

AN ACT

To amend sections 2101.01, 2101.02, 2101.021, 2101.03, 2101.04, 2101.06, 2101.07, 2101.08, 2101.09, 2101.10, 2101.11, 2101.13, 2101.15, 2101.16, 2101.162, 2101.19, 2101.20, 2101.22, 2101.23, 2101.24, 2101.27, 2101.30, 2101.34, 2101.37, 2101.38, 2101.41, 2101.43, 2103.01, 2105.051, 2105.06, 2105.10, 2105.11, 2105.13, 2105.14, 2105.15, 2105.16, 2105.19, 2106.01, 2106.08, 2106.11, 2107.01, 2107.02, 2107.03, 2107.04, 2107.05, 2107.07, 2107.08, 2107.081, 2107.082, 2107.083, 2107.084, 2107.085, 2107.09, 2107.10, 2107.11, 2107.15, 2107.17, 2107.18, 2107.20, 2107.21, 2107.22, 2107.29, 2107.32, 2107.34, 2107.35, 2107.36, 2107.38, 2107.46, 2107.47, 2107.49, 2107.50, 2107.501, 2107.51, 2107.52, 2107.53, 2107.54, 2107.55, 2107.56, 2107.58, 2107.59, 2107.60, 2107.61, 2107.65, 2107.71, 2107.73, 2107.75, 2108.51, 2109.02, 2109.021, 2109.03, 2109.04, 2109.05, 2109.06, 2109.07, 2109.09, 2109.10, 2109.11, 2109.12, 2109.14, 2109.17, 2109.19, 2109.20, 2109.21, 2109.22, 2109.24, 2109.25, 2109.26, 2109.302, 2109.303, 2109.32, 2109.33, 2109.34, 2109.35, 2109.36, 2109.361, 2109.37, 2109.371, 2109.372, 2109.38, 2109.39, 2109.40, 2109.42, 2109.43, 2109.44, 2109.45, 2109.46, 2109.47, 2109.48, 2109.49, 2109.50, 2109.51, 2109.52, 2109.53, 2109.54, 2109.55, 2109.56, 2109.57, 2109.58, 2109.59, 2109.60, 2109.61, 2109.62, 2111.02, 2111.021, 2111.031, 2111.04, 2111.041, 2111.06, 2111.07, 2111.09, 2111.091, 2111.12, 2111.131, 2111.14, 2111.141, 2111.16, 2111.17, 2111.181, 2111.19, 2111.20, 2111.21, 2111.22, 2111.25,

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sections 2101.36, 2113.02, 2113.17, 2113.24, 2113.26, 2113.27, 2113.28, 2113.29, 2113.57, and 2113.63 of the Revised Code to make changes relative to the Probate Code.

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

SECTION 1. That sections 2101.01, 2101.02, 2101.021, 2101.03, 2101.04, 2101.06, 2101.07, 2101.08, 2101.09, 2101.10, 2101.11, 2101.13, 2101.15, 2101.16, 2101.162, 2101.19, 2101.20, 2101.22, 2101.23, 2101.24, 2101.27, 2101.30, 2101.34, 2101.37, 2101.38, 2101.41, 2101.43, 2103.01, 2105.051, 2105.06, 2105.10, 2105.11, 2105.13, 2105.14, 2105.15, 2105.16, 2105.19, 2106.01, 2106.08, 2106.11, 2107.01, 2107.02, 2107.03, 2107.04, 2107.05, 2107.07, 2107.08, 2107.081, 2107.082, 2107.083, 2107.084, 2107.085, 2107.09, 2107.10, 2107.11, 2107.15, 2107.17, 2107.18, 2107.20, 2107.21, 2107.22, 2107.29, 2107.32, 2107.34, 2107.35, 2107.36, 2107.38, 2107.46, 2107.47, 2107.49, 2107.50, 2107.501, 2107.51, 2107.52, 2107.53, 2107.54, 2107.55, 2107.56, 2107.58, 2107.59, 2107.60, 2107.61, 2107.65, 2107.71, 2107.73, 2107.75, 2108.51, 2109.02, 2109.021, 2109.03, 2109.04, 2109.05, 2109.06, 2109.07, 2109.09, 2109.10, 2109.11, 2109.12, 2109.14, 2109.17, 2109.19, 2109.20, 2109.21, 2109.22, 2109.24, 2109.25, 2109.26, 2109.302, 2109.303, 2109.32, 2109.33, 2109.34, 2109.35, 2109.36, 2109.361, 2109.37, 2109.371, 2109.372, 2109.38, 2109.39, 2109.40, 2109.42, 2109.43, 2109.44, 2109.45, 2109.46, 2109.47, 2109.48, 2109.49, 2109.50, 2109.51, 2109.52, 2109.53, 2109.54, 2109.55, 2109.56, 2109.57, 2109.58, 2109.59, 2109.60, 2109.61, 2109.62, 2111.02, 2111.021, 2111.031, 2111.04, 2111.041, 2111.06, 2111.07, 2111.09, 2111.091, 2111.12, 2111.131, 2111.14, 2111.141, 2111.16, 2111.17, 2111.181, 2111.19, 2111.20, 2111.21, 2111.22, 2111.25, 2111.26, 2111.27, 2111.28, 2111.29, 2111.30, 2111.31, 2111.33, 2111.34, 2111.35, 2111.36, 2111.37, 2111.38, 2111.39, 2111.40, 2111.41, 2111.44, 2111.46, 2111.48, 2111.50, 2113.01, 2113.03, 2113.04, 2113.05, 2113.06, 2113.07, 2113.12, 2113.13, 2113.14, 2113.15, 2113.16, 2113.18, 2113.19, 2113.20, 2113.21, 2113.22, 2113.25, 2113.30, 2113.31, 2113.311, 2113.33, 2113.34, 2113.35, 2113.36, 2113.39, 2113.40, 2113.41, 2113.45, 2113.46, 2113.48, 2113.49, 2113.50, 2113.51, 2113.52, 2113.54, 2113.58, 2113.61, 2113.62, 2113.67, 2113.68, 2113.69, 2113.70, 2113.72, 2113.73, 2113.74, 2113.75, 2113.81, 2113.82, 2113.85, 2113.86, 2113.87, 2113.88, 2115.02, 2115.03, 2115.06, 2115.09, 2115.10, 2115.11, 2115.12, 2115.16, 2115.17, 2117.01, 2117.02, 2117.03, 2117.04,

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Sec. 2101.01. (A) A probate division of the court of common pleas shall be held at the county seat in each county in an office furnished by the board of county commissioners, in which the books, records, and papers pertaining to the probate division shall be deposited and safely kept by the probate judge. The board shall provide suitable eases equipment or other necessary items for the safekeeping and preservation of the books, records, and papers of the court and shall furnish any blankbooks, blanks books, forms, and stationery, and any machines, equipment, and materials for the keeping or examining of records, that the probate judge requires in the discharge of official duties. The board also shall authorize expenditures for accountants, financial consultants, and other agents required for auditing or financial consulting by the probate division whenever the probate judge considers these services and expenditures necessary for the efficient performance of the division's duties. The probate judge shall employ and supervise all clerks, deputies, magistrates, and other employees of the probate division. The probate judge shall supervise all probate court investigators and assessors in the performance of their duties as investigators and assessors and shall employ, appoint, or designate all probate court investigators and assessors in the manner described in divisions (A)(2) and (3) of section 2101.11 of the Revised Code.

(B) As used in the Revised Code:

(1) Except as provided in division (B)(2) of this section, "probate court" means the probate division of the court of common pleas, and "probate judge" means the judge of the court of common pleas who is judge of the

probate division.

(2) With respect to Lorain county:

(a) From February 9, 2009, through September 28, 2009, "probate court" means the domestic relations division of the court of common pleas, and "probate judge" means each of the judges of the court of common pleas who are judges of the domestic relations division.

(b) The judge of the court of common pleas, division of domestic relations, whose term begins on February 9, 2009, and successors, shall be the probate judge beginning September 29, 2009, and shall be elected and designated as judge of the court of common pleas, probate division.

(C) Except as otherwise provided in this division, all pleadings, forms, journals, and other records filed or used in the probate division shall be entitled "In the Court of Common Pleas, Probate Division," but are not defective if entitled "In the Probate Court." In Lorain county, from February 9, 2009, through September 28, 2009, all pleadings, forms, journals, and other records filed or used in probate matters shall be entitled "In the Court of Common Pleas, Domestic Relations Division," but are not defective if entitled "In the Probate Division" or "In the Probate Court."

Sec. 2101.02. Every six years, in each county having a separate judge of the probate division of the court of common pleas, one probate judge shall be elected who is qualified as required by section 2301.01 of the Revised Code. ~~He~~ The probate judge shall hold office for six years, commencing on the ninth day of February next following ~~his~~ the judge's election.

Sec. 2101.021. There shall be one additional probate judge for the probate court of Cuyahoga County.

~~Such~~ The additional judge shall be elected at the general election to be held in 1954 and every six years thereafter, for a term of six years commencing on the first day of January next following ~~his~~ the additional judge's election.

The judge elected pursuant to this section shall comply with the qualifications provided for in section 2101.02 of the Revised Code.

The probate judge who is senior in point of service shall be the presiding judge and shall have the care and custody of the files, papers, books and records belonging to the probate court of Cuyahoga county and shall have all the other powers and duties of the judge as provided in section 2101.11 of the Revised Code.

Sec. 2101.03. Before entering upon the discharge of ~~his~~ official duties, the probate judge shall give a bond to the state in a sum not less than five thousand dollars. ~~Such~~ The bond shall have sufficient surety, shall be approved by the board of county commissioners; or by the county auditor

and county recorder in the absence from the county of two of the members of the board, and shall be conditioned that ~~such the~~ judge will faithfully pay over all moneys received by ~~him~~ the judge in ~~his~~ the judge's official capacity, enter and record the orders, judgments, and proceedings of the court, and faithfully and impartially perform all the duties of ~~his~~ the judge's office. ~~Such~~ The bond, with the oath of office required by sections 3.22 and 3.23 of the Revised Code indorsed ~~thereon~~ on it, shall be deposited with the county treasurer and kept in ~~his~~ the treasurer's office. As the state of business in ~~his~~ the probate judge's office renders it necessary, the board may require the probate judge to give additional bond.

Sec. 2101.04. The ~~several~~ judge or judges of the probate court shall make rules regulating the practice and conducting the business of the court, ~~which they~~ and the judge or judges shall submit those rules to the supreme court. In order to maintain regularity and uniformity in the proceedings of all the probate courts, the supreme court may alter and amend ~~such the~~ rules submitted by the judge or judges of a probate court and make other rules.

Sec. 2101.06. The probate judge, upon the motion of a party or ~~his~~ the judge's own motion, may appoint a special master commissioner in any matter pending before ~~such the~~ judge. ~~Such~~ The commissioner shall be an attorney at law; and shall be sworn faithfully to discharge ~~his~~ the commissioner's duties. When requested by the probate judge, ~~such the~~ commissioner shall execute a bond to the state in ~~such the~~ sum as that the court directs, with surety approved by the court, and conditioned that ~~such the~~ the commissioner will shall faithfully discharge ~~his~~ the commissioner's duties and pay over all money received by ~~him~~ the commissioner in that capacity. ~~Such~~ The bond shall be for the benefit of anyone aggrieved and shall be filed in the probate court.

~~Such~~ The commissioner shall take the testimony and report ~~such the~~ the testimony to the court with ~~his~~ the commissioner's conclusions on the law and the facts involved ~~therein, which~~ The report may be excepted to by the parties; and confirmed, modified, or set aside by the court.

Sec. 2101.07. A special master commissioner of the probate court may administer all oaths required in the discharge of ~~his~~ the commissioner's duties, may summon and enforce the attendance of witnesses, may compel the production of books and papers, and may grant adjournments the same as the court, and, when the court directs, ~~such the~~ the commissioner shall require the witnesses severally to subscribe ~~their~~ the witnesses' testimony.

All process and orders issued by ~~such the~~ the commissioner; shall be directed to the sheriff and, shall be served, and return ~~thereof~~ of the process and orders shall be made; as if issued by the probate judge.

The court shall allow ~~such the~~ commissioner ~~such those~~ fees ~~as that~~ are allowed to other officers for similar services, ~~which and the court shall tax those fees shall be taxed~~ with the costs.

Sec. 2101.08. The probate judge may appoint a ~~stenographic reporter court reporters~~ and fix ~~his their~~ compensation in the manner provided for the court of common pleas in sections 2301.18 to 2301.26, ~~inclusive~~, of the Revised Code.

Sec. 2101.09. When required by the probate judge, sheriffs, coroners, and constables shall attend ~~his the judge's~~ court and shall serve and return process directed and delivered to them by ~~such the~~ judge. No ~~such~~ officer of that type shall neglect or refuse to serve and return ~~such any~~ process as required by this section. If ~~such an~~ officer does neglect or refuse to serve and return ~~such~~ process as required by this section, the judge shall issue a summons specifying the cause for amercement, directed to the officer; ~~therein~~ named in the summons, commanding ~~him the named officer~~ to summon the officer guilty of ~~such the~~ misconduct to appear within two days after the service of summons and show cause why ~~he the latter officer~~ should not be amerced. In addition to a fine, as provided by section 2101.99 of the Revised Code; that is to be paid into the county treasury, ~~such the~~ officer and ~~his the officer's~~ sureties shall be liable upon ~~his the officer's~~ official bond for damages sustained by any person by reason of ~~such the~~ officer's misconduct.

Sec. 2101.10. No sheriff, coroner, or constable shall refuse to pay moneys; collected by ~~him, that officer~~ to the probate judge or other person, when so directed by the judge. For refusal to pay over moneys collected, ~~such the~~ officer shall be summoned as provided in section 2101.09 of the Revised Code and amerced for the use of the parties interested, in the amount required to be collected by ~~such the~~ process, with ten per cent ~~thereon on the amount to be collected~~. The judge may enforce the collection of ~~such the~~ amercement by execution or other process, by imprisonment as for contempt of court, or both. The delinquent officer and ~~his the officer's~~ sureties shall also be liable on ~~his the officer's~~ official bond for the amount of the amercement at the suit of the person interested.

Sec. 2101.11. (A)(1) The probate judge shall have the care and custody of the files, papers, books, and records belonging to the probate court. The probate judge is authorized to perform the duties of clerk of the judge's court. The probate judge may appoint deputy clerks, ~~stenographers court reporters~~, a bailiff, and any other necessary employees, each of whom shall take an oath of office before entering upon the duties of the employee's appointment and, when so qualified, may perform the duties appertaining to

the office of clerk of the court.

(2)(a) The probate judge shall provide for one or more probate court investigators to perform the duties that are established for a probate court investigator by the Revised Code or the probate judge. The probate judge may provide for an investigator in any of the following manners, as the court determines is appropriate:

(i) By appointing a person as a full-time or part-time employee of the probate court to serve as investigator, or by designating a current full-time or part-time employee of the probate court to serve as investigator;

(ii) By contracting with a person to serve and be compensated as investigator only when needed by the probate court, as determined by the court, and by designating that person as a probate court investigator during the times when the person is performing the duties of an investigator for the court;

(iii) By entering into an agreement with another department or agency of the county, including, but not limited to, the sheriff's department or the county department of job and family services, pursuant to which an employee of the other department or agency will serve and perform the duties of investigator for the court, upon request of the probate judge, and designating that employee as a probate court investigator during the times when the person is performing the duties of an investigator for the court.

(b) Each person appointed or otherwise designated as a probate court investigator shall take an oath of office before entering upon the duties of the person's appointment. When so qualified, an investigator may perform the duties that are established for a probate court investigator by the Revised Code or the probate judge.

(c) Except as otherwise provided in this division, a probate court investigator shall hold at least a bachelor's degree in social work, psychology, education, special education, or a related human services field. A probate judge may waive the education requirement of this division for a person the judge appoints or otherwise designates as a probate court investigator if the judge determines that the person has experience in family services work that is equivalent to the required education.

(d) Within one year after appointment or designation, a probate court investigator shall attend an orientation course of at least six hours, and each calendar year after the calendar year of appointment or designation, a probate court investigator shall satisfactorily complete at least six hours of continuing education.

(e) For purposes of divisions (A)(4), (B), and (C) of this section, a person designated as a probate court investigator under division (A)(2)(a)(ii)

or (iii) of this section shall be considered an appointee of the probate court at any time that the person is performing the duties established under the Revised Code or by the probate judge for a probate court investigator.

(3)(a) The probate judge may provide for one or more persons to perform the duties of an assessor under sections 3107.031, 3107.032, 3107.082, 3107.09, 3107.101, and 3107.12 of the Revised Code or may enter into agreements with public children services agencies, private child placing agencies, or private noncustodial agencies under which the agency provides for one or more persons to perform the duties of an assessor. A probate judge who provides for an assessor shall do so in either of the following manners, as the judge considers appropriate:

(i) By appointing a person as a full-time or part-time employee of the probate court to serve as assessor, or by designating a current full-time or part-time employee of the probate court to serve as assessor;

(ii) By contracting with a person to serve and be compensated as assessor only when needed by the probate court, as determined by the court, and by designating that person as an assessor during the times when the person is performing the duties of an assessor for the court.

(b) Each person appointed or designated as a probate court assessor shall take an oath of office before entering on the duties of the person's appointment.

(c) A probate court assessor must meet the qualifications for an assessor established by section 3107.014 of the Revised Code.

(d) A probate court assessor shall perform additional duties, including duties of an investigator under division (A)(2) of this section, when the probate judge assigns additional duties to the assessor.

(e) For purposes of divisions (A)(4), (B), and (C) of this section, a person designated as a probate court assessor shall be considered an appointee of the probate court at any time that the person is performing assessor duties.

(4) Each appointee of the probate judge may administer oaths in all cases when necessary, in the discharge of official duties.

(B)(1)(a) Subject to the appropriation made by the board of county commissioners pursuant to this division, each appointee of a probate judge under division (A) of this section shall receive such compensation and expenses as the judge determines and shall serve during the pleasure of the judge. The compensation of each appointee shall be paid in semimonthly installments by the county treasurer from the county treasury, upon the warrants of the county auditor, certified to by the judge.

(b) Except as otherwise provided in the Revised Code, the total

compensation paid to all appointees of the probate judge in any calendar year shall not exceed the total fees earned by the probate court during the preceding calendar year, unless the board of county commissioners approves otherwise.

(2) The probate judge annually shall submit a written request for an appropriation to the board of county commissioners that shall set forth estimated administrative expenses of the court, including the salaries of appointees as determined by the judge and any other costs, fees, and expenses, including, but not limited to, those enumerated in section 5123.96 of the Revised Code, that the judge considers reasonably necessary for the operation of the court. The board shall conduct a public hearing with respect to the written request submitted by the judge and shall appropriate such sum of money each year as it determines, after conducting the public hearing and considering the written request of the judge, is reasonably necessary to meet all the administrative expenses of the court, including the salaries of appointees as determined by the judge and any other costs, fees, and expenses, including, but not limited to, the costs, fees, and expenses enumerated in section 5123.96 of the Revised Code.

If the judge considers the appropriation made by the board pursuant to this division insufficient to meet all the administrative expenses of the court, the judge shall commence an action under Chapter 2731. of the Revised Code in the court of appeals for the judicial district for a determination of the duty of the board of county commissioners to appropriate the amount of money in dispute. The court of appeals shall give priority to the action filed by the probate judge over all cases pending on its docket. The burden shall be on the probate judge to prove that the appropriation requested is reasonably necessary to meet all administrative expenses of the court. If, prior to the filing of an action under Chapter 2731. of the Revised Code or during the pendency of the action, the judge exercises the judge's contempt power in order to obtain the sum of money in dispute, the judge shall not order the imprisonment of any member of the board of county commissioners notwithstanding sections 2705.02 to 2705.06 of the Revised Code.

(C) The probate judge may require any of the judge's appointees to give bond in the sum of not less than one thousand dollars, conditioned for the honest and faithful performance of the appointee's duties. The sureties on the bonds shall be approved in the manner provided in section 2101.03 of the Revised Code.

The judge is shall not be personally liable for the default, malfeasance, or nonfeasance of any such appointee, ~~but, if a bond is required of the~~

~~appointee, the liability of the judge is limited to the amount by which the loss resulting from the default, malfeasance, or nonfeasance exceeds the amount of the bond.~~

All bonds required to be given in the probate court, on being accepted and approved by the probate judge, shall be filed in the judge's office.

Sec. 2101.13. When a probate judge, whether elected or appointed, enters upon the discharge of ~~his~~ the judge's official duties, ~~he~~ the judge shall make, in the books and other record-keeping materials of ~~his~~ the judge's office, the proper records, entries, and indexes omitted by ~~his~~ the judge's predecessors in office. When made, the entries shall have the same validity and effect as though they had been made at the proper time and by the officer whose duty it was to make them, and the judge shall sign all entries and records made by ~~him~~ the judge as though the entries, proceedings, and records had been commenced, prosecuted, determined, and made by or before ~~him~~ the judge.

Sec. 2101.15. In each case, examination, or proceeding, the probate judge shall file an itemized account of fees received or charged by ~~him~~ the judge. On the first day of January, in each year, ~~he~~ the judge shall file with the county auditor an account, certified by ~~such~~ the judge, of all fees received by ~~him~~ the judge during the preceding year. No judge shall fail to perform the duties imposed in this section. At the instance of any person, ~~an action shall be instituted and prosecuted by~~ the prosecuting attorney shall institute and prosecute an action against ~~any such~~ the defaulting judge.

Sec. 2101.16. (A) Except as provided in section 2101.164 of the Revised Code, the fees enumerated in this division shall be charged and collected, if possible, by the probate judge and shall be in full for all services rendered in the respective proceedings:

- (1) Account, in addition to advertising charges
 - \$12.00
 - Waivers and proof of notice of hearing on account, per page, minimum one dollar
 - \$ 1.00
- (2) Account of distribution, in addition to advertising charges
 - \$ 7.00
- (3) Adoption of child, petition for
 - \$50.00
- (4) Alter or cancel contract for sale or purchase of real estate property, petition complaint to
 - \$20.00

(5) Application and order not otherwise provided for in this section or by rule adopted pursuant to division (E) of this section	\$ 5.00
(6) Appropriation suit, per day, hearing in	\$20.00
(7) Birth, application for registration of	\$ 7.00
(8) Birth record, application to correct	\$ 5.00
(9) Bond, application for new or additional	\$ 5.00
(10) Bond, application for release of surety or reduction of	\$ 5.00
(11) Bond, receipt for securities deposited in lieu of	\$ 5.00
(12) Certified copy of journal entry, record, or proceeding, per page, minimum fee one dollar	\$ 1.00
(13) Citation and issuing citation, application for	\$ 5.00
(14) Change of name, petition for	\$20.00
(15) Claim, application of administrator or executor for allowance of administrator's or executor's own	\$10.00
(16) Claim, application to compromise or settle	\$10.00
(17) Claim, authority to present	\$10.00
(18) Commissioner, appointment of	\$ 5.00
(19) Compensation for extraordinary services and attorney's fees for fiduciary, application for	\$ 5.00
(20) Competency, application to procure adjudication of	\$20.00
(21) Complete contract, application to	\$10.00
(22) Concealment of assets, citation for	

.....	\$10.00
(23) Construction of will, petition <u>complaint</u> for	.....
.....	\$20.00
(24) Continue decedent's business, application to	.....
.....	\$10.00
Monthly reports of operation	.....
.....	\$ 5.00
(25) Declaratory judgment, petition <u>complaint</u> for	.....
.....	\$20.00
(26) Deposit of will	.....
.....	\$ 5.00
(27) Designation of heir	.....
.....	\$20.00
(28) Distribution in kind, application, assent, and order for	.....
.....	\$ 5.00
(29) Distribution under section 2109.36 of the Revised Code, application for an order of	.....
.....	\$ 7.00
(30) Docketing and indexing proceedings, including the filing and noting of all necessary documents, maximum fee, fifteen dollars	.....
.....	\$15.00
(31) Exceptions to any proceeding named in this section, contest of appointment or	.....
.....	\$10.00
(32) Election of surviving partner to purchase assets of partnership, proceedings relating to	.....
.....	\$10.00
(33) Election of surviving spouse under will	.....
.....	\$ 5.00
(34) Fiduciary, including an assignee or trustee of an insolvent debtor or any guardian or conservator accountable to the probate court, appointment of	.....
.....	\$35.00
(35) Foreign will, application to record	.....
.....	\$10.00
Record of foreign will, additional, per page	.....
.....	\$ 1.00
(36) Forms when supplied by the probate court, not to exceed	

.....	\$10.00
(37) Heirship, petition <u>complaint</u> to determine	.....
.....	\$20.00
(38) Injunction proceedings	.....
.....	\$20.00
(39) Improve real estate <u>property</u> , petition to	.....
.....	\$20.00
(40) Inventory with appraisalment	.....
.....	\$10.00
(41) Inventory without appraisalment	.....
.....	\$ 7.00
(42) Investment or expenditure of funds, application for	.....
.....	\$10.00
(43) Invest in real estate <u>property</u> , application to	.....
.....	\$10.00
(44) Lease for oil, gas, coal, or other mineral, petition to	.....
.....	\$20.00
(45) Lease or lease and improve real estate <u>property</u> , petition to	.....
.....	\$20.00
(46) Marriage license	.....
.....	\$10.00
Certified abstract of each marriage	.....
.....	\$ 2.00
(47) Minor or incompetent person, etc., disposal of estate under twenty-five thousand dollars of	.....
.....	\$10.00
(48) Mortgage or mortgage and repair or improve real estate <u>property</u> , petition <u>complaint</u> to	.....
.....	\$20.00
(49) Newly discovered assets, report of	.....
.....	\$ 7.00
(50) Nonresident executor or administrator to bar creditors' claims, proceedings by	.....
.....	\$20.00
(51) Power of attorney or revocation of power, bonding company	.....
.....	\$10.00
(52) Presumption of death, petition to establish	.....
.....	\$20.00

(53) Probating will	\$15.00
.....	
Proof of notice to beneficiaries	\$ 5.00
.....	
(54) Purchase personal property, application of surviving spouse to	\$10.00
.....	
(55) Purchase real estate <u>property</u> at appraised value, petition of surviving spouse to	\$20.00
.....	
(56) Receipts in addition to advertising charges, application and order to record	\$ 5.00
.....	
Record of those receipts, additional, per page	\$ 1.00
.....	
(57) Record in excess of fifteen hundred words in any proceeding in the probate court, per page	\$ 1.00
.....	
(58) Release of estate by mortgagee or other lienholder	\$ 5.00
.....	
(59) Relieving an estate from administration under section 2113.03 of the Revised Code or granting an order for a summary release from administration under section 2113.031 of the Revised Code	\$60.00
.....	
(60) Removal of fiduciary, application for	\$10.00
.....	
(61) Requalification of executor or administrator	\$10.00
.....	
(62) Resignation of fiduciary	\$ 5.00
.....	
(63) Sale bill, public sale of personal property	\$10.00
.....	
(64) Sale of personal property and report, application for	\$10.00
.....	
(65) Sale of real estate <u>property</u> , petition for	\$25.00
.....	
(66) Terminate guardianship, petition to	\$10.00
.....	
(67) Transfer of real estate <u>property</u> , application, entry, and	

certificate for	\$ 7.00
.....	
(68) Unclaimed money, application to invest	\$ 7.00
.....	
(69) Vacate approval of account or order of distribution, motion to	\$10.00
.....	
(70) Writ of execution	\$ 5.00
.....	
(71) Writ of possession	\$ 5.00
.....	
(72) Wrongful death, application and settlement of claim for	\$20.00
.....	
(73) Year's allowance, petition to review	\$ 7.00
.....	
(74) Guardian's report, filing and review of	\$ 5.00
.....	

(B)(1) In relation to an application for the appointment of a guardian or the review of a report of a guardian under section 2111.49 of the Revised Code, the probate court, pursuant to court order or in accordance with a court rule, may direct that the applicant or the estate pay any or all of the expenses of an investigation conducted pursuant to section 2111.041 or division (A)(2) of section 2111.49 of the Revised Code. If the investigation is conducted by a public employee or investigator who is paid by the county, the fees for the investigation shall be paid into the county treasury. If the court finds that an alleged incompetent or a ward is indigent, the court may waive the costs, fees, and expenses of an investigation.

(2) In relation to the appointment or functioning of a guardian for a minor or the guardianship of a minor, the probate court may direct that the applicant or the estate pay any or all of the expenses of an investigation conducted pursuant to section 2111.042 of the Revised Code. If the investigation is conducted by a public employee or investigator who is paid by the county, the fees for the investigation shall be paid into the county treasury. If the court finds that the guardian or applicant is indigent, the court may waive the costs, fees, and expenses of an investigation.

(C) Thirty dollars of the thirty-five-dollar fee collected pursuant to division (A)(34) of this section and twenty dollars of the sixty-dollar fee collected pursuant to division (A)(59) of this section shall be deposited by the county treasurer in the indigent guardianship fund created pursuant to section 2111.51 of the Revised Code.

(D) The fees of witnesses, jurors, sheriffs, coroners, and constables for services rendered in the probate court or by order of the probate judge shall be the same as provided for ~~like~~ similar services in the court of common pleas.

(E) The probate court, by rule, may require an advance deposit for costs, not to exceed one hundred twenty-five dollars, at the time application is made for an appointment as executor or administrator or at the time a will is presented for probate.

(F) The probate court, by rule, shall establish a reasonable fee, not to exceed fifty dollars, for the filing of a petition for the release of information regarding an adopted person's name by birth and the identity of the adopted person's biological parents and biological siblings pursuant to section 3107.41 of the Revised Code, all proceedings relative to the petition, the entry of an order relative to the petition, and all services required to be performed in connection with the petition. The probate court may use a reasonable portion of a fee charged under authority of this division to reimburse any agency, as defined in section 3107.39 of the Revised Code, for any services it renders in performing a task described in section 3107.41 of the Revised Code relative to or in connection with the petition for which the fee was charged.

(G)(1) Thirty dollars of the fifty-dollar fee collected pursuant to division (A)(3) of this section shall be deposited into the "putative father registry fund," which is hereby created in the state treasury. The department of job and family services shall use the money in the fund to fund the department's costs of performing its duties related to the putative father registry established under section 3107.062 of the Revised Code.

(2) If the department determines that money in the putative father registry fund is more than is needed for its duties related to the putative father registry, the department may use the surplus moneys in the fund as permitted in division (C) of section 2151.3529, division (B) of section 2151.3530, or section 5103.155 of the Revised Code.

Sec. 2101.162. (A)(1) The probate judge may determine that, for the efficient operation of the probate court, additional funds are required to computerize the court, make available computerized legal research services, or to do both. Upon making a determination that additional funds are required for either or both of those purposes, the probate judge shall charge a fee not to exceed three dollars or authorize and direct a deputy clerk of ~~his~~ the probate court to charge a fee not to exceed three dollars, in addition to the fees specified in divisions (A)(1), (3), (4), (6), (14) to (17), (20) to (25), (27), (30) to (32), (34), (35), (37) to (48), (50) to (55), (59) to (61), (63) to

(66), (69), and (72) of section 2101.16 of the Revised Code, the fee adopted pursuant to division (F) of that section, and the fee charged in connection with the docketing and indexing of an appeal.

(2) All moneys collected under division (A)(1) of this section shall be paid to the county treasurer. The treasurer shall place the moneys from the fees in a separate fund to be disbursed, upon an order of the probate judge, in an amount no greater than the actual cost to the court of procuring and maintaining computerization of the court, computerized legal research services, or both.

(3) If the court determines that the funds in the fund described in division (A)(2) of this section are more than sufficient to satisfy the purpose for which the additional fee described in division (A)(1) of this section was imposed, the court may declare a surplus in the fund and expend those surplus funds for other appropriate technological expenses of the court.

(B)(1) The probate judge may determine that, for the efficient operation of ~~his~~ the probate court, additional funds are required to computerize the office of the clerk of the court and, upon that determination, may charge a fee, not to exceed ten dollars, or authorize and direct a deputy clerk of the probate court to charge a fee, not to exceed ten dollars, in addition to the fees specified in divisions (A)(1), (3), (4), (6), (14) to (17), (20) to (25), (27), (30) to (32), (34), (35), (37) to (48), (50) to (55), (59) to (61), (63) to (66), (69), and (72) of section 2101.16 of the Revised Code, the fee adopted pursuant to division (F) of that section, and the fee charged in connection with the docketing and indexing of an appeal. Subject to division (B)(2) of this section, all moneys collected under this division shall be paid to the county treasurer to be disbursed, upon an order of the probate judge and subject to appropriation by the board of county commissioners, in an amount no greater than the actual cost to the probate court of procuring and maintaining computer systems for the office of the clerk of the court.

(2) If the probate judge makes the determination described in division (B)(1) of this section, the board of county commissioners may issue one or more general obligation bonds for the purpose of procuring and maintaining the computer systems for the office of the clerk of the probate court. In addition to the purposes stated in division (B)(1) of this section for which the moneys collected under that division may be expended, the moneys additionally may be expended to pay debt charges on and financing costs related to any general obligation bonds issued pursuant to this division as they become due. General obligation bonds issued pursuant to this division are Chapter 133. securities.

Sec. 2101.19. (A) No probate judge or ~~his~~ probate judge's deputy clerk

shall sell or offer for sale for more than one dollar any merchandise to be used in connection with any license, order, or document issued by the probate court, or make any charge in connection with the issuance of any license, order, or document except that specifically provided by law.

(B) All moneys obtained from the sale of merchandise to be used in connection with any license, order, or document issued by a probate court shall be paid by the probate judge or the deputy clerk of the court into the county treasury. The moneys shall be credited to a fund to be known as the probate court conduct of business fund. The moneys so credited shall be used solely for the conduct of the business of the probate court.

(C) Upon receipt of an order of the probate judge for the payment of moneys from the fund for the conduct of the business of the court, the county auditor shall draw a warrant on the county treasurer for the amount of money specified in the order, but not exceeding the balance of the moneys in the fund, which warrant shall be made payable to the probate judge or another person designated in the order.

Sec. 2101.20. When the aggregate amount of fees and allowances collected by the probate judge in any calendar year exceeds by more than ten per cent the amount necessary to pay the salaries of ~~said~~ the judge and the employees of the probate court, including court constables, for the same calendar year, ~~such~~ the judge may, by an order entered on ~~his~~ the judge's journal, provide for a discount of all the fees and allowances ~~he~~ the judge is required to charge and collect for the use of the county by fixing a per cent of discount ~~which~~ that shall be applied to all the earnings of ~~said~~ the office for the ensuing year and shall constitute the legal fees of ~~said~~ the office for ~~said~~ that year.

Sec. 2101.22. The probate judge shall issue any process, notices, commissions, rules, and orders that are necessary to carry into effect the powers granted to ~~him~~ the judge.

Sec. 2101.23. The probate judge may keep order in ~~his~~ the judge's court and has authority throughout the state to compel performance of any duty incumbent upon any fiduciary appointed by or accounting to ~~him~~ the judge. The probate judge may punish any contempt of ~~his~~ the judge's authority as ~~such~~ that contempt might be punished in the court of common pleas.

If a person neglects or refuses to perform an order or judgment of a probate court, other than for the payment of money, ~~he shall be~~ the person is guilty of a contempt of court, and the judge shall issue a summons directing ~~such~~ the person to appear before the court, within two days from the service ~~thereof,~~ of the summons and show cause why ~~he~~ the person should not be punished for contempt. If it appears to the judge that ~~such~~ the person is

~~secreting himself~~ attempting to avoid the process of the court, or is about to leave the county for that purpose, the judge may issue an attachment instead of the summons, commanding the officer, to whom it is directed, to bring ~~such~~ the person before ~~such~~ the judge to answer for contempt. If no sufficient excuse is shown, ~~such~~ the person shall be punished for contempt.

Sec. 2101.24. (A)(1) Except as otherwise provided by law, the probate court has exclusive jurisdiction:

(a) To take the proof of wills and to admit to record authenticated copies of wills executed, proved, and allowed in the courts of any other state, territory, or country. If the probate judge is unavoidably absent, any judge of the court of common pleas may take proof of wills and approve bonds to be given, but the record of these acts shall be preserved in the usual records of the probate court.

(b) To grant and revoke letters testamentary and of administration;

(c) To direct and control the conduct and settle the accounts of executors and administrators and order the distribution of estates;

(d) To appoint the attorney general to serve as the administrator of an estate pursuant to section 2113.06 of the Revised Code;

(e) To appoint and remove guardians, conservators, and testamentary trustees, direct and control their conduct, and settle their accounts;

(f) To grant marriage licenses;

(g) To make inquests respecting persons who are so mentally impaired as a result of a mental or physical illness or disability, or mental retardation, or as a result of chronic substance abuse, that they are unable to manage their property and affairs effectively, subject to guardianship;

(h) To qualify assignees, appoint and qualify trustees and commissioners of insolvents, control their conduct, and settle their accounts;

(i) To authorize the sale of lands, equitable estates, or interests in lands or equitable estates, and the assignments of inchoate dower in such cases of sale, on petition by executors, administrators, and guardians;

(j) To authorize the completion of real ~~estate~~ property contracts on petition of executors and administrators;

(k) To construe wills;

(l) To render declaratory judgments, including, but not limited to, those rendered pursuant to section 2107.084 of the Revised Code;

(m) To direct and control the conduct of fiduciaries and settle their accounts;

(n) To authorize the sale or lease of any estate created by will if the estate is held in trust, on petition by the trustee;

(o) To terminate a testamentary trust in any case in which a court of

equity may do so;

(p) To hear and determine actions to contest the validity of wills;

(q) To make a determination of the presumption of death of missing persons and to adjudicate the property rights and obligations of all parties affected by the presumption;

(r) To hear and determine an action commenced pursuant to section 3107.41 of the Revised Code to obtain the release of information pertaining to the birth name of the adopted person and the identity of the adopted person's biological parents and biological siblings;

(s) To act for and issue orders regarding wards pursuant to section 2111.50 of the Revised Code;

(t) To hear and determine actions against sureties on the bonds of fiduciaries appointed by the probate court;

(u) To hear and determine actions involving informed consent for medication of persons hospitalized pursuant to section 5122.141 or 5122.15 of the Revised Code;

(v) To hear and determine actions relating to durable powers of attorney for health care as described in division (D) of section 1337.16 of the Revised Code;

(w) To hear and determine actions commenced by objecting individuals, in accordance with section 2133.05 of the Revised Code;

(x) To hear and determine complaints that pertain to the use or continuation, or the withholding or withdrawal, of life-sustaining treatment in connection with certain patients allegedly in a terminal condition or in a permanently unconscious state pursuant to division (E) of section 2133.08 of the Revised Code, in accordance with that division;

(y) To hear and determine applications that pertain to the withholding or withdrawal of nutrition and hydration from certain patients allegedly in a permanently unconscious state pursuant to section 2133.09 of the Revised Code, in accordance with that section;

(z) To hear and determine applications of attending physicians in accordance with division (B) of section 2133.15 of the Revised Code;

(aa) To hear and determine actions relative to the use or continuation of comfort care in connection with certain principals under durable powers of attorney for health care, declarants under declarations, or patients in accordance with division (E) of either section 1337.16 or 2133.12 of the Revised Code;

(bb) To hear and determine applications for an order relieving an estate from administration under section 2113.03 of the Revised Code;

(cc) To hear and determine applications for an order granting a

summary release from administration under section 2113.031 of the Revised Code;

(dd) To hear and determine actions relating to the exercise of the right of disposition, in accordance with section 2108.90 of the Revised Code;

(ee) To hear and determine actions relating to the disinterment and reinterment of human remains under section 517.23 of the Revised Code.

