

**As Reported by the House Civil and Commercial Law Committee**

**124th General Assembly**

**Regular Session**

**2001-2002**

**Sub. H. B. No. 85**

**REPRESENTATIVES Hughes, Goodman, Sullivan, Setzer, Patton, Allen,  
Jolivette, Niehaus, Webster, Redfern, Latta, DePiero, Reidelbach, Sulzer,  
Seitz, Womer Benjamin, Manning, Jones**

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**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 Code be enacted to read as follows:

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

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

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

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

(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.

(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.

When proceedings for advice or to contest the validity of a  
will are begun within the time allowed by this division for making

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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  
need not relate to the nature of any particular estate.

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(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 allowance for support to which the adult or the ward represented by the guardian is entitled. 174  
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(F) For the purposes of this section, the value of an automobile that a surviving spouse selects pursuant to section 2106.18 of the Revised Code is the value that the surviving spouse specifies for the automobile in the affidavit executed pursuant to division (B) of section 4505.10 of the Revised Code. 177  
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Sec. 2106.25. Unless otherwise specified by a provision of the Revised Code or this section, a surviving spouse shall exercise all rights under Chapter 2106. of the Revised Code within five months of the initial appointment of an executor or administrator of the estate. It is conclusively presumed that a surviving spouse has waived any right not exercised within that five-month period or within any longer period of time allowed by the court pursuant to this section. Upon the filing of a motion to extend the time for exercising a right under Chapter 2106. of the Revised Code and for good cause shown, the court may allow further time for exercising the right that is the subject of the motion. 182  
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Sec. 2107.19. (A)(1) Subject to divisions (A)(2) and (B) of this section, when a will has been admitted to probate, the fiduciary for the estate or another person specified in division (A)(4) of this section promptly shall give a notice as described in this division and in the manner provided by Civil Rule 73(E) to the surviving spouse of the testator, to all persons who would be entitled to inherit from the testator under Chapter 2105. of the Revised Code if ~~he~~ the testator had died intestate, and to all legatees and devisees named in the will. The notice shall mention the probate of the will and, if a particular person being given the notice is a legatee or devisee named in the will, shall state 194  
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that the person is named in the will as beneficiary. A copy of the will admitted to probate is not required to be given with the notice.

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

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

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



(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

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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.

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.

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.

(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:

(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 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

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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 109.23 of the Revised Code. 794  
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(2) "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, 26 U.S.C. 170(b)(1)(A)(vi) and 501 (c)(3), as amended; that is further described in 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. 796  
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(3) "Testamentary charitable trust" means any charitable trust that is created by a will. 805  
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(4) "Other fiduciary" means a fiduciary other than an executor, administrator, guardian, conservator, or testamentary trustee. 807  
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**Sec. 2109.31.** (A) If a fiduciary neglects or refuses to file an account, inventory, certificate of notice of probate of will, or report when due according to section 2107.19, 2109.30, 2111.49, or 2115.02 of the Revised Code or when ordered by the probate court, the court at its own instance may issue, and on the application of any interested party or of any of the next of kin of any ward shall issue, a citation as described in division (B) of this section to such fiduciary pursuant to Civil Rules 4.1 to 4.6 to compel the filing of the overdue account, inventory, certificate of notice of probate of will, or report. 810  
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(B) The citation that is required by division (A) of this section may contain any of the following: 820  
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(1) A statement that the particular account, inventory, <u>certificate of notice of probate of will</u> , or report is overdue;	822 823
(2) An order to the fiduciary to file the account, inventory, <u>certificate of notice of probate of will</u> , or report, or otherwise to appear before the court on a specified date;	824 825 826
(3) A statement that, upon the issuance of the citation, a continuance to file the account, inventory, <u>certificate of notice of probate of will</u> , or report may be obtained from the court only on or after the date specified pursuant to division (B)(2) of this section.	827 828 829 830 831
(C) If a citation is issued to a fiduciary in accordance with divisions (A) and (B) of this section and if the fiduciary fails to file the account, inventory, <u>certificate of notice of probate of will</u> , or report prior to the appearance date specified in the citation, the court may order, on that date, one or more of the following:	832 833 834 835 836 837
(1) The removal of the fiduciary;	838
(2) A denial of all or part of the fees to which the fiduciary otherwise would be entitled;	839 840
(3) A continuance of the time for filing the account, inventory, <u>certificate of notice of probate of will</u> , or report;	841 842
(4) An assessment against the fiduciary of a penalty of one hundred dollars and costs of twenty-five dollars for the hearing, or a suspension of all or part of the penalty and costs;	843 844 845
(5) That the fiduciary is in contempt of the court for the failure to comply with the citation and that a specified daily fine, imprisonment, or daily fine and imprisonment may be imposed against the fiduciary, beginning with the appearance date, until the account, inventory, <u>certificate of notice of probate of will</u> , or report is filed with the court;	846 847 848 849 850 851

(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 will, or to the heirs entitled to assets of the estate by law, in cash or in kind, any part or all of the assets of the estate. Each beneficiary or heir is liable to return the assets, or the proceeds from the assets, if they are necessary to satisfy the share of a surviving spouse who elects to take against the will pursuant to section 2106.01 of the Revised Code, or to satisfy any claims against the estate as provided in this section. ~~If any~~

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

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

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

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

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

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



## As Reported by the House Civil and Commercial Law Committee

(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 months 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

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**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