the court within thirty days 490
after completing the administration of the estate a certificate of 491
termination of an estate that states all of the following: 492~~

~~(a) That all debts and claims presented to the estate have 494
been paid in full or settled finally; 495~~

~~(b) That an estate tax return, if required under Chapter 496
5731. of the Revised Code, has been filed, and any estate tax due 497
under that chapter has been paid; 498~~

~~(c) That all attorney's fees have been waived by or paid to 499
counsel of record of the estate, and all fiduciary fees have been 500
waived or paid; 501~~

~~(d) The amount of attorney's fees and the amount of fiduciary 502
fees that have been paid; 503~~

~~(e) That all assets remaining after completion of the 504
activities described in divisions (B)(1)(a) to (d) of this section 505
have been distributed to the sole legatee, devisee, or heir. 506~~

~~In estates of decedents in which none of the legatees, 507
devisees, or heirs is under a legal disability, each partial 508
accounting of an executor or administrator may be waived by the 509
written consent of all the legatees, devisees, or heirs filed in 510
lieu of a partial accounting otherwise required. 511~~

~~(C)(1) The court may waive, by order, an account that 512~~

~~division (A) of this section requires of a guardian of the estate
or a guardian of the person and estate, other than an account made
pursuant to court order, if any of the following circumstances
applies:~~

~~(a) The assets of the estate consist entirely of real
property.~~

~~(b) The assets of the estate consist entirely of personal
property, that property is held by a bank, savings and loan
association, or trust company in accordance with section 2109.13
of the Revised Code, and the court has authorized expenditures of
not more than five thousand dollars annually for the support,
maintenance, or, if applicable, education of the ward.~~

~~(c) The assets of the estate consist entirely of real
property and of personal property that is held by a bank, savings
and loan association, or trust company in accordance with section
2109.13 of the Revised Code, and the court has authorized
expenditures of not more than five thousand dollars annually for
the support, maintenance, or, if applicable, education of the
ward.~~

~~(2) The order of a court entered pursuant to division (C)(1)
of this section is prima-facie evidence that a guardian of the
estate or a guardian of the person and estate has authority to
make expenditures as described in division (C)(1)(b) or (c) of
this section.~~

~~(D)(1) As used in this division:~~

~~(a) "Charitable trust" has the same meaning as in section
109.23 of the Revised Code.~~

~~(b) "Qualified community foundation" means any foundation
that is exempt from federal income taxation under sections
170(b)(1)(A)(vi) and 501(c)(3) of the "Internal Revenue Code of
1986," 100 Stat. 2085, as amended; that is further described in~~

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~~section 1.170A-9(10) and (11) of Title 26 of the Code of Federal Regulations, 26 C.F.R. 1.170A-9(10) and (11), as amended; and that publishes at least annually and circulates widely within its community an audited report of its fund balances, activities, and donors.~~

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~~(c) "Testamentary charitable trust" means any charitable trust that is created by a will.~~

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~~(2) If the assets of a testamentary charitable trust are held and managed by a fiduciary who is an individual or by a corporate fiduciary and if the trust merges into a qualified community foundation, then, after the fiduciary files with the court a final and distributive account pertaining to the trust and activities up to the effective date of the merger, the fiduciary and any successors of the fiduciary shall not be required to render any accounting to the court pertaining to the merged trust and activities that follow the effective date of the merger.~~

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Sec. 2109.301. (A) An administrator or executor shall render an account at any time other than a time otherwise mentioned in this section upon an order of the probate court issued for good cause shown either at its own instance or upon the motion of any person interested in the estate. Except as otherwise provided in division (B)(2) of this section, an administrator or executor shall render a final account within thirty days after completing the administration of the estate or within any other period of time that the court may order.

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Every account shall include an itemized statement of all receipts of the administrator or executor during the accounting period and of all disbursements and distributions made by the executor or administrator during the accounting period. In addition, the account shall include an itemized statement of all funds, assets, and investments of the estate known to or in the

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possession of the administrator or executor at the end of the
accounting period and shall show any changes in investments since
the last previous account.

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Every account shall be upon the signature of the
administrator or executor. When two or more administrators or
executors render an account, the court may allow the account upon
the signature of one of them. The court may examine the
administrator or executor under oath concerning the account.

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When an administrator or executor is authorized by law or by
the instrument governing distribution to distribute the assets of
the estate, in whole or in part, the administrator or executor may
do so and include a report of the distribution in the
administrator's or executor's succeeding account.

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In estates of decedents in which none of the legatees,
devisees, or heirs is under a legal disability, each partial
accounting of an executor or administrator may be waived by the
written consent of all the legatees, devisees, or heirs filed in
lieu of a partial accounting otherwise required.

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(B)(1) Every administrator and executor, within six months
after appointment, shall render a final and distributive account
of the administrator's or executor's administration of the estate
unless one or more of the following circumstances apply:

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(a) An Ohio estate tax return must be filed for the estate.