(2) In addition to the exclusive jurisdiction conferred upon the probate court by division (A)(1) of this section, the probate court shall have exclusive jurisdiction over a particular subject matter if both of the following apply:

(a) Another section of the Revised Code expressly confers jurisdiction over that subject matter upon the probate court.

(b) No section of the Revised Code expressly confers jurisdiction over that subject matter upon any other court or agency.

(B)(1) The probate court has concurrent jurisdiction with, and the same powers at law and in equity as, the general division of the court of common pleas to issue writs and orders, and to hear and determine actions as follows:

(a) If jurisdiction relative to a particular subject matter is stated to be concurrent in a section of the Revised Code or has been construed by judicial decision to be concurrent, any action that involves that subject matter;

(b) Any action that involves an inter vivos trust; a trust created pursuant to section 5815.28 of the Revised Code; a charitable trust or foundation; subject to divisions (A)(1)(u) and (z) of this section, a power of attorney, including, but not limited to, a durable power of attorney; the medical treatment of a competent adult; or a writ of habeas corpus.

(2) Any action that involves a concurrent jurisdiction subject matter and that is before the probate court may be transferred by the probate court, on its order, to the general division of the court of common pleas.

(C) The probate court has plenary power at law and in equity to dispose fully of any matter that is properly before the court, unless the power is expressly otherwise limited or denied by a section of the Revised Code.

(D) The jurisdiction acquired by a probate court over a matter or proceeding is exclusive of that of any other probate court, except when otherwise provided by law.

Sec. 2101.27. (A) A probate judge has jurisdiction and authority to solemnize marriages within the county and may charge a fee for providing the service in accordance with division (B) of this section. The fee charged is subject to disposition in accordance with division (C) of this section.

(B)(1) If a probate judge intends to charge a fee for solemnizing any

marriage in accordance with division (A) of this section, prior to doing so, the probate judge, by rule, shall establish a reasonable fee for providing the service.

(2) Division (B)(1) of this section does not do either of the following:

(a) Require a probate judge who, by rule, has established a reasonable fee for solemnizing marriages to charge that fee for every marriage that ~~he~~ the probate judge solemnizes;

(b) Affect specific fees to which the probate judge is entitled under section 2101.16 or any other section of the Revised Code for issuing marriage licenses, recording returns of solemnized marriages, providing certified abstracts of marriages, or performing any other task related to a marriage other than its solemnization.

(C) If, in accordance with division (B) of this section, a reasonable fee is charged by a probate judge for solemnizing any marriage, the probate judge shall not retain any portion of that fee and instead shall pay the entire fee into the county treasury. The county treasurer shall credit the fee to the general fund of the county.

Sec. 2101.30. Whenever a jury is required in the probate court, the probate judge shall ~~forthwith~~ notify the commissioners of jurors, who shall cause to be drawn from the jury wheel, or to be drawn by use of the automation data processing equipment and procedures described in section 2313.07 of the Revised Code, the names of sixteen persons as ~~jurymen~~ jurypersons. Additional names may be drawn if required. The clerk of the court of common pleas or one of ~~his~~ the clerk's deputies shall make a list of ~~such~~ those names in the order drawn and certify ~~it~~ the list to the probate court, and ~~such~~ the court shall issue a venire commanding the persons whose names were drawn to appear on the day and at the hour set for trial. The probate court shall deliver the venire to the sheriff, who shall serve it within five days ~~thereafter~~ of delivery and make prompt return of ~~such~~ the service.

Sec. 2101.34. If the judges of the court of common pleas are absent from the county or are under a disability, the probate judge of the county may enter judgments by confession in cases pending in the court of common pleas of ~~his~~ the judge's county.

Sec. 2101.37. When the probate judge of any county is absent, or is unable to attend court, or the volume of work in ~~his~~ the judge's office necessitates it, ~~he~~ the judge may call upon a judge of the court of common pleas having jurisdiction in ~~said~~ that county to act in ~~his~~ the probate judge's place; or in conjunction with ~~him~~ the probate judge, or ~~he~~ the probate judge may call upon the chief justice of the supreme court, who shall designate a judge of the court of common pleas or a probate judge to act in the place of

~~such the~~ absent or incapacitated probate judge; or in conjunction with ~~him~~ the absent or incapacitated probate judge. If the probate judge of any county dies or resigns during ~~his~~ the judge's term of office, a judge of the court of common pleas of ~~said that~~ county shall act in the place of ~~said the~~ probate judge until ~~his~~ a successor is appointed and qualified. When a judge of the court of common pleas or a probate judge so designated resides outside the county in which ~~he~~ the designated judge is called upon to act, ~~he~~ the designated judge shall receive ~~such the~~ compensation as ~~that~~ is provided for judges of the court of common pleas designated by the chief justice to hold court outside their respective counties. The record of ~~such the~~ cases shall be made and preserved in the proper records of the probate court by the deputy clerk ~~thereof of the probate court~~.

Sec. 2101.38. Letters testamentary, of administration, or of guardianship shall not be issued to a person after ~~his~~ the person's election to the office of probate judge and before the expiration of ~~his~~ the person's term. If a probate judge is interested; as heir, legatee, devisee, or other manner in an estate ~~which that~~ would otherwise be settled in the probate court of the county where ~~he~~ the judge resides, ~~such the~~ estate, and all of the accounts of guardians in which the judge is interested, shall be settled by the court of common pleas of the county. In ~~such those~~ matters and cases in which the judge is interested, the judge shall certify the original papers ~~shall be by him forthwith certified~~ to the court of common pleas. In other matters and proceedings in a probate court in which the judge ~~thereof of the probate court~~ is interested or in which ~~he~~ the judge is required to be a witness to a will, ~~such the~~ judge shall, upon the motion of a party interested in the proceedings; or upon ~~his~~ the judge's own motion, certify the matters and proceedings to the court of common pleas and ~~forthwith~~ file with the clerk of the court of common pleas all original papers connected ~~therewith~~ with those matters and proceedings.

When a matter or proceeding is so certified, a judge of the court of common pleas, ~~at chambers, by a judge thereof, or in open court~~ shall hear and determine ~~it~~ the matter or proceeding in chambers or in open court as though ~~such the~~ court had original jurisdiction of the subject matter. Upon final decision of the questions involved in ~~such the matter or~~ proceedings, the final settlement of the estate in which the judge is interested as executor, administrator, or guardian, or when ~~his~~ the judge's interest ~~therein in the estate~~ ceases, the clerk shall deliver the original papers to the probate court ~~from which they came in which~~ the original papers were filed and make and file ~~therein in that court~~ an authenticated transcript of the orders, judgments, and proceedings of the court of common pleas. ~~Thereupon the~~ The probate

judge shall record ~~such~~ the orders, judgments, and proceedings in the proper records.

Sec. 2101.41. No probate judge shall practice law, be associated with another as partner in the practice of law in a court or tribunal of this state, prepare a complaint or answer, make out an account required for the settlement of an estate committed to the care or management of another, or appear as attorney before a court or judicial tribunal. Whoever violates this section shall forfeit ~~his~~ the office of probate judge.

The deputy clerk of a probate court may engage in the practice of law if ~~his~~ the deputy's practice is not related in any way to probate law or practice. The deputy may engage in the practice of law only with the continued consent and approval of all of the judges of the probate court.

A referee magistrate appointed solely to conduct hearings under Chapters 5122. and 5123. of the Revised Code may engage in the practice of law, including probate law, except that ~~he~~ the magistrate shall not practice law under ~~these~~ those chapters other than as a referee magistrate and shall not knowingly accept any business arising out of or otherwise connected with a proceeding in which ~~he~~ the magistrate served as a referee magistrate under ~~these~~ those chapters.

The prosecuting attorney shall file ~~his~~ the prosecuting attorney's information against a judge or deputy clerk who practices law in violation of this section in the court of common pleas, and proceed as upon indictment.

This section does not prevent a probate judge or deputy clerk from finishing business commenced by ~~him~~ the judge or deputy clerk prior to ~~his~~ the judge's or clerk's election or appointment, provided it is not connected with ~~his~~ the official duty duties of the judge or clerk.

Sec. 2101.43. Whenever ten per cent of the number of electors voting for governor at the most recent election in any county having less than sixty thousand population, as determined by the most recent federal census, petition a judge of the court of common pleas of ~~such~~ the county, not less than ninety days before any general election for county officers, for the submission to the electors of ~~such~~ the county the question of combining the probate court with the court of common pleas, ~~such~~ the judge shall place upon the journal of ~~said~~ the court an order requiring the sheriff to make proclamation that at the next general election there will be submitted to the electors the question of combining the probate court with the court of common pleas. The clerk of the court of common pleas shall, ~~thereupon,~~ make and deliver a certified copy of ~~such~~ the order to the sheriff, and the sheriff shall include notice of the submission of ~~such~~ the question in the sheriff's proclamation of election for the next general election.

Each elector joining in a petition for the submission of ~~said~~ the question of combining the probate court with the court of common pleas shall sign ~~such~~ the petition in the elector's own handwriting, unless the elector cannot write and the elector's signature is made by mark, and shall ~~add thereto~~ include in the petition the township, precinct, or ward of which the elector is a resident. ~~Such~~ The petition may consist of as many parts as are convenient. One of the signers to each separate paper shall swear before ~~some~~ an officer who is qualified to administer the oath that the petition is bona fide to the best of the signer's knowledge and belief. ~~Such~~ The oath shall be a part of or attached to ~~such~~ the paper. The judge upon receipt of ~~such~~ the petition shall deposit it with the clerk of the court of common pleas.

No signature shall be taken from or added to ~~such~~ the petition after it has been filed with the judge. When deposited ~~such~~ the petition shall be preserved and open to public inspection, and, if it is in conformity with this section, it shall be valid; unless an objection ~~thereto~~ to the petition is made in writing by an elector of the county within five days after the filing ~~thereof~~ of the petition. ~~Such~~ The objections, or any other questions arising in the course of the submission of the question of combining ~~said courts~~ the probate court with the court of common pleas, shall be considered and determined by the judge, and the judge's decision shall be final.

Sec. 2103.01. ~~In~~ As used in sections 2103.01 to 2103.09, ~~inclusive,~~ of the Revised Code, unless the context shows that another sense ~~was~~ is intended, "property" includes ~~lands, tenements, hereditaments~~ real property; ~~and~~ money, chattels; choses in action, ~~and~~ evidences of debt, and other personal property.

Sec. 2105.051. When a person dies, property that ~~he~~ the person gave during ~~his~~ the person's lifetime to an heir shall be treated as an advancement against the heir's share of the estate only if declared in a contemporaneous writing by the decedent; or acknowledged in writing by the heir to be an advancement. For this purpose, property advanced is valued as of the time the heir came into possession or enjoyment of the property, or as of the time of death of the decedent, whichever occurs first. If the heir does not survive the decedent, the property shall not be taken into account in computing the intestate share to be received by the heir's issue, unless the declaration or acknowledgment provides otherwise.

Sec. 2105.06. When a person dies intestate having title or right to any personal property, or to any real estate property or inheritance, in this state, the personal property shall be distributed, and the real estate property or inheritance shall descend and pass in parcenary, except as otherwise provided by law, in the following course:

(A) If there is no surviving spouse, to the children of the intestate or their lineal descendants, per stirpes;

(B) If there is a spouse and one or more children of the decedent or their lineal descendants surviving, and all of the decedent's children who survive or have lineal descendants surviving also are children of the surviving spouse, then the whole to the surviving spouse;

(C) If there is a spouse and one child of the decedent or the child's lineal descendants surviving and the surviving spouse is not the natural or adoptive parent of the decedent's child, the first twenty thousand dollars plus one-half of the balance of the intestate estate to the spouse and the remainder to the child or the child's lineal descendants, per stirpes;

(D) If there is a spouse and more than one child or their lineal descendants surviving, the first sixty thousand dollars if the spouse is the natural or adoptive parent of one, but not all, of the children, or the first twenty thousand dollars if the spouse is the natural or adoptive parent of none of the children, plus one-third of the balance of the intestate estate to the spouse and the remainder to the children equally, or to the lineal descendants of any deceased child, per stirpes;

(E) If there are no children or their lineal descendants, then the whole to the surviving spouse;

(F) If there is no spouse and no children or their lineal descendants, to the parents of the intestate equally, or to the surviving parent;

(G) If there is no spouse, no children or their lineal descendants, and no parent surviving, to the brothers and sisters, whether of the whole or of the half blood of the intestate, or their lineal descendants, per stirpes;

(H) If there are no brothers or sisters or their lineal descendants, one-half to the paternal grandparents of the intestate equally, or to the survivor of them, and one-half to the maternal grandparents of the intestate equally, or to the survivor of them;

(I) If there is no paternal grandparent or no maternal grandparent, one-half to the lineal descendants of the deceased grandparents, per stirpes; if there are no such lineal descendants, then to the surviving grandparents or their lineal descendants, per stirpes; if there are no surviving grandparents or their lineal descendants, then to the next of kin of the intestate, provided there shall be no representation among ~~such~~ the next of kin;

(J) If there are no next of kin, to stepchildren or their lineal descendants, per stirpes;

(K) If there are no stepchildren or their lineal descendants, escheat to the state.

Sec. 2105.10. (A) As used in this section:

(1) "Abandoned" means that a parent of a minor failed without justifiable cause to communicate with the minor, care for ~~him~~ the minor, and provide for ~~his~~ the minor's maintenance or support as required by law or judicial decree for a period of at least one year immediately prior to the date of the death of the minor.

(2) "Minor" means a person who is less than eighteen years of age.

(B) Subject to divisions (C), (D), and (E) of this section, a parent who has abandoned ~~his~~ the parent's minor child who subsequently dies intestate as a minor shall not inherit the real or personal property of the deceased child pursuant to section 2105.06 of the Revised Code. If a parent is prohibited by this division from inheriting from ~~his~~ the parent's deceased child, the real or personal property of the deceased child shall be distributed, or shall descend and pass in parcenary, pursuant to section 2105.06 of the Revised Code as if the parent had predeceased the deceased child.

(C) Subject to divisions (D) and (E) of this section, a parent who is alleged to have abandoned a child who died as an intestate minor shall be considered as a next of kin or an heir at law of the deceased child only for the following purposes:

(1) To receive any notice required to be given to the heirs at law of a decedent in connection with an application for release of an estate from administration under section 2113.03 of the Revised Code;

(2) To be named as a next of kin in an application for the appointment of a person as the administrator of the estate of the deceased child, if the parent is known to the person filing the application pursuant to section 2113.07 of the Revised Code, and to receive a citation issued by the probate court pursuant to that section.

(D)(1) The prohibition against inheritance set forth in division (B) of this section shall be enforceable only in accordance with a probate court adjudication rendered pursuant to this division.

(2) If the administrator of the estate of an intestate minor has actual knowledge, or reasonable cause to believe, that the minor was abandoned by a parent, the administrator shall file a petition pursuant to section 2123.02 of the Revised Code to obtain an adjudication that the parent abandoned the child and that, because of the prohibition against inheritance set forth in division (B) of this section, the parent shall not be considered to be an heir at law of, and shall not be entitled to inherit the real and personal property of, the deceased child pursuant to section 2105.06 of the Revised Code. That parent shall be named as a defendant in the petition and, whether or not that parent is a resident of this state, shall be served with a summons and a copy of the petition in accordance with the Rules of Civil Procedure. In the

heirship determination proceeding, the administrator has the burden of proving, by a preponderance of the evidence, that the parent abandoned the child. If, after the hearing, the probate court finds that the administrator has sustained that burden of proof, the probate court shall include in its adjudication described in section 2123.05 of the Revised Code its findings that the parent abandoned the child and, because of the prohibition against inheritance set forth in division (B) of this section, the parent shall not be considered to be an heir at law of, and shall not be entitled to inherit the real and personal property of, the deceased child pursuant to section 2105.06 of the Revised Code. If the probate court so finds, then, upon the entry of its adjudication on its journal, the administrator may make a final distribution of the estate of the deceased child in accordance with division (B) of this section.

(3) An heirship determination proceeding resulting from the filing of a petition pursuant to this division shall be conducted in accordance with Chapter 2123. of the Revised Code, except to the extent that a provision of this section conflicts with a provision of that chapter, in which case the provision of this section shall control.

(E) If the administrator of the estate of an intestate minor has not commenced an heirship determination proceeding as described in division (D) of this section within four months from the date that ~~he~~ the administrator receives ~~his~~ the administrator's letters of administration, then ~~such a~~ that proceeding may not be commenced subsequently, no parent of the deceased child shall be prohibited from inheriting the real or personal property of the deceased child pursuant to division (B) of this section, and the probate of the estate of the deceased child in accordance with section 2105.06 and other relevant sections of the Revised Code shall be forever binding.

Sec. 2105.11. When a person dies intestate leaving children and none of the children of ~~such~~ the intestate have died leaving children or their lineal descendants, ~~such~~ the estate shall descend to the children of ~~such~~ the intestate; living at the time of ~~his~~ the intestate's death; in equal proportions.

Sec. 2105.13. If some of the children of an intestate are living and others are dead, the estate shall descend to the children who are living and to the lineal descendants of ~~such~~ the children ~~as~~ who are dead, so that each child who is living will inherit the share to which ~~he~~ the child who is living would have been entitled if all the children of the intestate were living, and the lineal descendants of the deceased child will inherit equal parts of that portion of the estate to which ~~such~~ the deceased child would be entitled if ~~he~~ the deceased child were living.

This section shall apply in all cases in which the descendants of the

intestate, not more remote than lineal descendants of grandparents, entitled to share in the estate, are of unequal degree of consanguinity to the intestate, so that those who are of the nearest degree of consanguinity will take the share to which they would have been entitled, had all the descendants in the same degree of consanguinity with them who died leaving issue, been living.

Sec. 2105.14. Descendants of an intestate begotten before ~~his~~ the ~~intestate's~~ death, but born ~~thereafter~~ after the intestate's death, in all cases will inherit as if born in the lifetime of the intestate and surviving ~~him~~ the ~~intestate~~; but in no other case can a person inherit unless living at the time of the death of the intestate.

Sec. 2105.15. A person of sound mind and memory may appear before the probate judge of ~~his~~ the person's county and in the presence of ~~such~~ the judge and two disinterested persons of ~~such~~ that person's acquaintance, file a written declaration declaring that, as ~~his~~ the person's free and voluntary act, ~~he~~ the person did designate and appoint another, stating the name and place of residence of ~~such~~ the other person specifically, to stand toward ~~him~~ the ~~person~~ in the relation of an heir at law in the event of ~~his~~ the person's death. ~~Such~~ The declaration ~~must~~ shall be attested by the two disinterested persons and subscribed by the declarant. If satisfied that ~~such~~ the declarant is of sound mind and memory and free from restraint, the judge ~~thereupon~~ shall enter that fact upon ~~his~~ the judge's journal and make a complete record of ~~such~~ the proceedings. ~~Thenceforward~~ From then on the person designated will stand in the same relation, for all purposes, to ~~such~~ the declarant as ~~he~~ the person designated could if a child born in lawful wedlock. The rules of inheritance will be the same between ~~him~~ the person designated and the relations by blood of the declarant, as if so born. A certified copy of ~~such~~ the record will be prima-facie evidence of the fact stated ~~therein~~ in the record, and conclusive evidence, unless impeached for actual fraud or undue influence. After a lapse of one year from the date of ~~such~~ the designation, ~~such~~ the declarant may have ~~such~~ the designation vacated or changed by filing in ~~said~~ that probate court an application to vacate or change ~~such~~ the designation of heir; provided, that there is compliance with the procedure, conditions, and prerequisites required in the making of the original declaration.

Sec. 2105.16. No person who is capable of inheriting shall be deprived of the inheritance by reason of any of ~~his~~ the person's ancestors having been aliens. Aliens may hold, possess, and enjoy ~~lands, tenements, and hereditaments~~ real property within this state, either by descent, devise, gift, or purchase, as fully as any citizen of the United States or of this state may

do.

Sec. 2105.19. (A) Except as provided in division (C) of this section, no person who is convicted of, pleads guilty to, or is found not guilty by reason of insanity of a violation of or complicity in the violation of section 2903.01, 2903.02, or 2903.03 of the Revised Code or of an existing or former law of any other state, the United States, or a foreign nation, substantially equivalent to a violation of or complicity in the violation of any of these sections, no person who is indicted for a violation of or complicity in the violation of any of those sections or laws and subsequently is adjudicated incompetent to stand trial on that charge, and no juvenile who is found to be a delinquent child by reason of committing an act that, if committed by an adult, would be a violation of or complicity in the violation of any of those sections or laws, shall in any way benefit by the death. All property of the decedent, and all money, insurance proceeds, or other property or benefits payable or distributable in respect of the decedent's death, shall pass or be paid or distributed as if the person who caused the death of the decedent had predeceased the decedent.

(B) A person prohibited by division (A) of this section from benefiting by the death of another is a constructive trustee for the benefit of those entitled to any property or benefit that the person has obtained, or over which ~~he~~ the person has exerted control, because of the decedent's death. A person who purchases any such property or benefit from the constructive trustee, for value, in good faith, and without notice of the constructive trustee's disability under division (A) of this section, acquires good title, but the constructive trustee is accountable to the beneficiaries for the proceeds or value of the property or benefit.

(C) A person who is prohibited from benefiting from a death pursuant to division (A) of this section either because ~~he~~ the person was adjudicated incompetent to stand trial or was found not guilty by reason of insanity, or ~~his~~ the person's guardian appointed pursuant to Chapter 2111. of the Revised Code or other legal representative, may file a complaint to declare ~~his~~ the person's right to benefit from the death in the probate court in which the decedent's estate is being administered or ~~which~~ that released the estate from administration. The complaint shall be filed no later than sixty days after the person is adjudicated incompetent to stand trial or found not guilty by reason of insanity. The court shall notify each person who is a devisee or legatee under the decedent's will, or if there is no will, each person who is an heir of the decedent pursuant to section 2105.06 of the Revised Code that ~~such~~ a complaint of that nature has been filed within ten days after the filing of ~~such a~~ the complaint. The person who files the ~~motion~~ complaint, and

each person who is required to be notified of the filing of the ~~motion~~ complaint under this division, is entitled to a jury trial in the action. To assert the right, the person desiring a jury trial shall demand a jury in the manner prescribed in the Civil Rules.

A person who files a complaint pursuant to this division shall be restored to ~~his~~ the person's right to benefit from the death unless the court determines, by a preponderance of the evidence, that the person would have been convicted of a violation of, or complicity in the violation of, section 2903.01, 2903.02, or 2903.03 of the Revised Code, or of a law of another state, the United States, or a foreign nation that is substantially similar to any of those sections, if ~~he~~ the person had been brought to trial in the case in which ~~he~~ the person was adjudicated incompetent or if ~~he~~ the person were not insane at the time of the commission of the offense.

Sec. 2106.01. (A) After the 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.

A surviving spouse may waive the service of the citation required under this division by filing in the probate court a written waiver of the citation. The waiver shall include an acknowledgment of receipt of the description of the general rights of the surviving spouse required by division (B) of section 2106.02 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~~ considered 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~~ possession or under the control 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 not make the election later than five months from the date of the initial appointment of an administrator or executor of the estate. On a motion filed before the expiration of the 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 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 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, unless the surviving spouse manifests a contrary intention.

Sec. 2106.08. If, because of a legal disability, a surviving spouse is unable to make an election as provided by section 2106.01 of the Revised Code, as soon as the facts come to the knowledge of the probate court, the probate court shall appoint some suitable person to ascertain the value of the provision made for the surviving spouse by the testator, the value of the rights of the surviving spouse in the estate of the testator under Chapter 2105. of the Revised Code, and the adequate support needs of the surviving

spouse after taking into consideration the other available resources and the age, probable life expectancy, physical and mental condition, and present and reasonably anticipated future needs of the surviving spouse. The appointment by the court shall be made at any time within the times described in division (E) of section 2106.01 of the Revised Code for making an election under that section.

When the person so appointed returns the report of ~~his~~ the person's investigation, the court may elect for the surviving spouse to take under section 2105.06 of the Revised Code only if it finds, after taking into consideration the other available resources and the age, probable life expectancy, physical and mental condition, and present and reasonably anticipated future needs of the surviving spouse, that the election to take under section 2105.06 of the Revised Code is necessary to provide adequate support for the surviving spouse during ~~his~~ the surviving spouse's life expectancy.

After making its determination under this section, the court shall record upon its journal the election made for the surviving spouse. The election, when so entered, shall have the same effect as an election made by one not under legal disability.

Sec. 2106.11. Subject to the right of the surviving spouse to elect to receive the decedent's interest in the mansion house pursuant to section 2106.10 of the Revised Code, the specific monetary share payable to a surviving spouse under division (B), (C), or (D) of section 2105.06 of the Revised Code shall be paid out of the tangible and intangible personal property in the intestate estate to the extent that the personal property is available for distribution. The personal property distributed to the surviving spouse, other than cash, shall be valued at the appraised value.

Before tangible and intangible personal property is transferred to the surviving spouse in payment or part payment of the specific monetary share, the administrator or executor shall file an application that includes an inventory of the personal property intended to be distributed in kind to the surviving spouse, together with a statement of the appraised value of each item of personal property included. The court shall examine the application and make a finding of the amount of personal property to be distributed to the surviving spouse, and shall order that the personal property be distributed to the surviving spouse. The court concurrently shall make a finding of the amount of money that remains due and payable to the surviving spouse in satisfaction of the specific monetary share to which the surviving spouse is entitled under division (B), (C), or (D) of section 2105.06 of the Revised Code. Any amount that remains due and payable

shall be a charge on the title to any real property in the estate but the charge does not bear interest. This charge may be conveyed or released in the same manner as any other interest in real ~~estate~~ property and may be enforced by foreclosure or any other appropriate remedy.

Sec. 2107.01. ~~In~~ As used in Chapters 2101. to 2131. of the Revised Code, "will":

(A) "Will" includes codicils to wills admitted to probate, lost, spoliated, or destroyed wills, and instruments admitted to probate under section 2107.081 of the Revised Code, but "will" does not include inter vivos trusts or other instruments that have not been admitted to probate.

(B) "Testator" means any person who makes a will.

Sec. 2107.02. A person ~~of the age of~~ who is eighteen years; ~~of age or over~~ older, of sound mind and memory, and not under restraint may make a will.

Sec. 2107.03. Except oral wills, every ~~last will and testament~~ shall be in writing, but may be handwritten or typewritten. The will shall be signed at the end by the testator ~~making it~~ or by some other person in the testator's conscious presence and at the testator's express direction, ~~and~~. The will shall be attested and subscribed in the conscious presence of the testator, by two or more competent witnesses, who saw the testator subscribe, or heard the testator acknowledge the testator's signature.

For purposes of this section, "conscious presence" means within the range of any of the testator's senses, excluding the sense of sight or sound that is sensed by telephonic, electronic, or other distant communication.

Sec. 2107.04. No agreement to make a will or to make a devise or bequest by will shall be enforceable unless it is in writing. ~~Such~~ The agreement ~~must~~ shall be signed by the maker or by some other person at ~~such~~ the maker's express direction. If signed by a person other than ~~such~~ the maker, the instrument ~~must~~ shall be subscribed by two or more competent witnesses who heard ~~such~~ the maker acknowledge that it was signed at ~~his~~ the maker's direction.

Sec. 2107.05. An existing document, book, record, or memorandum may be incorporated in a will by reference, if referred to as being in existence at the time the will is executed. ~~Such~~ That document, book, record, or memorandum shall be deposited in the probate court when the will is probated or within thirty days ~~thereafter~~ after the will is probated, unless the court grants an extension of time for good cause shown. A copy may be substituted for the original document, book, record, or memorandum if ~~such~~ the copy is certified to be correct by a person authorized to take acknowledgments ~~on deeds~~.

Sec. 2107.07. A will may be deposited by the ~~maker~~ testator, or by some person for the ~~maker~~ testator, in the office of the judge of the probate court in the county in which the testator lives. ~~Such~~ That will shall be safely kept until delivered or disposed of as provided by section 2107.08 of the Revised Code. The judge, on being paid the fee of ~~one dollar~~ five dollars, shall receive, keep, and give a certificate of deposit for ~~such~~ the will.

Every will ~~which that is to be~~ so deposited shall be enclosed in a sealed ~~wrapper, which envelope that~~ shall be indorsed with the name of the testator. The judge shall indorse ~~thereon on the envelope~~ the date of delivery and the person by whom ~~such the~~ will was delivered. The ~~wrapper envelope~~ may be indorsed with the name of a person to whom it is to be delivered after the death of the testator. ~~Such The~~ will shall not be opened or read until delivered to a person entitled to receive it, until the ~~maker petitions~~ testator files a complaint in the probate court for a declaratory judgment of the validity of the will pursuant to section 2107.081 of the Revised Code, or until otherwise disposed of as provided in section 2107.08 of the Revised Code.

Sec. 2107.08. During the lifetime of a testator, the testator's will, deposited according to section 2107.07 of the Revised Code, shall be delivered only to ~~him~~ the testator, to some person authorized by ~~him~~ the testator by a written order, or to a probate court for a determination of its validity when the testator so requests. After the testator's death, the will shall be delivered to the person named in the indorsement on the ~~wrapper envelope~~ of the will, if there is a person named who demands it. If the testator has ~~petitioned~~ filed a complaint in the probate court for a judgment declaring the validity of the will pursuant to section 2107.081 of the Revised Code and the court has rendered the judgment, the probate judge with possession shall deliver the will to the proper probate court as determined under section 2107.11 of the Revised Code, upon the death of the testator, for probate.

If no person named in the indorsement demands the will and it is not one that has been declared valid pursuant to section 2107.084 of the Revised Code, it shall be publicly opened in the probate court within ~~two months~~ one month after notice of the testator's death and retained in the office of the probate judge until offered for probate. If the jurisdiction belongs to any other probate court, the will shall be delivered to the person entitled to its custody, to be presented for probate in the other court. If the probate judge who opens the will has jurisdiction of it, ~~he~~ the probate judge immediately shall give notice of its existence to the executor named in the will or, if any, to the persons holding a power to nominate an executor as described in

section 2107.65 of the Revised Code, or, if it is the case, to the executor named in the will and to the persons holding a power to nominate a coexecutor as described in that section. If no executor is named and no persons hold a power to nominate an executor as described in that section, the probate judge shall give notice to other persons immediately interested.

Sec. 2107.081. (A) A person who executes a will allegedly in conformity with the laws of this state may ~~petition~~ file a complaint in the probate court of the county in which ~~he~~ the person is domiciled; if ~~he~~ the person is domiciled in this state; or in the probate court of the county in which any of ~~his~~ the person's real property is located; if ~~he~~ the person is not domiciled in this state; for a judgment declaring the validity of the will.

The ~~petition~~ complaint may be filed in the form determined by the probate court of the county in which it is filed.

The ~~petition~~ complaint shall name as parties defendant all persons named in the will as beneficiaries, and all of the persons who would be entitled to inherit from the testator under Chapter 2105. of the Revised Code had the testator died intestate on the date the ~~petition~~ complaint was filed.

For the purposes of this section, "domicile" shall be determined at the time of filing the ~~petition~~ complaint with the probate court.

(B) The failure of a testator to file a ~~petition~~ complaint for a judgment declaring the validity of a will ~~he~~ the testator has executed shall not be construed as evidence or an admission that the will was not properly executed pursuant to section 2107.03 of the Revised Code or any prior law of this state in effect at the time of execution or as evidence or an admission that the testator did not have the requisite testamentary capacity ~~and freedom from undue influence under section 2107.02 of the Revised Code~~ or was under any restraint.

Sec. 2107.082. Service of process in an action authorized by section 2107.081 of the Revised Code shall be made on every party defendant named in ~~that action~~ the complaint filed under that section by the following methods:

(A) By certified mail, or any other valid personal service permitted by the Rules of Civil Procedure, if the party is an inhabitant of this state or is found within this state;

(B) By certified mail, with a copy of the summons and ~~petition~~ complaint, to the party at ~~his~~ the party's last known address or any other valid personal service permitted by the Rules of Civil Procedure, if the party is not an inhabitant of this state or is not found within this state;

(C) By publication, according to Civil Rule 4.4, in a newspaper of general circulation published in the county where the ~~petition~~ complaint was

filed, for three consecutive weeks, if the address of the party is unknown, if all methods of personal service permitted under division (B) of this section were attempted without success, or if the interest of the party under the will or in the estate of the testator should the will be declared invalid is unascertainable at that time.

Sec. 2107.083. When a ~~petition~~ complaint is filed pursuant to section 2107.081 of the Revised Code, the probate court shall conduct a hearing on the validity of the will. The hearing shall be adversary in nature and shall be conducted pursuant to section 2721.10 of the Revised Code, except as otherwise provided in sections 2107.081 to 2107.085 of the Revised Code.

Sec. 2107.084. (A) The probate court shall declare the will valid if, after conducting a proper hearing pursuant to section 2107.083 of the Revised Code, it finds that the will was properly executed pursuant to section 2107.03 of the Revised Code or under any prior law of this state that was in effect at the time of execution and that the testator had the requisite testamentary capacity and ~~freedom from undue influence pursuant to section 2107.02 of the Revised Code~~ was not under any restraint.

Any ~~such~~ judgment under this section declaring a will valid is binding in this state as to the validity of the will on all facts found, unless provided otherwise in this section, section 2107.33 of the Revised Code, or division (B) of section 2107.71 of the Revised Code, and, if the will remains valid, shall give the will full legal effect as the instrument of disposition of the testator's estate, unless the will has been modified or revoked according to law.

(B) Any declaration of validity issued as a judgment pursuant to this section shall be sealed in an envelope along with the will to which it pertains, and filed by the probate judge or ~~his designated officer~~ the probate judge's designee in the offices of that probate court. The filed will shall be available during the testator's lifetime only to the testator. If the testator removes a filed will from the possession of the probate judge, the declaration of validity rendered under division (A) of this section no longer has any effect.

(C) A testator may revoke or modify a will declared valid and filed with a probate court pursuant to this section by ~~petitioning~~ filing a complaint in the probate court in possession of the will and asking that the will be revoked or modified. The ~~petition~~ complaint shall include a document executed pursuant to sections 2107.02 and 2107.03 of the Revised Code, and shall name as parties defendant those persons who were parties defendant in any previous action declaring the will valid, those persons who are named in any modification as beneficiaries, and those persons who

would be entitled because of the revocation or modification, to inherit from the testator under Chapter 2105. of the Revised Code had the testator died intestate on the date the ~~petition~~ complaint was filed. Service of the ~~petition~~ complaint and process shall be made on these parties by the methods authorized in section 2107.082 of the Revised Code.

Unless waived by all parties, the court shall conduct a hearing on the validity of the revocation or modification requested under this division in the same manner as it would on any initial ~~petition~~ complaint for a judgment declaring a will to be valid under this section. If the court finds that the revocation or modification is valid, ~~as defined under the procedure described~~ in division (A) of this section, the revocation or modification shall take full effect and be binding; and shall revoke the will or modify it to the extent of the valid modification. The revocation or modification, the judgment declaring it valid, and the will itself shall be sealed in an envelope and filed with the probate court; and shall be available during the testator's lifetime only to the testator.

(D) ~~A testator may also modify a will by any later will or that has been declared valid under division (A) of this section and is in the possession of the probate judge may be modified by codicil executed according to the laws of this state or any other state and if the codicil is declared valid by the same procedure as the will. A testator~~ may revoke a will by any method permitted under section 2107.33 of the Revised Code.

(E) A declaration of validity of a will, ~~or of a codicil to a will previously declared valid, or~~ of a revocation or modification of a will previously determined to be valid; that is given under division (A) or (C) of this section, whichever is applicable, is not subject to collateral attack, except by a person and in the manner specified in division (B) of section 2107.71 of the Revised Code, but is appealable subject to the terms of Chapter 2721. of the Revised Code.

Sec. 2107.085. The finding of facts by a probate court in a proceeding brought under sections 2107.081 to 2107.085 of the Revised Code is not admissible as evidence in any proceeding other than one brought to determine the validity of a will.

The determination or judgment rendered in a proceeding under ~~these~~ those sections is not binding upon the parties to ~~such a~~ that proceeding in any action not brought to determine the validity of a will.

The failure of a testator to file a ~~petition~~ complaint for a judgment declaring the validity of a will ~~he~~ the testator has executed is not admissible as evidence in any proceeding to determine the validity of that will or any other will executed by the testator.

Sec. 2107.09. (A) If real ~~or personal~~ estate property is devised or personal property is bequeathed by a ~~last~~ will, the executor, or any interested person, may cause ~~such the~~ will to be brought before the probate court of the county in which the decedent was domiciled. By ~~citation, attachment, or warrant or, if circumstances require it, by warrant or attachment in the first instance~~ judicial order, ~~such the~~ court may compel the person having the custody or control of ~~such the~~ will to produce it before the court for the purpose of being proved.

If the person having the custody or control of the will intentionally conceals or withholds it or neglects or refuses to produce it for probate without reasonable cause, ~~he the person~~ may be committed to the county jail and kept in ~~close~~ custody until ~~he produces the will is produced~~. ~~This~~ The person also shall be liable to any party aggrieved for the damages sustained by ~~such that~~ neglect or refusal.

Any ~~citation, attachment, or warrant~~ judicial order issued pursuant to this section may be issued into any county in the state and shall be served and returned by the officer to whom it is delivered.

The officer to whom ~~such the~~ process is delivered shall be liable for neglect in its service or return in ~~like the same~~ manner as sheriffs are liable for neglect in not serving or returning a capias issued upon an indictment.

(B) In the case of a will that has been declared valid pursuant to section 2107.084 of the Revised Code, the probate judge who made the declaration or who has possession of the will shall cause the will and the judgment declaring validity to be brought before the proper probate court as determined by section 2107.11 of the Revised Code at a time after the death of the testator. If the death of the testator is brought to the attention of the probate judge by an interested party, the judge shall cause the will to be brought before the proper probate court at that time.

Sec. 2107.10. (A) No property or right, testate or intestate, shall pass to a beneficiary named in a will who knows of the existence of the will for ~~three years~~ one year after the death of the testator and has the power to control it; and, without reasonable cause, intentionally conceals or withholds it or neglects or refuses within ~~the three years~~ that one year to cause it to be offered for or admitted to probate. The ~~estate property~~ devised ~~or bequeathed to such devisee~~ that beneficiary shall descend to the heirs of the testator, not including any heir who has concealed or withheld the will.

(B) No property or right, testate or intestate, passes to a beneficiary named in a will when the will was declared valid and filed with a probate judge pursuant to section 2107.084 of the Revised Code, the declaration and filing took place in a county different from the county in which the will of

the testator would be probated under section 2107.11 of the Revised Code, and the named beneficiary knew of the declaration and filing and of the death of the testator and did not notify the probate judge with whom the will was filed. This division does not preclude a named beneficiary from acquiring property or rights from the estate of the testator for failing to notify a probate judge if ~~it is his reasonable belief~~ the named beneficiary reasonably believes that the judge has previously been notified of the testator's death.

Sec. 2107.11. (A) A will shall be admitted to probate:

~~(A)(1)~~ (1) In the county in this state in which the testator was domiciled ~~if,~~ at the time of ~~his~~ the testator's death, ~~he was domiciled in this state;~~

~~(B)(2)~~ (2) In any county of this state where any real property or personal property of ~~such~~ the testator is located if, at the time of ~~his~~ the testator's death, ~~he~~ the testator was not domiciled in this state, and provided that ~~such~~ the will has not previously been admitted to probate in this state or in the state of ~~such~~ the testator's domicile;

~~(C)(3)~~ (3) In the county of this state in which a probate court rendered a judgment declaring that the will was valid and ~~where~~ in which the will was filed with the probate court.

(B) For the purpose of division (A)(2) of this section, intangible personal property is located in the place where the instrument evidencing a debt, obligation, stock, or chose in action is located or if there is no ~~such~~ instrument of that nature where the debtor resides.

Sec. 2107.15. If a devise or bequest is made to a person who is one of only two witnesses to a will, the devise or bequest is void. The witness shall then be competent to testify to the execution of the will, as if the devise or bequest had not been made. If the witness would have been entitled to a share of the testator's estate in case the will was not established, ~~he~~ the witness takes so much of that share that does not exceed the bequest or devise to ~~him~~ the witness. The devisees and legatees shall contribute for that purpose as for an absent or afterborn child under section 2107.34 of the Revised Code.

Sec. 2107.17. When a witness to a will, or other witness competent to testify at a probate or declaratory judgment proceeding, resides out of its jurisdiction, or resides within it but is infirm and unable to attend court, the probate court may issue a commission with the will annexed directed to any suitable person. In lieu of the original will, the probate court, in its discretion, may annex to the commission a photocopy of the will or a copy of the will made by ~~photostatic~~ or any similar process. The person to whom the commission is directed shall take the deposition or authorize the taking

of the deposition of the witness as provided by the Rules of Civil Procedure. The testimony, certified and returned, shall be admissible and have the same effect in the proceedings as if taken in open court.

Sec. 2107.18. The probate court shall admit a will to probate if it appears from the face of the will, or if the probate court requires, in its discretion, the testimony of the witnesses to a will and it appears from that testimony, that the execution of the will complies with the law in force at the time of the execution of the will in the jurisdiction in which it was executed, ~~or~~ with the law in force in this state at the time of the death of the testator, or with the law in force in the jurisdiction in which the testator was domiciled at the time of ~~his~~ the testator's death.

The probate court shall admit a will to probate when there has been a prior judgment by a probate court declaring that the will is valid, rendered pursuant to section 2107.084 of the Revised Code, if the will has not been removed from the possession of the probate judge and has not been modified or revoked under division (C) or (D) of section 2107.084 of the Revised Code.

Sec. 2107.20. When admitted to probate every will shall be filed in the office of the probate judge and recorded, together with any testimony or prior judgment of a probate court declaring the will valid, by ~~him~~ the judge or the clerk of the probate court in a book to be kept for that purpose.

A copy of ~~such the~~ recorded will, with a copy of the order of probate annexed ~~thereto~~ to the copy of the recorded will, certified by the judge under seal of ~~his~~ the judge's court, shall be as effectual in all cases as the original would be, if established by proof.

Sec. 2107.21. If real ~~estate~~ property devised by will is situated in any county other than that in which the will is proved, declared valid, or admitted to probate, an authenticated copy of the will and the order of probate or the judgment declaring validity shall be admitted to the record in the office of the probate judge of each county in which ~~such the~~ real estate property is situated upon the order of ~~such that~~ judge. The authenticated copy shall have the same validity ~~therein~~ in the county in which the real property is situated as if probate had been had in ~~such that~~ county.

Sec. 2107.22. (A)(1)(a) When a will has been admitted to probate by a probate court and another will of later date is presented to the same court for probate, notice of the will of later date shall be given to those persons required to be notified under section 2107.19 of the Revised Code, and to the fiduciaries and beneficiaries under the will of earlier date. The probate court may admit the will of later date to probate the same as if no earlier will had been so admitted if it appears from the face of the will of later date, or if

an interested person makes a demand as described in division (A)(1)(b) of this section and it appears from the testimony of the witnesses to the will given in accordance with that division, that the execution of the will complies with the law in force at the time of the execution of the will in the jurisdiction in which it was executed, ~~or~~ with the law in force in this state at the time of the death of the testator, or with the law in force in the jurisdiction in which the testator was domiciled at the time of ~~his~~ the testator's death.

(b) Upon the demand of a person interested in having a will of later date admitted to probate, the probate court shall cause at least two of the witnesses to the will of later date, and any other witnesses that the interested person desires to have appear, to come before the probate court and provide testimony. If the interested person so requests, the probate court shall issue a subpoena to compel the presence of any such witness before the probate court to provide testimony.

Witnesses before the probate court pursuant to this division shall be examined, and may be cross-examined, in open court, and their testimony shall be reduced to writing and then filed in the records of the probate court pertaining to the testator's estate.

(2) When an authenticated copy of a will has been admitted to record by a probate court, and an authenticated copy of a will of later date that was executed and proved as required by law, is presented to the same court for record, it shall be admitted to record in the same manner as if no authenticated copy of the will of earlier date had been so admitted.

(3) If a probate court admits a will of later date to probate, or an authenticated copy of a will of later date to record, its order shall operate as a revocation of the order admitting the will of earlier date to probate, or shall operate as a revocation of the order admitting the authenticated copy of the will of earlier date to record. The probate court shall enter on the record of the earlier will a marginal note "later will admitted to probate ..." (giving the date admitted).

(B) When a will that has been declared valid pursuant to section 2107.084 of the Revised Code has been admitted to probate by a probate court, and an authenticated copy of another will of later date that was executed and proved as required by law is presented to the same court for record, the will of later date shall be admitted the same as if no other will had been admitted and the proceedings shall continue as provided in this section.

Sec. 2107.29. When the record of a will is destroyed, a copy of ~~such~~ the will or a copy of ~~such~~ the will and its probate may be recorded by the

probate court if it appears to the court's satisfaction that ~~such the~~ record has been destroyed and if it appears, by reason of a certificate signed and sealed by the probate judge, ~~or by the clerk of the court of common pleas,~~ that ~~such the~~ copy is a true copy of the original will or a true copy of the original will and its probate.

Sec. 2107.32. Every probate judge who admits a will or copy of a will to record under sections 2107.29 to 2107.31, ~~inclusive,~~ of the Revised Code, shall immediately thereafter shall after admitting the will or copy to record give notice for three consecutive weeks in two weekly newspapers of ~~his the~~ probate judge's county if two are published ~~therein in the county,~~ or if not, in one newspaper of general circulation in the county, stating the name of the person the record of whose will has been destroyed and the day when ~~such the~~ record was supplied under those sections. All persons interested in the record, at any time within five years from the making of ~~such the~~ record, may come into the probate court and contest the question whether the record ~~thus that was~~ supplied is the same as the destroyed record ~~destroyed~~.

Sec. 2107.34. If, after making a ~~last will and testament,~~ a testator has a child born alive, ~~or~~ adopts a child, or designates an heir in the manner provided by section 2105.15 of the Revised Code, or if a child or designated heir who is absent and reported to be dead proves to be alive, and no provision has been made in ~~such the~~ will or by settlement for ~~such the~~ pretermitted child or heir, or for ~~the that child's or heir's~~ issue ~~thereof,~~ the will shall not be revoked; ~~but unless.~~ Unless it appears by ~~such the~~ will that it was the intention of the testator to disinherit ~~such the~~ pretermitted child or heir, the devises and legacies granted by ~~such the~~ will, except those to a surviving spouse, shall be abated proportionately, or in ~~such any~~ other manner as that is necessary to give effect to the intention of the testator as shown by the will, so that ~~such the~~ pretermitted child or heir will receive a share equal to that which ~~such the~~ person would have been entitled to receive out of the estate if ~~such the~~ testator had died intestate with no surviving spouse, owning only that portion of the testator's estate not devised or bequeathed to or for the use and benefit of a surviving spouse. If ~~such the~~ pretermitted child or heir dies prior to the death of the testator, the issue of ~~such the~~ deceased child or heir shall receive the share the parent would have received if living.

If ~~such the~~ pretermitted child or heir supposed to be dead at the time of executing the will has lineal descendants, provision for whom is made by the testator, the other legatees and devisees need not contribute, but ~~such the~~ pretermitted child or heir shall take the provision made for the pretermitted child's or heir's lineal descendants or ~~such that~~ part of it as, in the opinion of

the probate judge, may be equitable. In settling the claim of a pretermitted child or heir, any portion of the testator's estate received by a party interested, by way of advancement, is a portion of the estate and shall be charged to the party who has received it.

Though measured by Chapter 2105. of the Revised Code, the share taken by a pretermitted child or heir shall be considered as a testate succession. This section does not prejudice the right of any fiduciary to act under any power given by the will, nor shall the title of innocent purchasers for value of any of the property of the testator's estate be affected by any right given by this section to a pretermitted child or heir.

Sec. 2107.35. An encumbrance upon real or personal ~~estate~~ property for the purpose of securing the payment of money or the performance of a covenant shall not revoke a ~~will~~ previously executed ~~and will~~ relating to ~~such estate~~ that property.

Sec. 2107.36. An act of a testator ~~which~~ that alters but does not wholly divest ~~such~~ the testator's interest in property previously devised or bequeathed by ~~him~~ the testator does not revoke the devise or bequest of ~~such~~ the property; ~~but such~~. The devise or bequest shall pass to the devisee or legatee the actual interest of the testator; ~~which~~ that would otherwise descend to ~~his~~ the testator's heirs or pass to ~~his~~ the testator's next of kin; unless, ~~in~~ the instrument by which ~~such~~ the alteration is made, declares the testator's intention ~~is declared~~ that it shall operate as a revocation of ~~such~~ the previous devise or bequest.

If the instrument by which ~~such~~ the alteration is made is wholly inconsistent with the previous devise or bequest, ~~such~~ the instrument ~~will~~ shall operate as a revocation ~~thereof~~ of the devise or bequest, unless ~~such~~ the instrument depends on a condition or contingency, and ~~such~~ the condition is not performed or ~~such~~ the contingency does not happen.

Sec. 2107.38. If a testator executes a second will, the destruction, cancellation, or revocation of the second will shall not revive the first will unless the terms of ~~such~~ the revocation show that it was ~~such~~ the testator's intention to revive and give effect to ~~his~~ the testator's first will or unless, after ~~such~~ the destruction, cancellation, or revocation of the second will, ~~such~~ the testator republishes ~~his~~ the testator's first will.

Sec. 2107.46. Any fiduciary may ~~maintain~~ file an action in the probate court against creditors, legatees, distributees, or other parties, and ask the direction or judgment of the court in any matter respecting the trust, estate, or property to be administered, and the rights of the parties in interest.

If any fiduciary fails for thirty days to ~~bring such~~ file an action under this section after a written request from a party in interest, the party making

the request may ~~institute~~ file the ~~suit~~ action.

Sec. 2107.47. (A) The title, estate, or interest of a bona fide purchaser, lessee, or encumbrancer, for value, in ~~land~~ real property situated in this state, that is derived from an heir of a decedent and acquired without knowledge of a will of the decedent that effectively disposes of it to another person, shall not be defeated by the production of a will of the decedent, unless, in the case of a resident decedent, the will is offered for probate within three months after the death of the decedent, or unless, in the case of a nonresident decedent, the will is offered for record in this state within three months after the death of the decedent.

(B) The title, estate, or interest of a bona fide purchaser, lessee, or encumbrancer, for value, in ~~land~~ real property situated in this state, that is derived from a beneficiary under a will of a decedent and acquired without knowledge of a later will of the decedent that effectively disposes of it to another person, shall not be defeated by the production of a later will of the decedent, unless, in the case of a resident decedent, the later will is offered for probate within three months after the death of the decedent, or unless, in the case of a nonresident decedent, the later will is offered for record in this state within three months after the death of the decedent.

Sec. 2107.49. When ~~lands, tenements, or hereditaments~~ interests in real property are given by deed or will to a person for ~~his~~ the person's life, and after ~~his~~ the person's death to ~~his~~ the person's heirs in fee, the conveyance shall vest an estate for life only in ~~such~~ the first taker and a remainder in fee simple in ~~his~~ the heirs of the first taker. If the remainder is given to the heirs of the body of the life tenant, the conveyance shall vest an estate for life only in ~~such~~ the first taker and a remainder in fee simple in the heirs of ~~his~~ the body of the life tenant. The rule in Shelley's case is abolished by this section and shall not be given effect.

Sec. 2107.50. Any estate, right, or interest in any property of which a decedent ~~was possessed~~ had an interest at ~~his decease~~ the time of the decedent's death shall pass under ~~his~~ the decedent's will unless ~~such~~ the will manifests a different intention.

Sec. 2107.501. (A) A specific devisee or legatee has the right ~~of~~ to the remaining specifically devised or bequeathed property, and the following:

(1) Any balance on the purchase price, together with any security interest owing from a purchaser to the testator at death by reason of sale of the property;

(2) Any amount of condemnation award unpaid at death for the taking of the property;

(3) Any proceeds unpaid at death on fire or casualty insurance on the

property;

(4) Property owned by the testator at death as a result of foreclosure, or obtained in lieu of foreclosure, of the security for a specifically devised or bequeathed obligation.

(B) If specifically devised or bequeathed property is sold by a guardian, by an agent acting within the authority of a power of attorney, or by an agent acting within the authority of a durable power of attorney, or if a condemnation award or insurance proceeds are paid to a guardian, to an agent acting within the authority of a power of attorney, or to an agent acting within the authority of a durable power of attorney as a result of condemnation, fire, or casualty to the property, the specific devisee or legatee has the right to a general pecuniary devise or bequest equal to the net proceeds of sale, the condemnation award, or the insurance proceeds, and ~~such a~~ that devise or bequest shall be treated as property subject to section 2107.54 of the Revised Code. This section does not apply if subsequent to the sale, condemnation, fire, or casualty, it is adjudicated that the disability of the testator has ceased and the testator survives the adjudication by one year. The right of the specific devisee or legatee is reduced by any right ~~the specific devisee or legatee has acquired~~ under division (A) of this section.

Sec. 2107.51. Every devise of ~~lands, tenements, or hereditaments~~ an interest in real property in a will shall convey all the estate of the devisor ~~therein in the property~~, unless it clearly appears by the will that the devisor intended to convey a less estate.

Sec. 2107.52. (A) As used in this section, "relative" means an individual who is related to a testator by consanguinity and an heir at law designated pursuant to section 2105.15 of the Revised Code.

(B) Unless a contrary intention is manifested in the will, if a devise of real property or a bequest of personal property is made to a relative of a testator and the relative was dead at the time the will was made or dies after that time, leaving issue surviving the testator, those issue shall take by representation the devised or bequeathed property as the devisee or legatee would have done if ~~he~~ the devisee or legatee had survived the testator. If the testator devised or bequeathed a residuary estate or the entire estate after debts, other general or specific devises and bequests, or an interest less than a fee or absolute ownership to that devisee or legatee and relatives of the testator and if that devisee or legatee leaves no issue, the estate devised or bequeathed shall vest in the other devisees or legatees surviving the testator in ~~such~~ the proportions ~~as~~ that the testamentary share of each devisee or legatee in the devised or bequeathed property bears to the total of the shares of all of the surviving devisees or legatees, unless a different disposition is

made or required by the will.

Sec. 2107.53. When part of the real estate property of a testator descends to ~~his~~ the testator's heirs because it was not disposed of by ~~his~~ the testator's will, and ~~his~~ the testator's personal estate property is insufficient to pay ~~his~~ the testator's debts, the undevised real estate property shall be chargeable first with the debts, as far as it will go, in exoneration of the real estate property that is devised, unless it appears from the will that a different arrangement of assets was made for the payment of ~~such~~ the testator's debts, in which case ~~such~~ the assets shall be applied for that purpose in conformity with the will.

Sec. 2107.54. (A) When real or personal property, devised or bequeathed, is taken from the devisee or legatee for the payment of a debt of the testator, the other devisees and legatees shall contribute their respective proportions of the loss to the person from whom ~~such~~ the payment was taken so that the loss will fall equally on all the devisees and legatees according to the value of the property received by each of them.

If, by making a specific devise or bequest, the testator has exempted a devisee or legatee from liability to contribute to the payment of debts, or if the will makes a different provision for the payment of debts than the one prescribed in this section, the estate shall be applied in conformity with the will.

(B) A devisee or legatee shall not be prejudiced by the fact that the holder of a claim secured by lien on the property devised or bequeathed failed to present ~~such~~ the claim to the executor or administrator for allowance within the time allowed by sections 2117.06 and 2117.07 of the Revised Code, and the devisee or legatee shall be restored by right of contribution, exoneration, or subrogation, to the position ~~he~~ the devisee or legatee would have occupied if ~~such~~ the claim had been presented and allowed for ~~such~~ the sum ~~as that~~ is justly owing on it.

(C) A devisee of real estate property that is subject to a mortgage lien that exists on the date of the testator's death, who does not have a right of exoneration that extends to that lien because of the operation of division (B) of section 2113.52 of the Revised Code, has a duty to contribute under this section to devisees and legatees who are burdened if the claim secured by the lien is presented and allowed pursuant to Chapter 2117. of the Revised Code.

(D) This section does not affect the liability of the whole estate of the testator for the payment of ~~his~~ the testator's debts. This section applies only to the marshaling of the assets as between those who hold or claim under the will.

Sec. 2107.55. When a part of the estate of a testator descends to a child born or adopted, or to an heir designated, after the execution of the will, or to a child absent and reported to be dead at the time of execution of the will but later found to be alive, or to a witness to a will who is a devisee or legatee, ~~such the~~ estate and the advancement made to ~~such the~~ child, heir, or witness for all the purposes mentioned in section 2107.54 of the Revised Code shall be considered as if it had been devised to ~~such that~~ child, heir, or witness and ~~he the child, heir, or witness~~ shall be bound to contribute with the devisees and legatees, as provided by ~~such that~~ section, and may claim contribution from them accordingly.

Sec. 2107.56. When any of the persons liable to contribute toward the discharge of a testator's debt according to sections 2107.54 and 2107.55 of the Revised Code, is insolvent, the others shall be severally liable to each other for the loss occasioned by ~~such the~~ insolvency, each being liable in proportion to the value of the property received by ~~him the person~~ from the estate of the deceased. If any one of the persons liable dies without paying ~~his the person's~~ proportion of ~~such the~~ debt, ~~his the~~ executors and administrators of the person's estate shall be liable ~~therefor for that proportion~~ to the extent to which ~~he the person~~ would have been liable if living.

Sec. 2107.58. When a sale of ~~lands~~ real property aliened or unaliened by a devisee or heir is ordered for the payment of the debts of an estate, sections 2107.53 to 2107.57, ~~inclusive~~, of the Revised Code do not prevent the probate court from making ~~such an~~ order and decree for the sale of any portion of the aliened or unaliened ~~land as~~ real property that is equitable ~~between among~~ the ~~several~~ parties, and making an order of contribution and further order and decree to settle and adjust the various rights and liabilities of the parties.

Sec. 2107.59. When a ~~last will and testament~~ is admitted to probate, or a will made out of this state is admitted to record as provided by sections 2129.05 to 2129.07 of the Revised Code, and ~~lands, tenements, or hereditaments~~ interests in real property are given or devised by ~~such the~~ will to the executors named in the will, or nominated pursuant to a power as described in section 2107.65 of the Revised Code, to be sold or conveyed, or ~~such estate the interests in real property~~ thereby ~~is~~ are ordered to be sold by ~~such the~~ executors and one or more of the executors dies, refuses to act, or neglects to take upon ~~himself~~ self the execution of the will, then all sales and conveyances of ~~such estate the interests in real property~~ by the executors who took upon themselves in this state the execution of the will, or the survivor of them, shall be as valid as if the remaining executors had joined

in the sale and conveyance. But if none of ~~such~~ the executors take upon themselves the execution of the will, or if all the executors who take out letters testamentary die, resign, or are removed before the sale and conveyance of ~~such estate~~ the interests in real property, or die, resign, or are removed after the sale and before the conveyance is made, the sale or conveyance, or both, shall be made by the administrator with the will annexed or, if any, by a successor executor or successor coexecutor nominated pursuant to a power as described in section 2107.65 of the Revised Code.

Sec. 2107.60. An oral will, made in the last sickness, shall be valid in respect to personal ~~estate~~ property if reduced to writing and subscribed by two competent disinterested witnesses within ten days after the speaking of the testamentary words. ~~Such~~ The witnesses ~~must~~ shall prove that the testator was of sound mind and memory, not under restraint, and that ~~he~~ the ~~testator~~ called upon some person present at the time the testamentary words were spoken to bear testimony to ~~such~~ the disposition as ~~his~~ the testator's will.

No oral will shall be admitted to record unless it is offered for probate within ~~six~~ three months after the death of the testator.

Sec. 2107.61. Unless it has been admitted to probate or record, as provided in sections 2107.01 to 2107.62, ~~inclusive, and~~ or 2129.05 to 2129.07, ~~inclusive,~~ of the Revised Code, no will is effectual to ~~pass~~ transfer real or personal ~~estate~~ property.

Sec. 2107.65. A testator may confer in ~~his~~ the testator's will, upon one or more persons, the power to nominate, in writing, an executor, coexecutor, successor executor, or successor coexecutor, and also may provide in ~~his~~ the will that the person or persons so nominated may serve without bond. If a will confers ~~such a~~ that power, the holders of it have the authority to nominate themselves as executor, coexecutor, successor executor, or successor coexecutor unless the will provides to the contrary.

Sec. 2107.71. (A) A person interested in a will or codicil admitted to probate in the probate court, ~~which will or codicil~~ that has not been declared valid by judgment of a probate court pursuant to section 2107.084 of the Revised Code; or ~~which will or codicil~~ that has been declared valid by judgment of a probate court pursuant to section 2107.084 of the Revised Code; but ~~which~~ has been removed from the possession of the probate judge, may contest its validity by filing a civil action complaint in the probate court in the county in which ~~such~~ the will or codicil was admitted to probate.

(B) Except as otherwise provided in this division, no person may contest

the validity of any will or codicil as to facts decided if it was submitted to a probate court by ~~its maker~~ the testator during ~~his~~ the testator's lifetime and declared valid by judgment of the probate court and filed with the judge of the probate court pursuant to section 2107.084 of the Revised Code and if the will was not removed from the possession of the probate judge. A person may contest the validity of ~~such a~~ that will, modification, or codicil as to ~~such~~ those facts if the person is one who should have been named a party defendant in the action in which the will, modification, or codicil was declared valid, pursuant to section 2107.081 or 2107.084 of the Revised Code, and if the person was not named a defendant and properly served in ~~such~~ that action. Upon the filing of ~~an action~~ a complaint contesting the validity of a will or codicil that is authorized by this division, the court shall proceed with the action in the same manner as if the will, modification, or codicil had not been previously declared valid under sections 2107.081 to 2107.085 of the Revised Code.

(C) No person may introduce, as evidence in an action authorized by this section contesting the validity of a will, the fact that the testator of the will did not file a ~~petition~~ complaint for a judgment declaring its validity under section 2107.081 of the Revised Code.

Sec. 2107.73. Persons who are necessary parties to a will contest action are as follows:

(A) Any person designated in a will to receive a testamentary disposition of real or personal property;

(B) Heirs who would take property pursuant to section 2105.06 of the Revised Code had the testator died intestate;

(C) The executor or the administrator with the will annexed;

(D) The attorney general as provided by section 109.25 of the Revised Code;

(E) Other interested parties.

Sec. 2107.75. When the jury or the court finds that the writing produced is not the ~~last will and testament~~ or codicil of the testator, the trial court shall allow as part of the costs of administration ~~such~~ the amounts to the fiduciary and to the attorneys defending ~~such~~ the purported ~~last~~ will or purported codicil ~~as~~ that the trial court finds to be reasonable compensation for the services rendered in ~~such~~ the will contest action. The court shall order ~~such~~ the amounts allowed to be paid out of the estate of the decedent.

Sec. 2108.51. Any licensed physician or surgeon who, in good faith and acting in reliance upon an instrument of consent for an autopsy or post-mortem examination executed under section 2108.50 of the Revised Code and without actual knowledge of revocation of ~~such~~ that consent,

performs an autopsy or post-mortem examination is not liable in a civil or criminal action brought against ~~him~~ the licensed physician or surgeon for ~~such~~ that act.

Sec. 2109.02. Every fiduciary, before entering upon the execution of a trust, shall receive letters of appointment from a probate court having jurisdiction of the subject matter of the trust.

The duties of a fiduciary shall be those required by law, and such additional duties as the court orders. Letters of appointment shall not issue until a fiduciary has executed a written acceptance of the fiduciary's duties, acknowledging that the fiduciary is subject to removal for failure to perform the fiduciary's duties, and that the fiduciary is subject to possible penalties for conversion of property the fiduciary ~~holds~~ held as a fiduciary. The written acceptance may be filed with the application for appointment.

No act or transaction by a fiduciary is valid prior to the issuance of letters of appointment to the fiduciary. This section does not prevent an executor named in a will, an executor nominated pursuant to a power as described in section 2107.65 of the Revised Code, or a person with the right of disposition under section 2108.70 or 2108.81 of the Revised Code from paying funeral expenses, or prevent necessary acts for the preservation of the trust estate prior to the issuance of ~~such~~ those letters.

Sec. 2109.021. After letters of appointment are issued to a fiduciary, the court shall accept filings by mail in matters of estates, guardianships, or trusts, unless the court in writing notifies the fiduciary or attorney of record that a personal appearance is necessary, or a personal appearance is otherwise required by law. ~~And~~ The court shall reject an improper or incomplete filing ~~shall be rejected,~~ and ~~that court~~ shall return it to the sender, ~~and impose a cost of two dollars and fifty cents per improper or incomplete filing, chargeable against the estate.~~

Sec. 2109.03. At the time of the appointment of a fiduciary, ~~such~~ the fiduciary shall file in the probate court the name of the attorney, if any, who will represent ~~him~~ the fiduciary in matters relating to the trust. After the name of an attorney has been filed, notices sent to ~~such~~ that fiduciary in ~~his~~ the fiduciary's official capacity shall also be sent by the court to ~~such~~ that attorney who may sign waiver of service of any or all of ~~such~~ the notices upon ~~him~~ the attorney. If the fiduciary is absent from the state, ~~such~~ the attorney shall be the agent of the fiduciary upon whom summonses, citations, and notices may be served. Any summons, citation, or notice may be served upon the fiduciary by delivering duplicate copies ~~thereof~~ of the summons, citation, or notice to the attorney designated by ~~him~~ the fiduciary. No probate judge shall permit any person to practice law in the probate court

for compensation, unless ~~he~~ the person has been admitted to the practice of law within the state. This section does not prevent any person from representing ~~his~~ the person's own interest in any estate, matter, action, or proceeding.

Sec. 2109.04. (A)(1) Unless otherwise provided by law, order, or local rule, every fiduciary, prior to the issuance of the fiduciary's letters as provided by section 2109.02 of the Revised Code, shall file in the probate court in which the letters are to be issued a bond with a penal sum in ~~such an~~ amount ~~as may be~~ that is fixed by the court, but in no event less than double the probable value of the personal estate property and of the annual real estate property rentals ~~which that~~ will come into ~~such person's hands~~ the possession or under the control of the person as a fiduciary. The bond of a fiduciary shall be in a form approved by the court and signed by two or more personal sureties or by one or more corporate sureties approved by the court. It shall be conditioned that the fiduciary faithfully and honestly will discharge the duties devolving upon the person as fiduciary, and shall be conditioned further as may be provided by law.

(2) Except as otherwise provided in this division, if the instrument creating the trust dispenses with the giving of a bond, the court shall appoint a fiduciary without bond, unless the court is of the opinion that the interest of the trust demands it. If the court is of that opinion, it may require bond to be given in any amount it fixes. If a parent nominates a guardian for the parent's child in a will and provides in the will that the guardian may serve without giving bond, the court may appoint the guardian without bond or require the guardian to give bond in accordance with division (A)(1) of this section.

(3) A guardian of the person only does not have to give bond unless, for good cause shown, the court considers a bond to be necessary. When a bond is required of a guardian of the person only, it shall be determined and filed in accordance with division (A)(1) of this section. This division does not apply to a guardian of the person only nominated in a parent's will if the will provides that the guardian may serve without giving bond.

(4) When the probable value of the personal estate property and of the annual real estate property rentals that will come into the ~~guardian's hands~~ possession or under the control of the guardian as a fiduciary is less than ten thousand dollars, the court may waive or reduce a bond required by division (A)(1) of this section.

(B) When an executive director who is responsible for the administration of children services in the county is appointed as trustee of the estate of a ward pursuant to section 5153.18 of the Revised Code and has

furnished bond under section 5153.13 of the Revised Code, or when an agency under contract with the department of developmental disabilities for the provision of protective service under sections 5123.55 to 5123.59 of the Revised Code is appointed as trustee of the estate of a ward under ~~such~~ sections 5123.55 to 5123.59 of the Revised Code and any employees of the agency having custody or control of funds or property of ~~such a~~ that ward have furnished bond under section 5123.59 of the Revised Code, the court may dispense with the giving of a bond.

(C) When letters are granted without bond, at any later period on its own motion or upon the application of any party interested, the court may require bond to be given in ~~such an~~ amount ~~as may be~~ that is fixed by the court. On failure to give ~~such~~ that bond, the defaulting fiduciary shall be removed.

No instrument authorizing a fiduciary whom it names to serve without bond shall be construed to relieve a successor fiduciary from the necessity of giving bond, unless the instrument clearly evidences ~~such~~ that intention.

The court ~~by which~~ that appoints a fiduciary ~~is appointed~~ may reduce the amount of the bond of ~~such~~ the fiduciary at any time for good cause shown.

When two or more persons are appointed as joint fiduciaries, the court may take a separate bond from each or a joint bond from all.

Sec. 2109.05. When ~~deemed~~ considered necessary by the probate court and not otherwise directed in the will, a bond, as provided by sections 2109.01 to 2109.58, ~~inclusive~~, of the Revised Code, shall be required in all trusts created by will and not fully discharged, on the petition of an interested person and after notice to the trustee.

If ~~such a~~ the trustee fails to give bond within the time ordered by the court, ~~he shall be removed~~ the court shall remove the trustee from his the trust, or the trustee shall be considered to have declined it. ~~Another person may be appointed in his stead upon giving the required bond.~~

Sec. 2109.06. The probate court ~~by which~~ that appoints a fiduciary ~~is appointed~~ may, on its own motion or on the application of any interested party, and after notice to the fiduciary, require a new bond or sureties or an additional bond or sureties; whenever, in the opinion of ~~such~~ the court, the interests of the trust demand it.

Immediately upon the filing of the inventory by a fiduciary, the court shall determine whether the amount of the bond of ~~such~~ the fiduciary is sufficient and shall require new or additional bond if in the opinion of the court the interests of the trust demand it.

When a new bond is required as provided in this section, the sureties in

the prior bond shall nevertheless be liable for all breaches of the conditions set forth in ~~such the bond which that~~ that are committed before the new bond is approved by the court.

~~A The court shall remove a fiduciary who fails within the time fixed by the court to furnish new or additional bond or sureties shall be removed, and some other person appointed in his stead, as the circumstances of the case require~~ the court shall appoint a successor fiduciary.

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

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

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

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

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

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

(3) To render a just and true account of the administrator's administration at the times required by section 2109.301 of the Revised Code;

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

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

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

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

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

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

Sec. 2109.10. If an executor or administrator is sole residuary legatee or distributee and if division (A) of section 2109.07 or division (A) of section 2109.09 of the Revised Code does not apply, instead of giving the bond prescribed by section 2109.04 of the Revised Code, the executor or administrator may give a bond to the satisfaction of the probate court conditioned as follows:

(A) To pay the costs of administration and all the debts and legacies of the decedent to the extent of the assets of the estate;

(B) If there is a will, to pay over the testator's estate to the person entitled to the testator's estate if the will is set aside;

(C) If there is no will offered at the opening of the estate, to pay over the testator's estate to the person entitled to the testator's estate if a will is probated after the administrator's initial appointment.

The giving of ~~such~~ that bond shall not discharge the lien on the decedent's real ~~estate~~ property for the payment of the decedent's debts, except that part ~~which~~ that has been lawfully sold by the executor or administrator.

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

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

(B) To administer and distribute according to law and the will of the

testator all moneys, ~~chattels~~, rights, credits, other personal property and real ~~estate~~ property belonging to the trust that come to the possession of the trustee or to the possession of any other person for the trustee;

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

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

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

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

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

Sec. 2109.14. If the estate held by a fiduciary consists in whole or in part of works of nature or of art ~~which that~~ are suitable for preservation and exhibition in a museum or other similar institution, the probate court may authorize and direct that any or all of ~~such those~~ works be deposited with a corporation conducting ~~such a~~ the museum or other similar institution; provided that no such deposit shall be authorized or directed except with a corporation having a net worth of at least ten times the value of the works to be deposited. ~~Such~~ The deposit shall be made in the name of the fiduciary, and the property deposited shall not be withdrawn from the custody of ~~such the~~ depository or otherwise deposited except upon the special order of the court. The probate judge may impose ~~such any~~ conditions relative to insurance and the care and protection of the property deposited ~~as that~~ the court thinks best for the interests of the estate and the beneficiaries ~~thereof of the estate~~. After ~~such the~~ deposit has been made, a receipt for ~~said that~~ property executed by ~~said that~~ corporation shall be filed with the court, ~~which and the~~ receipt shall acknowledge that ~~said the~~ property is held by ~~said that~~ corporation subject to the order of the court. When ~~such the~~ receipt is filed, the court may fix or reduce the amount of the bond so that the amount of the penalty ~~thereof of the bond~~ is determined with respect to the value of the remainder only of the estate or fund, without including the value of the property deposited. Neither the fiduciary nor ~~his the~~ the fiduciary's sureties shall be liable for any loss to the trust estate resulting from a deposit

authorized and directed by the court pursuant to this section, provided ~~such~~ the fiduciary has acted in good faith.

Sec. 2109.17. If the bond of a fiduciary is executed by personal sureties, one or more of ~~such~~ the sureties shall be a resident of the county in which ~~such~~ the fiduciary applies for appointment. The sureties shall own real property worth double the sum to be secured, over and above all encumbrances, and shall have property in this state liable to execution equal to the sum to be secured. ~~When~~ If two or more sureties are offered on the same bond, they must have in the aggregate the qualifications prescribed in this section. ~~Such~~ The sureties shall qualify under oath and may be required to exhibit to the probate court satisfactory evidence of the ownership of ~~such~~ the real property.

No corporate surety shall be acceptable on a fiduciary's bond in ~~such~~ the probate court unless ~~such~~ the surety is acceptable to the United States government on surety bonds in ~~like~~ the same amount, as shown by the regulations issued by the secretary of the treasury of the United States, or in any other manner, to the satisfaction of the court. ~~Such~~ The surety shall also be qualified to do business in this state.

A surety on the bond of a fiduciary shall not be held liable for any debt of ~~such~~ the fiduciary to the estate represented by ~~him~~ the fiduciary existing at the time ~~such~~ the fiduciary was appointed; but ~~such~~ the surety shall be liable to the extent that ~~such~~ the debt has been made uncollectible by wrongful act of ~~such~~ the fiduciary after appointment.

Sec. 2109.19. If a fiduciary wastes or unfaithfully administers an estate, on the application of a surety on the fiduciary's bond the probate court granting letters of appointment to ~~such~~ the fiduciary may order ~~him~~ the fiduciary to render an account and to execute to ~~such~~ the surety a bond of indemnity with sureties approved by the court. Upon neglect or refusal to execute ~~such~~ the bond within the time ordered, the court may remove ~~such~~ the fiduciary, revoke ~~his~~ the fiduciary's letters of appointment, and appoint another fiduciary in ~~his~~ the fiduciary's place.

Sec. 2109.20. Instead of the sureties required on ~~his~~ a guardian's bond by section 2109.04 of the Revised Code, a guardian of the person and estate or of the estate only of any ward may execute to the ward a mortgage upon unencumbered real ~~estate~~ property. The guardian first shall furnish to the probate court a title guarantee or a mortgagee's title insurance policy for the benefit of the guardianship, with respect to the real ~~estate~~ property, and it shall be shown to the court's satisfaction that, exclusive of improvements on the real ~~estate~~ property, the real ~~estate~~ property is of a value sufficient to secure the bond. The mortgage shall be recorded in the county in which the

property is situated and filed with the court.

Sec. 2109.21. (A) An administrator, special administrator, administrator de bonis non, or administrator with the will annexed shall be a resident of this state and shall be removed on proof that the administrator is no longer a resident of this state.