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(b) A proceeding contesting the validity of the decedent's
will pursuant to section 2107.71 of the Revised Code has been
commenced, or the time for contesting the will has not yet
expired.

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(c) The surviving spouse has filed an election to take
against the will, or the time for making the election has not yet
expired.

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(d) The administrator or executor is a party in a civil action. 605
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(e) The estate is insolvent. 607

(f) For other reasons set forth by the administrator or executor, subject to court approval, it would be detrimental to the estate and its beneficiaries or heirs to file a final and distributive account. 608
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(2) In estates of decedents in which the sole legatee, devisee, or heir is also the administrator or executor of the estate, no partial accountings are required, and the administrator or executor shall not file a final account or final and distributive account. In lieu of filing a final account, the administrator or executor of an estate of that type shall be discharged by filing with the court within thirty days after completing the administration of the estate a certificate of termination of an estate that states all of the following: 612
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(a) All debts and claims presented to the estate have been paid in full or settled finally. 621
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(b) An estate tax return, if required under the provisions of the Internal Revenue Code or Chapter 5731. of the Revised Code, has been filed, and any estate tax has been paid. 623
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(c) All attorney's fees have been waived by or paid to counsel of record of the estate, and all executor or administrator fees have been waived or paid. 626
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(d) The amount of attorney's fees and the amount of administrator or executor fees that have been paid. 629
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(e) All assets remaining after completion of the activities described in divisions (B)(2)(a) to (d) of this section have been distributed to the sole legatee, devisee, or heir. 631
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(3) Not later than thirteen months after appointment, every 634

administrator and executor shall render an account of the 635
administrator's or executor's administration, unless a certificate 636
of termination is filed under division (B)(2) of this section. 637
Except as provided in divisions (B)(1) and (2) of this section, 638
after the initial account is rendered, every administrator and 639
executor shall render further accounts at least once each year. 640

Sec. 2109.302. (A) Every guardian or conservator shall render 641
an account of the administration of the ward's estate at least 642
once in each two years. The guardian or conservator shall render 643
an account at any time other than a time otherwise mentioned in 644
this section upon the order of the probate court issued for good 645
cause shown either at its own instance or upon the motion of any 646
person interested in the estate. Except as provided in division 647
(B) of this section, every guardian or conservator shall render a 648
final account within thirty days after completing the 649
administration of the ward's estate or within any other period of 650
time that the court may order. 651

Every account shall include an itemized statement of all 652
receipts of the guardian or conservator during the accounting 653
period and of all disbursements and distributions made by the 654
guardian or conservator during the accounting period. The itemized 655
disbursements and distributions shall be verified by vouchers or 656
proof, except in the case of an account rendered by a corporate 657
fiduciary subject to section 1111.28 of the Revised Code. In 658
addition, the account shall include an itemized statement of all 659
funds, assets, and investments of the estate known to or in the 660
possession of the guardian or conservator at the end of the 661
accounting period and shall show any changes in investments since 662
the last previous account. 663

Every account shall be upon the signature of the guardian or 664
conservator. When two or more guardians or conservators render an 665

account, the court may allow the account upon the signature of one
of the guardians or conservators.

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Upon the filing of every account, the guardian or
conservator, except a corporate fiduciary subject to section
1111.28 of the Revised Code, shall exhibit to the court for its
examination both of the following: the securities shown in the
account as being in the hands of the guardian or conservator, or
the certificate of the person in possession of the securities, if
held as collateral or pursuant to section 2109.13 or 2131.21 of
the Revised Code; and a passbook or certified bank statement
showing as to each depository the fund deposited to the credit of
the ward's estate. The court may designate a deputy clerk, an
agent of a corporate surety on the bond of the guardian or
conservator, or another suitable person whom the court appoints as
commissioner to make the examination and to report the person's
findings to the court. When securities are located outside the
county, the court may appoint a commissioner or request another
probate court to make the examination and to report its findings
to the court. The court may examine the guardian or conservator
under oath concerning the account.

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When a guardian or conservator is authorized by law to
distribute the assets of the estate, in whole or in part, the
guardian or conservator may do so and include a report of the
distribution in the guardian's or conservator's succeeding
account.

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(B)(1) The court may waive, by order, an account that
division (A) of this section requires of a guardian of the estate
or of a guardian of the person and estate, other than an account
made pursuant to court order, if any of the following
circumstances apply:

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(a) The assets of the estate consist entirely of real
property.

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(b) The assets of the estate consist entirely of personal property, that property is held by a bank, savings and loan association, or trust company in accordance with section 2109.13 of the Revised Code, and the court has authorized expenditures of not more than ten thousand dollars annually for the support, maintenance, or, if applicable, education of the ward. 698
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(c) The assets of the estate consist entirely of real property and of personal property that is held by a bank, savings and loan association, or trust company in accordance with section 2109.13 of the Revised Code, and the court has authorized expenditures of not more than ten thousand dollars annually for the support, maintenance, or, if applicable, education of the ward. 704
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(2) The order of a court entered pursuant to division (B)(1) of this section is prima-facie evidence that a guardian of the estate or a guardian of the person and estate has authority to make expenditures as described in divisions (B)(1)(b) and (c) of this section. 711
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(3) Notwithstanding the requirements for accounts by other guardians under this section, a guardian of the person is not required to render an account except upon an order of the court that the court issues for good cause shown either at its own instance or upon the motion of any person interested in the estate. 716
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Sec. 2109.303. (A) Except as provided in division (B) of this section, every testamentary trustee shall, and every other fiduciary not subject to section 2109.301 or 2109.302 of the Revised Code may, render an account of the trustee's or other fiduciary's administration of the estate or trust at least once in each two years. Any testamentary trustee or other fiduciary shall render an account, subject to division (B) of this section, at any 722
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time other than a time otherwise mentioned in this section upon an 729
order of the court issued for good cause shown either at its own 730
instance or upon the motion of any person interested in the estate 731
or trust. Every testamentary trustee shall, and every other 732
fiduciary may, render a final account within thirty days after 733
completing the administration of the estate or trust or shall file 734
a final account within any other period of time that the court may 735
order. 736

Every account shall include an itemized statement of all 737
receipts of the testamentary trustee or other fiduciary during the 738
accounting period and of all disbursements and distributions made 739
by the testamentary trustee or other fiduciary during the 740
accounting period. The itemized disbursements and distributions 741
shall be verified by vouchers or proof, except in the case of an 742
account rendered by a corporate fiduciary subject to section 743
1111.28 of the Revised Code. In addition, the account shall 744
include an itemized statement of all funds, assets, and 745
investments of the estate or trust known to or in the possession 746
of the testamentary trustee or other fiduciary at the end of the 747
accounting period and shall show any changes in investments since 748
the last previous account. The accounts of testamentary trustees 749
shall, and the accounts of other fiduciaries may, show receipts 750
and disbursements separately identified as to principal and 751
income. 752

Every account shall be upon the signature of the testamentary 753
trustee or other fiduciary. When two or more testamentary trustees 754
or other fiduciaries render an account, the court may allow the 755
account upon the signature of one of them. 756

Upon the filing of every account, the testamentary trustee or 757
other fiduciary, except a corporate fiduciary subject to section 758
1111.28 of the Revised Code, shall exhibit to the court for its 759

examination both of the following: the securities shown in the 760
account as being in the hands of the testamentary trustee or other 761
fiduciary, or the certificate of the person in possession of the 762
securities, if held as collateral or pursuant to section 2109.13 763
or 2131.21 of the Revised Code; and a passbook or certified bank 764
statement showing as to each depository the fund deposited to the 765
credit of the estate or trust. The court may designate a deputy 766
clerk, an agent of a corporate surety on the bond of the 767
testamentary trustee or other fiduciary, or another suitable 768
person whom the court appoints as commissioner to make the 769
examination and to report the person's findings to the court. When 770
securities are located outside the county, the court may appoint a 771
commissioner or request another probate court to make the 772
examination and to report its findings to the court. The court may 773
examine the testamentary trustee or other fiduciary under oath 774
concerning the account. 775

When a testamentary trustee or other fiduciary is authorized 776
by law or by the instrument governing distribution to distribute 777
the assets of the estate or trust, in whole or in part, the 778
testamentary trustee or other fiduciary may do so and include a 779
report of the distribution in the testamentary trustee's or 780
fiduciary's succeeding account. 781

(B) If the assets of a testamentary charitable trust are held 782
and managed by a testamentary trustee or other fiduciary who is an 783
individual or by a corporate fiduciary and if the trust merges 784
into a qualified community foundation, then, after the 785
testamentary trustee or other fiduciary files with the court a 786
final and distributive account pertaining to the trust and 787
activities up to the effective date of the merger, the 788
testamentary trustee or other fiduciary and any successors of the 789
testamentary trustee or other fiduciary shall not be required to 790
render any accounting to the court pertaining to the merged trust 791

and activities that follow the effective date of the merger. 792

(C) As used in this section: 793

(1) "Charitable trust" has the same meaning as in section 794
109.23 of the Revised Code. 795

(2) "Qualified community foundation" means any foundation 796
that is exempt from federal income taxation under sections 797
170(b)(1)(A)(vi) and 501(c)(3) of the "Internal Revenue Code of 798
1986," 100 Stat. 2085, 26 U.S.C. 170(b)(1)(A)(vi) and 501 (c)(3), 799
as amended; that is further described in section 1.170A-9(10) and 800
(11) of Title 26 of the Code of Federal Regulations, 26 C.F.R. 801
1.170A-9(10) and (11), as amended; and that publishes at least 802
annually and circulates widely within its community an audited 803
report of its fund balances, activities, and donors. 804

(3) "Testamentary charitable trust" means any charitable 805
trust that is created by a will. 806

(4) "Other fiduciary" means a fiduciary other than an 807
executor, administrator, guardian, conservator, or testamentary 808
trustee. 809