(B)(1) To qualify for appointment as executor or trustee, an executor or a trustee named in a will or nominated in accordance with any power of nomination conferred in a will, may be a resident of this state or, as provided in this division, a nonresident of this state. To qualify for appointment, a nonresident executor or trustee named in, or nominated pursuant to, a will shall be an individual who is related to the ~~maker of the will~~ testator by consanguinity or affinity, or a person who resides in a state that has statutes or rules that authorize the appointment of a nonresident person who is not related to the ~~maker of a will~~ testator by consanguinity or affinity, as an executor or trustee when named in, or nominated pursuant to, a will. No such executor or trustee shall be refused appointment or removed solely because the executor or trustee is not a resident of this state.

The court may require that a nonresident executor or trustee named in, or nominated pursuant to, a will assure that all of the assets of the decedent that are in the county at the time of the death of the decedent will remain in the county until distribution or until the court determines that the assets may be removed from the county.

(2) In accordance with this division and section 2129.08 of the Revised Code, the court shall appoint as an ancillary administrator a person who is named in the will of a nonresident decedent, or who is nominated in accordance with any power of nomination conferred in the will of a nonresident decedent, as a general executor of the decedent's estate or as executor of the portion of the decedent's estate located in this state, whether or not the person so named or nominated is a resident of this state.

To qualify for appointment as an ancillary administrator, a person who is not a resident of this state and who is named or nominated as described in this division, shall be an individual who is related to the ~~maker of the will~~ testator by consanguinity or affinity, or a person who resides in a state that has statutes or rules that authorize the appointment of a nonresident of that state who is not related to the ~~maker of a will~~ testator by consanguinity or affinity, as an ancillary administrator when the nonresident is named in a will or nominated in accordance with any power of nomination conferred in a will. If a person who is not a resident of this state and who is named or nominated as described in this division so qualifies for appointment as an ancillary administrator and if the provisions of section 2129.08 of the

Revised Code are satisfied, the court shall not refuse to appoint the person, and shall not remove the person, as ancillary administrator solely because the person is not a resident of this state.

The court may require that an ancillary administrator who is not a resident of this state and who is named or nominated as described in this division, assure that all of the assets of the decedent that are in the county at the time of the death of the decedent will remain in the county until distribution or until the court determines that the assets may be removed from the county.

(C)(1) A guardian of the estate shall be a resident of this state, except that the court may appoint a nonresident of this state as a guardian of the estate if any of the following applies:

(a) The nonresident is named in a will by a parent of a minor.

(b) The nonresident is selected by a minor over the age of fourteen years as provided by section 2111.12 of the Revised Code.

(c) The nonresident is nominated in or pursuant to a durable power of attorney as described in division (D) of section 1337.09 of the Revised Code or a writing as described in division (A) of section 2111.121 of the Revised Code.

(2) A guardian of the estate, other than a guardian named in a will by a parent of a minor, selected by a minor over the age of fourteen years, or nominated in or pursuant to a durable power of attorney or writing described in division (C)(1)(c) of this section, may be removed on proof that the guardian of the estate is no longer a resident of this state.

(3) The court may appoint a resident or nonresident of this state as a guardian of the person.

(D) Any fiduciary, whose residence qualifications are not defined in this section, shall be a resident of this state, and shall be removed on proof that the fiduciary is no longer a resident of this state.

(E) Any fiduciary, in order to assist in the carrying out of the fiduciary's fiduciary duties, may employ agents who are not residents of the county or of this state.

(F) Every fiduciary shall sign and file with the court a statement of permanent address and shall notify the court of any change of address. A court may remove a fiduciary if the fiduciary fails to comply with this division.

Sec. 2109.22. The marriage of any person does not disqualify ~~him~~ the person from acting as fiduciary, whether the marriage occurs before or after ~~his~~ the person's appointment and qualification, and all of ~~his~~ the person's acts in ~~such~~ that capacity shall have the same validity as though ~~he~~ the

person were unmarried.

Sec. 2109.24. The probate court at any time may accept the resignation of any fiduciary upon the fiduciary's proper accounting, if the fiduciary was appointed by, is under the control of, or is accountable to the court. The fiduciary may resign by filing a written statement with the court after giving at least fifteen days notice to the persons known to be interested in the estate. Upon notice or a motion of the fiduciary to resign, the court may set the matter for a hearing and may notify all interested persons. No fiduciary shall resign without an order of the court.

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

The court may remove any fiduciary, after giving the fiduciary not less than ten days' notice, for habitual drunkenness, neglect of duty, incompetency, or fraudulent conduct, because the interest of the property, testamentary trust, or estate that the fiduciary is responsible for administering demands it, or for any other cause authorized by law.

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

Upon the resignation or removal of the fiduciary, the court shall revoke all letters of authority for the fiduciary.

Sec. 2109.25. (A) Whenever it appears to the satisfaction of the probate court that a fiduciary is unable to perform ~~his~~ the fiduciary's duties because ~~he~~ the fiduciary is engaged or is about to engage in military service as defined by this section, the court may remove ~~such the~~ fiduciary and appoint a substitute or authorize the remaining fiduciaries to execute the trust. ~~Such~~ That action may be taken on the court's own motion or on the application of any party in interest, including the fiduciary or cofiduciary, either without notice or upon notice to ~~such those~~ persons and in ~~such the~~ manner ~~as that~~ the court shall direct.

If any of the duties of ~~such that~~ office remain unexecuted when a fiduciary who has resigned or been removed on account of ~~his the~~ the fiduciary's military service ceases to be in ~~such that~~ military service, ~~he the~~ the fiduciary shall be reappointed as fiduciary upon ~~his the~~ the fiduciary's application to the court and upon ~~such any~~ any notice ~~as that~~ the court may direct, provided ~~he the~~ the fiduciary is at the time a suitable and competent person and has the qualifications as to residence required by section 2109.21 of the Revised Code. If ~~such the~~ the person is reappointed, the court shall remove the substitute fiduciary and revoke ~~his the~~ the substitute fiduciary's letters of appointment; and shall make such further order or decree as justice requires.

~~"Military service," as (B) As~~ used in this section, "military service" means any service, work, or occupation ~~which that~~ in the opinion of the court is directly or indirectly in furtherance of any military effort of the United States. ~~Such definition~~ "Military service" includes internment in an enemy country, residence in any foreign country, or residence in any possession or dependency of the United States, if by reason ~~thereof of the~~ the internment or residence the fiduciary is unable to return to this state.

Sec. 2109.26. If a sole fiduciary dies, is dissolved, declines to accept, resigns, is removed, or becomes incapacitated prior to the termination of the trust, the probate court shall require a final account of all dealings of ~~such the~~ the trust to be filed ~~forthwith~~ by ~~such the~~ the fiduciary if a living person and able to act. If ~~such the~~ the fiduciary is a living person but unable to act, ~~such the~~ the final account shall be filed by ~~his the~~ the fiduciary's guardian; or, if there is no guardian, by some other suitable person in ~~his the~~ the fiduciary's behalf, appointed or approved by the court. If ~~such the~~ the fiduciary is a deceased person, ~~such the~~ the final account shall be filed by ~~his the~~ the fiduciary's executor or administrator. If no estate is commenced for a deceased fiduciary, the deceased fiduciary's successor shall file the final account. If ~~such the~~ the fiduciary is a dissolved corporation, ~~such the~~ the final account shall be filed by ~~such those~~ those persons ~~as that~~ are charged by law with winding up the affairs of ~~such the~~ the dissolved corporation. ~~Thereupon the~~ The court shall cause ~~such the~~ the proceedings to be had as are provided by sections 2109.30 to 2109.36; ~~inclusive~~, of the Revised Code.

Whenever such a vacancy occurs and ~~such that~~ contingency is not otherwise provided for by law or by the instrument creating the trust; or whenever ~~such the~~ the instrument names no fiduciary, the court shall, on its own motion or on the application of any person beneficially interested, issue letters of appointment as fiduciary to ~~some a~~ a competent person or persons who shall qualify according to law and execute the trust to its proper

termination. ~~Such~~ The vacancy and the appointment of a successor fiduciary shall not affect the liability of the former fiduciary or ~~his~~ the former fiduciary's sureties ~~which~~ that was previously incurred.

Sec. 2109.302. (A) Every guardian or conservator shall render an account of the administration of the ward's estate at least once in each two years. The guardian or conservator shall render an account at any time other than a time otherwise mentioned in this section upon the 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 provided in division (B) of this section, every guardian or conservator shall render a final account within thirty days after completing the administration of the ward's estate or within any other period of time that the court may order.

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

Every account shall be upon the signature of the guardian or conservator. When two or more guardians or conservators render an 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~~ possession or under the control 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~~ If 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~~ If 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.

(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.

(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.

(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.

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 time other than a time otherwise mentioned in this section upon an order of the court issued for good cause shown either at its own instance or upon the motion of any person interested in the estate or trust. Every testamentary

trustee shall, and every other fiduciary may, render a final account within thirty days after completing the administration of the estate or trust or shall file a final account within any other period of time that the court may order.

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

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

Upon the filing of every account, the testamentary trustee or other fiduciary, 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~~ possession or under the control of the testamentary trustee or other 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 estate or trust. The court may designate a deputy clerk, an agent of a corporate surety on the bond of the testamentary trustee or other 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~~ If 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 testamentary trustee or other fiduciary under oath concerning the account.

~~When~~ If a testamentary trustee or other 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 testamentary trustee or other fiduciary may

do so and include a report of the distribution in the testamentary trustee's or fiduciary's succeeding account.

(B) If the assets of a testamentary charitable trust are held and managed by a testamentary trustee or other fiduciary who is an individual or by a corporate fiduciary and if the trust merges into a qualified community foundation, then, after the testamentary trustee or other 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 testamentary trustee or other fiduciary and any successors of the testamentary trustee or other 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.

(C) As used in this section:

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

(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.

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

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

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

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

distribution, as shown in the account, the court shall order the account approved and settled and may order the fiduciary discharged. Upon approval of a final and distributive account required by division (B)(1) of section 2109.301 of the Revised Code, the court may order the surety bond for the fiduciary terminated. Unless otherwise ordered by the court, the fiduciary shall be discharged without further order twelve months following the approval of the final and distributive account.

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

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

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

(2) An administrator or executor filing an account pursuant to section 2109.301 of the Revised Code shall file with the probate court a certificate of service of account prior to or simultaneously with the filing of the account.

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

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

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

(4) If an administrator or executor learns of the existence of newly discovered assets after the filing of the final account or otherwise comes into possession of assets belonging to the estate after the filing of the final account, the executor or administrator shall file a supplemental final account with respect to the disposition of the assets and shall provide a copy of the supplemental final account to each heir of an intestate estate or to each beneficiary of a testate estate, as provided in division (B)(1) of this section and subject to the exceptions specified in divisions (B)(1)(a) and (b) of this section.

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

Sec. 2109.33. A fiduciary may serve notice of the hearing upon ~~his~~ the fiduciary's account to be conducted under section 2109.32 of the Revised

Code, or may cause the notice to be served, upon any person who is interested in the estate or trust, including creditors as the court may direct. The probate court, after notice to the fiduciary upon the motion of any interested person for good cause shown or at its own instance, may order that a notice of the hearing is to be served upon persons the court designates.

The notice shall be made by mail in addition to service by publication, shall set forth the time and place of the hearing, and shall specify the account to be considered and acted upon by the court at the hearing and the period of time covered by the account. It shall contain a statement to the effect that the person notified is required to examine the account, to inquire into the contents of the account and into all matters that may come before the court at the hearing on the account, and to file any exceptions that the person may have to the account at least five days prior to the hearing on the account, and that upon ~~his~~ the person's failure to file exceptions, the account may be approved without further notice. If the person to be notified was not a party to the proceeding in which any prior account was settled, the notice, for the purpose of barring any rights possessed by that person, may include and specify the prior accounts and the periods of time covered by them. In that event, the notice shall inform the person notified that the approval of the account filed most recently will terminate any rights possessed by ~~him~~ the person to vacate the order settling each prior account so specified, except as provided in section 2109.35 of the Revised Code, and shall further inform the person that, under penalty of losing those rights, ~~he forthwith~~ the person shall examine each prior account so specified, shall inquire into its contents, and, if ~~he deems~~ the person considers it necessary to protect ~~his~~ the person's rights, shall take the action with respect to ~~his~~ the person's rights that is permitted by law.

The notice of the hearing upon an account shall be served at least fifteen days prior to the hearing on the account. Any competent person may waive service of notice and consent to the approval of any account by the court. Waivers of service and consents to approval shall be recorded with the account.

Any person interested in an estate or trust may file exceptions to an account or to matters pertaining to the execution of the trust. All exceptions shall be specific and written. Exceptions shall be filed and a copy of them furnished to the fiduciary by the exceptor, not less than five days prior to the hearing on the account. The court for cause may allow further time to file exceptions. If exceptions are filed to an account, the court may allow further time for serving notice of the hearing upon any person who may be affected by an order disposing of the exceptions and who has not already been served

with notice of the hearing in accordance with this section.

A probate court, by local rule, may require that notice of the hearing on a final account be given to all heirs in an intestate estate and to all residuary beneficiaries in a testate estate.

Any notice that is required or permitted by this section or by any local rule adopted under authority of this section shall be served, and any waiver of the right to receive any notice of those types may be waived, in accordance with the Rules of Civil Procedure.

Sec. 2109.34. If an interest in an estate or trust is or may be possessed by persons who will compose a certain class upon the happening of any future event, the unborn members of ~~such that~~ class shall be ~~deemed~~ considered to be represented in any hearing upon a fiduciary's account required by section 2109.32 of the Revised Code, if any living member of the class is made a party to ~~such that~~ proceeding or if a trustee for the proceeding is appointed by the probate court. The unborn members of ~~such the~~ class need not be served by publication. An order made in ~~such the~~ proceeding shall be binding upon all members of ~~such the~~ class, except that ~~such the~~ order may be vacated for fraud as provided in section 2109.35 of the Revised Code.

If the beneficiaries, both present and future, of a charitable trust are not represented by a trustee or an existing corporation or other organization, they shall be represented in any ~~such~~ proceeding under this section by the attorney general if ~~he the attorney general~~ is made a party ~~thereto to the~~ proceeding. Any order made in the proceeding shall be binding upon ~~such those~~ beneficiaries, except for fraud.

Sec. 2109.35. The order of the probate court upon the settlement of a fiduciary's account shall have the effect of a judgment and may be vacated only as follows:

(A) The order may be vacated for fraud, upon motion of any person affected by the order or upon the court's own order, if the motion is filed or order is made within one year after discovery of the existence of the fraud. Any person who is subject to any legal disability may file the motion at any time within one year after the removal of the legal disability or within one year after ~~he the person~~ discovers the existence of the fraud, whichever is later, or ~~his the person's~~ guardian or a successor guardian may do so during the period of the legal disability. If the death of any person occurs during the period within which ~~he the person~~ could have filed the motion, ~~his the person's~~ administrator or executor may file it within one year after the person's death.

(B) The order may be vacated for good cause shown, other than fraud,

upon motion of any person affected by the order who was not a party to the proceeding in which the order was made and who had no knowledge of the proceeding in time to appear in it; provided that, if the account settled by the order is included and specified in the notice to that person of the proceeding in which a subsequent account is settled, the right of that person to vacate the order shall terminate upon the settlement of the subsequent account. A person affected by an order settling an account shall be ~~deemed~~ considered to have been a party to the proceeding in which the order was made if that person was served with notice of the hearing on the account in accordance with section 2109.33 of the Revised Code, waived that notice, consented to the approval of the account, filed exceptions to the account, or is bound by section 2109.34 of the Revised Code; but no person in being who is under legal disability at the time of that proceeding shall be ~~deemed~~ considered to have been a party to that proceeding unless ~~he~~ the person was represented in it as provided in section 2111.23 of the Revised Code. Neither the fiduciary nor ~~his~~ the fiduciary's surety shall incur any liability as a result of the vacation of an order settling an account in accordance with this division, if the motion to vacate the order is filed more than three years following the settlement of the fiduciary's account showing complete distribution of assets; but the three-year period shall not affect the liability of any heir, devisee, or distributee either before or after the expiration of that period.

(C) The order may be vacated for good cause shown upon motion of the fiduciary, if the motion is filed prior to the settlement of the account showing that the fiduciary has fully discharged his trust.

A motion to vacate an order settling an account shall set forth the items of the account with respect to which complaint is made and the reasons for complaining of those items. The person filing a motion to vacate an order settling an account or another person the court may designate shall cause notice of the hearing on the motion to be served upon all interested parties who may be adversely affected by an order of the court granting the motion.

An order settling an account shall not be vacated unless the court determines that there is good cause for doing so, and the burden of proving good cause shall be upon the complaining party.

The vacation of an order settling an account, made after notice given in the manner provided in section 2109.33 of the Revised Code, shall not affect the rights of a purchaser for value in good faith, a lessee for value in good faith, or an encumbrancer for value in good faith; provided that, if the fiduciary has effected any such sale, lease, or encumbrance, any person prejudiced by it may proceed, after vacation of the order, against any distributee benefiting from the sale, lease, or encumbrance to the extent of

the amount received by that distributee on distribution of the estate or trust, or if any heir, devisee, or distributee has effected any such sale, lease, or encumbrance, any person prejudiced by it may proceed, after the vacation of the order, against that heir, devisee, or distributee, to the extent of the value at the time of alienation of the property aliened by ~~him~~ the person, with legal interest.

Sec. 2109.36. An application for an order of distribution of the assets of an estate or trust held by a fiduciary may be set for hearing before the probate court at ~~such the time as that~~ the court shall designate. The fiduciary may serve notice of the hearing upon ~~such the~~ application, or cause ~~such the~~ notice to be served, upon any person who may be affected by an order disposing ~~thereof of the application~~; or the court, upon motion of any interested person for good cause shown or at its own instance, may order ~~such the~~ notice to be served upon ~~any such that~~ person. ~~Such~~ The notice shall set forth the time and place of the hearing and shall be accompanied by a statement of the proposed distribution. At the hearing upon the application the court shall inquire into, consider, and determine all matters relative ~~thereto to the application~~, and make ~~such an~~ order as ~~that~~ the court ~~deems~~ considers proper. If the court makes an order of distribution, the fiduciary shall comply ~~therewith~~ with the order and shall account to the court for ~~his~~ the fiduciary's distribution, verified by vouchers or proof. An order of distribution shall have the effect of a judgment. ~~Such~~ The order may be reviewed upon appeal and may be vacated as provided in section 2109.35 of the Revised Code.

Sec. 2109.361. (A) As used in this section, "third-party distribution" means the distribution by a fiduciary of an estate or trust of the assets of that estate or trust when both of the following apply:

(1) The fiduciary makes the distribution to either of the following persons:

(a) The transferee of a beneficiary;

(b) Any person pursuant to an agreement, request, or instruction of a beneficiary or pursuant to a legal claim against a beneficiary.

(2) The distribution is the subject of an agreement between a beneficiary and any person that requires the fiduciary or beneficiary to pay a percentage of an inheritance or a dollar amount to any person other than the beneficiary.

(B) Prior to making a third-party distribution, the affected beneficiary or the affected beneficiary's guardian or other legal representative of the beneficiary may file an application for the approval of a third-party distribution with the probate court. An application filed pursuant to this division shall identify the person to whom the third-party distribution is to

be made, disclose the basis for making the third-party distribution, and include a copy of any written agreement between the affected beneficiary and the person to whom the third-party distribution is to be made.

(C) The probate court shall hold a hearing on an application filed under division (B) of this section. The applicant shall serve notice of the hearing on all interested parties at least fifteen days prior to the hearing in accordance with Civil Rule 73. An interested party may waive notice of the hearing in accordance with Civil Rule 73.

(D) The probate court may approve the third-party distribution in whole or in part, as the court determines is just and equitable. To the extent that the application is approved, the court shall determine whether the third-party distribution is properly charged solely against the beneficiary's share of the estate or trust or whether some or all of the third-party distribution is properly charged against the residue of the affected estate or trust. The court may consider any relevant factors in evaluating the application, including, but not limited to, any of the following:

(1) The amount or percentage of the affected beneficiary's share that would be the subject of the proposed third-party distribution measured against the reasonable value of any ~~goods~~ assets or services the person to whom the third-party distribution would be made provided to the beneficiary or to the estate or trust;

(2) Whether the agreement, request, or instructions of the affected beneficiary were procured by duress, fraud, misrepresentation, undue influence, or other unfair means;

(3) Whether the amount of the proposed third-party distribution is fixed or contingent under the terms of the agreement between the affected beneficiary and the recipient of the proposed third-party distribution;

(4) Whether the beneficiary was represented by an attorney during the pendency of the probate action, or the beneficiary authorized the recipient of the proposed third-party distribution to retain an attorney who is licensed to practice law in Ohio for the beneficiary to formally represent the beneficiary in any proceeding regarding the decedent's estate, and the recipient of the proposed third-party distribution is responsible for paying the attorney's fees;

(5) The extent, if any, to which the recipient of the proposed third-party distribution incurred expenses in connection with the services provided to the affected beneficiary, estate, or trust;

(6) Whether the beneficiary was required to advance any payments for fees or expenses to the recipient of the proposed third-party distribution.

(E) Division (D)(4) of this section does not prohibit the beneficiary from

retaining the beneficiary's own legal counsel.

(F) This section does not apply to third-party distributions to an attorney who represents a beneficiary and does not affect any other provision of law regarding the compensation of attorneys.

Sec. 2109.37. (A) Except as otherwise provided by law, including division (D) of this section, or by the instrument creating the trust, a fiduciary having funds belonging to a trust ~~which~~ that are to be invested may invest them in the following:

(1) Bonds or other obligations of the United States or of this state;

(2) Bonds or other interest-bearing obligations of any county, municipal corporation, school district, or other legally constituted political taxing subdivision within the state, provided that ~~such~~ the county, municipal corporation, school district, or other subdivision has not defaulted in the payment of the interest on any of its bonds or interest-bearing obligations, for more than one hundred twenty days during the ten years immediately preceding the investment by the fiduciary in the bonds or other obligations, and provided that ~~such~~ the county, municipal corporation, school district, or other subdivision, is not, at the time of the investment, in default in the payment of principal or interest on any of its bonds or other interest-bearing obligations;

(3) Bonds or other interest-bearing obligations of any other state of the United States which, within twenty years prior to the making of ~~such~~ that investment, has not defaulted for more than ninety days in the payment of principal or interest on any of its bonds or other interest-bearing obligations;

(4) Any bonds issued by or for federal land banks and any debentures issued by or for federal intermediate credit banks under the "Federal Farm Loan Act of 1916," 39 Stat. 360, 12 U.S.C.A. 641, as amended; or any debentures issued by or for banks for cooperatives under the "Farm Credit Act of 1933," 48 Stat. 257, 12 U.S.C.A. 131, as amended;

(5) Notes ~~which~~ that are: (a) secured by a first mortgage on real estate property held in fee and located in the state, improved by a unit designed principally for residential use for not more than four families or by a combination of ~~such~~ that dwelling unit and business property, the area designed or used for nonresidential purposes not to exceed fifty per cent of the total floor area; (b) secured by a first mortgage on real estate property held in fee and located in the state, improved with a building designed for residential use for more than four families or with a building used primarily for business purposes, if the unpaid principal of the notes secured by ~~such~~ that mortgage does not exceed ten per cent of the value of the estate or trust or does not exceed five thousand dollars, whichever is greater; or (c) secured

by a first mortgage on an improved farm held in fee and located in the state, provided that ~~such~~ the mortgage requires that the buildings on the mortgaged property shall be well insured against loss by fire, and so kept, for the benefit of the mortgagee, until the debt is paid, and provided that the unpaid principal of the notes secured by the mortgage shall not exceed fifty per cent of the fair value of the mortgaged real ~~estate~~ property at the time the investment is made, and the notes shall be payable not more than five years after the date on which the investment in them is made; except that the unpaid principal of the notes may equal sixty per cent of the fair value of the mortgaged real ~~estate~~ property at the time the investment is made, and may be payable over a period of fifteen years following the date of the investment by the fiduciary if regular installment payments are required sufficient to amortize four per cent or more of the principal of the outstanding notes per annum and if the unpaid principal and interest become due and payable at the option of the holder upon any default in the payment of any installment of interest or principal upon the notes, or of taxes, assessments, or insurance premiums upon the mortgaged premises or upon the failure to cure any such default within any grace period provided ~~therein~~ in the notes not exceeding ninety days in duration;

(6) Life, endowment, or annuity contracts of legal reserve life insurance companies regulated by sections 3907.01 to 3907.21, 3909.01 to 3909.17, 3911.01 to 3911.24, 3913.01 to 3913.10, 3915.01 to 3915.15, and 3917.01 to 3917.05 of the Revised Code, and licensed by the superintendent of insurance to transact business within the state, provided that the purchase of contracts authorized by this division shall be limited to executors or the successors to their powers when specifically authorized by will and to guardians and trustees, which contracts may be issued on the life of a ward, a beneficiary of a trust fund, or according to a will, or upon the life of a person in whom ~~such~~ the ward or beneficiary has an insurable interest and the contracts shall be drawn by the insuring company so that the proceeds shall be the sole property of the person whose funds are so invested;

(7) Notes or bonds secured by mortgages and insured by the federal housing administrator or debentures issued by ~~such~~ that administrator;

(8) Obligations issued by a federal home loan bank created under the "Federal Home Loan Bank Act of 1932," 47 Stat. 725, 12 U.S.C.A. 1421, as amended;

(9) Shares and certificates or other evidences of deposits issued by a federal savings and loan association organized and incorporated under the "Home Owners' Loan Act of 1933," 48 Stat. 128, 12 U.S.C.A. 1461, as amended, to the extent and only to the extent that those shares or certificates

or other evidences of deposits are insured pursuant to the "Financial Institutions Reform, Recovery, and Enforcement Act of 1989," 103 Stat. 183, 12 U.S.C.A. 1811, as amended;

(10) Bonds issued by the home owners' loan corporation created under the "Home Owners' Act of 1933," 48 Stat. 128, 12 U.S.C.A. 1461, as amended;

(11) Obligations issued by the national mortgage association created under the "National Housing Act," 48 Stat. 1246 (1934), 12 U.S.C.A. 1701, as amended;

(12) Shares and certificates or other evidences of deposits issued by a domestic savings and loan association organized under the laws of the state, which association has obtained insurance of accounts pursuant to the "Financial Institutions Reform, Recovery, and Enforcement Act of 1989," 103 Stat. 183, 12 U.S.C.A. 1811, as amended, or as may be otherwise provided by law, only to the extent that ~~such~~ the evidences of deposits are insured under that act, as amended;

(13) Shares and certificates or other evidences of deposits issued by a domestic savings and loan association organized under the laws of the state, provided that no fiduciary may invest ~~such~~ the deposits except with the approval of the probate court, and then in an amount not to exceed the amount ~~which~~ that the fiduciary is permitted to invest under division (A)(12) of this section;

(14) In savings accounts in, or certificates or other evidences of deposits issued by, a national bank located in the state or a state bank located in and organized under the laws of the state or a state credit union located and organized under the laws of the state or a federal credit union located in the state by depositing the funds in the bank or credit union, and ~~such~~ the national or state bank or the federal or state credit union when itself acting in a fiduciary capacity may deposit the funds in savings accounts in, or certificates or other evidences of deposits issued by, its own savings department or any bank subsidiary corporation owned or controlled by the bank holding company that owns or controls ~~such~~ the national or state bank; provided that no deposit shall be made by any fiduciary, individual, or corporate, unless the deposits of the depository bank are insured by the federal deposit insurance corporation created under the "Federal Deposit Insurance Corporation Act of 1933," 48 Stat. 162, 12 U.S.C. 264, as amended, or provided that no deposit shall be made by any fiduciary, individual or corporate, unless the deposits of the depository credit union are insured by the national credit union administration created under the "Federal Credit Union Act of 1934," 48 Stat. 1216, 12 U.S.C. 1751, as

amended, or the deposits of the depository credit union are insured by a share guaranty corporation as defined in Chapter 1761. of the Revised Code, and provided that the deposit of the funds of any one trust in ~~any such~~ those savings accounts in, or certificates or other evidences of deposits issued by, any one bank or credit union shall not exceed the sum insured under ~~that act~~ those acts, as amended, or under Chapter 1761. of the Revised Code;

(15) Obligations consisting of notes, bonds, debentures, or equipment trust certificates issued under an indenture, ~~which that~~ that are the direct obligations, or in the case of equipment trust certificates are secured by direct obligations, of a railroad or industrial corporation, or a corporation engaged directly and primarily in the production, transportation, distribution, or sale of electricity or gas, or the operation of telephone or telegraph systems or waterworks, or in some combination of them; provided that the obligor corporation is one ~~which that~~ that is incorporated under the laws of the United States, any state, ~~or~~ the District of Columbia, or foreign government, and the obligations are rated at the time of purchase in the highest or next highest classification established by at least two standard rating services selected from a list of the standard rating services ~~which that~~ that shall be prescribed by the superintendent of financial institutions; provided that every such list shall be certified by the superintendent to the clerk of each probate court in the state, and shall continue in effect until a different list is prescribed and certified as provided in this division;

(16) Obligations issued, assumed, or guaranteed by the international finance corporation or by the international bank for reconstruction and development, the Asian development bank, the inter-American development bank, the African development bank, or other similar development bank in which the president, as authorized by congress and on behalf of the United States, has accepted membership, provided that the obligations are rated at the time of purchase in the highest or next highest classification established by at least one standard rating service selected from a list of standard rating services ~~which that~~ that shall be prescribed by the superintendent of financial institutions;

(17) Securities of any investment company, as defined in and registered under sections 3 and 8 of the "Investment Company Act of 1940," 54 Stat. 789, 15 U.S.C.A. 80a-3 and 80a-8, that are invested exclusively in forms of investment or in instruments that are fully collateralized by forms of investment in which the fiduciary is permitted to invest pursuant to divisions (A)(1) to (16) of this section, provided that, in addition to ~~such~~ those forms of investment, the investment company may, for the purpose of reducing risk of loss or of stabilizing investment returns, engage in hedging

transactions.

(B) No administrator or executor may invest funds belonging to an estate in any asset other than a direct obligation of the United States that has a maturity date not exceeding one year from the date of investment, or other than in a short-term investment fund that is invested exclusively in obligations of the United States or of its agencies, or primarily in ~~such~~ those obligations and otherwise only in variable demand notes, corporate money market instruments including, but not limited to, commercial paper, or fully collateralized repurchase agreements or other evidences of indebtedness that are payable on demand or generally have a maturity date not exceeding ninety-one days from the date of investment, except with the approval of the probate court or with the permission of the instruments creating the trust.

(C)(1) In addition to the investments allowed by this section, a guardian or trustee, with the approval of the court, may invest funds belonging to the trust in productive real ~~estate~~ property located within the state, provided that neither the guardian nor the trustee nor any member of the family of either has any interest in ~~such~~ the real ~~estate~~ property or in the proceeds of the purchase price. The title to any real ~~estate~~ property so purchased by a guardian ~~must~~ shall be taken in the name of the ward.

(2) Notwithstanding the provisions of division (C)(1) of this section, the court may permit the funds to be used to purchase or acquire a home for the ward or an interest in a home for the ward in which a member of the ward's family may have an interest. After the filing of the petition by a guardian or a conservator for authority to purchase or acquire a home for the ward or an interest in a home for the ward in which a member of the ward's family may have an interest, the matter shall be set for a hearing before the probate court.

(D) If the fiduciary is a trustee appointed by and accountable to the probate court, the fiduciary shall invest the trust's assets pursuant to the requirements and standards set forth in the Ohio Uniform Prudent Investor Act.

Sec. 2109.371. (A) In addition to those investments made eligible by section 2109.37 or 2109.372 of the Revised Code, investments may be made by a fiduciary other than a guardian under sections 5905.01 to 5905.19 of the Revised Code, and subject to the restriction placed on an administrator or executor by division (B) of section 2109.37 of the Revised Code, in any of the following kinds and classes of securities, provided that it may be lawfully sold in Ohio and investment is made only in ~~such~~ those securities ~~as~~ that would be acquired by prudent persons of discretion and intelligence in ~~such~~ those matters who are seeking a reasonable income and the

preservation of their capital:

(1) Securities of corporations organized and existing under the laws of the United States, the District of Columbia, ~~or~~ any state of the United States, or any foreign government or state, including, but not limited to, bonds, debentures, notes, equipment trust obligations, or other evidences of indebtedness, and shares of common and preferred stocks of ~~such~~ those corporations;

(2) Subject to division (C) of this section, collective investment funds established in accordance with section 1111.14 of the Revised Code or securities of any investment company, including any affiliated investment company, whether or not the fiduciary has invested other funds held by it in an agency or other nonfiduciary capacity in the securities of the same investment company or affiliated investment company. ~~Such~~ Those investments may be made regardless of the eligibility of the underlying assets held by the fund portfolios of the investment company.

(3) Bonds or other interest-bearing obligations of any state or territory of the United States, or of any county, city, village, school district, or other legally constituted political taxing subdivision of any state or territory of the United States, not otherwise eligible under division (A)(2) or (3) of section 2109.37 of the Revised Code, or of any foreign government;

(4) Debt or equity securities of foreign corporations that trade on recognized United States domiciled exchanges.

(B) No investment shall be made pursuant to this section ~~which~~ that, at the time ~~such~~ the investment is made, causes the aggregate market value of the investments, not made eligible by section 2109.37 or 2109.372 of the Revised Code, to exceed sixty per cent of the aggregate market value at that time of all the property of the fund held by the fiduciary. No sale or other liquidation of any investment shall be required solely because of any change in the relative market value of those investments made eligible by this section and those made eligible by section 2109.37 or 2109.372 of the Revised Code; provided that, in the event of a sale of investments authorized by this section, the proceeds from the sale may be reinvested in the kinds and classes of securities authorized by this section without regard to the percentage limitation provided in this division. In determining the aggregate market value of the property of a fund and the percentage of a fund to be invested under this section, a fiduciary may rely upon published market quotations as to those investments for which ~~such~~ those quotations are available and upon ~~such~~ the valuations of other investments ~~as~~ that, in the fiduciary's best judgment, seem fair and reasonable according to available information.

(C)(1)(a) A fiduciary making an investment of trust funds in securities of an affiliated investment company, or a bank subsidiary corporation or other corporation owned or controlled by the bank holding company that owns or controls the fiduciary, may charge a reasonable fee for investment advisory, brokerage, transfer agency, registrar, management, or other similar services provided to an affiliated investment company. The fee may be in addition to the compensation to which the fiduciary is otherwise entitled to receive from the trust, provided that the fee is charged as a percentage of either asset value or income earned or actual amount charged and is disclosed at least annually by prospectus, account statement, or any other written means to all persons entitled to receive statements of account activity. The fiduciary shall disclose the relationship between the fiduciary and the affiliated investment company, at least annually by account statement, whether or not the fee is charged.

(b) A fiduciary making an investment of trust funds in securities of an affiliated investment company pursuant to division (A)(2) of this section shall, when providing any periodic account statements to the trust fund, report the net asset value of the shares comprising the investment of the trust funds in the affiliated investment company.

(c) If a fiduciary making an investment of trust funds in securities of an affiliated investment company pursuant to division (A)(2) of this section invests ~~such~~ those funds in any mutual fund, the fiduciary shall disclose, in at least ten-point boldface type, by prospectus, account statement, or any other written means to all persons entitled to receive statements of account activity, that the mutual fund is not insured or guaranteed by the federal deposit insurance corporation or by any other government-sponsored agency of the federal government or of this state.

(2) Unless the investment of trust funds in securities of an affiliated investment company can be made under the terms of the instrument creating the trust, an exception to the investment of trust funds in securities of an affiliated investment company may be filed with the probate court. Any exception filed pursuant to this division ~~must~~ shall be signed by all persons who would, at the time the exception is filed, be permitted to file an exception to an account pursuant to section 2109.33 of the Revised Code and ~~must~~ shall state that all ~~such~~ of those persons request that the current investment of trust funds in securities of an affiliated investment company be terminated within a reasonable time. If the probate court determines that the exception complies with the requirements of this division, the probate court shall establish a schedule for disposing of any current investments in securities of an affiliated investment company, and the fiduciary shall cause

the trust to dispose of the investments in accordance with the schedule. The fiduciary shall not be liable for any loss incurred by the trust as a result of complying with division (C)(2) of this section.

(D) As used in this section, "affiliated investment company" and "reasonable fee" have the same meanings as in division (E) of section 1111.13 of the Revised Code.

Sec. 2109.372. (A) As used in this section:

(1) "Short term trust-quality investment fund" means a short term investment fund that meets both of the following conditions:

(a) The fund may be either a collective investment fund established in accordance with section 1111.14 of the Revised Code or a registered investment company, including any affiliated investment company whether or not the fiduciary has invested other funds held by it in an agency or other nonfiduciary capacity in the securities of the same registered investment company or affiliated investment company.

(b) The fund is invested in any one or more of the following manners:

(i) In obligations of the United States or of its agencies;

(ii) In obligations of one or more of the states of the United States or their political subdivisions;

(iii) In obligations of foreign governments or states;

(iv) In variable demand notes, corporate money market instruments including, but not limited to, commercial paper rated at the time of purchase in either of the two highest classifications established by at least one nationally recognized standard rating service;

~~(iv)~~(v) Deposits in banks, savings banks, or savings and loan associations, whose deposits are insured by the federal deposit insurance corporation, or in credit unions insured by the national credit union administration or by a credit union share guaranty corporation established under Chapter 1761. of the Revised Code, if the rate of interest paid on ~~such~~ those deposits is at least equal to the rate of interest generally paid by ~~such~~ those banks, savings banks, savings and loan associations, or credit unions on deposits of similar terms or amounts;

~~(v)~~(vi) In fully collateralized repurchase agreements or other evidences of indebtedness that are of trust quality and are payable on demand or have a maturity date consistent with the purpose of the fund and the duty of fiduciary prudence.

(2) "Registered investment company" means any investment company that is defined in and registered under sections 3 and 8 of the "Investment Company Act of 1940," 54 Stat. 789, 15 U.S.C.A. 80a-3 and 80a-8.

(3) "Affiliated investment company" has the same meaning as in

division (E)(1) of section 1111.13 of the Revised Code.

(B) A fiduciary is not required to invest cash that belongs to the trust and may hold that cash for the period prior to distribution if either of the following applies:

(1) The fiduciary reasonably expects to do either of the following:

(a) Distribute the cash to beneficiaries of the trust on a quarterly or more frequent basis;

(b) Use the cash for the payment of debts, taxes, or expenses of administration within the ninety-day period following the receipt of the cash by the fiduciary.