Sec. 2109.31. (A) If a fiduciary neglects or refuses to file 810
an account, inventory, certificate of notice of probate of will, 811
or report when due according to section 2107.19, 2109.30, 2111.49, 812
or 2115.02 of the Revised Code or when ordered by the probate 813
court, the court at its own instance may issue, and on the 814
application of any interested party or of any of the next of kin 815
of any ward shall issue, a citation as described in division (B) 816
of this section to such fiduciary pursuant to Civil Rules 4.1 to 817
4.6 to compel the filing of the overdue account, inventory, 818
certificate of notice of probate of will, or report. 819

(B) The citation that is required by division (A) of this 820
section may contain any of the following: 821

(1) A statement that the particular account, inventory,	822
<u>certificate of notice of probate of will</u> , or report is overdue;	823
(2) An order to the fiduciary to file the account, inventory,	824
<u>certificate of notice of probate of will</u> , or report, or otherwise	825
to appear before the court on a specified date;	826
(3) A statement that, upon the issuance of the citation, a	827
continuance to file the account, inventory, <u>certificate of notice</u>	828
<u>of probate of will</u> , or report may be obtained from the court only	829
on or after the date specified pursuant to division (B)(2) of this	830
section.	831
(C) If a citation is issued to a fiduciary in accordance with	832
divisions (A) and (B) of this section and if the fiduciary fails	833
to file the account, inventory, <u>certificate of notice of probate</u>	834
<u>of will</u> , or report prior to the appearance date specified in the	835
citation, the court may order, on that date, one or more of the	836
following:	837
(1) The removal of the fiduciary;	838
(2) A denial of all or part of the fees to which the	839
fiduciary otherwise would be entitled;	840
(3) A continuance of the time for filing the account,	841
inventory, <u>certificate of notice of probate of will</u> , or report;	842
(4) An assessment against the fiduciary of a penalty of one	843
hundred dollars and costs of twenty-five dollars for the hearing,	844
or a suspension of all or part of the penalty and costs;	845
(5) That the fiduciary is in contempt of the court for the	846
failure to comply with the citation and that a specified daily	847
fine, imprisonment, or daily fine and imprisonment may be imposed	848
against the fiduciary, beginning with the appearance date, until	849
the account, inventory, <u>certificate of notice of probate of will</u> ,	850
or report is filed with the court;	851

(6) If the fiduciary does not appear in the court on the 852
specified appearance date, that the fiduciary is in contempt of 853
the court for the failure to comply with the citation, and that 854
one of the following may occur: 855

(a) The fiduciary shall be taken into custody by the sheriff 856
or a deputy sheriff and brought before the court. 857

(b) The fiduciary shall appear before the court on a 858
specified date or otherwise be taken into custody by the sheriff 859
or a deputy sheriff and brought before the court. 860

(D) The assessments, fines, and other sanctions that the 861
court may impose upon a fiduciary pursuant to this section may be 862
imposed only upon a fiduciary and shall not be imposed upon the 863
surety of any fiduciary. 864

Sec. 2109.32. (A) Every fiduciary's account required by 865
section ~~2109.30~~ 2109.301, 2109.302, or 2109.303 of the Revised 866
Code shall be set for hearing before the probate court. The 867
hearing on the account shall be set not earlier than thirty days 868
after the filing of the account. 869

At the hearing upon an account required by section 2109.302 870
or 2109.303 of the Revised Code and, if ordered by the court, upon 871
an account required by section 2109.301 of the Revised Code, the 872
court shall inquire into, consider, and determine all matters 873
relative to the account and the manner in which the fiduciary has 874
executed ~~his~~ the fiduciary's trust, including the investment of 875
trust funds, and may order the account approved and settled or 876
make any other order as the court considers proper. If, at the 877
hearing upon an account, the court finds that the fiduciary has 878
fully and lawfully administered the estate or trust and has 879
distributed the assets of the estate or trust in accordance with 880
the law or the instrument governing distribution, as shown in the 881
account, the court shall order the account approved and settled 882

and may order the fiduciary discharged. Upon approval of a final 883
and distributive account required by division (B)(1) of section 884
2109.301 of the Revised Code, the court may order the surety bond 885
for the fiduciary terminated. Unless otherwise ordered by the 886
court, the fiduciary shall be discharged without further order 887
twelve months following the approval of the final and distributive 888
account. 889

(B)(1) An administrator or executor filing an account 890
pursuant to section 2109.301 of the Revised Code shall provide at 891
the time of filing the account a copy of the account to each heir 892
of an intestate estate or to each beneficiary of a testate estate. 893
An administrator or executor is not required to provide a copy of 894
the account to any of the following: 895

(a) An heir or a beneficiary whose residence is unknown; 896

(b) A beneficiary of a specific bequest or devise who has 897
received his or her distribution and for which a receipt has been 898
filed or exhibited with the court. 899

(2) The probate court shall not approve the final account of 900
any executor or administrator until the following events have 901
occurred: 902