(2) Determined on the basis of the facilities available to the fiduciary and the amount of the income that reasonably could be earned by the investment of the cash, the amount of the cash does not justify the administrative burden or expense associated with its investment.

(C) If a fiduciary wishes to hold funds that belong to the trust in liquid form and division (B) of this section does not apply, the fiduciary may so hold the funds as long as they are temporarily invested as described in division (D) of this section.

(D)(1) A fiduciary may make a temporary investment of cash that the fiduciary may hold uninvested in accordance with division (B) of this section, and shall make a temporary investment of funds held in liquid form pursuant to division (C) of this section, in any of the following investments, unless the governing instrument provides for other investments in which the temporary investment of cash or funds is permitted:

(a) A short term trust-quality investment fund;

(b) Direct obligations of the United States or of its agencies;

(c) A deposit with a bank, savings bank, savings and loan association, or credit union, including a deposit with the fiduciary itself or any bank subsidiary corporation owned or controlled by the bank holding company that owns or controls the fiduciary, whose deposits are insured by the federal deposit insurance corporation, if the rate of interest paid on that deposit is at least equal to the rate of interest generally paid by that bank, savings bank, savings and loan association, or credit union on deposits of similar terms or amounts.

(2) A fiduciary that makes a temporary investment of cash or funds pursuant to division (D)(1) of this section may charge a reasonable fee for the services associated with that investment. The fee shall be in addition to the compensation to which the fiduciary is entitled for ordinary fiduciary services.

(3) Fiduciaries that make one or more temporary investments of cash or

funds pursuant to division (D)(1) of this section shall provide to the beneficiaries of the trusts involved, that are currently receiving income or have a right to receive income, a written disclosure of their temporary investment practices and, if applicable, the method of computing reasonable fees for their temporary investment services pursuant to division (D)(2) of this section. Fiduciaries may comply with this requirement in any appropriate written document, including, but not limited to, any periodic statement or account.

(4) A fiduciary that makes a temporary investment of cash or funds in an affiliated investment company pursuant to division (D)(1)(a) of this section shall, when providing any periodic account statements of its temporary investment practices, report the net asset value of the shares comprising the investment in the affiliated investment company.

(5) If a fiduciary that makes a temporary investment of cash or funds in an affiliated investment company pursuant to division (D)(1)(a) of this section invests in any mutual fund, the fiduciary shall provide to the beneficiaries of the trust involved, that are currently receiving income or have a right to receive income, a written disclosure, in at least ten-point boldface type, that the mutual fund is not insured or guaranteed by the federal deposit insurance corporation or by any other government agency or government-sponsored agency of the federal government or of this state.

Sec. 2109.38. Sections 2109.37, 2109.371, and 2109.372 of the Revised Code do not prohibit a fiduciary from retaining any part of a trust estate as received by ~~him~~ the fiduciary even though ~~such that~~ that part is not of the class or percentage permitted to fiduciaries, or from retaining any investment made by ~~him~~ the fiduciary after ~~such the~~ the investment ceases to be of a class or exceeds the percentage permitted by law, provided the circumstances are not such as to require the fiduciary to dispose of ~~such the~~ the investment in the performance of ~~his~~ the fiduciary's duties.

Sec. 2109.39. A fiduciary entitled to a distributive share of the assets of an estate or trust has the same right as other beneficiaries to accept or demand distribution in kind and may retain any security or investment so distributed to ~~him~~ the fiduciary as though it were a part of the original estate received by ~~him~~ the fiduciary.

Sec. 2109.40. Unless the instrument creating a trust forbids, a fiduciary may do all of the things ~~which that~~ that an individual holder might do with respect to securities held by ~~him~~ the fiduciary, including the exercise or sale of subscription rights, the acceptance of new stock in the same corporation in place of the stock held, or in the event of reorganization, sale, or merger in a different corporation, and with the approval of the probate court, the

investment of additional funds ~~where~~ if required of all shareholders participating in a reorganization.

Sec. 2109.42. Subject to section 2109.372 of the Revised Code, a fiduciary who has funds belonging to a trust ~~which~~ that are not required for payment of current obligations of ~~his~~ the fiduciary's trust or distribution shall, unless otherwise ordered by the probate court, invest ~~such~~ those funds within a reasonable time according to section 2109.37 or 2109.371 of the Revised Code. On failure to do so, ~~such~~ the fiduciary shall account to the trust for ~~such~~ any loss of interest as that is found by the court to be due to ~~his~~ the fiduciary's negligence.

Sec. 2109.43. No fiduciary shall make any personal use of the funds or property belonging to a trust. For a violation of this section, ~~such~~ the fiduciary and ~~his~~ the fiduciary's bond shall be liable in an action for any loss occasioned by ~~such~~ that use and for ~~such~~ any additional amount by way of forfeiture, not exceeding the amount of the loss occasioned by ~~such~~ the use, as that may be fixed by the probate court hearing ~~such~~ the case. ~~Such~~ Those amounts shall be payable for the benefit of the beneficiary, if living, and to ~~his~~ the beneficiary's estate if ~~he~~ the beneficiary is deceased. In addition to the penalties under this section, the court may remove the fiduciary pursuant to section 2109.24 of the Revised Code for fraudulent conduct or dereliction of duty related to the fiduciary's personal use or misuse of funds or property belonging to a trust. However, if all interested persons consent to the fiduciary's use of the property in a signed writing filed with the probate court, the fiduciary may make personal use of property belonging to the trust.

An action under this section shall be brought not later than one year after the termination of the trust or the discovery of ~~such~~ that loss.

It is within the court's discretion, upon application, notice to interested persons, and a hearing, to allow the personal use of trust property by the fiduciary.

Sec. 2109.44. (A) Fiduciaries shall not buy from or sell to themselves and shall not have in their individual capacities any dealings with the estate, except as expressly authorized by the instrument creating the trust and then only ~~1111.13-1111.14~~ with the approval of the probate court in each instance. No corporate fiduciary, ~~;~~ as defined in section 1101.01 of the Revised Code, that is not subject to examination or regulatory oversight by the superintendent of financial institutions, the comptroller of the currency, or the office of thrift supervision shall be permitted to deal with the estate, any power in the instrument creating the trust to the contrary notwithstanding. This section does not prohibit a fiduciary from making an

advancement ~~when~~ if the advancement has been expressly authorized by the instrument creating the trust or ~~when~~ if the probate court approves or from engaging in any act authorized by this chapter.

(B) The fiduciary may petition the court for authority to purchase property of the estate if all of the following requirements are met:

(1) Written consent to the purchase is signed by the following:

(a) Each known heir whose interest in the estate would be affected by the proposed purchase;

(b) Each known devisee whose interest in the estate would be affected by the proposed purchase.

(2) The written consents are filed with the court.

(3) The purchase is shown to be to the advantage of the estate.

(C) The court shall deliver notice of the hearing on the petition to the heirs, devisees, or legatees of the estate or any interested person.

Sec. 2109.45. Before the probate court confirms a sale by an executor, administrator, guardian, assignee, or trustee made under an order allowing that officer to make a private sale, the court shall require that officer to file a statement indicating that the private sale was made after diligent endeavor to obtain the best price for the property and that the private sale was at the highest price ~~he~~ the executor, administrator, guardian, assignee, or trustee could get obtain for the property.

Sec. 2109.46. When it appears to be for the best interests of the ~~trust~~ entrusted estate, a fiduciary other than an executor or administrator may, with the approval of the probate court, borrow money and mortgage real estate property belonging to the ~~trust~~ entrusted estate, whether ~~such~~ the real estate property was acquired by purchase or by descent and distribution.

The fiduciary proposing ~~so~~ to borrow money ~~must~~ shall file in the probate court ~~which~~ that appointed ~~him~~ the fiduciary a ~~petition~~ complaint describing all of the real estate property in the trust and stating the nature and amount of the encumbrances ~~thereon~~ on that real property, the date ~~such~~ those encumbrances became or will become due, and the rate of interest ~~thereon~~ on those encumbrances. The ~~petition~~ complaint shall also contain a statement of the personal property in the trust, the income from ~~such~~ the personal property, and the income from the real estate property in ~~such~~ the trust. ~~Such~~ The ~~petition~~ complaint if filed by a guardian shall state the names, ages, and residences of the ward and next of kin known to be a resident ~~in the~~ of this state, including the spouse of ~~such~~ the ward and persons holding liens on ~~such~~ the real estate property unless the liens will be extinguished, all of whom ~~must~~ shall be made defendants and be notified of the pendency and prayer of the ~~petition~~ complaint in ~~such~~ the manner ~~as~~ that

the court directs. In addition ~~such petition~~, the complaint shall contain a statement of the nature of the ~~imbecility~~ incompetency or ~~insanity~~ incapacity, if any, of ~~such the~~ ward, whether temporary or confirmed and its duration. Except as provided in this section, the defendants and notice ~~thereto to the defendants~~ shall be the same as though the real estate property proposed to be mortgaged were being sold by the fiduciary. The ~~petition~~ complaint shall set forth the purpose of the loan, the amount required ~~therefor~~ for the loan, and ~~such any~~ other facts ~~as that~~ that may be pertinent to the question whether ~~such the~~ money should be borrowed and shall contain a prayer that the fiduciary be authorized to mortgage so much of the ward's lands as may be necessary to secure ~~such the~~ loan.

Upon the filing of ~~such petition~~ the complaint, the proceedings as to pleadings and proof shall be the same as on ~~petition~~ a complaint to sell real estate property belonging to the trust.

Sec. 2109.47. Before the probate court makes an order authorizing a guardian to mortgage real estate property for the purpose of borrowing money to make repairs or improvements, the court shall appoint ~~three~~ disinterested persons whose duty it shall be to investigate fully the necessity for and the advisability of making the repairs or improvements and their probable cost and to report their conclusions to the court.

Sec. 2109.48. If on the final hearing of a fiduciary's ~~petition~~ complaint to borrow money and mortgage real estate property belonging to the trust it appears to be for the best interests of the trust that the prayer of the ~~petition~~ complaint be granted, the probate court shall fix the amount necessary to be borrowed, direct what ~~lands~~ real property shall be encumbered by mortgage to secure ~~such that~~ amount, and issue an order to ~~such the~~ fiduciary directing ~~him~~ the fiduciary to ascertain and report to the court the rate of interest and the length of time for which ~~he~~ the fiduciary can borrow ~~such that~~ amount.

If ~~such the~~ report of the fiduciary and the terms proposed are satisfactory to the court, they may be accepted and confirmed and the fiduciary ordered, as fiduciary, to execute a note for ~~such the~~ amount to be borrowed and a mortgage on the ~~lands~~ real property so designated, which shall be a valid lien ~~thereon~~ on the property. The fiduciary in no way shall be personally liable for the payment of any part of the sum borrowed, but ~~such the~~ mortgaged ~~lands~~ real property alone shall be bound ~~therefor~~ for its payment. ~~Such~~ The court shall direct the distribution of the fund and the fiduciary shall report to the court, for its approval, the execution of ~~such the~~ notes and mortgage and ~~his~~ the fiduciary's distribution of the fund.

Sec. 2109.49. The probate judge, ~~when if~~ the probate judge ~~deems~~ considers it necessary or upon the written application of any party interested

in the trust estate, may appoint ~~a~~ suitable ~~persons~~ person to investigate the administration of the trust or estate and report to the court. The expense ~~thereof of the investigation~~ shall be taxed as costs against the party asking for ~~such~~ the examination or the trust fund, as the court may decree. This section shall not apply to a corporate trustee ~~which~~ that is subject to section 1111.28 of the Revised Code.

Sec. 2109.50. Upon complaint made to the probate court of the county having jurisdiction of the administration of ~~a trust~~ an estate, a testamentary trust, or a guardianship or of the county ~~wherein~~ where a person resides against whom the complaint is made, by a person interested in ~~such trust~~ the estate, testamentary trust, or guardianship or by the creditor of a person interested in ~~such trust~~ the estate, testamentary trust, or guardianship against any person suspected of having concealed, embezzled, or conveyed away or of being or having been in the possession of any moneys, ~~chattels~~ personal property, or chases in action of ~~such~~ the estate, testamentary trust, or guardianship, ~~said~~ the court shall by citation, ~~attachment or warrant, or, if circumstances require it, by warrant or attachment in the first instance, or other judicial order~~ compel the person or persons ~~so~~ suspected to ~~forthwith~~ appear before it to be examined, on oath, touching the matter of the complaint. ~~Where~~ If necessary ~~such, the~~ citation, ~~attachment or warrant or other judicial order~~ may be issued into any county in the state and shall be served and returned by the officer to whom it is delivered. The officer to whom ~~such~~ the process is delivered shall be liable for negligence in its service or return in ~~like~~ a similar manner as sheriffs are liable for negligence in not serving or returning a capias issued upon an indictment. Before issuing an extra-county citation, ~~attachment or warrant or other judicial order~~, the probate judge may require the complainant to post security with the probate court in ~~such~~ an amount and in ~~such~~ a form as that the probate judge ~~shall find~~ finds acceptable in order to cover the costs of the proceeding under this section, including in ~~such~~ those costs a reasonable allowance for the ~~travelling~~ travel expenses of the person or persons against whom an extra-county citation, ~~attachment or warrant or other judicial order~~ is to be issued. ~~Such~~ The security may be in the form of a bond, the amount, terms, conditions, and sureties of which shall be subject to the approval of the probate judge.

The probate court may initiate proceedings on its own motion.

The probate court shall ~~forthwith~~ promptly proceed to hear and determine the matter.

The examinations, including questions and answers, shall be reduced to writing, signed by the party examined, and filed in the probate court.

If required by either party, the probate court shall swear ~~such~~ the witnesses ~~as may be~~ who are offered by either party touching the matter of ~~such~~ the complaint and cause the examination of every ~~such~~ witness, including questions and answers, to be reduced to writing, signed by the witness, and filed in the probate court.

All costs of ~~such~~ the proceedings, including the reasonable ~~travelling~~ travel expenses of a person against whom an extra-county citation; ~~attachment or warrant~~ or judicial order is issued, shall be assessed against and paid by the party making the complaint, except as provided by section 2109.52 of the Revised Code.

Sec. 2109.51. If a person compelled under section 2109.50 of the Revised Code to appear for examination refuses to answer interrogatories propounded, the probate court shall commit ~~such~~ the person to the county jail, and ~~such~~ the person shall remain in close custody until ~~he~~ the person submits to the court's order.

Sec. 2109.52. When passing on a complaint made under section 2109.50 of the Revised Code, the probate court shall determine, by the verdict of a jury if either party requires it or without if not required, whether the person accused is guilty of having concealed, embezzled, conveyed away, or been in the possession of moneys, ~~chattels~~ personal property, or choses in action of the ~~trust~~ estate, testamentary trust, or guardianship. If ~~such~~ the person is found guilty, the probate court shall assess the amount of damages to be recovered or the court may order the return of the specific thing concealed or embezzled or may order restoration in kind. The probate court may issue a citation or other judicial order into any county in this state, ~~which citation~~ that shall be served and returned as provided in section 2109.50, requiring of the Revised Code. The citation or other judicial order shall require any person ~~to appear before it~~ who claims any interest in the assets alleged to have been concealed, embezzled, conveyed, or held in possession ~~and at~~ such to appear before the court. At the hearing, the court may hear and determine questions of title relating to such those assets. In all cases, except when the person found guilty is the fiduciary, the probate court shall forthwith render judgment in favor of the fiduciary or if there is no fiduciary in this state, the probate court shall render judgment in favor of the state, against the person found guilty, for the amount of the moneys or the value of the ~~chattels~~ personal property or choses in action concealed, embezzled, conveyed away, or held in possession, together with ten per cent penalty and all costs of ~~such~~ the proceedings or complaint; except that ~~such~~ the judgment shall be reduced to the extent of the value of any thing specifically restored or returned in kind as provided in this section.

If the person found guilty is the fiduciary, the probate court shall ~~forthwith~~ render judgment in favor of the state against ~~him~~ the fiduciary for ~~such~~ the amount of the moneys or the value of the personal property or choses in action concealed, embezzled, conveyed away, or held in possession, together with penalty and costs as provided in this section.

Sec. 2109.53. If a judgment is rendered against a fiduciary under section 2109.52 of the Revised Code, ~~he~~ the fiduciary shall ~~forthwith~~ be removed by the probate court ~~and that part of the trust not already administered shall be committed to some other person.~~ If any portion of the estate, testamentary trust, or guardianship remains to be administered by the probate court at the time of the removal of the fiduciary, the court shall appoint a new fiduciary to continue the administrative process. A fiduciary ~~so~~ that is removed shall not receive compensation for acting as fiduciary and ~~must~~ shall be charged ~~in his account with~~ for the amount of ~~such~~ the judgment. ~~Such~~ The fiduciary's property also shall be liable for the satisfaction of the judgment on execution issued ~~thereon~~ on the judgment by ~~his~~ the fiduciary's successor.

Sec. 2109.54. The fiduciary in whose favor a judgment has been rendered by the probate court under section 2109.52 of the Revised Code shall ~~forthwith~~ deliver to the clerk of the court of common pleas a certificate of ~~such~~ that judgment in accordance with section 2329.04 of the Revised Code, ~~which certificate the~~ The probate ~~judge~~ court shall ~~make out~~ complete and deliver the certificate to ~~such~~ the fiduciary on demand. The clerk shall ~~forthwith~~ issue an execution of the court of common pleas for the amount of the judgment and the costs that have accrued or that may accrue ~~thereon~~ on the judgment. Thenceforth proceedings on execution shall be the same as if the judgment had been rendered in ~~such~~ that court of common pleas.

Sec. 2109.55. If a judgment is rendered in the name of the state under section 2109.52 of the Revised Code and there is no fiduciary within this state, the prosecuting attorney shall cause the certificate provided for in section 2109.54 of the Revised Code to be filed in the clerk's office and proceed ~~thereon~~ to execution on the judgment as provided in ~~such~~ that section. ~~Such~~ The prosecuting attorney shall pay the money realized upon ~~such~~ the execution to the county treasurer for the use of ~~such~~ trust ~~the~~ estate, testamentary trust, or guardianship, reserving ~~such~~ the compensation to ~~himself as the prosecuting attorney that~~ the probate court allows.

Sec. 2109.56. All gifts, grants, or conveyances of ~~land, tenements, hereditaments~~ real property, rents, or ~~chattels~~ personal property and all bonds, judgments, or executions made or obtained with intent to avoid the

purpose of the proceedings set forth in sections 2109.50 to 2109.55; ~~inclusive~~, of the Revised Code, or in contemplation of any examination or complaint provided for by ~~such those~~ sections, shall be void.

Sec. 2109.57. In any action or proceeding pending in a court of record, if it is made to appear to the court that any person entitled to all or a part of the proceeds of property sold in ~~such that~~ action or proceeding is unknown or is a nonresident and not represented in ~~such the~~ action or proceeding or that the person entitled cannot, at the time, definitely be ascertained, the probate court may appoint a trustee to whom the notes and mortgages for the unpaid part shall be made, delivered, and paid and to receive, hold, and manage ~~such the~~ proceeds or part ~~thereof of the proceeds~~. ~~Such The~~ trustee shall collect the unpaid part of the proceeds of the property sold, by action or otherwise, and shall pay over ~~such that~~ fund only on the order of the probate court appointing ~~him the~~ trustee.

Payment to ~~such the~~ trustee shall be a bar to any claim thereafter made by any person and the persons or corporations paying ~~such the~~ money in no case shall be required to see to the application of the money paid.

If a person entitled to any portion of the money held by ~~such the~~ trustee fails for seven or more years after ~~such the~~ trustee's appointment to make claim to the money and to present the proof necessary to entitle ~~such the~~ person to ~~such the~~ money, the prosecuting attorney of the county in which ~~such the~~ trustee was appointed shall collect it, with the interest accrued ~~thereon on the money~~, from ~~such the~~ trustee and pay it into ~~such the~~ county's treasury, to be placed to the credit of the general fund.

~~When Upon application to the probate court which that appointed such the trustee is satisfied that a and presentment of the proof necessary to entitle the person who appears and claims to the moneys paid into the county treasury has a right to receive them, money, the court shall order the payment of the money to the person in whole or part, less the costs of collection by the prosecuting attorney, such court shall order the payment thereof to the person shown to be entitled to such moneys. Such. The person, on the judge's certificate, shall be given a warrant therefor for the money by the county auditor.~~

Sec. 2109.58. Each fiduciary as to whom definite provision is not made in sections 2111.14 and 2115.02 of the Revised Code shall make and file within three months after ~~his the~~ fiduciary's appointment a full inventory of the real and personal property ~~belonging to the trust be entrusted with the fiduciary~~, its value, and the value of the yearly rent of the real property.

Except as provided by section 2115.16 of the Revised Code, exceptions to the inventory of a fiduciary may be filed at any time within six months

after the return of the inventory by any person interested in the ~~trust~~ entrusted property or in any of the property included in the inventory, but the six-month period shall not apply in case of fraud or concealment of assets. At the hearing, the fiduciary and any witness may be examined under oath. The probate court shall enter its finding on the journal and tax the costs as may be equitable.

Sec. 2109.59. If a fiduciary, upon demand, refuses or neglects to pay any creditor whose claim has been allowed by the fiduciary and not subsequently rejected or to pay any creditor or make distribution to any person interested in the estate whose claim or interest has been established by judgment, decree, or order of court, including an order of distribution, ~~such the~~ creditor or other person may file a petition against the fiduciary in the probate court from which the fiduciary received ~~his the~~ fiduciary's appointment to enforce ~~such the~~ payment or distribution, briefly setting forth ~~therein in the petition~~ the amount and nature of ~~his the~~ creditor's or other person's claim or interest. ~~Such The~~ petition shall not be filed against an executor or administrator until the expiration of the period prescribed in section 2117.30 of the Revised Code.

When ~~such the~~ petition is filed, the probate court shall issue a citation to the fiduciary setting forth the filing of the petition and the nature of the claim of the petitioner and commanding ~~such the~~ fiduciary to appear before the court on the return day ~~thereof~~ to answer and show cause why a judgment should not be rendered or order entered against ~~him the~~ fiduciary. ~~Such The~~ citation shall be returnable not less than twenty nor more than forty days from its date and shall be served and returned by an officer as in the case of summons. ~~Such The~~ citation may issue to any county in the state.

On the return of the citation, the cause shall be set for hearing, unless for good cause shown it is continued. The probate court may hear and determine all questions necessary to ascertain and fix the amount due from the fiduciary to the petitioner and render ~~such the~~ judgment or make ~~such the~~ order ~~as that~~ may be proper. If necessary, ~~such the~~ court may hear, determine, and settle the rights and claims of all parties interested in the subject matter of the petition. For ~~such that~~ purpose the probate court may ~~cause allow~~ all parties in interest to be made parties to ~~such the~~ petition by amended, supplemental, or ~~crosspetition~~ cross-petition. The court shall cause notice to be served on all ~~such the~~ parties in the manner provided in this section for service of the citation upon the fiduciary.

In any ~~such~~ proceeding under this section, the sureties on the bond of the fiduciary, if made parties ~~thereto to the proceeding~~, may make any defense that the fiduciary could make and the court may render ~~such the~~

judgment or make ~~such~~ the order with respect to the sureties as that may be proper.

Sec. 2109.60. When a proceeding set forth in section 2109.59 of the Revised Code is pending in the probate court, ~~such~~ the court, on motion of any party ~~thereto~~ or on the court's own motion, may ~~reserve and send such transfer the~~ cause to the court of common pleas ~~which, and the court of common pleas~~ shall hear, settle, and determine all issues as provided in ~~such that~~ section. In case of ~~such reservation~~ the transfer, the probate court shall prepare a transcript of the proceedings in the cause, so far as it has progressed, ~~which that~~, with the petition and other papers ~~therein in the proceedings, forthwith~~ shall be filed with the clerk of the court of common pleas.

Sec. 2109.61. An action may be prosecuted on the bond of a fiduciary against any one or more of the obligors ~~thereof on the bond~~ by any person who has been injured by reason of the breach of any condition of the bond. ~~Such~~ The action shall be prosecuted for the benefit of all persons who are interested in the estate and who have been similarly injured. Any such person or any obligor on the bond who is not already a party to the action may intervene ~~therein in the action~~ or be made a party ~~thereto to the action~~ by supplemental, amended, or ~~crosspetition~~ cross-petition. Notice of any action or proceeding against the bonded fiduciary shall be given to the surety.

If a surety on the bond of a fiduciary is not made a party to an action or proceeding against ~~such~~ the fiduciary, the fact that a judgment was rendered or an order was entered against the fiduciary shall constitute only prima-facie evidence of the justice and validity of the claim in an action subsequently brought against the sureties on the bond of the fiduciary.

Sec. 2109.62. (A)(1) Upon the filing of a motion by a trustee with the court that has jurisdiction over the trust, upon the provision of reasonable notice to all beneficiaries who are known and in being and who have vested or contingent interests in the trust, and after holding a hearing, the court may terminate the trust, in whole or in part, if it determines that all of the following apply:

- (a) It is no longer economically feasible to continue the trust.
 - (b) The termination of the trust is for the benefit of the beneficiaries.
 - (c) The termination of the trust is equitable and practical.
 - (d) The current value of the trust is less than one hundred thousand dollars.
- (2) The existence of a spendthrift or similar provision in a trust instrument or will does not preclude the termination of a trust pursuant to

this section.

(B) If property is to be distributed from an estate being probated to a trust and the termination of the trust pursuant to this section does not clearly defeat the intent of the testator, the probate court has jurisdiction to order the outright distribution of the property or to make the property custodial property under sections 5814.01 to 5814.09 of the Revised Code. A probate court may so order whether the ~~application~~ motion for the order is made by an inter vivos trustee named in the will of the decedent or by a testamentary trustee.

(C) Upon the termination of a trust pursuant to this section, the probate court shall order the distribution of the trust estate in accordance with any provision specified in the trust instrument for the premature termination of the trust. If there is no provision of that nature in the trust instrument, the probate court shall order the distribution of the trust estate among the beneficiaries of the trust in accordance with their respective beneficial interests and in a manner that the court determines to be equitable. For purposes of ordering the distribution of the trust estate among the beneficiaries of the trust under this division, the court shall consider all of the following:

- (1) The existence of any agreement among the beneficiaries with respect to their beneficial interests;
- (2) The actuarial values of the separate beneficial interests of the beneficiaries;
- (3) Any expression of preference of the beneficiaries that is contained in the trust instrument.

Sec. 2111.02. (A) ~~When~~ If found necessary, the probate court on its own motion or on application by any interested party shall appoint, subject to divisions (C) and (D) of this section and to section 2109.21 and division (B) of section 2111.121 of the Revised Code, a guardian of the person, the estate, or both, of a minor or incompetent, provided the person for whom the guardian is to be appointed is a resident of the county or has a legal settlement in the county and, except in the case of a minor, has had the opportunity to have the assistance of counsel in the proceeding for the appointment of ~~such~~ that guardian. An interested party includes, but is not limited to, a person nominated in a durable power of attorney as described in division (D) of section 1337.09 of the Revised Code or in a writing as described in division (A) of section 2111.121 of the Revised Code.

Except when the guardian of an incompetent is an agency under contract with the department of developmental disabilities for the provision of protective services under sections 5123.55 to 5123.59 of the Revised Code,

the guardian of an incompetent, by virtue of ~~such~~ the appointment as guardian, shall be the guardian of the minor children of the guardian's ward, unless the court appoints some other person as their guardian.

When the primary purpose of the appointment of a guardian is, or was, the collection, disbursement, or administration of moneys awarded by the veterans administration to the ward, or assets derived from ~~such~~ those moneys, no court costs shall be charged in the proceeding for the appointment or in any subsequent proceedings made in pursuance of the appointment, unless the value of the estate, including the moneys then due under the veterans administration award, exceeds one thousand five hundred dollars.

(B)(1) If the probate court finds it to be in the best interest of an incompetent or minor, it may appoint pursuant to divisions (A) and (C) of this section, on its own motion or on application by an interested party, a limited guardian with specific limited powers. The sections of the Revised Code, rules, and procedures governing guardianships apply to a limited guardian, except that the order of appointment and letters of authority of a limited guardian shall state the reasons for, and specify the limited powers of, the guardian. The court may appoint a limited guardian for a definite or indefinite period. An incompetent or minor for whom a limited guardian has been appointed retains all of the incompetent's or minor's rights in all areas not affected by the court order appointing the limited guardian.

(2) If a guardian appointed pursuant to division (A) of this section is temporarily or permanently removed or resigns, and if the welfare of the ward requires immediate action, at any time after the removal or resignation, the probate court may appoint, ex parte and with or without notice to the ward or interested parties, an interim guardian for a maximum period of fifteen days. If the court appoints the interim guardian ex parte or without notice to the ward, the court, at its first opportunity, shall enter upon its journal with specificity the reason for acting ex parte or without notice, and, as soon as possible, shall serve upon the ward a copy of the order appointing the interim guardian. For good cause shown, after notice to the ward and interested parties and after hearing, the court may extend an interim guardianship for a specified period, but not to exceed an additional thirty days.

(3) If a minor or incompetent has not been placed under a guardianship pursuant to division (A) of this section and if an emergency exists, and ~~if~~ it is reasonably certain that immediate action is required to prevent significant injury to the person or estate of the minor or incompetent, at any time after it receives notice of the emergency, the court, ex parte, may issue any order

that it considers necessary to prevent injury to the person or estate of the minor or incompetent, or may appoint an emergency guardian for a maximum period of seventy-two hours. A written copy of any order issued by a court under this division shall be served upon the incompetent or minor as soon as possible after its issuance. Failure to serve ~~such an~~ that order after its issuance or prior to the taking of any action under its authority does not invalidate the order or the actions taken. The powers of an emergency guardian shall be specified in the letters of appointment, and shall be limited to those powers that are necessary to prevent injury to the person or estate of the minor or incompetent. If the court acts ex parte or without notice to the minor or incompetent, the court, at its first opportunity, shall enter upon its journal a record of the case and, with specificity, the reason for acting ex parte or without notice. For good cause shown, after notice to the minor or incompetent and interested parties, and after hearing, the court may extend an emergency guardianship for a specified period, but not to exceed an additional thirty days.

(C) Prior to the appointment of a guardian or limited guardian under division (A) or (B)(1) of this section, the court shall conduct a hearing on the matter of the appointment. The hearing shall be conducted in accordance with all of the following:

(1) The proposed guardian or limited guardian shall appear at the hearing and, if appointed, shall swear under oath that the proposed guardian or limited guardian has made and will continue to make diligent efforts to file a true inventory in accordance with section 2111.14 of the Revised Code and find and report all assets belonging to the estate of the ward and that the proposed guardian or limited guardian faithfully and completely will fulfill the other duties of guardian, including the filing of timely and accurate reports and accountings;

(2) If the hearing is conducted by a ~~referee~~ magistrate, the procedures set forth in Civil Rule 53 shall be followed;

(3) If the hearing concerns the appointment of a guardian or limited guardian for an alleged incompetent, the burden of proving incompetency shall be by clear and convincing evidence;

(4) Upon request of the applicant, the alleged incompetent for whom the appointment is sought or the alleged incompetent's counsel, or any interested party, a recording or record of the hearing shall be made;

(5) Evidence of a less restrictive alternative to guardianship may be introduced, and when introduced, shall be considered by the court;

(6) The court may deny a guardianship based upon a finding that a less restrictive alternative to guardianship exists;

(7) If the hearing concerns the appointment of a guardian or limited guardian for an alleged incompetent, the alleged incompetent has all of the following rights:

(a) The right to be represented by independent counsel of the alleged incompetent's choice;

(b) The right to have a friend or family member of the alleged incompetent's choice present;

(c) The right to have evidence of an independent expert evaluation introduced;

(d) If the alleged incompetent is indigent, upon the alleged incompetent's request:

(i) The right to have counsel and an independent expert evaluator appointed at court expense;

(ii) If the guardianship, limited guardianship, or standby guardianship decision is appealed, the right to have counsel appointed and necessary transcripts for appeal prepared at court expense.

(D)(1) ~~When~~ If a person has been nominated to be a guardian of the estate of a minor in or pursuant to a durable power of attorney as described in division (D) of section 1337.09 of the Revised Code or a writing as described in division (A) of section 2111.121 of the Revised Code, the person nominated has preference in appointment over a person selected by the minor. A person who has been nominated to be a guardian of the person of a minor in or pursuant to a durable power of attorney or writing of that nature does not have preference in appointment over a person selected by the minor, but the probate court may appoint the person named in the durable power of attorney or the writing, the person selected by the minor, or another person as guardian of the person of the minor.

(2) A person nominated as a guardian of an incompetent adult child pursuant to section 1337.09 or 2111.121 of the Revised Code shall have preference in appointment over a person applying to be guardian if the person nominated is competent, suitable, and willing to accept the appointment, and if the incompetent adult child does not have a spouse or an adult child and has not designated a guardian prior to the court finding the adult child incompetent.

Sec. 2111.021. A competent adult who is physically infirm may petition the probate court of the county in which ~~he~~ the petitioner resides, to place, for a definite or indefinite period of time, ~~his~~ the petitioner's person, any or all of ~~his~~ the petitioner's real or personal property, or both under a conservatorship with the court. A petitioner either may grant specific powers to the conservator or court or may limit any powers granted by law to the

conservator or court, except that the petitioner may not limit the powers granted to the court by this section and may not limit the requirement for bond as determined by the court. The petition shall state whether the person of the competent adult will be placed under the conservatorship, shall state with particularity all real and personal property that will be placed under the conservatorship, shall state the powers granted and any limitation upon the powers of the conservator or court, and shall state the name of a proposed suitable conservator.

After a hearing, if the court finds that the petition was voluntarily filed and that the proposed conservator is suitable, the court shall issue an order of conservatorship. Upon issuance of the order, all sections of the Revised Code governing a guardianship of the person, the estate, or both, whichever is involved, except those sections the application of which specifically is limited by the petitioner, and all rules and procedures governing ~~such~~ a guardianship of the person, the estate, or both, shall apply to the conservatorship, including, but not limited to, applicable bond and accounting requirements.

A conservatorship shall terminate upon a judicial determination of incompetency, the death of the petitioner, the order of the probate court, or the execution of a written termination notice by the petitioner. A termination notice shall take effect upon execution by the petitioner, and shall be filed with the court and served upon the conservator. A termination notice executed by a petitioner relative to a conservatorship of the estate and the termination of a conservatorship of the estate based upon a termination notice are void unless the termination notice is filed with the court within fourteen days after its execution. Modification of the powers of a conservator or the court may be made by the petitioner upon motion to the court at any time during the conservatorship. Neither the establishment of a conservatorship nor the filing of a petition for conservatorship with the probate court shall be considered as evidence of mental impairment under section 2111.01 of the Revised Code.

Upon motion to the probate court and a showing of good cause, the court may make confidential, or remove from confidential status, any file, record, petition, motion, account, or paper, except for an index, docket, or journal, that pertains to a conservatorship and that is in the possession of the court.

Sec. 2111.031. In connection with an application for the appointment of a guardian for an alleged incompetent, the court may appoint physicians and other qualified persons to examine, investigate, or represent the alleged incompetent, to assist the court in deciding whether a guardianship is

necessary. If the person is determined to be an incompetent and a guardian is appointed for ~~him~~ the person, the costs, fees, or expenses incurred to so assist the court shall be charged either against the estate of the person or against the applicant, unless the court determines, for good cause shown, that the costs, fees, or expenses are to be recovered from the county, in which case they shall be charged against the county. If the person is not determined to be an incompetent or a guardian is not appointed for ~~him~~ the person, the costs, fees, or expenses incurred to so assist the court shall be charged against the applicant, unless the court determines, for good cause shown, that the costs, fees, or expenses are to be recovered from the county, in which case they shall be charged against the county.

A court may require the applicant to make an advance deposit of an amount that the court determines is necessary to defray the anticipated costs of examinations of an alleged incompetent and to cover fees or expenses to be incurred to assist it in deciding whether a guardianship is necessary.

This section does not affect or apply to the duties of a probate court investigator under sections 2111.04 and 2111.041 of the Revised Code.

Sec. 2111.04. (A) Except for an interim or emergency guardian appointed under division (B)(2) or (3) of section 2111.02 of the Revised Code, no guardian of the person, the estate, or both shall be appointed until at least seven days after the probate court has caused written notice, setting forth the time and place of the hearing, to be served as follows:

(1) In the appointment of the guardian of a minor, notice shall be served as follows:

(a) Upon the minor, if over the age of fourteen, by personal service;
(b) Upon each parent of the minor whose name and address is known or with reasonable diligence can be ascertained, provided the parent is free from disability other than minority;

(c) Upon the next of kin of the minor who are known to reside in this state, if there is no living parent, the name and address of the parent cannot be ascertained, or the parent is under disability other than minority;

(d) Upon the person having the custody of the minor.

(2) In the appointment of the guardian of an incompetent, notice shall be served as follows:

(a)(i) Upon the person for whom appointment is sought by personal service, by a probate court investigator, or in the manner provided in division (A)(2)(a)(ii) of this section. The notice shall be in boldface type and shall inform the alleged incompetent, in boldface type, of ~~his~~ the alleged incompetent's rights to be present at the hearing, to contest any application for the appointment of a guardian for ~~his~~ the alleged incompetent's person,

estate, or both, and to be represented by an attorney and of all of the rights set forth in division (C)(7) of section 2111.02 of the Revised Code.

(ii) If the person for whom appointment is sought is a resident of, or has a legal settlement in, the county in which the court has jurisdiction, but is absent from that county, the probate court may designate, by order, a temporary probate court investigator, in lieu of a regular probate court investigator appointed or designated under section 2101.11 of the Revised Code, to make the personal service of the notice described in division (A)(2)(a)(i) of this section upon the person for whom appointment is sought.

(b) Upon the next of kin of the person for whom appointment is sought who are known to reside in this state.

(B) After service of notice in accordance with division (A) of this section and for good cause shown, the court may appoint a guardian prior to the time limitation specified in that division.

(C) Notice may not be waived by the person for whom the appointment is sought.

(D) From the service of notice until the hearing, no sale, gift, conveyance, or encumbrance of the property of an alleged incompetent shall be valid as to persons having notice of the proceeding.

Sec. 2111.041. (A) At the time of the service of notice upon an alleged incompetent, as required by division (A)(2)(a) of section 2111.04 of the Revised Code, the court shall require a regular probate court investigator appointed or designated under section 2101.11 of the Revised Code or appoint a temporary probate court investigator to investigate the circumstances of the alleged incompetent, and, to the maximum extent feasible, to communicate to the alleged incompetent in a language or method of communication that ~~he~~ the alleged incompetent can understand, ~~his~~ the alleged incompetent's rights as specified in that division, and subsequently to file with the court a report that contains all of the following:

(1) A statement indicating that the notice was served and describing the extent to which the alleged incompetent's rights to be present at the hearing, to contest any application for the appointment of a guardian for ~~his~~ the alleged incompetent's person, estate, or both, and to be represented by an attorney were communicated to ~~him~~ the alleged incompetent in a language or method of communication understandable to the alleged incompetent;

(2) A brief description, as observed by the investigator, of the physical and mental condition of the alleged incompetent;

(3) A recommendation regarding the necessity for a guardianship or a less restrictive alternative;

(4) A recommendation regarding the necessity of appointing pursuant to

section 2111.031 of the Revised Code, an attorney to represent the alleged incompetent.

(B) The report that is required by division (A) of this section shall be made a part of the record in the case and shall be considered by the court prior to establishing any guardianship for the alleged incompetent.

Sec. 2111.06. If the powers of the person appointed as guardian of a minor or incompetent are not limited by the order of appointment, ~~such the~~ person shall be guardian both of the person and estate of the ward. In every instance the court shall appoint the same person as guardian of the person and estate of ~~any such the~~ ward, unless in the opinion of the court the interests of the ward will be promoted by the appointment of different persons as guardians of the person and of the estate.

A guardian of the person of a minor shall be appointed as to a minor having ~~neither no~~ father ~~nor or~~ mother, ~~or~~ whose parents are unsuitable persons to have the custody ~~and tuition~~ of ~~such the~~ minor and to provide for the education of the minor as required by section 3321.01 of the Revised Code, or whose interests, in the opinion of the court, will be promoted ~~thereby by the appointment of a guardian~~. A guardian of the person shall have the custody and provide for the maintenance of the ward, and if the ward is a minor, ~~such the~~ guardian shall also provide for the education of ~~such the~~ ward as required by section 3321.01 of the Revised Code.

Before exercising its jurisdiction to appoint a guardian of a minor, the court shall comply with the jurisdictional standards of sections 3127.01 to 3127.53 of the Revised Code.

Sec. 2111.07. Each person appointed guardian of the person and estate of a minor shall have the custody ~~and tuition~~ of ~~his the~~ ward, the obligation to provide for the education of the ward as required under section 3321.01 of the Revised Code, and the management of ~~such the~~ ward's estate during minority, unless ~~such the~~ guardian is removed or discharged from ~~such that~~ trust or the guardianship terminates from any of the causes specified in Chapters 2101. to 2131., ~~inclusive~~, of the Revised Code.

Sec. 2111.09. Unless expressly appointed or designated to act both as guardian and executor by a ~~last~~ will in writing, no person who is or has been an administrator or executor of a ~~last~~ will shall, prior to the approval of ~~his the person's~~ final account as ~~such~~ executor or administrator, be appointed a guardian of the person and estate or of the estate only of a ward who is interested in the estate administered upon or entitled to an interest under ~~such the~~ will, except that a surviving spouse may be executor or administrator of the deceased spouse's estate and also guardian of the person and estate or of the estate only of a minor child of ~~such the~~ surviving spouse,

whether or not ~~such~~ the minor child is interested in the estate of the deceased spouse. ~~But~~ However, an executor or an administrator may be appointed a guardian of the person only of a ward.

Sec. 2111.091. No attorney who represents any other person ~~other than himself and~~ who is appointed as a guardian under this chapter or under any other provision of the Revised Code shall do either of the following:

(A) Act as a person with co-responsibility for any guardianship asset for which the guardian ~~he represents~~ is responsible;

(B) Be a cosignatory on any financial account related to the guardianship, including any checking account, savings account, or other banking or trust account.

Sec. 2111.12. (A) A minor over the age of fourteen years may select a guardian who shall be appointed if a suitable person. If ~~such~~ the minor fails to select a suitable person, an appointment may be made without reference to the minor's wishes. The minor shall not select one person to be the guardian of the minor's estate only and another to be the guardian of the person only, unless the court ~~which that~~ appoints the guardian is of the opinion that the interests of ~~such~~ the minor will ~~thereby~~ be promoted by that selection.

(B) A surviving parent by ~~last a~~ will in writing may appoint a guardian for any of the surviving parent's children, whether born at the time of making the will or afterward, to continue during the minority of the child or for a less time.

When the father or mother of a minor names a person as guardian of the estate of ~~such~~ the minor in a will, the person named shall have preference in appointment over the person selected by ~~such~~ the minor. A person named in ~~such a that~~ will as guardian of the person of ~~such~~ the minor shall have no preference in appointment over the person selected by ~~such~~ the minor, but in ~~such that~~ event the probate court may appoint the person named in the will, the person selected by the minor, or some other person.

Whenever a testamentary guardian is appointed, the testamentary guardian's duties, powers, and liabilities in all other respects shall be governed by the law regulating guardians not appointed by will.

(C) A parent pursuant to a durable power of attorney as described in division (D) of section 1337.09 or a writing as described in division (A) of section 2111.121 of the Revised Code may nominate a person to be a guardian for one or more of the parent's minor children, whether born at the time of the making of the ~~petition~~ nomination or afterward.

Sec. 2111.131. (A) The probate court may enter an order that authorizes a person under a duty to pay or deliver money or personal property to a

minor who does not have a guardian of the person and estate or a guardian of the estate, to perform that duty in amounts not exceeding five thousand dollars annually, by paying or delivering the money or property to any of the following:

- (1) The guardian of the person only of the minor;
- (2) The minor's natural guardians, if any, as determined pursuant to section 2111.08 of the Revised Code;
- (3) The ~~minor's own self~~ minor;
- (4) Any person who has the care and custody of the minor and with whom the minor resides, other than a guardian of the person only or a natural guardian;
- (5) A financial institution incident to a deposit in a federally insured savings account in the sole name of the minor;
- (6) A custodian designated by the court in its order, for the minor under sections 5814.01 to 5814.09 of the Revised Code.

(B) An order entered pursuant to division (A) of this section authorizes the person or entity specified in it, to receive the money or personal property on behalf of the minor from the person under the duty to pay or deliver it, in amounts not exceeding five thousand dollars annually. Money or personal property so received by guardians of the person only, natural guardians, and custodians as described in division (A)(4) of this section may be used by them only for the support, maintenance, or education of the minor involved. The order of the court is prima-facie evidence that a guardian of the person only, a natural guardian, or a custodian as described in division (A)(4) of this section has the authority to use the money or personal property received.

(C) A person who pays or delivers moneys or personal property in accordance with a court order entered pursuant to division (A) of this section is not responsible for the proper application of the moneys or property by the recipient.

Sec. 2111.14. (A) In addition to ~~his~~ a guardian's other duties, every guardian appointed to take care of the estate of a ward shall have the following duties:

~~(A)~~(1) To make and file within three months after ~~his~~ the guardian's appointment a full inventory of the real and personal property of the ward, its value, and the value of the yearly rent of the real property, provided that, if the guardian fails to file the inventory for thirty days after ~~he has~~ having been notified of the expiration of the time by the probate judge, the judge shall remove ~~him~~ the guardian and appoint a successor;

~~(B)~~(2) To manage the estate for the best interest of the ward;

~~(C)~~(3) To pay all just debts due from the ward out of the estate in ~~his~~

~~hands~~ the possession or under the control of the guardian, collect all debts due to the ward, compound doubtful debts, and appear for and defend, or cause to be defended, all suits against the ward;

~~(D)~~(4) To obey all orders and judgments of the courts touching the guardianship;

~~(E)~~(5) To bring suit for the ward when a suit is in the best interests of the ward;

~~(F)~~(6) To settle and adjust, when necessary or desirable, the assets that ~~he~~ the guardian may receive in kind from an executor or administrator to the greatest advantage of the ward. Before a settlement and adjustment is valid and binding, it shall be approved by the probate court and the approval shall be entered on its journal. The guardian also shall have the approval of the probate court to hold the assets as received from the executor or administrator or to hold what may be received in the settlement and adjustment of those assets.

(B) No guardian appointed to take care of the estate of a ward may open a safety deposit box held in the name of the ward, until the contents of the box have been audited by an employee of the county auditor in the presence of the guardian and until a verified report of the audit has been filed by the auditor with the probate court, ~~which~~. The court then shall issue a release to the guardian permitting the guardian to have access to the safety deposit box of the ward.

Sec. 2111.141. The court, by order or rule, may require that any inventory filed by a guardian pursuant to section 2111.14 of the Revised Code be supported by evidence that the inventory is a true and accurate inventory of the estate of the ward of the guardian, ~~which~~. The evidence may include, but is not limited to, prior income tax returns, bank statements, and social security records of the ward or other documents that are relevant to determining the accuracy of the inventory. In order to verify the accuracy of an inventory, the court may order a guardian to produce any additional evidence that may tend to prove that the guardian is in possession of or has knowledge of assets that belong to the estate of ~~his~~ the ward and that have not been included in the guardianship inventory, ~~which~~. The additional evidence may include, but is not limited to, the guardian's income tax returns and bank statements and any other documents that are relevant to determining the accuracy of an inventory. The court may assign court employees or appoint an examiner to verify an inventory filed by a guardian. Upon appointment, the assigned court employees or appointed examiner shall conduct an investigation to verify the accuracy of the inventory filed by the guardian. Upon order of the court, the assigned court employees or

appointed examiner may subpoena any documents necessary for ~~his~~ the investigation. Upon completion of the investigation, the assigned court employees or appointed examiner shall file a report with the court. The court shall hold a hearing on the report with notice to all interested parties. At the hearing, the guardian shall have the right to examine and cross-examine any assigned court employees or appointed examiner who conducted the investigation and filed the report that is the subject of the hearing. The court shall charge any costs associated with the verification of an inventory filed by a guardian against the estate of the ward, except that, if the court determines that the guardian wrongfully withheld, or aided in the wrongful withholding, of assets from the inventory filed by the guardian, the court shall charge the costs against the guardian.

Sec. 2111.16. Unless previously authorized by the court, no voucher that is signed or purports to be signed by the ward shall be received from or allowed as a credit in the settlement of a guardian's account ~~which is signed or purports to be signed by his ward.~~

Sec. 2111.17. A guardian may sue in ~~his~~ the guardian's own name, describing ~~himself as the guardian as suing on behalf of the ward for whom he sues.~~ When ~~his~~ the guardianship ceases, actions or proceedings then pending shall not abate, if the right survives. ~~His~~ The guardian's successor as guardian, the executor or administrator of the ward, or the ward ~~himself~~, if the guardianship has terminated other than by the ward's death, shall be made party to the suit or other proceeding as the case requires, in the same manner an executor or administrator is made a party to a similar suit or proceeding ~~where~~ if the plaintiff dies during its pendency.

Sec. 2111.181. ~~When~~ If personal injury, damage to tangible or intangible property, or damage or loss on account of personal injury or damage to tangible or intangible property is caused to a minor, who claims to be emancipated, by wrongful act, neglect, or default ~~which~~ that would entitle the minor to maintain an action and recover damages for the injury, damage, or loss, and ~~when~~ if any minor who claims to be emancipated is entitled to maintain an action for damages or any other relief based on any claim, or is subject to any claim to recover damages or any other relief based on any claim, the minor, who claims to be emancipated, may file an application in the probate court in the county where ~~he~~ the minor then resides, praying for a finding by the court that the minor is in fact emancipated, and authorizing, approving, and consenting to the settlement of the claim by the minor without the appointment of a guardian. Upon hearing on the application, after five days' written notice of the time and place of the hearing has been given to each of the living parents of the

minor, whose name and address is known, provided the parent is free from disability other than minority, or, if there is no living parent, after ~~such that~~ notice to the next of kin of the minor known to reside in the county, the court may find the minor to be emancipated ~~and~~, may authorize, approve, and consent to the settlement of the claim by the minor without the appointment of a guardian ~~and~~, may authorize the minor to receive and receipt for the settlement, and, upon the minor executing and delivering a full and complete release for the injuries, damages, losses, or claims, may authorize the delivery and payment of ~~such the~~ moneys to the minor, to a trustee or guardian of the estate of the minor appointed by the court for the benefit of the minor, or to a depository authorized to receive fiduciary funds to hold the moneys payable to the ward when ~~he the ward~~ attains majority, or for the benefit of the minor, as the court may direct.

Upon the finding of the probate court that the minor was, at the time of the injury, damage, loss, or claim, an emancipated minor, and provided the notice required by this section has been given to each living parent, whose name and address is known, then the release executed by the emancipated minor shall be a full and complete discharge and release of any claim ~~which that~~ either or both of the parents might have by reason of the personal injury, damage to tangible or intangible property, damage or loss on account of personal injury, or damage to tangible or intangible property, or any other claim of the minor.

Sec. 2111.19. A guardian, whether appointed by a court in this state or elsewhere, may complete the contracts of ~~his the~~ ward for the purchase or sale of real ~~estate property~~ or any authorized contract relating to real ~~estate property~~ entered into by a guardian who has died or been removed. ~~Said The~~ ~~appointed~~ guardian shall proceed in the manner provided by sections 2113.48 to 2113.50, ~~inclusive~~, of the Revised Code.

Sec. 2111.20. The guardian of the person and estate, or of the estate only, may sell all or any part of the personal ~~estate property~~ of the ward ~~when such if the~~ sale is for the interest of the ward.

Sec. 2111.21. The guardian of a ward who has or is claimed to have a right of dower, or a contingent right to it, in ~~lands or tenements~~ ~~real property~~ of which the spouse of ~~such the~~ ward was or is seized as an estate of inheritance, ~~where if~~ the dower has not been assigned, may sell, compromise, or adjust ~~such the~~ dower or may release ~~such the~~ contingent right of dower in the event the spouse of ~~such the~~ ward desires to mortgage ~~such the~~ property upon ~~such the~~ terms as ~~such that the~~ guardian ~~deems~~ ~~considers~~ for the interest of ~~such the~~ ward and upon ~~such the~~ terms as ~~that~~ the probate court of the county in which the guardian was appointed

approves, or if ~~such~~ the guardian was appointed to a foreign state, upon ~~such~~ the terms ~~as that~~ the probate court of the county ~~wherein in which~~ the land ~~real property~~ is situated approves. After ~~such~~ the approval, the guardian may execute and deliver all the necessary deeds, mortgages, releases, and agreements for the sale, compromise, assignment, or mortgage of ~~such~~ the dower or contingent right to dower. As a basis for computing the value of an inchoate dower right in any sale, compromise, or adjustment pursuant to this section, the value of the ~~lands or tenements~~ real property may be considered to be the sale price or, if there is no sale, the appraised value. ~~Such~~ The sale, compromise, adjustment, or mortgage may be made upon application and entry in the pending proceedings.

Sec. 2111.22. When a ward has title to real ~~estate~~ property by tax title only, the guardian, by deed of release and quitclaim, may convey ~~such~~ the ward's interest or title to the person entitled to redeem ~~such~~ the real ~~estate~~ property, upon receiving from ~~such~~ that person the amount paid for ~~such~~ the tax title with the forfeiture and interest allowed by sections 319.52 and 323.121 of the Revised Code. If the guardian tenders ~~such~~ that deed to the person entitled to redeem ~~such~~ the real ~~estate~~ property and ~~he~~ the person so ~~entitled~~ refuses to accept and pay for it, ~~he~~ the person entitled shall not recover costs in any proceeding thereafter instituted to redeem ~~such~~ the real ~~estate~~ property.

Sec. 2111.25. A guardian, of the person and estate or of the estate only, without application to the probate court, may lease the possession or use of any real ~~estate~~ property of ~~his~~ the ward for a term not exceeding three years, provided ~~such~~ the term does not extend beyond the minority, if the ward is a minor. If the lease extends beyond the death of the ward or beyond the removal of the disability of a ward other than a minor, ~~such~~ the lease shall terminate on ~~such~~ that death or removal of disability, unless confirmed by the ward or ~~his~~ the ward's legal representatives. In the event of such determination, the tenant shall have a lien on the premises for any sum expended by ~~him~~ the tenant in pursuance of the lease in making improvements for which compensation was not made in rent or otherwise.

Sec. 2111.26. A guardian may lease the possession and use of the real ~~estate~~ property of ~~his~~ the guardian's ward or any part of it for a term of years, renewable or otherwise, by perpetual lease, with or without the privilege of purchase, or may lease upon ~~such~~ the terms and for ~~such~~ the time ~~as that~~ the probate court approves any lands belonging to the ward containing coal, gypsum, petroleum oil, natural gas, gravel, stone, or any other mineral substance for the purpose of drilling, mining, or excavating for and removing any of ~~such~~ those substances, or ~~such~~ the guardian may

modify or change in any respect any lease previously made.

~~Such~~ The lease, or modification or change in a lease previously made, may be made when the guardian of the person and estate or of the estate only applies to the court by which ~~he~~ the guardian was appointed and ~~such~~ the court finds that the lease or modification or change is necessary for the support of the ward or of ~~his~~ the ward's family, for the payment of the just debts of the ward, for the ward's education, if a minor, to secure the improvement of the real ~~estate~~ property of the ward and increase the rent, to pay any liens or claims against ~~said~~ the real estate property, ~~or~~ if ~~such~~ the court finds that ~~such~~ the real ~~estate~~ property is suffering unavoidable waste, or that in any other respect it will be for the best interests of the ward or those persons for whom the ward is required by law to provide.

Sec. 2111.27. A guardian's application for authority to lease real ~~estate~~ property of a ward shall be by petition setting forth the following:

- (A) The legal capacity of the petitioner;
- (B) The name of the ward, the character of ~~his~~ the ward's disability, and if it is ~~idioty, imbecility, or lunacy~~ incompetence, whether ~~such~~ the disability is curable or not, temporary, or confirmed, and its duration;
- (C) The number, names, ages, and residence of the family of the ward, including the spouse and those residents of the county who have the next estate of inheritance from ~~such~~ the ward, all of whom, as well as the ward, ~~must shall~~ be made defendants;
- (D) The indebtedness of the ward, the expense of supporting and maintaining ~~him~~ the ward, the expense of educating ~~him~~ the ward if ~~he~~ the ward is a minor, and any other expense of the ward;
- (E) The value of all the property and effects of the ward including the real ~~estate~~ property proposed to be leased;
- (F) The income of the ward and the net annual value to the ward of the real ~~estate~~ property proposed to be leased;
- (G) A description of the real ~~estate~~ property proposed to be leased and the probable amount for which ~~such~~ the real ~~estate~~ property can be leased;
- (H) A detailed statement of the improvements proposed to be made to the real ~~estate~~ property sought to be leased;
- (I) The reasons for the proposed lease and the terms, covenants, conditions, and stipulations ~~thereof~~ of the proposed lease, including the time for which it is proposed the real ~~estate~~ property should be leased;
- (J) ~~Such~~ Any other facts necessary to apprise the court fully of the necessity or benefit to the ward or the estate of the proposed lease, or ~~such~~ any other facts ~~as that~~ may be required by the court;
- (K) A prayer for the proper authority.

Sec. 2111.28. In an application for authority to lease real ~~estate~~ property of a ward under sections 2111.26 and 2111.27 of the Revised Code, the guardian may act for two or more wards and two or more guardians of different wards may unite, ~~when if~~ if all the wards are jointly or in common interested in the real ~~estate~~ property. ~~When If~~ If the same person is guardian of two or more wards owning lands in common, ~~such the~~ the wards may be joined as defendants in the same petition under section 2111.27 of the Revised Code.

The ward's spouse shall be made a defendant to ~~such the~~ the petition, and if the proposed lease is for the purpose of mining or removing mineral or other substances, and ~~if such the~~ if the spouse files an answer consenting to the lease, free and discharged of all right and expectancy of dower ~~therein~~, ~~such the~~ the answer shall be a full release of ~~such the~~ the spouse's expectancy of dower when the lease is confirmed. Unless in ~~such the~~ the answer an allowance in lieu of dower is waived, the court shall allow, out of the proceeds of the lease, ~~such a~~ a sum in money ~~as that~~ as is the just and reasonable value of ~~such the~~ the expectancy of dower.

Sec. 2111.29. When a guardian files an application for authority to lease the real ~~estate~~ property of a ward, the same rules shall apply as to the parties and, upon the filing of the petition described in section 2111.27 of the Revised Code, ~~like similar~~ similar proceedings shall be had as in an action to sell real ~~estate~~ property belonging to the ward under sections 2127.01 to 2127.43, ~~inclusive~~, of the Revised Code, including services of summons, notice, appraisal, pleading, rule days, and proof.

Sec. 2111.30. When a guardian applies for authority to lease the real ~~estate~~ property of a ward, the duties of the appraisers shall be the same as in proceedings to sell real ~~estate~~ property belonging to the ward under sections 2127.22 and 2127.23 of the Revised Code, except that they shall appraise not only the value of the real ~~estate~~ property but also the value of the annual rental upon the terms, covenants, conditions, and stipulations of the proposed lease. If ~~said the proposed~~ the proposed lease is for the mining or removal of mineral or other substances, the appraisers shall report in writing to the probate court their opinion as to the probability of the lands containing ~~such those~~ those substances, the probable quantity of ~~such the~~ the substances, and the terms upon which it would be advantageous to the ward to lease the lands for mining or removing ~~such the~~ the substances. In their report the appraisers shall state whether in their opinion, the proposed lease will be for the best interests of the ward, those whom ~~he the ward~~ the ward is required by law to support, or the estate. They may also suggest any change in the terms, covenants, and stipulations proposed in the petition. The report of the appraisers shall be

returned on or before the day named in the order for the final hearing of the case. On the return of the appraisal, the guardian need not give an additional bond, but in case of sale under the terms of the lease, ~~such the~~ guardian ~~must~~ shall give ~~such the additional~~ bond before the confirmation of the sale.

Sec. 2111.31. If the report of the appraisers under section 2111.30 of the Revised Code is favorable to the lease and on the final hearing the court is of the opinion that it will be to the advantage of the ward, those whom ~~he~~ the ward is required by law to support, or the estate to lease the real estate property, the probate court shall make an order authorizing the lease to be made by public or private letting, as it ~~deems~~ considers best, on ~~such the~~ terms, covenants, conditions, and stipulations, either in accordance with those set forth in the petition or otherwise, as that it directs, provided ~~such the~~ terms, covenants, conditions, and stipulations are not less favorable to the ward than those reported by the appraisers. The lease shall not take effect until ~~such the~~ lease and the security, if any, ~~therein~~ prescribed in the lease are approved and confirmed.

~~In the~~ The lease made in pursuance of such pursuant to the court order it may ~~be provided~~ provide that the improvements shall be made by the tenant as part of the rent, or by the guardian, either out of the rent or other means of the ward as the court directs.

If the lease is for the mining or removal of mineral or other substances and the guardian is unable to lease the lands upon the terms ordered, ~~he~~ the guardian may report the fact to the court and ~~such the~~ court may change the terms of leasing, but not below the customary royalty in the vicinity of ~~such the~~ lands.

Sec. 2111.33. (A) A guardian may use the moneys and personal estate property of ~~his the~~ guardian's ward to improve ~~his the~~ ward's real estate property. ~~Such~~ The guardian shall file in the probate court in which ~~he the~~ guardian was appointed a petition containing the following:

- ~~(A)~~(1) A description of the premises to be improved;
- ~~(B)~~(2) The amount of rent the premises yield at the time the petition is filed;
- ~~(C)~~(3) In what manner ~~it~~ the improvement is proposed to ~~make such~~ improvement be made;
- ~~(D)~~(4) The proposed expenditures for ~~such the~~ improvement;
- ~~(E)~~ ~~What~~ (5) The rent the premises will probably yield when so improved;
- ~~(F)~~(6) A statement of the value of the ward's personal estate property;
- ~~(G)~~(7) Other facts ~~which that~~ are pertinent to the question whether the

improvement should be made;

~~(H)~~(8) A prayer that ~~such the~~ guardian be authorized to use so much of ~~his the~~ ward's money and personal ~~estate as~~ property that is necessary to make ~~such the~~ improvement;

~~(I)~~(9) The character of the disability of the ward, and if it is incompetency, whether ~~such the~~ disability is curable or not, temporary, or confirmed, and its duration;

~~(J)~~(10) The names, ages, and residence of the family of the ward, including the spouse and those known to be residents of the county who have the next estate of inheritance from the ward. All ~~such of those~~ persons, as well as the ward, ~~must shall~~ be made defendants and notified of the pendency and prayer of the petition in ~~such the~~ manner as ~~that~~ the court directs.

(B) If the property is so situated that, to the best interests of the ward's estate, it can be advantageously improved in connection with the improvement of property adjacent to it, the petition shall show this and have a prayer ~~in accordance therewith to so improve the property.~~

Sec. 2111.34. Upon the filing of the petition described in section 2111.33 of the Revised Code, ~~like similar~~ proceedings shall be had as to pleadings and proof as on petition by a guardian to sell the real ~~estate property~~ of a ward under sections 2127.01 to 2127.43, ~~inclusive,~~ of the Revised Code. The probate court shall appoint three disinterested freeholders of the county as commissioners to examine the premises to be improved, to examine the surroundings, and to report to the court their opinion whether the improvement proposed will be advantageous to the estate of the ward.

Sec. 2111.35. On the final hearing of a guardian's proceeding to improve the real ~~estate property~~ of ~~his the~~ guardian's ward, if the prayer of the petition is granted, the probate court shall fix the amount of money and personal ~~estate property~~ that may be used in making ~~such the~~ improvement. ~~Such~~ The court may authorize ~~such the~~ guardian to unite with the owners of adjacent property, upon ~~such~~ equitable terms and conditions as ~~that~~ the court approves, for the improvement of the premises of ~~his the~~ ward and for the proper management and repair of the property when so improved.

Sec. 2111.36. A guardian shall distinctly report to the probate court the amount of money and personal property expended in making an improvement to the ward's real property under section 2111.35 of the Revised Code, within forty days after the improvement is completed. If the ward dies before the removal of the disability and there are heirs who inherit real property only from ~~him the~~ ward, the money expended shall descend

and pass in the same manner as ~~his~~ the ward's other personal property and shall be a charge on the premises improved in favor of the heirs who inherit the personal property.

Sec. 2111.37. ~~When~~ If a nonresident minor, incompetent, or person confined in a state, charitable, or correctional institution has real ~~estate, chattels, property or~~ rights, credits, ~~or~~ moneys, or other personal property in this state, the probate court of the county in which the property or a part of it is situated may appoint a resident guardian of the ward to manage, collect, lease, and take care of the ward's property. The appointment may be made whether or not a ward has a guardian, trustee, or other conservator in the state of the ward's residence, and, if the ward has a guardian, trustee, or other conservator in the state of the ward's residence, the control and authority of the resident guardian appointed in ~~Ohio~~ this state shall be superior as to all property of the ward in ~~Ohio~~ this state.

The first appointment of a resident guardian of a nonresident ward shall extend to all the property and effects of the ward in this state and exclude the jurisdiction of the probate court of any other county.

Sec. 2111.38. The resident guardian of a nonresident ward shall give bond and be bound and controlled by all the statutes of ~~Ohio~~ this state as though ~~he~~ the resident guardian were a guardian of a ward resident in this state, and shall have all of the authority of a guardian of a resident ward including the authority to lease or sell real ~~estate~~ property belonging to the ward.

Unless removed by the probate court, a resident guardian of a nonresident minor shall hold ~~his~~ that appointment until ~~such~~ the minor dies or arrives at the age of majority, whether or not ~~such~~ the minor is over fourteen years of age at the time of appointment. A resident guardian of any other nonresident ward shall hold ~~his~~ that appointment until the death of the ward or until the court is satisfied that the necessity for the guardianship no longer exists.

All moneys due to ~~such~~ the nonresident ward while ~~such~~ the resident guardianship continues shall be paid over to ~~his~~ the ward's foreign guardian so far as necessary or proper for the ward's support and maintenance. If the ward dies, ~~such~~ the moneys shall be paid to ~~his~~ the ward's ancillary administrator or other legal representative, provided that the court ~~which~~ that appointed ~~such~~ the resident guardian has satisfactory proof, as provided by section 2111.39 of the Revised Code, of the authority of ~~such~~ the foreign guardian, administrator, or other legal representative to receive the moneys or ~~estates~~ properties of ~~such~~ the nonresident ward, that the security given by ~~such~~ the foreign guardian, administrator, or other legal representative is

sufficient to protect ~~such the~~ ward's interest or estate, and ~~provided such that~~ the court deems considers it best for ~~him the ward~~ or ~~his the ward's~~ estate.

Sec. 2111.39. When a foreign legal representative of a nonresident ward applies to have all or any of the moneys or property in the ~~hands possession~~ or under the control of the resident guardian of ~~such the~~ ward paid or delivered to ~~him the foreign representative, he must the foreign representative shall~~ file ~~his a~~ petition or motion in the probate court by which ~~such the~~ resident guardian was appointed. ~~Such The~~ resident guardian ~~must shall~~ be given thirty days' notice of the time of hearing ~~thereon on the petition or motion,~~ and ~~such the~~ foreign representative ~~must shall~~ produce an exemplification under the seal of the office, if there ~~be is~~ a seal, of the proper court of the state of ~~his the foreign representative's~~ residence containing all the entries on record in relation to ~~his the foreign representative's~~ appointment and qualification, authenticated as required by the act of congress in ~~such those~~ cases. Upon the hearing ~~thereof,~~ the court shall make ~~such an~~ order as ~~that~~ it ~~deems considers~~ for the best interests of ~~such the~~ nonresident ward or ~~his the nonresident ward's~~ estate.

Sec. 2111.40. ~~When If~~ a nonresident ward for whom a resident guardian was appointed has become a resident since the appointment and a guardian has been appointed for ~~such the~~ ward, the probate court shall remove the resident guardian previously appointed and require an immediate settlement of ~~his the~~ account of the resident guardian previously appointed.

Sec. 2111.41. ~~When If~~ a ward for whom a guardian has been appointed in this state removes to another state or territory, and a guardian of the ward is there appointed, the guardian in this state may be removed and required to settle ~~his that~~ guardian's account.

~~Such a That~~ removal of the guardian in this state shall not be made unless the guardian appointed in another state or territory applies to the probate court in this state that made the former appointment; and files an exemplification from the record of the court making the foreign appointment containing all the entries and proceedings relating to ~~his the foreign guardian's~~ appointment, ~~his and~~ giving bond, with a copy ~~thereof, of the bond~~ and of the letters of guardianship, all authenticated as required by the act of congress. Before ~~such an the~~ application is heard or action taken by the court, at least thirty days' written notice shall be served on the guardian appointed in this state specifying the object of the application; and the time it is to be heard.

No ~~such~~ removal of a guardian under this section shall be made in favor of a foreign guardian, unless at the time of the hearing the state or territory in which ~~he the foreign guardian~~ was appointed has a similar provision as to

wards removing from that state or territory. The court shall grant the application unless it makes an affirmative finding that the removal of the guardian appointed in this state would not be in the interest of the ward.

If on ~~such a~~ the hearing the court removes the guardian, it shall make all suitable orders for discharging the guardian and shall deliver to the foreign guardian all moneys and other property in the ~~hands~~ possession or under the control of the resident guardian after ~~his~~ the resident guardian's settlement.

Sec. 2111.44. Applications for the sale of real estate property by guardians of wards who live out of this state shall be made in the county in which the land is situated. If ~~such the~~ real estate property is situated in two or more counties, ~~such the~~ application shall be made in one of the counties in which a part of it is situated. Additional security, ~~which that~~ may be approved by the probate court of the county in which the application is made; shall be required from ~~such the~~ guardian ~~when deemed~~ if considered necessary.

Sec. 2111.46. When a guardian has been appointed for a minor before ~~such the~~ the minor is over fourteen years of age, ~~such the~~ guardian's power shall continue until the ward arrives at the age of majority, unless removed for good cause or unless ~~such the~~ the ward selects another suitable guardian. After ~~such the~~ the selection is made and approved by the probate court and the person selected is appointed and qualified, the powers of the former guardian shall cease. ~~Thereupon his~~ The former guardian's final account as guardian shall ~~then~~ be filed and settled in court.

Upon the termination of a guardianship of the person, estate, or both of a minor before ~~such the~~ the minor reaches eighteen years of age, if a successor guardian is not appointed and if the court finds that ~~such the~~ the minor is without proper care, the court shall certify a copy of its finding together with as much of the record and ~~such any~~ any further information as ~~that~~ the court ~~deems~~ considers necessary, or as the juvenile court may request, to the juvenile court for further proceedings ~~and thereupon such~~. Upon that certification, the juvenile court shall have exclusive jurisdiction respecting ~~such child~~ the minor.

Sec. 2111.48. All sales, leases, encumbrances, or liens made or created on any real estate property located in ~~Ohio~~ this state by guardians for persons who are incompetent by reason of advanced age or mental or physical disability since August 17, 1919, by order of any court of this state shall not be declared invalid for the reason that ~~such the~~ the guardians for the incompetents were not vested with all the statutory powers given to guardians of ~~idiots, imbeciles, and lunatics~~ incompetents. ~~Such~~ Those acts of guardians for incompetents are legal and effective.

Sec. 2111.50. (A)(1) At all times, the probate court is the superior guardian of wards who are subject to its jurisdiction, and all guardians who are subject to the jurisdiction of the court shall obey all orders of the court that concern their wards or guardianships.

(2)(a) Subject to divisions (A)(2)(b) and (c) of this section, the control of a guardian over the person, the estate, or both of ~~his~~ the guardian's ward is limited to the authority that is granted to the guardian by the Revised Code, relevant decisions of the courts of this state, and orders or rules of the probate court.

(b) Except for the powers specified in division (E) of this section and unless otherwise provided in or inconsistent with another section of the Revised Code, the probate court may confer upon a guardian any power that this section grants to the probate court in connection with wards.

(c) For good cause shown, the probate court may limit or deny, by order or rule, any power that is granted to a guardian by a section of the Revised Code or relevant decisions of the courts of this state.

(B) In connection with any person whom the probate court has found to be an incompetent or a minor subject to guardianship and for whom the court has appointed a guardian, the court has, subject to divisions (C) to (E) of this section, all the powers that relate to the person and estate of the ~~person ward~~ and that ~~he~~ the ward could exercise if present and not a minor or under a disability, except the power to make or revoke a will. These powers include, but are not limited to, the power to do any of the following:

(1) Convey or release the present, contingent, or expectant interests in real or personal property of the ~~person ward~~, including, but not limited to, dower and any right of survivorship incident to a survivorship tenancy, joint tenancy, or tenancy by the entirety;

(2) Exercise or release powers as a trustee, personal representative, custodian for a minor, guardian, or donee of a power of appointment;

(3) Enter into contracts, or create revocable trusts of property of the estate of the ~~person ward~~, that may not extend beyond the minority, disability, or life of the ~~person or~~ ward;

(4) Exercise options to purchase securities or other property;

(5) Exercise rights to elect options under annuities and insurance policies, and to surrender an annuity or insurance policy for its cash value;

(6) Exercise the right to an elective share in the estate of the deceased spouse of the ~~person ward~~ pursuant to section ~~2107.45~~ 2106.08 of the Revised Code;

(7) Make gifts, in trust or otherwise, to relatives of the ~~person ward~~ and, consistent with any prior pattern of the ~~person ward~~ of giving to charities or

of providing support for friends, to charities and friends of the ~~person~~ ward.

(C) Except for the powers specified in division (D) of this section, all powers of the probate court that are specified in this chapter and that relate either to any person whom it has found to be an incompetent or a minor subject to guardianship and for whom it has appointed a guardian and all powers of a guardian that relate to ~~his~~ the guardian's ward or guardianship as described in division (A)(2) of this section, shall be exercised in the best interest, as determined in the court's or guardian's judgment, of the following:

(1) The ~~person~~ ward whom the probate court has found to be an incompetent or a minor subject to guardianship;

(2) The dependents of the ~~person~~ ward;

(3) The members of the household of the ~~person~~ ward.

(D) If the court is to exercise or direct the exercise, pursuant to division (B) of this section, of the power to make gifts in trust or otherwise, the following conditions shall apply:

(1) The exercise of the particular power shall not impair the financial ability of the estate of the ~~person~~ ward whom the probate court has found to be an incompetent or a minor subject to guardianship and for whom the court has appointed a guardian, to provide for ~~his~~ the ward's foreseeable needs for maintenance and care;

(2) If applicable, the court shall consider any of the following:

(a) The estate, income, and other tax advantages of the exercise of a particular power to the estate of a ~~person~~ ward whom the probate court has found to be an incompetent or a minor subject to guardianship and for whom the court has appointed a guardian;

(b) Any pattern of giving of, or any pattern of support provided by, the ~~person~~ ward prior to ~~his~~ the ward's incompetence;

(c) The disposition of property made by the ward's will ~~of the person~~;

(d) If there is no knowledge of a will of the ~~person~~ ward, ~~his~~ the ward's prospective heirs;

(e) Any relevant and trustworthy statements of the ~~person~~ ward, whether established by hearsay or other evidence.

(E)(1) The probate court shall cause notice as described in division (E)(2) of this section to be given and a hearing to be conducted prior to its exercise or direction of the exercise of any of the following powers pursuant to division (B) of this section:

(a) The exercise or release of powers as a donee of a power of appointment;

(b) Unless the amount of the gift is no more than one thousand dollars,

the making of a gift, in trust or otherwise.

(2) The notice required by division (E)(1) of this section shall be given to the following persons:

(a) Unless a guardian of a ward has applied for the exercise of a power specified in division (E)(1) of this section, to the guardian;

(b) To the ~~person~~ ward whom the probate court has found to be an incompetent or a minor subject to guardianship;

(c) If known, to a guardian who applied for the exercise of a power specified in division (E)(1) of this section, to the prospective heirs of the ~~person~~ ward whom the probate court has found to be an incompetent or a minor subject to guardianship under section 2105.06 of the Revised Code, and any person who has a legal interest in property that may be divested or limited as the result of the exercise of a power specified in division (E)(1) of this section;

(d) To any other persons the court orders.

(F) When considering any question related to, and issuing orders for, medical or surgical care or treatment of incompetents or minors subject to guardianship, the probate court has full *parens patriae* powers unless otherwise provided by a section of the Revised Code.

Sec. 2113.01. Upon the death of a resident of this state who dies intestate, letters of administration of ~~his~~ the decedent's estate shall be granted by the probate court of the county in which ~~he~~ the decedent was a resident at the time ~~he died of death~~.

If the will of any person is admitted to probate in this state, letters testamentary or of administration shall be granted by the probate court in which ~~such~~ the will was admitted to probate.