(A)(a) Three months have passed since the death of the 903
decedent. 904

(B)(b) The surviving spouse has filed an election to take 905
under or against the will, or the time for making the election has 906
expired. 907

(3) If an administrator or executor learns of the existence 908
of newly discovered assets after the filing of the final account 909
or otherwise comes into possession of assets belonging to the 910
estate after the filing of the final account, the executor or 911
administrator shall file a supplemental final account with respect 912
to the disposition of the assets and shall provide a copy of the 913

supplemental final account to each heir of an intestate estate or 914
to each beneficiary of a testate estate, as provided in division 915
(B)(1) of this section and subject to the exceptions specified in 916
divisions (B)(1)(a) and (b) of this section. 917

(C) The rights of any person with a pecuniary interest in the 918
estate are not barred by approval of an account pursuant to 919
divisions (A) and (B) of this section. These rights may be barred 920
following a hearing on the account pursuant to section 2109.33 of 921
the Revised Code. 922

Sec. 2113.25. So far as ~~he~~ the executor or administrator is 923
able, the executor or administrator of an estate shall collect the 924
assets and complete the administration of ~~such~~ that estate within 925
~~nine~~ thirteen months after the date of ~~his~~ appointment. 926

Upon application of the executor or administrator and notice 927
to the interested parties, if the probate court ~~deems such~~ 928
considers that notice necessary, the court may allow further time 929
in which to collect assets, to convert assets into money, to pay 930
creditors, to make distributions to legatees or distributees, to 931
file partial, final, and distributive accounts, and to settle 932
estates. The court, upon application of any interested party, may 933
authorize the examination under oath in open court of the executor 934
or administrator upon any matter relating to the administration of 935
the estate. 936

Sec. 2113.28. The time allowed by the probate court to 937
collect the assets of an estate shall not operate as an allowance 938
of further time to file the accounts required by section ~~2109.30~~ 939
2109.301 of the Revised Code. 940

Sec. 2113.53. (A) At any time after the appointment of an 941
executor or administrator, the executor or administrator may 942
distribute to the beneficiaries entitled to assets of the estate 943

under the will, if there is no action pending to set aside the 944
will, or to the heirs entitled to assets of the estate by law, in 945
cash or in kind, any part or all of the assets of the estate. Each 946
beneficiary or heir is liable to return the assets, or the 947
proceeds from the assets, if they are necessary to satisfy the 948
share of a surviving spouse who elects to take against the will 949
pursuant to section 2106.01 of the Revised Code, or to satisfy any 950
claims against the estate as provided in this section. ~~If any~~ 951

(B) After distribution pursuant to division (A) of this 952
section, a distributee shall be personally liable to a claimant 953
who presents a claim within the time set forth in division (B) of 954
section 2117.06 of the Revised Code, subject to the limitations 955
described in this division. 956

The personal liability of any distributee shall not exceed 957
the lesser of the following: 958

(1) The amount the distributee has received reduced by the 959
amount, if any, previously returned or otherwise used for the 960
payment of the spouse's share or claims finally allowed; 961

(2) The distributee's proportionate share of the spouse's 962
share or of claims finally allowed. Any distributee's 963
proportionate share of the spouse's share or of claims finally 964
allowed shall be determined by the following fraction: 965

(a) The numerator shall be the total amount received by the 966
distributee, reduced by all amounts, if any, previously returned 967
or otherwise used for the payment of the spouse's share or claims 968
finally allowed. 969

(b) The denominator shall be the total amount received by all 970
distributees reduced by all amounts, if any, previously returned 971
or otherwise used for the payment of the spouse's share or claims 972
finally allowed. 973

(C) If there is a surviving spouse and if the executor or administrator distributes any part of the assets of the estate before the expiration of the times described in division (E) of section 2106.01 of the Revised Code for the making of an election by a surviving spouse, ~~he is the executor or administrator shall be~~ personally liable to any surviving spouse who subsequently elects to take against the will. If the executor or administrator distributes any part of the assets of the estate within three months after the death of the decedent, the executor or administrator ~~is~~ shall be personally liable only to those claimants who present their claims within that three-month period. If the executor or administrator distributes any part of the assets of the estate more than three months but less than one year after the death of the decedent, the executor or administrator ~~is~~ shall be personally liable only to those claimants who present their claims before the time of distribution. ~~If the executor or administrator distributes any part of the assets of the estate more than one year after the death of the decedent, he is personally liable only to those claimants who present their claims within one year after the death of the decedent. The executor or administrator shall be liable only to the extent a claim is finally allowed and within the time set forth in division (B) of section 2117.06 of the Revised Code.~~

The executor or administrator shall be liable only to the extent that the sum of the remaining assets of the estate and the assets returned by the beneficiaries or heirs is insufficient to satisfy the share of the surviving spouse and to satisfy the claims against the estate. The executor or administrator shall not be liable in any case for an amount greater than the value of the estate that existed at the time that the distribution of assets was made and that was subject to the spouse's share or to the claims.