Sec. 2113.03. (A) Subject to division ~~(D)~~(I) of this section, an estate may be released from administration under division (B) of this section if either of the following applies:

(1) The value of the assets of the estate is thirty-five thousand dollars or less.

(2) The value of the assets of the estate is one hundred thousand dollars or less and either of the following applies:

(a) The decedent devised and bequeathed in a valid will all of the assets of the decedent's estate to a person who is named in the will as the decedent's spouse, and the decedent is survived by that person.

(b) The decedent is survived by a spouse whose marriage to the decedent was solemnized in a manner consistent with Chapter 3101. of the Revised Code or with a similar law of another state or nation, the decedent died without a valid will, and the decedent's surviving spouse is entitled to

receive all of the assets of the decedent's estate under section 2105.06 of the Revised Code or by the operation of that section and division (B)(1) or (2) of section 2106.13 of the Revised Code.

(B) Upon the application of any interested party, after notice of the filing of the application has been given to the surviving spouse and heirs at law in the manner and for the length of time the probate court directs, and after notice to all interested parties by publication in a newspaper of general circulation in the county, unless the notices are waived or found unnecessary, the court, when satisfied that division (A)(1) or (2) of this section is satisfied, may enter an order relieving the estate from administration and directing delivery of personal property and transfer of real ~~estate~~ property to the persons entitled to the personal property or real ~~estate~~ property.

(C) For the purposes of this section, the value of an estate that reasonably can be considered to be in an amount specified in division (A)(1) or (2) of this section and that is not composed entirely of money, stocks, bonds, or other property the value of which is readily ascertainable, shall be determined by an appraiser selected by the applicant, subject to the approval of the court. The appraiser's valuation of the property shall be reported to the court in the application to relieve the estate from administration. The appraiser shall be paid in accordance with section 2115.06 of the Revised Code.

(D) For the purposes of this section, the amount of property to be delivered or transferred to the surviving spouse, minor children, or both, of the decedent as the allowance for support shall be established in accordance with section 2106.13 of the Revised Code.

~~When a delivery, sale, or transfer of personal property has been ordered from an estate that has been relieved from administration, the~~ (E) The court may appoint a commissioner to execute all necessary instruments of conveyance, including the instruments of conveyance and other documents required for the transfer of title upon the sale of real property pursuant to section 2127.011 of the Revised Code. The commissioner shall receipt for the property, distribute the proceeds of the conveyance upon court order, and report to the court after ~~distribution~~ the delivery, sale, or transfer of personal or real property from an estate that has been relieved from administration.

~~When~~ (F) If the decedent died testate, the will shall be presented for probate, and, if admitted to probate, the court may relieve the estate from administration and order distribution of the estate under the will.

(G) An order of the court relieving an estate from administration shall

have the same effect as administration proceedings in freeing ~~land~~ real property in the ~~hands~~ possession or under the control of an innocent purchaser for value from possible claims of unsecured creditors.

~~(C)~~(H) Any delivery of personal property or transfer of real estate property pursuant to an order relieving an estate from administration is made subject to the limitations pertaining to the claims of creditors set forth in divisions (B) and (C) of section 2117.06 of the Revised Code.

~~(D)~~(I) The release of an estate from administration under this section does not affect any duty of any person to file an estate tax return and certificate under division (A) of section 5731.21 of the Revised Code and does not affect the duties of a probate court set forth in that division.

~~(E)~~(J) This section does not affect the ability of qualified persons to file an application for a summary release from administration under section 2113.031 of the Revised Code or to file an application for the grant of letters testamentary or letters of administration.

Sec. 2113.04. (A) Any employer, including the state or a political subdivision, at any time after the death of ~~his or its~~ an employee, may pay all wages or personal earnings due to the deceased employee to: ~~(A) the surviving spouse; (B) any one or more of the children eighteen years of age or older; or (C) the father or mother of the deceased employee~~ the following, preference being given in the order named, without requiring letters testamentary or letters of administration to be issued upon the estate of the deceased employee, and without requiring an Ohio estate tax release ~~where~~ if the wages or personal earnings do not exceed ~~two~~ five thousand ~~five~~ hundred dollars. ~~The:~~

(1) The surviving spouse;

(2) Any one or more of the children eighteen years of age or older;

(3) The father or mother of the deceased employee.

(B) The payment of wages or personal earnings under division (A) of this section is a full discharge and release to the employer from any claim for the wages or personal earnings. If letters testamentary or letters of administration are thereafter issued upon the estate of the deceased employee, any person receiving payment of wages or personal earnings under ~~this section~~ that division is liable to the executor or administrator for the sum received by ~~him~~ the person.

Sec. 2113.05. When a will is approved and allowed, the probate court shall issue letters testamentary to the executor named in the will or to the executor nominated by holders of a power as described in section 2107.65 of the Revised Code, or to the executor named in the will and to a coexecutor nominated by holders of ~~such a~~ that power, if ~~he~~ the executor or coexecutor

is suitable, competent, accepts the appointment, and gives bond if that is required.

If no executor is named in a will and no power as described in section 2107.65 of the Revised Code is conferred in the will, or if the executor named in a will or nominated pursuant to ~~such a~~ that power dies, fails to accept the appointment, resigns, or is otherwise disqualified and the holders of ~~such a~~ the power do not have authority to nominate another executor or ~~no such~~ the power is not conferred in the will, or if ~~such a~~ the power is conferred in a will but the power cannot be exercised because of the death of a holder of the power, letters of administration with the will annexed shall be granted to a suitable person or persons, named as devisees or legatees in the will, who would have been entitled to administer the estate if the decedent had died intestate, unless the will indicates an intention that the person or persons shall not be granted letters of administration. Otherwise, the court shall grant letters of administration with the will annexed to some other suitable person.

Sec. 2113.06. (A) Administration of the estate of an intestate shall be granted to persons mentioned in this ~~section~~ division, in the following order:

~~(A)~~(1) To the surviving spouse of the deceased, if resident of the state;

~~(B)~~(2) To one of the next of kin of the deceased, resident of the state.

(B) If the persons entitled to administer the estate under division (A) of this section fail to take or renounce administration voluntarily, ~~they shall be cited by the probate court for that purpose~~ the matter shall be set for hearing and notice given to the persons.

(C) If there are no persons entitled to administration, ~~or~~ if they are for any reason unsuitable for the discharge of the trust, or if without sufficient cause they neglect to apply within a reasonable time for the administration of the estate, their right to priority shall be lost, and the court shall commit the administration to some suitable person who is a resident of the state, or to the attorney general or the attorney general's designee, if the department of job and family services is seeking to recover medical assistance from the deceased pursuant to section 5111.11 or 5111.111 of the Revised Code. ~~Such~~ The person granted administration may be a creditor of the estate.

(D) This section applies to the appointment of an administrator de bonis non.

Sec. 2113.07. Before being appointed executor or administrator, every person shall make and file an application that shall contain the names of the surviving spouse and all the next of kin of the deceased known to the applicant, their ~~post-office~~ addresses of usual residence if known, a statement in general terms ~~as to~~ of what the estate consists ~~of~~ and its

probable value, and a statement of any indebtedness the deceased had against the applicant.

The application may be accompanied by a waiver signed by the persons who have priority to administer the estate, and, in the absence of a waiver, those persons shall be ~~called by the probate court~~ served notice for the purpose of ascertaining whether they desire to take or renounce administration. Minors who would have been entitled to priority to administer the estate except for their minority also shall be served notice pursuant to the Rules of Civil Procedure.

Letters of administration shall not be issued upon the estate of an intestate until the person to be appointed has made and filed a statement indicating that ~~there is not to his~~ the person has no knowledge of a ~~last will and testament~~ of the intestate.

Sec. 2113.12. If a person named as executor in the will of a decedent, or nominated as an executor by holders of a power as described in section 2107.65 of the Revised Code, refuses to accept the trust, or, if after being ~~called~~ served notice for that purpose, neglects to appear and accept, or if ~~he~~ the person named or nominated as executor neglects for twenty days after the probate of the will to give any required bond, the probate court shall grant letters testamentary to the other executor, if there is one capable and willing to accept the trust, and if there is no ~~such~~ other executor named in the will or nominated by holders of a power as described in section 2107.65 of the Revised Code, the court shall commit administration of the estate, with the will annexed, to some suitable and competent person, pursuant to section 2113.05 of the Revised Code.

Sec. 2113.13. When a person ~~appointed~~ nominated as executor is under the age of eighteen years at the time of ~~proving~~ admitting the will to probate, administration may be granted with the will annexed during ~~his~~ the nominee's minority, unless there is another executor who will accept the trust. If there is ~~such an~~ that other executor, the estate shall be administered by ~~him~~ that executor until the minor arrives at full age when ~~such~~ the former minor may be admitted as executor ~~with him~~ upon giving bond as provided in section 2109.04 of the Revised Code.

Sec. 2113.14. The executor of an executor has no authority, as such, to administer the estate of the first testator. On the death of the sole or surviving executor of a ~~last~~ will, administration of that part of the estate of the first testator not already administered may be granted, with the will annexed, to ~~such~~ the person as that the probate court appoints.

Sec. 2113.15. When there is delay in granting letters testamentary or of administration, the probate court may appoint a special administrator to

collect and preserve the effects of the deceased and grant the special administrator any other authority that the court considers appropriate.

~~Such~~ The special administrator must shall collect the ~~chattels~~ assets and debts of the deceased and preserve them for the executor or administrator who thereafter is appointed. For that purpose ~~such~~ the special administrator may begin ~~and~~, maintain, or defend suits as administrator and also sell ~~such goods as~~ any assets the court orders sold. ~~He~~ The special administrator shall be allowed ~~such~~ the compensation for ~~his~~ the special administrator's services as that the court thinks reasonable, if ~~he forthwith delivers the property and effects of the estate to the executor or administrator who supersedes him~~ the special administrator faithfully fulfills the fiduciary duties.

Sec. 2113.16. Upon granting of letters testamentary or of administration, the power of a special administrator appointed under section 2113.15 of the Revised Code shall ~~cease~~ terminate and ~~he forthwith must deliver~~ the special administrator shall transfer to the executor or administrator all the ~~chattels and moneys~~ assets of the deceased in ~~his hands~~ the possession or under the control of the special administrator. The special administrator shall file an account of the special administration within thirty days of the appointment of the executor or administrator. The account shall be in conformance with section 2109.30 of the Revised Code. The executor or administrator may be admitted to prosecute any suit begun by the special administrator, as an administrator de bonis non is authorized to prosecute a suit commenced by a former executor or administrator.

If ~~such~~ the special administrator neglects or refuses to ~~deliver over~~ transfer the ~~property~~ assets and estate to the executor or administrator, the probate court may compel ~~him to do so~~ the transfer by citation and attachment. The executor or administrator also may proceed, by civil action, to recover the value of the assets from ~~such~~ the special administrator and ~~his~~ the special administrator's sureties.

Sec. 2113.17. A creditor's claim may be presented in accordance with section 2117.06 of the Revised Code to a special administration appointed under section 2113.15 of the Revised Code.

Sec. 2113.18. (A) The probate court may remove any executor or administrator if there are unsettled claims existing between ~~him~~ the executor or administrator and the estate, ~~which~~ that the court thinks may be the subject of controversy or litigation between ~~him~~ the executor or administrator and the estate or persons interested ~~therein~~ in the estate.

(B) The probate court may remove any executor or administrator upon motion of the surviving spouse, children, or other next of kin of the deceased person whose estate is administered by the executor or

administrator if both of the following apply:

(1) The executor or administrator refuses to bring an action for wrongful death in the name of the deceased person;

(2) The court determines that a prima-facie case for a wrongful death action can be made from the information available to the executor or administrator.

Sec. 2113.19. When a sole executor or administrator dies without having fully administered the estate, the probate court shall grant letters of administration, with the will annexed or otherwise as the case requires, to some suitable person pursuant to section 2113.05 or 2113.06 of the Revised Code. ~~Such That~~ person shall administer the ~~goods and estate~~ assets of the deceased not previously administered, ~~in case there is personal estate to be administered to the amount of twenty dollars or debts to that amount due from the estate.~~

Sec. 2113.20. If a will of a deceased is proved and allowed after letters of administration have been granted as of an intestate estate, the first administration shall be revoked, unless before ~~such the~~ revocation a petition complaint contesting the probate of ~~such the~~ will is filed in the probate court of common pleas. If ~~such a~~ petition complaint of that nature is filed, the probate court may allow the administration to be continued ~~in the hands of~~ by the original administrators until the final determination of ~~such the~~ contest. If the will is sustained, the first administration ~~must~~ shall be revoked. In either case, upon revocation of the first administration and the appointment of an executor or administrator with the will annexed, ~~such that~~ executor or administrator shall be admitted to prosecute or defend any suit, proceeding, or matter begun by or against the original administrator, in ~~like~~ the same manner as an administrator de bonis non is authorized to prosecute or defend a suit commenced by a former executor or administrator.

Sec. 2113.21. (A) When a will is contested, the executor, the administrator de bonis non, with the will annexed, or the testamentary trustee may, during the contest, do the following:

~~(A)~~(1) Control all the real ~~estate which is included in the will but not specifically devised~~ property and all the personal ~~estate~~ property of the testator not administered before ~~such the~~ contest;

~~(B)~~(2) Collect the debts and convert all assets into money, except those ~~which that~~ are specially bequeathed;

~~(C)~~(3) Pay all taxes on ~~such the~~ real and personal property and all debts;

~~(D)~~(4) Repair buildings and make other improvements if necessary to preserve the real property from waste;

~~(E)~~(5) Insure ~~such those~~ buildings upon an order first obtained from the

probate court having jurisdiction of ~~such~~ the executor, administrator, or testamentary trustee;

~~(F)(6)~~ Advance or borrow money on the credit of ~~such~~ the estate for ~~such~~ the repairs, taxes, and insurance ~~which that~~ shall be a charge ~~thereon on~~ the estate;

~~(G)(7)~~ Receive and receipt for a distributive share of an estate or trust to which ~~such~~ the testator would have been entitled, if living.

(B) The court may require ~~such~~ additional bonds as that from time to time ~~seems seem~~ proper.

Sec. 2113.22. An ~~administrator or~~ executor or administrator appointed in the place of an executor or administrator who has resigned or been removed, whose letters have been revoked, or whose authority has been extinguished is entitled to the possession of all the unadministered personal effects and assets of the estate ~~unadministered~~, and all other funds collected and unaccounted for by ~~such~~ the former executor or administrator, and may maintain a suit against the former executor or administrator and ~~his~~ the former executor's or administrator's sureties on the administration bond to recover ~~such~~ those effects, assets, and funds and for all damages arising from the maladministration or omissions of the former executor or administrator.

Sec. 2113.25. ~~So far as the executor or administrator is able, the~~ The executor or administrator of an estate shall collect the assets and complete the administration of that estate within ~~thirteen~~ six months after the date of appointment unless an extension of the time to file a final and distributive account is authorized under division (B) of section 2109.301 of the Revised Code.

~~Upon application of the executor or administrator and notice to the interested parties, if the probate court considers that notice necessary, the court may allow further time in which to collect assets, to convert assets into money, to pay creditors, to make distributions to legatees or distributees, to file partial, final, and distributive accounts, and to settle estates. The court, upon application of any interested party, may authorize the examination under oath in open court of the executor or administrator upon any matter relating to the administration of the estate~~ For good cause shown, the court may grant an extension of the time to file the inventory and accounts.

Sec. 2113.26. The court, upon application of any interested party, may authorize the examination of the executor or administrator under oath in open court on any matter relating to the administration of the estate.

Sec. 2113.30. (A) Except as otherwise directed by the decedent in the decedent's ~~last will and testament~~, an executor or administrator, without

personal liability for losses incurred, may continue the decedent's business during four months next following the date of the appointment of that executor or administrator, unless the probate court directs otherwise, and for any further time that the court may authorize upon a hearing and after notice to the surviving spouse and distributees. In either case, no debts incurred or contracts entered into shall involve the estate beyond the assets used in that business immediately prior to the death of the decedent without first obtaining the approval of the court. During the time the business is continued, the executor or administrator shall file monthly reports in the court, setting forth the receipts and expenses of the business for the preceding month and any other pertinent information that the court may require. The executor or administrator may not bind the estate without court approval beyond the period during which the business is continued.

(B) As used in this section, "decedent's business" means a business that is owned by the decedent as a sole proprietor at the time of the decedent's death. "Decedent's business" does not include a business that is owned in whole or in part by the decedent as a shareholder of a corporation, a member of a limited liability company, or a partner of a partnership, or under any other form of ownership other than a sole proprietorship.

Sec. 2113.31. Every executor or administrator is chargeable with all ~~chattels, rights, and credits~~ assets of the deceased ~~which that~~ come into his hands the possession or under the control of the executor or administrator and are to be administered, although not included in the inventory required by section 2115.02 of the Revised Code. ~~Such~~ The executor or administrator is also chargeable with all the proceeds of personal property and real estate property sold for the payment of debts or legacies, and all the interest, profit, and income that in any way comes ~~to his hands~~ into the possession or under the control of the executor or administrator from the personal estate property of the deceased.

Sec. 2113.311. (A) If, within a reasonable time after the appointment of the executor or administrator, no one in authority has taken over the management and rental of any real estate property of which the decedent died seized, the executor or administrator, or an heir or devisee may, unless the will otherwise provides, make application to the probate court for an order authorizing the executor or administrator to assume ~~such~~ those duties. ~~Such~~ The application shall contain the following:

(1) A brief statement of the facts upon which the application is based and ~~such~~ any other pertinent information as that the court may require;

(2) A description or identification of the real estate property and the interest owned by the decedent at the time of ~~his~~ death;

(3) The names and addresses, if known to the applicant, of the persons to whom ~~such the~~ real estate property passed by descent or devise.

~~(B)~~ Notice of the time of hearing on ~~such the~~ application shall be given to the persons designated in ~~sub-paragraph~~ division (A)(3) of this section, unless for good cause the court dispenses with ~~such that~~ notice, and also to the executor or administrator, unless the executor or administrator is the applicant.

~~(C)~~ If the court finds that the statements contained in the application are true and that it would be for the best interest of ~~such those~~ heirs or devisees that the application be granted, it may authorize the executor or administrator to assume the management and rental of ~~such the~~ real estate property.

~~(D)~~ The court may require bond, new or additional, in an amount to be fixed by the court and conditioned that the executor or administrator will faithfully and honestly discharge the duties devolving ~~upon him by~~ from the provisions of this section.

~~(B)~~~~(E)~~ In the exercise of ~~such the~~ authority granted under this section, the executor or administrator shall be authorized to do the following:

(1) Collect rents;

(2) From the rents collected:

(a) Pay all taxes and assessments due on ~~such the~~ real estate property, and all ~~such~~ usual operating expenses in connection with ~~the its~~ management thereof;

(b) Make repairs when necessary to preserve ~~such the~~ real estate property from waste, provided that an order of the court shall first be obtained if the cost of ~~such~~ repairs exceeds one hundred dollars;

(c) Insure buildings against loss by fire or other casualty and against public liability;

(3) Advance money upon an order first obtained from the court, for ~~such the~~ repairs, taxes, insurance, and all usual operating expenses, ~~which that~~ shall be a charge on ~~such the~~ real estate property;

(4) Rent the property on a month-to-month basis, or, upon an order first obtained from the court, for a period not to exceed one year;

(5) Prosecute actions for forcible entry and ~~detention~~ detainer of ~~such the~~ real estate property.

~~(F)~~ The executor or administrator shall, at intervals not to exceed twelve months, pay over to the heirs or devisees, if known, their share of the net rents, and shall account for all money received and paid out under authority of this section in ~~his the~~ executor's or administrator's regular accounts of the administration of the estate, but in a separate schedule. If any share of the

net rents remains unclaimed, it may be disposed of in the same manner as is provided for unclaimed money under section 2113.64 of the Revised Code.

(G) The authority granted under this section shall terminate upon the transfer of the real estate property to the heirs or devisees in accordance with section 2113.61 of the Revised Code, ~~or~~ upon a sale ~~thereof~~ of the real property, ~~or~~ upon application of the executor or administrator, or for a good cause shown, upon the application of an heir or devisee.

(H) Upon application the court may allow compensation to the executor or administrator for extraordinary services, ~~which that~~ shall be charged against the rents, and if ~~said the~~ rents ~~be are~~ insufficient, shall be a charge against ~~such the~~ real estate property.

Upon application the court may allow reasonable attorney fees paid by the executor or administrator when an attorney is employed in connection with the management and rental of ~~such the~~ real estate, which property that shall be charged against the rents, and if ~~said the~~ rents ~~be are~~ insufficient, shall be a charge against ~~such the~~ real estate property.

Sec. 2113.33. An executor or administrator is not accountable for debts inventoried as due to the decedent, if it appears to the probate court that, without ~~his the~~ the executor's or administrator's fault, they remain uncollected.

Sec. 2113.34. If an executor or administrator neglects to sell personal property ~~which he that~~ is required to ~~sell be~~ sold, and retains, consumes, or disposes of it for ~~his the~~ the executor's or administrator's own benefit, ~~he the~~ the executor or administrator shall be charged ~~therewith~~ with the personal property at double the value affixed ~~thereto to the~~ property by the appraisers.

Sec. 2113.35. (A) Executors and administrators shall be allowed ~~commissions~~ fees upon the amount of all the personal estate property, including the income from the personal estate property, that is received and accounted for by them and upon the proceeds of real estate property that is sold, as follows: (A)

(1) For the first one hundred thousand dollars, at the rate of four per cent; ~~(B)~~

(2) All above one hundred thousand dollars and not exceeding four hundred thousand dollars, at the rate of three per cent; ~~(C)~~

(3) All above four hundred thousand dollars, at the rate of two per cent.

~~Executors~~

(B) Executors and administrators ~~also~~ shall be allowed a ~~commission~~ fee of one per cent on the value of real estate property that is not sold. Executors and administrators also shall be allowed a ~~commission~~ fee of one per cent on all property that is not subject to administration and that is includable for purposes of computing the Ohio estate tax, except joint and

survivorship property. ~~The~~

(C) ~~The~~ basis of valuation for the allowance of ~~such commissions~~ the fees on real estate property sold shall be the gross proceeds of sale, and for all other property the fair market value of the other property as of the date of death of the decedent. The ~~commissions~~ fees allowed to executors and administrators in this section shall be received in full compensation for all their ordinary services. ~~If~~

(D) ~~If~~ the probate court finds, after a hearing, that an executor or administrator, in any respect, has not faithfully discharged ~~his~~ the duties as executor or administrator, the court may deny the executor or administrator any compensation whatsoever or may allow the executor or administrator the reduced compensation that the court thinks proper.

Sec. 2113.36. Allowances, in addition to those provided by section 2113.35 of the Revised Code for an executor or administrator, ~~which that~~ the probate court considers just and reasonable shall be made for actual and necessary expenses and for extraordinary services not required of an executor or administrator in the common course of ~~his duty~~ the executor's or administrator's duties.

Upon the application of an executor or administrator for further allowances for extraordinary services rendered, the court shall review both ordinary and extraordinary services claimed to have been rendered. If the ~~commissions~~ fees payable pursuant to section 2113.35 of the Revised Code; exceed the reasonable value of ~~such~~ the ordinary services rendered, the court ~~must~~ shall adjust any allowance made for extraordinary services so that the total ~~commissions~~ fees and allowances to be made fairly reflect the reasonable value of both ordinary and extraordinary services.

~~When~~ If an attorney has been employed in the administration of the estate, reasonable attorney fees paid by the executor or administrator shall be allowed as a part of the expenses of administration. The court may at any time during administration fix the amount of ~~such~~ those fees and, on application of the executor or administrator or the attorney, shall fix the amount ~~thereof~~ of the fees. ~~When~~ If provision is made by the will of the deceased for compensation to an executor, the amount provided shall be a full satisfaction for ~~his~~ the executor's or administrator's services, in lieu of ~~such commissions~~ the fees or ~~his share thereof~~ of the fees, unless by an instrument filed in the court within four months after ~~his~~ the appointment ~~he~~ the executor or administrator renounces all claim to the compensation given by the will.

Sec. 2113.39. If a qualified executor, administrator, or testamentary trustee is authorized by will or devise to sell any class of personal property

~~whatsoever~~ or real estate property, no order shall be required from the probate court ~~to enable him for the executor, administrator, or testamentary trustee to act in pursuance of the power vested in him~~ proceed with the sale. A power to sell authorizes a sale for any purpose ~~deemed~~ considered by ~~such the~~ executor, administrator, or testamentary trustee to be for the best interest of the estate, unless the power is expressly limited by ~~such the~~ will or devise.

Sec. 2113.40. (A) At any time after the appointment of an executor or administrator, the probate court, ~~when if~~ satisfied that it would be for the best interests of the estate, may authorize ~~such the~~ executor or administrator to sell at public or private sale, at a fixed price or for the best price obtainable, and for cash or on ~~such the~~ terms as that the court may determine, any part or all of the personal property belonging to the estate, except the following:

~~(A)~~ (1) ~~Such property as~~ Property that the surviving spouse desires to take at the appraised value;

~~(B)~~ (2) Property specifically bequeathed, ~~when if the~~ sale of ~~such that~~ property is not necessary for the payment of debts, provided that ~~such the~~ property may be sold with the consent of the person entitled ~~thereto to the~~ property, including executors, administrators, guardians, and trustees;

~~(C)~~ (3) Property as to which distribution in kind has been demanded prior to the sale by the surviving spouse or other beneficiary entitled to ~~such the~~ distribution in kind;

~~(D)~~ (4) Property ~~which that~~ the court directs shall not be sold pursuant to a wish expressed by the decedent in ~~his the~~ decedent's will; but at any later period, on application of a party interested, the court may, and for good cause shall, require ~~such the~~ sale to be made.

(B) In case of a sale before expiration of the time within which the surviving spouse may elect to take at the appraised value, not less than ten days' notice of ~~such the~~ sale shall be given to the surviving spouse, unless ~~such the~~ surviving spouse consents to ~~such the~~ sale or waives notice ~~thereof~~ of the sale. ~~Such The~~ notice shall not be required as to perishable property.

(C) The court may permit the itemized list of personal property being sold to be incorporated in documents and records relating to the sale, by reference to other documents and records ~~which that~~ have been filed in the court. ~~Provided, provided~~ that a court order shall not be required to permit the public sale of personal goods and chattels property.

Sec. 2113.41. (A) Public sales of personal property mentioned as provided in section 2113.40 of the Revised Code shall be at public auction and, unless otherwise directed by the probate court, after notice of ~~such the~~

sale has been given by any of the following methods:

~~(A)~~(1) By advertisement appearing at least three times in a newspaper of general circulation in the county during a period of fifteen days next preceding ~~such~~ the sale;

~~(B)~~(2) By advertisement posted not less than fifteen days next preceding ~~such~~ the sale in at least five public places in the township or municipal corporation where ~~such~~ the sale is to take place;

~~(C)~~(3) By both ~~such~~ forms of advertisement specified in divisions (A)(1) and (2) of this section.

~~Such~~ (B) The advertisement published or posted as described in divisions (A)(1) and (2) of this section shall specify generally the property to be sold and the date, place, and terms of the sale. The executor or administrator, if considered in the best interests of the estate, may employ an auctioneer or clerk, or both, to conduct ~~such~~ the sale, and their reasonable fees and charges shall be deducted from the proceeds of the sale. The court for good cause may extend the time for sale.

Sec. 2113.45. When a mortgagee of real estate property, or an assignee of ~~such~~ the mortgagee, dies without foreclosing the mortgage, the mortgaged premises and the debts secured ~~thereby by the mortgage~~ shall be considered personal assets in the hands possession or under the control of the executor or administrator of ~~such~~ the estate of the mortgagee or assignee, and shall be administered and accounted for as such.

If the mortgagee or assignee did not obtain possession of the mortgaged premises in ~~his~~ the mortgagee's or assignee's lifetime, ~~his~~ the executor or administrator of the estate of the deceased mortgagee or assignee may take possession of the premises by open and peaceable entry or by action, as the deceased might have done if living.

Sec. 2113.46. In case of the redemption of a mortgage belonging to the estate of a decedent, the money paid ~~thereon must on the redemption~~ shall be received by the executor or administrator, and ~~thereupon he~~ the executor or administrator shall release and discharge the mortgage. Until ~~such~~ that redemption, if the executor, administrator, or decedent has taken possession of the mortgaged premises, the executor or administrator, ~~if possession has been taken by him or by the decedent,~~ shall be seized of the mortgaged premises in trust for the same persons who would be entitled to the money if the premises had been redeemed.

Sec. 2113.48. When a person who has entered into a written contract for the sale and conveyance of an interest in real estate property dies before its completion, ~~his~~ the executor or administrator ~~when~~ of the decedent's estate, if not required to otherwise dispose of ~~such~~ the contract, may, with the

consent of the purchaser, obtain authority to complete ~~such~~ the contract by filing an application ~~therefor~~ for that authority in the probate court of the county in which ~~he~~ the executor or administrator was appointed. Notice of the time of hearing on ~~such~~ the application shall be given to the surviving spouse and heirs, if the decedent died intestate, and to the surviving spouse, and devisees or legatees having an interest in ~~such~~ the contract, if the decedent died testate. If the court is satisfied that it would be for the best interests of the estate, it may authorize the executor or administrator to complete ~~said~~ the contract and to execute and deliver to the purchaser ~~such~~ the instruments ~~as that~~ are required to make the order of the court effective.

Sec. 2113.49. When a person who has entered into a written contract for the sale and conveyance of an interest in real estate property dies before its completion, ~~his~~ the executor or administrator of the decedent's estate, ~~when~~ if not required to otherwise dispose of the contract, may file a petition ~~complaint~~ for the alteration or cancellation of the contract, in the probate court of the county in which ~~he~~ the executor or administrator was appointed, or in which the real estate property or any part of it is situated. If the decedent died intestate, the surviving spouse and heirs, and if the decedent died testate, the surviving spouse, and devisees or legatees having an interest in the contract, ~~when~~ if not the plaintiffs, shall, together with the purchaser, be made parties defendant.

If, upon hearing, the court is satisfied that it is for the best interests of the estate, it may, with the consent of the purchaser, authorize the executor or administrator to agree to the alteration or cancellation of the contract, and to execute and deliver to the purchaser the instruments required to make the order of the court effective. Before making ~~such an~~ its order, the court shall cause to be secured, to and for the benefit of the estate of the deceased, its just part of the consideration of the contract. The instruments executed and delivered pursuant to ~~such an~~ the court's order shall recite the order, and be as binding on the heirs and other parties in interest, as if made by the deceased ~~in his lifetime~~ prior to death.

Sec. 2113.50. When a person who has entered into a written contract for the purchase of an interest in real estate property dies before a the conveyance ~~thereof~~ of the interest to him the person, ~~his~~ the executor or administrator of the decedent's estate, ~~or~~ the surviving spouse, ~~or~~ any heir, or any devisee or legatee having an interest in ~~such~~ the contract, may file an application for authority to complete ~~such~~ the contract in the probate court of the county in which the executor or administrator was appointed. Notice of the time of the hearing on ~~such~~ the application shall be given to the surviving spouse and heirs, if the decedent died intestate, and to the

surviving spouse; and devisees or legatees having an interest in ~~such~~ the contract, if the decedent died testate, to the executor or administrator, if not the applicant, and to all other persons having an interest in ~~such~~ the real estate property that is the subject of the contract. If the court is satisfied that it would be for the best interests of the estate, it may, with the consent of the vendor, authorize the executor or administrator to complete the contract, pay to the vendor the amount due on the contract, and authorize a conveyance of the interest in the real estate property to the persons entitled ~~thereto~~ to it. If, however, the court finds that the condition of the estate at the time of the hearing does not warrant the payment out of the estate of the amount due under the contract, it may authorize the persons entitled to the interest of the decedent in the contract to pay to the vendor the amount due on the contract. The real estate property so conveyed shall thereafter be chargeable with the debts of the estate to the extent of the equitable interest of the estate ~~therein~~ in the real property, and may be sold in land sale proceedings, except that in the event of ~~such~~ that sale, the persons to whom the real estate property shall have been conveyed shall have a prior lien on the proceeds as against the estate to the extent of any portion of the purchase price paid by them.

The executor or administrator, ~~or~~ surviving spouse, ~~or~~ any heir, or any devisee or legatee having an interest in ~~such~~ a the contract, may file a ~~petition~~ complaint for the alteration or cancellation of the contract in the probate court of the county in which the executor or administrator was appointed. If the decedent died intestate, the surviving spouse and heirs, and if the decedent died testate, the surviving spouse; and devisees or legatees having an interest in ~~such~~ the contract, and the executor or administrator, ~~when~~ if not the plaintiff, together with the vendor, and all other persons having an interest in the real estate ~~which~~ property that is subject to the contract, shall be made parties defendant. If the court is satisfied that it would be for the best interests of the estate, the court, with the consent of the vendor, may authorize the executor or administrator to agree to the alteration or cancellation of the contract and to execute and deliver ~~such~~ the deeds or other instruments to the vendor ~~as~~ that are required to make the order of the court effective. ~~Such~~ The deeds or other instruments ~~as~~ that are executed and delivered pursuant to ~~such~~ the court's order shall recite the order and be as binding on the parties to the suit as if made by the deceased ~~in his lifetime prior to death~~.

Sec. 2113.51. The property of an estate ~~which~~ that is specifically bequeathed may be delivered over to the legatee entitled ~~thereto~~ to the property. ~~Such~~ The legatee ~~must~~ shall secure its redelivery on demand to the executor or administrator. Otherwise, ~~such~~ the property ~~must~~ shall remain in

the ~~hands~~ possession or under the control of the executor or administrator to be distributed or sold, as required by law and the condition of the estate.

Sec. 2113.52. (A) A devisee taking real ~~estate~~ property under a devise in a will, unless the will otherwise provides, or an heir taking real ~~estate~~ property under the statutes of descent and distribution shall take the real ~~estate~~ property subject to all taxes, penalties, interest, and assessments ~~which that~~ are a lien against that real ~~estate~~ property.

(B) If real ~~estate~~ property devised in a will is subject to a mortgage lien that exists on the date of the testator's death, the person taking the real ~~estate~~ property under the devise has no right of exoneration for the mortgage lien, regardless of a general direction in the will to pay the testator's debts, unless the will specifically provides a right of exoneration that extends to that lien.

Sec. 2113.54. When five months have expired after the appointment of an executor or administrator and the surviving spouse has made an election under section 2106.01 of the Revised Code, a legatee or distributee may apply to the probate court for an order requiring the executor or administrator to distribute the assets of the estate, either in whole or in part, in cash or in kind. Upon notice to the executor or administrator, the court shall inquire into the condition of the estate, and if all claims have been paid, or adequate provision has been or can be made for their payment, the court shall make ~~such that~~ order with reference to distribution of the estate as the condition of the estate and the protection of all parties interested in the estate may demand. The order of the court shall provide that assets be set aside for the payment of claims rejected within two months or in suit, and each claimant for whom assets are to be set aside shall be entitled to be fully heard as to the nature and amount of the assets to be set aside for payment of ~~his~~ the claim; and as to all other conditions in connection with the claim. Each legatee or distributee receiving distribution from the estate shall be liable to return the assets distributed to ~~him~~ the legatee or distributee, or the proceeds from the assets, if they are necessary to pay ~~such~~ those claims. The court, upon its own motion or upon application of the executor or administrator, as a condition precedent to any distribution, may require any legatee or distributee to give bond to the state with surety approved and in an amount fixed by the court, conditioned as provided in section 2113.53 of the Revised Code or as may be directed by the court. ~~Such~~ The bond may be in addition to the assets to be set aside or partially or wholly in lieu of those assets, as the court shall determine.

Sec. 2113.58. ~~When~~ If by a ~~last will and testament~~ the use or income of personal property is given to a person for a term of years or for life and some other person has ~~an~~ a remainder interest in ~~such~~ the property ~~as~~

~~remainderman~~, the probate court, unless ~~such last~~ the will and testament otherwise provides, may ~~deliver such~~ authorize delivery of the personal property to the person having the limited estate, with or without bond, as the court may determine; or the court may order that ~~such~~ the property be held by the executor or some other trustee, with or without bond, for the benefit of the person having the limited estate. If bond is required of the person having the limited estate, or of the trustee, it may be increased or decreased, and if bond is not required in the first instance it may be required by the court at any time prior to the termination of the limited estate.

Sec. 2113.61. (A)(1) When real property passes by the laws of intestate succession or under a will, the administrator or executor shall file in probate court, at any time after the filing of an inventory that includes the real property but prior to the filing of the administrator's or executor's final account, an application requesting the court to issue a certificate of transfer as to the real property. Real property sold by an executor or administrator or land registered under Chapters 5309. and 5310. of the Revised Code is excepted from the application requirement. Cases in which an order has been made under section 2113.03 of the Revised Code relieving an estate from administration and in which the order directing transfer of real property to the person entitled to it may be substituted for the certificate of transfer also are excepted from the application requirement.

(2) In accordance with division (C)(3)(b) of section 2113.031 of the Revised Code, an application for a certificate of transfer of an interest in real property included in the assets of the decedent's estate shall accompany an application for a summary release from administration under that section. This section applies to the application for and the issuance of the requested certificate of transfer except to the extent that the probate court determines that the nature of any of the provisions of this section is inconsistent with the nature of a grant of a summary release from administration.

(B) Subject to division (A)(2) of this section, the application for a certificate of transfer shall contain all of the following:

(1) The name, place of ~~residence~~ domicile at death, and date of death of the decedent;

(2) A statement whether the decedent died testate or intestate;

(3) ~~The fact and date of the filing and probate of the will, if applicable, and the fact and date of the appointment of the administrator or executor~~ reason the property is being transferred to the devisee or devisees;

(4) ~~A description of each parcel of real property situated in this state that is owned by the decedent at the time of death~~ Whether any spousal elections have been exercised;

~~(5) Insofar as they can be ascertained, the names, ages, places of residence, and relationship to the decedent of the persons to whom each parcel of real property described in division (B)(4) of this section passed by descent or devise~~ Whether any disclaimers or assignments have been filed;

(6) A statement that all the known debts of the decedent's estate have been paid or secured to be paid, or that sufficient other assets are in hand to complete the payment of those debts or a statement that the estate is insolvent and the transfer is of the mansion house and is being made to satisfy all or a portion of the spousal allowance for support;

(7) Other pertinent information that the court requires.