Any (D) The executor or administrator may provide for the 1006
payment of rejected claims or claims in suit by setting aside a 1007
sufficient amount of the assets of the estate for paying the 1008
claims. The assets shall be set aside for the payment of the 1009
claims in a manner approved by the probate court. Each claimant 1010
for whom assets are to be set aside shall be given notice, in the 1011
manner as the court shall order, of the hearing upon the 1012
application to set aside assets and shall have the right to be 1013
fully heard as to the nature and amount of the assets to be set 1014
aside for payment of his the claim and as to all other conditions 1015
in connection with the claim. In any case in which the executor or 1016
administrator may set aside assets as provided in this section, 1017
the court, upon its own motion or upon application of the executor 1018
or administrator, as a condition precedent to any distribution, 1019
may require any beneficiary or heir to give a bond to the state 1020
with surety approved and in an amount fixed by the court, 1021
conditioned to secure the return of the assets to be distributed, 1022
or the proceeds from the assets or as much of the assets as may be 1023
necessary to satisfy the claims that may be recovered against the 1024
estate, and to indemnify the executor or administrator against 1025
loss and damage on account of such distribution. The bond may be 1026
in addition to the assets to be set aside or partially or wholly 1027
in lieu of the assets, as the court shall determine. 1028

Sec. 2113.64. If a sum of money ~~directed by a decree or order~~ 1029
~~of the probate court~~ to be distributed to heirs, next of kin, or 1030
legatees, or owing from an estate to a creditor ~~thereof~~ of the 1031
estate, remains ~~for six months~~ unclaimed prior to the filing of a 1032
final account, the court may order it turned into the county 1033
treasury as provided in section 2113.65 of the Revised Code, or 1034
may order the executor or administrator to invest it as the court 1035
directs for a period not to exceed ~~one year~~ two years, to 1036
accumulate for the benefit of the persons entitled ~~thereto~~ to the 1037

sum of money. Such investment shall be made in the name of the 1038
probate judge of the court for the time being and shall be subject 1039
to the order of the judge and ~~his~~ the judge's successors in 1040
office. 1041

Sec. 2115.09. The inventory required by section 2115.02 of 1042
the Revised Code shall contain a particular statement of all 1043
securities for the payment of money ~~which~~ that belong to the 1044
deceased and are known to ~~such~~ the executor or administrator. Such 1045
inventory shall specify the name of the debtor in each security, 1046
the date, the sum originally payable, the indorsements thereon 1047
with their dates, the serial numbers or other identifying data as 1048
to each security, and the sum ~~which~~ that, in the judgment of the 1049
appraisers, can be collected on each claim. 1050

Such inventory ~~must~~ shall contain a statement of all debts 1051
and accounts belonging to the deceased ~~which~~ that are known to 1052
such executor or administrator and specify the name of the debtor, 1053
the date, the balance or thing due, and the value or sum ~~which~~ 1054
that can be collected thereon, in the judgment of the appraisers. 1055

Such inventory ~~must~~ shall contain an account of all moneys 1056
~~which~~ that belong to the deceased and have come to the hands of 1057
the executor or administrator. If none has come to ~~his~~ the 1058
executor's or administrator's hands, the fact ~~must~~ shall be stated 1059
in the inventory. 1060

The inventory shall contain a statement whether or not, 1061
insofar as it can be ascertained, the filing of an Ohio estate tax 1062
return will be required. 1063

Sec. 2117.06. (A) All creditors having claims against an 1064
estate, including claims arising out of contract, out of tort, on 1065
cognovit notes, or on judgments, whether due or not due, secured 1066
or unsecured, liquidated or unliquidated, shall present their 1067

claims in one of the following manners: 1068

(1) To the executor or administrator in a writing; 1069

(2) To the executor or administrator in a writing, and to the 1070
probate court by filing a copy of the writing with it; 1071

(3) In a writing that is sent by ordinary mail addressed to 1072
the decedent and that is actually received by the executor or 1073
administrator within the appropriate time specified in division 1074
(B) of this section. For purposes of this division, if an executor 1075
or administrator is not a natural person, the writing shall be 1076
considered as being actually received by the executor or 1077
administrator only if the person charged with the primary 1078
responsibility of administering the estate of the decedent 1079
actually receives the writing within the appropriate time 1080
specified in division (B) of this section. 1081

(B) All claims shall be presented within one year after the 1082
death of the decedent, whether or not the estate is released from 1083
administration or an executor or administrator is appointed during 1084
that one-year period. Every claim presented shall set forth the 1085
claimant's address. 1086

(C) A claim that is not presented within one year ~~ater~~ after 1087
the death of the decedent shall be forever barred as to all 1088
parties, including, but not limited to, devisees, legatees, and 1089
distributees. No payment shall be made on the claim and no action 1090
shall be maintained on the claim, except as otherwise provided in 1091
sections 2117.37 to 2117.42 of the Revised Code, with reference to 1092
contingent claims. 1093

(D) In the absence of any prior demand for allowance, the 1094
executor or administrator shall allow or reject all claims, except 1095
tax assessment claims, within thirty days after their 1096
presentation, provided that failure of the executor or 1097
administrator to allow or reject within that time shall not 1098

prevent ~~him~~ the executor or administrator from doing so after that 1099
time and shall not prejudice the rights of any claimant. Upon the 1100
allowance of a claim, the executor or the administrator, on demand 1101
of the creditor, shall furnish the creditor with a written 1102
statement or memorandum of the fact and date of ~~such~~ the 1103
allowance. 1104

(E) If the executor or administrator has actual knowledge of 1105
a pending action commenced against the decedent prior to ~~his~~ the 1106
decedent's death in a court of record in this state, ~~such~~ the 1107
executor or administrator shall file a notice of ~~his~~ the 1108
appointment of the executor or administrator in ~~such~~ the pending 1109
action within ten days after acquiring ~~such~~ that knowledge. If the 1110
administrator or executor is not a natural person, actual 1111
knowledge of a pending suit against the decedent shall be limited 1112
to the actual knowledge of the person charged with the primary 1113
responsibility of administering the estate of the decedent. 1114
Failure to file the notice within the ten-day period does not 1115
extend the claim period established by this section. 1116

(F) This section applies to any person who is required to 1117
give written notice to the executor or administrator of a motion 1118
or application to revive an action pending against the decedent at 1119
the date of the death of the decedent. 1120

(G) Nothing in this section or in section 2117.07 of the 1121
Revised Code shall be construed to reduce the time mentioned in 1122
section 2125.02, 2305.09, 2305.10, 2305.11, or 2305.12 of the 1123
Revised Code, provided that no portion of any recovery on a claim 1124
brought pursuant to any of those sections shall come from the 1125
assets of an estate, ~~unless~~ the claim has been presented against 1126
the estate in accordance with Chapter 2117. of the Revised Code. 1127

(H) Any person whose claim has been presented, ~~and~~ has not 1128
~~thereafter~~ been rejected, ~~after presentment~~ is a creditor as that 1129
term is used in Chapters 2113. to 2125. of the Revised Code. 1130

Claims that are contingent need not be presented except as 1131
provided in sections 2117.37 to 2117.42 of the Revised Code, but, 1132
whether presented pursuant to those sections or this section, 1133
contingent claims may be presented in any of the manners described 1134
in division (A) of this section. 1135

(I) If a creditor presents a claim against an estate in 1136
accordance with division (A)(2) of this section, the probate court 1137
shall not close the administration of the estate until that claim 1138
is allowed or rejected. 1139

(J) The probate court shall not require an executor or 1140
administrator to make and return into the court a schedule of 1141
claims against the estate. 1142

(K) If the executor or administrator makes a distribution of 1143
the assets of the estate prior to the expiration of the time for 1144
the filing of claims as set forth in this section, ~~he~~ the executor 1145
or administrator shall provide notice on the account delivered to 1146
each distributee as provided in that the distributee may be liable 1147
to the estate up to the value of the distribution and may be 1148
required to return all or any part of the value of the 1149
distribution if a valid claim is subsequently made against the 1150
estate within the time permitted under this section 2113.533 of 1151
the Revised Code. 1152

Sec. 5905.11. Every guardian who has received or shall 1153
receive on account of ~~his~~ the guardian's ward any things of value 1154
from the veterans administration shall file with the probate court 1155
annually, on the anniversary date of the appointment, in addition 1156
to any other accounts required by the court, a full and accurate 1157
account of all things of value received by ~~him~~ the guardian, all 1158
earnings, interest, or profits derived from those things of value, 1159
all property acquired with those things of value, and all 1160
disbursements from those things of ~~value~~ value. The account shall 1161

show the balance of those things of value in ~~his~~ the guardian's 1162
hands at the date of the account and how it is invested. 1163

The guardian, at the time of filing any account, shall 1164
exhibit all securities or investments held by ~~him~~ the guardian to 1165
an officer of the depository in which the securities or 1166
investments are held for safekeeping, to an authorized 1167
representative of the corporation that is surety on ~~his~~ the 1168
guardian's bond, to the judge or clerk of a court of record in 1169
this state, or, upon request of the guardian or other interested 1170
party, to any other reputable person designated by the probate 1171
court, who shall certify in writing that ~~he~~ the judge, clerk, or 1172
other person has examined the securities or investments and 1173
identified them with those described in the account and shall note 1174
any omissions or discrepancies. If the depository is the guardian, 1175
the certifying officer shall not be the officer verifying the 1176
account. The guardian may exhibit the securities or investments to 1177
the court, which shall indorse on the account and copy of the 1178
account a certificate that the securities or investments shown in 1179
the account as held by the guardian were each in fact exhibited to 1180
~~him~~ the court and that those exhibited to ~~him~~ the court were the 1181
same as those shown in the account, and shall note any omission or 1182
discrepancy. The certificate and the certificate of an official of 1183
the bank in which are deposited any funds for which the guardian 1184
is accountable showing the amount on deposit shall be prepared and 1185
signed in duplicate, and one of each shall be filed by the 1186
guardian with ~~his~~ the guardian's account. 1187

At the time of filing any account in the court, a certified 1188
copy of the account and a signed duplicate of each certificate 1189
filed with the court shall be sent by the guardian to the office 1190
of the veterans administration having jurisdiction over the area 1191
in which the court is located. A signed duplicate or certified 1192
copy of any pleading pertaining to an account, or to any matter 1193

other than an account, that is filed in the guardianship 1194
proceedings or in any proceeding for the purpose of removing the 1195
disability of minority or mental incapacity, shall be furnished by 1196
the person filing the pleading to the proper office of the 1197
veterans administration. Unless hearing is waived in writing by 1198
the attorney of the veterans administration and by all other 1199
persons entitled to notice, the court shall fix a time and place 1200
for the hearing on the account in the manner provided by section 1201
2109.32 of the Revised Code for publishing fiduciary accounts, 1202
unless a different available date is stipulated in writing. Unless 1203
waived in writing, written notice of the time and place of hearing 1204
shall be given to the veterans administration office concerned not 1205
less than fifteen days prior to the date fixed for the hearing. 1206
The notice may be given by mail in which event it shall be 1207
deposited in the mails not less than fifteen days prior to that 1208
date. The court or its clerk shall furnish to that veterans 1209
administration office a copy of each order entered in any 1210
guardianship proceeding in which the administrator is an 1211
interested party. 1212

If the guardian is accountable for property derived from 1213
sources other than the veterans administration, ~~he~~ the guardian 1214
shall be accountable under section ~~2109.30~~ 2109.302 of the Revised 1215
Code, and, as to the other property, the guardian shall be 1216
entitled to the compensation provided by section 2109.23 of the 1217
Revised Code. The account for other property shall be combined 1218
with the account filed in accordance with this section unless 1219
otherwise ordered by the court. 1220

Section 2. That existing sections 2106.01, 2106.02, 2106.13, 1221
2107.19, 2107.76, 2109.07, 2109.09, 2109.11, 2109.12, 2109.18, 1222
2109.24, 2109.30, 2109.31, 2109.32, 2113.25, 2113.28, 2113.53, 1223
2113.64, 2115.09, and 5905.11, all existing versions of section 1224
2117.06 that were in effect prior to, on, or after January 27, 1225

1997, the effective date of Am. Sub. H.B. 350 of the 121st General 1226
Assembly, and section 2113.533 of the Revised Code are hereby 1227
repealed. 1228

Section 3. The General Assembly hereby encourages the Supreme 1229
Court to amend Rule 59(B) of the Ohio Rules of Superintendence to 1230
require fiduciaries appointed to administer testate estates to 1231
file a Certificate of Service of Notice of Probate of Will within 1232
two weeks of the fiduciary's appointment. 1233

Section 4. The version of section 2117.06 of the Revised Code 1234
that is presented in this act is the version of that section that 1235
was in effect immediately prior to the effective date of Am. Sub. 1236
H.B. 350 of the 121st General Assembly. That version of section 1237
2117.06 of the Revised Code is used in this act in order to repeal 1238
the amendments made to that section by Am. Sub. H.B. 350 of the 1239
121st General Assembly, to revive the version of that section in 1240
effect immediately prior to January 27, 1997, the effective date 1241
of that act, and to clarify the existing language of that section. 1242

Section 5. Sections 2106.01, 2106.02, 2106.13, 2107.19, 1243
2107.76, 2109.07, 2109.09, 2109.18, 2109.24, 2109.30, 2109.31, 1244
2109.32, 2113.25, 2113.28, 2113.53, 2113.64, 2115.09, and 2117.06 1245
of the Revised Code, as amended by this act, and sections 2106.25 1246
and 2109.301 of the Revised Code, as enacted by this act, apply 1247
only to estates of decedents who die on or after January 1, 2002. 1248

Section 6. Sections 2109.12, 2109.18, 2109.24, 2109.30, and 1249
5905.11 of the Revised Code, as amended by this act, and section 1250
2109.302 of the Revised Code, as enacted by this act, apply to 1251
guardians or conservators of wards' estates that are in existence 1252
or are created on or after January 1, 2002. 1253

Section 7. Sections 2109.11, 2109.18, 2109.24, and 2109.30 of 1254
the Revised Code, as amended by this act, and section 2109.303 of 1255
the Revised Code, as enacted by this act, apply to testamentary 1256
trustees or other fiduciaries of trusts that are in existence or 1257
are created on or after January 1, 2002 or to other fiduciaries 1258
under governing instruments that are in existence or are created 1259
on or after January 1, 2002. 1260

As used in this section, "other fiduciary" has the same 1261
meaning as in section 2109.303 of the Revised Code, as enacted by 1262
this act. 1263