(C) Subject to division (A)(2) of this section, within five days following the filing of an application for a certificate of transfer that complies with division (B) of this section, the court shall issue a certificate of transfer for record in each county in this state in which real property so passing is situated, that shall recite all of the following:

(1) The name and date of death of the decedent;

(2) ~~Whether the decedent died testate or intestate and, if testate, the volume and page of the record of the will;~~

(3) ~~The volume and page~~ case number of the probate court record of the administration of the estate;

(4) The names and places of residence of the devisees, the interests passing to them, the names and places of residence of the persons inheriting intestate, and the interests inherited by them, in each parcel of real property ~~described in division (B)(4) of this section~~ being transferred;

(5) A description of each parcel of real property ~~described in division (B)(4) of this section~~ being transferred;

(6) Other information that in the opinion of the court should be included.

(D) If an executor or administrator has failed to file an application for a certificate of transfer before being discharged, the application may be filed by an heir or devisee, or a successor in interest, in the probate court in which the testator's will was probated or, in the case of intestate estates, in the probate court in which administration was had. If no administration was had on an estate and if no administration is contemplated, except in the case of the grant of or contemplated application for the grant of an order of a summary release from administration under section 2113.031 of the Revised Code, an application for a certificate of transfer may be filed by an heir or devisee, or a successor in interest, in the probate court of the county in which the decedent was a resident at the time of death or in which the real property of the decedent is located.

(E) A foreign executor or administrator, ~~when~~ if no ancillary administration proceedings have been had or are being had in this state, may file in accordance with this section an application for a certificate of transfer in the probate court of any county of this state in which real property of the decedent is located.

(F) When a person who has entered into a written contract for the sale and conveyance of an interest in real property dies before its completion, the interest of the decedent in the contract and the record title to the real property described in the contract may be transferred to the ~~persons; legatees;~~ devisees; or heirs at law entitled to the interest of the decedent in the real property, in the same manner as provided in this section and ~~sections section 2113.62 and 2113.63~~ section 2113.62 of the Revised Code for the transfer of real property. The application for the certificate of transfer and the certificate itself also shall recite that the real property described in the application or certificate is subject to a written contract for its sale and conveyance.

Sec. 2113.62. Upon receipt of the certificate provided for in section 2113.61 of the Revised Code, the county recorder shall record it in the books provided for the recording of deeds and index ~~such those~~ records in the name of the decedent as grantor and the person to whom the real ~~estate~~ property passes as grantee in the index provided for the record of deeds.

Sec. 2113.67. When a person entitled to the money invested or turned into the county treasury under section 2113.64 of the Revised Code satisfies the probate court of ~~his~~ the person's right to receive it, the court shall order it to be paid over and transferred to ~~him~~ the person. In case it has been turned into the treasury, the county auditor shall give to ~~him~~ the person a warrant ~~therefor~~ for the money upon the certificate of the probate judge.

Sec. 2113.68. The probate judge with whom the certificates or evidences of title required by section 2113.65 of the Revised Code are deposited and each succeeding judge to whom they come, and ~~his~~ the judges' sureties, shall be responsible for their safekeeping and application, as provided in sections 2113.64 to 2113.67, ~~inclusive,~~ of the Revised Code.

Sec. 2113.69. When newly discovered assets come into the ~~hands~~ possession or under the control of an executor or administrator after the filing of the original inventory required by section 2115.02 of the Revised Code, ~~he~~ the executor or administrator shall administer, account for, and distribute ~~such those~~ assets in ~~like~~ the same manner as if received prior to the filing of ~~such the~~ inventory. Within thirty days, ~~he~~ the executor or administrator shall file in the probate court an itemized report of ~~such those~~ assets, with an estimate of ~~the~~ their value ~~thereof~~, but shall not be required

to make an inventory or appraisal of the ~~same~~ assets unless ordered to do so by the court, either upon its own motion or upon the application of any interested party.

Sec. 2113.70. An executor or administrator appointed in any other state or country, or ~~his~~ the executor's or administrator's legal representatives, may be prosecuted in any appropriate court in this state in ~~his~~ the capacity of executor or administrator.

Sec. 2113.72. Any court of common pleas may compel a foreign administrator or executor residing in this state, or having assets or property ~~herein~~ in this state, to account at the suit of an heir, distributee, or legatee, who is resident in this state, and make distribution of the amount found in ~~his hands~~ the possession or under the control of the foreign administrator or executor to the respective heirs, distributees, or legatees according to the law of the state granting ~~such~~ the letters of administration. ~~When~~ If suits are pending or there are unsettled demands against ~~such~~ the estate, the court also may require a refunding bond to be given to ~~such~~ the foreign executor or administrator by the heirs, distributees, or legatees entitled ~~thereto~~ to that distribution in case the amount paid is needed to pay debts of the estate.

Sec. 2113.73. ~~When~~ If a foreign administrator or executor has wasted, misapplied, or converted assets of an estate, or has insufficient property to discharge ~~his~~ the foreign administrator's or executor's liability on account of the trust, or ~~his~~ the foreign administrator's or executor's sureties are irresponsible, the distributees, heirs, or legatees, in any court of common pleas or probate court may compel ~~him~~ the foreign administrator or executor to secure the amounts respectively due to them and any of ~~his~~ the foreign administrator's or executor's sureties may require indemnity on account of their liability as bail.

Sec. 2113.74. The several provisional remedies and proceedings authorized by sections 2113.70 to 2113.73, ~~inclusive~~, of the Revised Code, against a foreign executor or administrator also apply to the person and property of a foreign administrator or executor. The probate court or the court of common pleas may make any order or decree touching ~~his~~ a foreign executor's or administrator's property and effects, or the assets of ~~such~~ the estate, necessary for the security of those interested ~~therein~~ in the property, effects, or assets.

Sec. 2113.75. An executor or administrator appointed in any other state or country may commence and prosecute an action or proceeding in any court in this state, in ~~his~~ the capacity as executor or administrator, in ~~like~~ the ~~same~~ manner and under ~~like~~ the same restrictions as a ~~non-resident~~ nonresident is permitted to sue.

Sec. 2113.81. ~~Where~~ If it appears that a legatee or a distributee, or a beneficiary of a trust not residing within the United States or its territories will not have the benefit ~~or~~, use, or control of the money or other property due ~~him~~ the legatee or distributee from ~~an~~ the estate or due the beneficiary from the trust, because of circumstances prevailing at the place of residence of ~~such~~ the legatee, or distributee, or a the beneficiary of a the trust, the probate court may direct that ~~such~~ the money be paid into the county treasury to be held in trust or the probate court may direct that ~~such~~ the money or other property be delivered to a trustee ~~which~~. The trustee shall have the same powers and duties provided in section 2119.03 of the Revised Code for ~~such~~ that legatee, distributee, beneficiary of a the trust, or ~~such~~ the persons who may thereafter be entitled ~~thereto~~ to the money or other property. ~~Such~~ The money or other property held in trust by ~~such~~ the county treasurer or trustee shall be paid out by order of the probate judge in accordance with section 2113.82 of the Revised Code.

The county treasury shall not be liable for interest on ~~such~~ the money held in trust.

Sec. 2113.82. When a person entitled to money or other property invested or turned into the county treasurer or to a trustee under section 2113.81 of the Revised Code satisfies the probate court of ~~his~~ the person's right to receive it, the court shall order the county treasurer or the trustee to pay it over to ~~such~~ the person.

Sec. 2113.85. As used in sections 2113.85 to 2113.90 of the Revised Code:

(A) "Estate" means the gross estate of a decedent who is domiciled in this state, as determined for federal estate tax purposes under Subtitle B of the Internal Revenue Code of 1954, 26 U.S.C. 2001, as amended, for Ohio estate tax purposes under Chapter 5731. of the Revised Code, and for estate tax purposes of any other jurisdiction that imposes a tax on the transfer of property by a decedent who is domiciled in this state.

(B) "Person interested in the estate" means any person who is entitled to receive, or who has received, any property or property interest included in the decedent's estate. A "person interested in the estate" includes, but is not limited to, a personal representative, guardian, ~~and~~ or trustee. A "person interested in the estate" does not include a creditor of the decedent or of ~~his~~ the decedent's estate.

(C) "Tax" means the federal estate tax determined under Subtitle B of the "Internal Revenue Code of 1954, 26 U.S.C. 2001, as amended, an Ohio estate tax determined under Chapter 5731. of the Revised Code, and the estate tax determined by any other jurisdiction that imposes a tax on the

transfer of property by a decedent who is domiciled in this state.

(D) "Fiduciary" means an executor, administrator, or other person who, by virtue of ~~his representation of~~ representing the decedent's estate, is required to pay the tax.

Sec. 2113.86. (A) Unless a will or another governing instrument otherwise provides, and except as otherwise provided in this section, a tax shall be apportioned equitably in accordance with the provisions of this section among all persons interested in an estate in proportion to the value of the interest of each person as determined for estate tax purposes.

(B) Except as otherwise provided in this division, any tax that is apportioned against a gift made in a clause of a will other than a residuary clause or in a provision of an inter vivos trust other than a residuary provision, shall be reapportioned to the residue of the estate or trust. It shall be charged in the same manner as a general administration expense. However, when a portion of the residue of the estate or trust is allowable as a deduction for estate tax purposes, the tax shall be reapportioned to the extent possible to the portion of the residue that is not so allowable.

(C)(1) A tax shall not be apportioned against an interest that is allowable as an estate tax marital or charitable deduction, except to the extent that the interest is a part of the residue of an estate or trust against which tax is reapportioned pursuant to division (B) of this section.

(2) Estate tax of this state or another jurisdiction shall not be reapportioned against an interest that is allowable as a deduction for federal estate tax purposes, to the extent that there is other property in the estate or trust that is not allowable as a deduction for federal estate tax purposes and against which estate tax of this state or another jurisdiction can be apportioned.

(D) A tax shall not be apportioned against property that passes to a surviving spouse as an elective share under section 2106.01 of the Revised Code or as an intestate share under section 2105.06 of the Revised Code, to the extent that there is other property in the estate that is not allowable as a deduction for estate tax purposes against which the tax can be apportioned.

(E)(1) Any federal estate tax credit for state or foreign death taxes on property that is includible in an estate for federal estate tax purposes, shall inure to the benefit of the persons chargeable with the payment of the state or foreign death taxes in proportion to the amount of the taxes paid by each person, but any federal estate tax credit for state or foreign death taxes inuring to the benefit of a person cannot exceed the federal estate tax apportioned to that person.

(2) Any federal estate tax credit for gift taxes paid by a donee of a gift

shall inure to the benefit of that donee for purposes of this section.

(3) Credits against tax not covered by division (E)(1) or (2) of this section shall be apportioned equitably among persons in the manner in which the tax is apportioned among them.

(F) Any additional estate tax that is due because a qualified heir has disposed of qualified farm property in a manner not authorized by law or ceased to use any part of the qualified farm property for a qualified use, shall be apportioned against the interest of the qualified heir.

(G) If both a present interest and a future interest in property are involved, a tax shall be apportioned entirely to the principal. This shall be the case even if the future interest qualifies for an estate tax charitable deduction, even if the holder of the present interest also has rights in the principal, and even if the principal is otherwise exempt from apportionment.

(H) Penalties shall be apportioned in the same manner as a tax, and interest on tax shall be apportioned to the income of the estate or trust, unless a court directs a different apportionment of penalties or interest based on a finding that special circumstances make an apportionment as provided in this division inequitable.

(I) If any part of an estate consists of property, the value of which is included in the gross estate of the decedent by reason of section 2044 of the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 N 2044, as amended, or of section 5731.131 of the Revised Code, the estate is entitled to recover from the persons holding or receiving the property any amount by which the estate tax payable exceeds the estate tax that would have been payable if the value of the property had not been included in the gross estate of the decedent. This division does not apply if ~~a decedent provides otherwise in his~~ the decedent's will or another governing instrument provides otherwise and the will or instrument refers to either section mentioned in this division or to qualified terminable interest marital deduction property.

Sec. 2113.87. (A) The fiduciary, or any person interested in the estate who objects to the manner of apportionment of a tax, may apply to the court that has jurisdiction of the estate and request the court to determine the apportionment of the tax. If there are no probate proceedings, the probate court of the county in which the decedent was domiciled at death, upon application by the fiduciary or any other person interested in the estate who objects to the manner of apportionment of a tax, shall determine the apportionment of the tax.

(B) The fiduciary may notify any person interested in the estate of the manner of the apportionment of tax determined by the fiduciary. Upon receipt of ~~such a~~ that notice, a person interested in the estate, within thirty

days after the date of receipt of the notice, may indicate ~~his~~ the person's objection to the manner of apportionment by application to a probate court as described in division (A) of this section. If the person interested in the estate fails to make the application within the thirty-day period, ~~he~~ the person is bound by the manner of apportionment determined by the fiduciary. The notice described in this division shall state the name and address of the probate court with jurisdiction over the apportionment and include the following statement:

"If you fail to file an objection to this proposed apportionment with the probate court within thirty days of the receipt of this notice, you are bound by the proposed apportionment."

(C) If a probate court finds that an assessment of penalties and interest assessed with respect to a tax is due to delay caused by the negligence of the fiduciary, the court may charge the fiduciary with the amount of the assessed penalties and interest. In any suit or judicial proceeding to recover from any person interested in the estate the amount of the tax apportioned to that person, the determination of the probate court is conclusive.

Sec. 2113.88. (A) The fiduciary may withhold from any property distributable to any person interested in the estate the amount of tax attributable to the person's interest. If the property in possession of the fiduciary and distributable to any person interested in the estate is insufficient to satisfy the proportionate amount of the tax determined to be due from that person, the fiduciary may recover the deficiency from that person. If the property is not in the possession of the fiduciary, the fiduciary may recover from any person interested in the estate the amount of the tax apportioned to that person in accordance with this section by filing a complaint to recover the tax in the probate court that has jurisdiction of the administration of the estate.

(B) If the property held by the fiduciary is distributed prior to final apportionment of the tax, the distributee shall provide a bond or other security for the apportionment liability in the form and amount prescribed by the fiduciary, with the approval of the probate court that has jurisdiction of the administration of the estate.

Sec. 2115.02. Within three months after the date of the executor's or administrator's appointment, unless the probate court grants an extension of time for good cause shown, the executor or administrator shall file with the court an inventory of the decedent's interest in real ~~estate~~ property located in this state and of the tangible and intangible personal property of the decedent that is to be administered and that has come to the executor's or administrator's possession or knowledge. The inventory shall set forth

values as of the date of death of the decedent. If a prior executor or administrator has done so, a successor executor or administrator need not file an inventory, unless, in the opinion of the court, it is necessary.

Any asset, the value of which is readily ascertainable, is not required to be appraised but shall be included in the inventory.

Sec. 2115.03. If an executor or administrator neglects or refuses to return an inventory as provided by section 2115.02 of the Revised Code, the probate court shall issue an order requiring ~~him~~ the executor or administrator, at an early day specified in the order, to return an inventory. After personal service of the order by a person authorized to make the service, if the executor or administrator, by the day appointed, does not return the inventory or fails to obtain further time from the court to return it, or if the order cannot be served personally by reason of ~~his~~ the executor or administrator absconding or concealing ~~himself~~ self, the court may remove the executor or administrator and new letters shall be granted. The letters shall supersede all former letters testamentary or of administration, deprive the former executor or administrator of all power, authority, or control over the estate of the deceased, and entitle the person appointed to take, demand, and receive the effects of the deceased wherever they are found.

In every case of the revocation of letters under this section, the bond given by the former executor or administrator shall be prosecuted and a recovery had on the bond to the full extent of any injury sustained by the estate of the deceased by the former executor's or administrator's acts or omissions, and to the full value of all the property of the deceased received and not administered by ~~him~~ the former executor or administrator.

Sec. 2115.06. The real ~~estate~~ property and personal property comprised in the inventory required by section 2115.02 of the Revised Code, unless an appraisalment ~~thereof~~ of that real property or personal property has been dispensed with by an order of the probate court, shall be appraised by one suitable disinterested person appointed by the executor or administrator, subject to the approval of the court and sworn to a faithful discharge of ~~his~~ the trust. The executor or administrator, subject to the approval of the court, may appoint separate appraisers of property located in any other county and appoint separate appraisers for each asset.

In lieu of the appointment of an appraiser for real property, the executor or administrator may accept the valuation of the real property by the county auditor.

If appraisers fail to attend to the performance of their duty, the executor or administrator, subject to the approval of the probate judge, may appoint others to supply the place of ~~such delinquents~~ the delinquent appraisers.

Each appraiser shall be paid ~~such an~~ amount for ~~his~~ the appraiser's services as that is determined by the executor or administrator, subject to the approval of the probate judge, taking into consideration ~~his~~ the appraiser's training, qualifications, experience, time reasonably required, and the value of the property appraised. The amount of ~~such the~~ fees may be charged against the estate as part of the cost of the proceeding.

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

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

~~Such~~ The inventory shall contain an account of all moneys that belong to the deceased and have come ~~to~~ into the ~~hands~~ possession or under the control of the executor or administrator. If none has come ~~to~~ into the ~~executor's or administrator's hands~~ possession or under the control of the executor or administrator, the fact shall be stated in the inventory.

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

Sec. 2115.10. The emblements raised by labor, whether severed or not from the land of the deceased at the time of ~~his~~ the decedent's death, are assets in the ~~hands~~ possession or under the control of the executor or administrator and shall be included in the inventory required by section 2115.02 of the Revised Code.

The executor or administrator, or the person to whom ~~he~~ the executor or administrator sells ~~such the~~ emblements, at all reasonable times may enter upon the lands to cultivate, sever, and gather them.

Sec. 2115.11. The discharge or bequest, in a will, of a debt or demand of a testator against an executor named ~~therein~~ in the will, or against any other person, is not valid as against the decedent's creditors, but is only a specific bequest of ~~such that~~ debt or demand. The amount ~~thereof~~ must of the debt or demand shall be included in the inventory of the credits and effects of the deceased and, if necessary, ~~such that~~ amount ~~must~~ shall be applied in the

payment of ~~his~~ the decedent's debts. If not necessary for that purpose, ~~such~~ the amount shall be paid in the same manner and proportion as other specific legacies.

Sec. 2115.12. The naming of a person as executor in a will shall not operate as a discharge or bequest of a just claim ~~which~~ that the testator had against ~~such~~ that executor. ~~Such~~ The claim shall be included among the assets of the deceased in the inventory required by section 2115.02 of the Revised Code. The executor shall be liable for it as for so much money in ~~his hands~~ the possession or under the control of the executor at the time ~~such~~ that debt or demand becomes due; and ~~must~~ shall apply and distribute it as part of the personal ~~estate~~ property of the deceased.

Sec. 2115.16. Upon the filing of the inventory required by section 2115.02 of the Revised Code, the probate court ~~forthwith~~ shall set a day, not later than one month after the day the inventory was filed, for a hearing on the inventory.

The executor or administrator may serve notice of the hearing, or may cause the notice to be served, upon any person who is interested in the estate. The probate court, after notice to the executor or administrator, either upon the motion of any interested party for good cause shown or at its own instance, may order that notice of the hearing is to be served upon persons the court designates.

For good cause, the hearing may be continued for the time that the court considers reasonable. Exceptions to the inventory or to the allowance for support provided by section 2106.13 of the Revised Code may be filed at any time prior to five days before the date set for the hearing or the date to which the hearing has been continued by any person interested in the estate or in any of the property included in the inventory, but the time limit for the filing of exceptions shall not apply in case of fraud or concealment of assets. When exceptions are filed, notice of them and the time of the hearing on them ~~forthwith~~ shall be given to the executor or administrator and ~~his~~ the attorney of the executor or administrator by certified mail or by personal service, unless the notice is waived. At the hearing, the executor or administrator and any witness may be examined under oath. The court shall enter its finding on the journal and tax the costs as may be equitable.

Sec. 2115.17. When the inventory required by section 2115.02 of the Revised Code has been approved by the probate court, the appraisal of the real ~~estate~~ property as set forth ~~therein~~ in the inventory shall be conclusive for all purposes except estate tax, unless a reappraisal is ordered by the court.

Sec. 2117.01. No part of the assets of a deceased shall be retained by an

executor or administrator in satisfaction of ~~his~~ the executor's or the administrator's own claim, until it has been proved to and allowed by the probate court. ~~Such~~ That debt is not entitled to preference over others of the same class.

Sec. 2117.02. An executor or administrator within three months after the date of ~~his~~ appointment shall present any claim ~~he~~ the executor or administrator has against the estate to the probate court for allowance. The claim shall not be paid unless allowed by the court. When an executor or administrator presents a claim amounting to five hundred dollars or more, the court shall fix a day not less than four nor more than six weeks from its presentation, when the testimony touching it shall be heard. The court ~~forthwith~~ shall issue an order directed to the executor or administrator requiring ~~him~~ the executor or administrator to give notice in writing to all the heirs, legatees, or devisees of the decedent interested in the estate, and to the creditors named in the order. The notice shall contain a statement of the amount claimed, designate the time fixed for hearing the testimony, and be served upon the persons named in the order at least twenty days before the time for hearing. If any persons mentioned in the order are not residents of the county, service of notice may be made upon them by publication for three consecutive weeks in a newspaper published or circulating in the county, or as the court may direct. All persons named in the order shall be parties to the proceeding, and any other person having an interest in the estate may be made a party.

Sec. 2117.03. At any time after the presentation by an executor or administrator of a claim ~~which he~~ that the executor or administrator owns against the estate ~~he~~ the executor or administrator represents to the probate court for allowance, the court on its own motion, or on motion by any interested party, may appoint an attorney to represent the estate, who shall receive ~~such~~ the compensation from the estate as ~~that~~ that may be fixed by the court. The court shall ~~thereupon~~ require the executor or administrator to make available to ~~such~~ the attorney, for use in connection with the proceeding, all documents belonging to the estate relating to the subject matter of ~~such~~ the claim.

Sec. 2117.04. Upon the hearing as to the allowance of an executor's or administrator's claim against the estate ~~he~~ the executor or administrator represents, an appeal may be taken from a final order or judgment of the probate court upon a matter of law by any person affected by the order or judgment.

Sec. 2117.061. (A) As used in this section:

(1) "Medicaid estate recovery program" means the program instituted

under section 5111.11 of the Revised Code.

~~(2) "Permanently institutionalized individual" has the same meaning as in section 5111.11 of the Revised Code.~~

~~(3)~~ "Person responsible for the estate" means the executor, administrator, commissioner, or person who filed pursuant to section 2113.03 of the Revised Code for release from administration of an estate.

(B) The person responsible for the estate of a decedent subject to the medicaid estate recovery program or the estate of a decedent who was the spouse of a decedent subject to the medicaid estate recovery program shall submit a properly completed medicaid estate recovery reporting notice form ~~prescribed under division (D) of this section~~ to the administrator of the medicaid estate recovery program not later than thirty days after the occurrence of any of the following:

(1) The granting of letters of administration or letters testamentary;

~~(2) The administration of the estate;~~

~~(3)~~ The filing of an application for release from administration or summary release from administration.

(C) The person responsible for the estate shall mark the appropriate box on the appropriate probate form that gives notice to the administrator of the medicaid estate recovery program to indicate compliance with the requirements of division (B) of this section.

~~The probate court shall send a copy of the completed probate form to the administrator of the medicaid estate recovery program.~~

~~(D) The administrator of the medicaid estate recovery program shall prescribe a medicaid estate recovery reporting form for the purpose of division (B) of this section. In the case of a decedent subject to the medicaid estate recovery program, the form shall require, at a minimum, that the person responsible for the estate list all of the decedent's real and personal property and other assets that are part of the decedent's estate as defined in section 5111.11 of the Revised Code. In the case of a decedent who was the spouse of a decedent subject to the medicaid estate recovery program, the form shall require, at a minimum, that the person responsible for the estate list all of the decedent's real and personal property and other assets that are part of the decedent's estate as defined in section 5111.11 of the Revised Code and were also part of the estate, as so defined, of the decedent subject to the medicaid estate recovery program. The administrator shall include on the form a statement printed in bold letters informing the person responsible for the estate that knowingly making a false statement on the form is falsification under section 2921.13 of the Revised Code, a misdemeanor of the first degree.~~

~~(E)~~ The administrator of the medicaid estate recovery program shall present a claim for estate recovery to the person responsible for the estate of the decedent or the person's legal representative not later than ninety days after the date on which the medicaid estate recovery ~~reporting~~ notice form is received under division (B) of this section or one year after the decedent's death, whichever is later.

Sec. 2117.08. When a claim is presented against the estate of a deceased person, the executor or administrator may require satisfactory written proof in support of it and also the affidavit of the claimant that ~~such~~ the claim is justly due, that no payments have been made ~~thereon~~ on the claim, and that there are no counterclaims against it to ~~his~~ the claimant's knowledge. ~~Such~~ The affidavit shall set forth any security held for the payment of ~~said~~ the claim and, if the claim is not due, the date of maturity. If ~~said~~ the claim arises out of tort, or if preference in payment is claimed, the facts in connection with the alleged tort or showing the right to ~~such~~ that preference shall be briefly set forth.

Sec. 2117.09. If an executor or administrator doubts the justice of any claim presented against the estate ~~he~~ the executor or administrator represents, ~~he~~ the executor or administrator may enter into an agreement in writing with the claimant to refer the matter in controversy to three disinterested persons, who ~~must~~ shall be approved by the probate judge.

Upon filing the agreement of reference in the probate court of the county in which the letters testamentary or of administration were issued, the judge shall docket the cause and make an order referring the matter in controversy to the referees selected.

The referees ~~thereupon must~~ shall proceed to hear and determine the matter and make their report to the court. The referees shall have the same powers and be entitled to the same compensation and the same proceedings shall be followed as if the reference were made under the provisions for arbitrations under a rule of the court of common pleas. The court may set aside the report of the referees, appoint others in their places, or confirm ~~such~~ the report and adjudge costs as in actions against executors and administrators. The judgment of the court ~~thereupon~~ shall be valid and effectual.

Sec. 2117.10. The failure of the holder of a valid lien upon any of the assets of an estate to present ~~his~~ the lienholder's claim upon the indebtedness secured by ~~such~~ the lien, as provided in ~~Chapter 2117. of the Revised Code~~ this chapter, shall not affect ~~such~~ the lien if the same is evidenced by a document admitted to public record, or is evidenced by actual possession of the real or personal property ~~which~~ that is subject to ~~such~~ the lien.

Sec. 2117.13. If a devisee, legatee, heir, creditor, or other interested party files in the probate court a written requisition on the executor or administrator to reject a claim presented for allowance against the estate ~~he~~ the executor or administrator represents, whether the claim has been allowed or not, but which claim has not been paid in full, and enters into a sufficient bond running to ~~such~~ the executor or administrator, the amount, terms, and surety of which are to be approved by the probate judge, the claim shall be rejected by the executor or administrator. The notice of rejection shall inform the claimant of the filing of the requisition and of the name of the party filing the same. The condition of the bond shall be to pay all costs and expenses of contesting ~~such~~ the claim, including ~~such~~ any reasonable fee ~~as~~ that the court allows to the attorney for the executor or administrator, in case the claim finally is allowed in whole, and if ~~such~~ the claim is allowed only in part, to pay ~~such~~ that part of the expenses ~~as~~ that the court may determine, including ~~such~~ any reasonable fee ~~as~~ that the court may allow to the attorney for the executor or administrator.

Sec. 2117.15. An executor or administrator may proceed to pay the debts due from the estate in accordance with Chapters 2113. to 2125. of the Revised Code. If it appears at any time that the estate is insolvent, the executor or administrator may report that fact to the court, and apply for any order that ~~he~~ the executor or administrator considers necessary because of the insolvency. In case of insolvency, a creditor who has been paid according to law shall not be required to make any refund.

Sec. 2117.17. (A) The probate court on its own motion may, and on motion of the executor or administrator shall, assign all claims against the estate that have been presented and any other known valid debts of the estate for hearing on a day certain. ~~Forthwith upon such~~ Upon the assignment, and in no case less than ten days before the date fixed for hearing or ~~such~~ a longer period ~~as~~ that the court may order, the executor or administrator shall cause written notice of the hearing to be served upon the following persons who have not waived the notice in writing or otherwise voluntarily entered their appearance:

~~(A)~~(1) If it appears that the estate is fully solvent, ~~such~~ the notice shall be given to the surviving spouse and all other persons having an interest in the estate as devisees, legatees, heirs, and distributees.

~~(B)~~(2) If it appears probable that there will not be sufficient assets to pay all of the valid debts of the estate in full, then ~~such~~ the notice also shall be given to all creditors and claimants whose claims have been rejected and whose rights have not been finally determined by judgment, reference, or lapse of time.

(B) The notice required by this section shall state that a hearing concerning the debts has been scheduled, shall set forth the time and place of the hearing, and shall state that the action of the executor or administrator in allowing and classifying claims will be confirmed at ~~such~~ the hearing unless cause to the contrary is shown. The notice shall be served personally or by certified mail in the manner specified for service of notice of the rejection of a claim under section 2117.11 of the Revised Code. Proof of service of the notice to the satisfaction of the court, by affidavit or otherwise, and all waivers of service shall be filed in court at the time of the hearing. At any time before hearing, any interested person may file exceptions in writing to the allowance or classification of any specific claim. The court may cause or permit other interested persons to be served with notice and witnesses to be subpoenaed as may be required to present the issues fully.

(C) The court, upon the hearing, shall determine whether the executor or administrator acted properly in allowing and classifying each claim and shall make an order confirming or disapproving ~~such that~~ action.

(D) An order of the court disapproving the allowance of a claim shall have the same effect as a rejection of the claim on the date on which the claimant is served with notice of the court's order. Notice of the court's order shall be served personally or by certified mail in the manner specified for service of notice of the rejection of a claim under section 2117.11 of the Revised Code. An order of the court confirming the allowance or classification of a claim shall constitute a final order and shall have the same effect as a judgment at law or decree in equity, and shall be final as to all persons having notice of the hearing and as to claimants subsequently presenting their claims, though without notice of ~~such~~ the hearing. In the absence of fraud, the allowance and classification of a claim and the subsequent payment of it in good faith shall not be subject to question upon exceptions to the executor's or administrator's accounts. The confirmation of a claim by the court shall not preclude the executor or administrator from thereafter rejecting the claim on discovery of error in ~~his~~ the executor's or administrator's previous action or on requisition as provided in sections 2117.13 and 2117.14 of the Revised Code.

Sec. 2117.18. Taxes, penalties, and interest placed on a duplicate or added by the county auditor or the tax commissioner because of a failure to make a return or because of a false or incomplete return for taxation shall be a debt of a decedent and have the same priority and be paid as other taxes. ~~Such~~ Those taxes, penalties, and interest shall be collectible out of the property of the estate either before or after distribution, by any means

provided for collecting other taxes. No distribution or payment of inferior debts or claims shall defeat ~~such~~ that collection; ~~but no such~~ the tax, penalty, or interest ~~can~~ shall not be added before notice to the executor or administrator, and before an opportunity is given ~~him~~ to the executor or administrator to be heard. All taxes omitted by the deceased ~~must~~ shall be charged on the tax lists and duplicate in ~~his~~ the deceased's name.

In all ~~such~~ additions to the personal tax lists and duplicate under this section, each succeeding tax year shall be considered as beginning at the time of the completion of the annual settlement of the duplicate for the previous year with the county treasurer.

Sec. 2117.30. (A) No suit shall be brought against an executor or administrator by a creditor of the decedent or by any other party interested in the estate until after five months from the time of the appointment of the executor or administrator, or the expiration of the further time allowed by the probate court for the collection of the assets of the estate, except in the following cases:

~~(A)~~(1) On claims rejected in whole or in part;

~~(B)~~(2) For the enforcement of a lien against or involving title to specific property;

~~(C)~~(3) For the recovery of a claim that would not be affected by the insolvency of the estate;

~~(D)~~(4) On account of fraud, conversion, or concealment of assets;

~~(E)~~(5) Any other action as to which a different rule is prescribed by statute.

(B) When an executor or administrator dies, resigns, or is removed without having fully administered the estate of the deceased, the time between ~~his~~ the executor's or administrator's death, resignation, or removal and the appointment of a successor shall be excluded in computing the five months or longer period provided in division (A) of this section. In any event, ~~his~~ the executor's or administrator's successor shall not be held to answer the suit until after the expiration of four months from the date of the successor's appointment, or a further time allowed ~~him~~ the executor or administrator by the court for the collection of the assets of the estate.

Sec. 2117.31. When two or more persons are indebted in a joint contract, or upon a judgment founded on ~~such~~ the joint contract, and either of them dies, ~~his~~ the decedent's estate shall be liable ~~therefor~~ for the debt as if the contract had been joint and several, or as if the judgment had been against ~~himself~~ the decedent alone. This section shall not affect the rights of a surety, when certified as such, in a judgment rendered jointly against ~~him~~ the surety and ~~his~~ the surety's principal.

Sec. 2117.34. No execution against the assets of an estate shall issue upon a judgment against an executor or administrator unless upon the order of the probate court ~~which that~~ appointed him the executor or administrator. If an account has been rendered by ~~such the~~ the executor or administrator and settled by the court, ~~such the~~ the execution shall issue only for the sum that appeared, on settlement of ~~such the~~ the account, to be a just proportion of the assets applicable to the judgment. The order of the court allowing ~~such the~~ the execution shall fix the amount for which the ~~same~~ execution shall issue.

Sec. 2117.35. All executions against executors and administrators for debts due from the deceased shall run against the ~~goods and assets of the~~ estate of the deceased in their hands the possession or under the control of the executors and administrators.

Sec. 2117.36. No real estate property of a deceased person ~~which that~~ has been aliened or encumbered by the decedent's heirs prior to the issuing of letters testamentary or of administration shall be liable while in the ~~hands~~ possession or under the control of a bona fide purchaser for value or to the prejudice of a bona fide lessee or encumbrancer for value for debts of the deceased person unless letters testamentary or of administration are granted within four years from the date of death of ~~such the~~ the deceased person. No real estate property of a deceased person ~~which that~~ has been aliened or encumbered by the decedent's heirs or devisees after the ~~issue~~ issuance of letters testamentary or of administration shall be liable while in the ~~hands~~ possession or under the control of a bona fide purchaser for value or to the prejudice of a bona fide lessee or encumbrancer for value for debts of a deceased person unless suit is brought to subject ~~such the~~ the real estate property to the payment of ~~such those~~ those debts prior to the settlement of the executor's or administrator's final account or what purports to be ~~his the~~ the executor's or administrator's final account; provided that if ~~such the~~ the final account is not filed and settled within four years after the granting of letters testamentary or of administration, but excluding for ~~the these~~ these purposes ~~hereof~~ the time that any action is pending against the executors or administrators for the establishment or collection of any claim against the deceased, ~~such the~~ the real estate property so aliened shall not be liable for the debts of the deceased unless suit is brought to subject ~~such the~~ the real estate ~~thereto~~ property to those debts within ~~such that~~ that four-year period. The heir or devisee aliening ~~such the~~ the real estate property shall be liable for ~~the its~~ its value ~~thereof~~, with legal interest from the time of alienation, to the creditors of the deceased in the manner and within the limitations provided by law. This section does not enlarge or extend the right of the creditors of any deceased person against ~~his the~~ the deceased person's real estate property, ~~or~~ repeal any

limitations contained in other sections of the Revised Code, or apply to mortgages or liens of record at the time of the death of ~~such~~ the deceased person.

Sec. 2117.37. If a claim is contingent at the time of a decedent's death and a cause of action subsequently accrues on the claim, it shall be presented to the executor or administrator, in the same manner as other claims, before the expiration of ~~one year~~ six months after the date of death of the decedent, or before the expiration of two months after the cause of action accrues, whichever is later, except as provided in section 2117.39 of the Revised Code. The executor or administrator shall allow or reject the claim in the same manner as other claims are allowed or rejected. If the claim is allowed, the executor or administrator shall proceed to pay it. If the claim is rejected, the claimant shall commence an action on the claim within two months after the rejection or be forever barred from maintaining an action on the claim.

Sec. 2117.41. A claimant whose cause of action accrues as provided in section 2117.37 of the Revised Code may bring suit to recover ~~thereon on~~ the claim against the heirs, next of kin, surviving spouse as next of kin, devisees, and legatees under the decedent's will, each of whom shall be liable to the claimant in an amount not exceeding the value of the real and personal ~~estate~~ property that ~~he~~ the person received under the will or on distribution of the estate. If, by the will of the deceased, any part of the estate or any one or more of the devisees and legatees is made exclusively liable for the debt, in exoneration of the residue of the estate or of the other devisees or legatees, the terms of the will shall be complied with in that respect and the persons and estate so exempt by the will shall be liable for only so much of the debt as that cannot be recovered from those first chargeable ~~therewith~~ with the debt.

No ~~such~~ suit shall be maintained under this section unless commenced within six months next after the time when the cause of action first accrues, except in case the suit is for the balance due after a payment by the executor or administrator, in which case suit shall be brought within two months after the final payment by the executor or administrator. If the person entitled to bring ~~such~~ the suit is under legal disability, ~~he~~ the person may bring ~~such~~ the action within one year after ~~his~~ the person's disability is removed.

If any of ~~such~~ those heirs, next of kin, surviving spouse as next of kin, devisees, or legatees dies without having paid ~~his~~ the person's just proportion of ~~such~~ the debt, ~~his~~ the executors or administrators of that deceased person's estate shall be liable ~~therefor~~ for that proportion to the extent ~~he~~ the deceased person would have been if living.

Sec. 2117.42. If, in the cases specified in section 2117.41 of the Revised Code, more than one person is liable for the debt, the creditor shall proceed by one action to recover ~~such the~~ debt against all so liable, or as many of them ~~as who~~ are within the reach of process. ~~Thereupon, by~~ By the verdict of a jury if either party requires it, the court ~~must shall~~ determine what sum is due to the plaintiff. ~~They~~ The jury also, according to the equities of the case, shall decide how much each of the defendants is liable to pay toward the satisfaction of the debt and the court shall render judgment accordingly.

No suit shall be dismissed or debarred for not making all the persons defendants who might have been included as ~~such defendants~~. In any stage of the cause the court may award process to bring in other parties and allow amendments necessary to charge them, as defendants, upon ~~such the~~ terms ~~as that it deems~~ considers reasonable.

If any of the persons who were originally liable for the debt is insolvent or unable to pay ~~his the person's~~ proportion, or is beyond the reach of process, the others nevertheless shall be liable to the creditor for the whole amount of ~~his the~~ debt; except that no one shall be compelled to pay more than the amount received by ~~him the person~~ from the decedent's estate.

If, in consequence of insolvency, absence, or other cause, any of the persons liable for ~~such the~~ debt fails to pay ~~his the person's~~ just proportion to the creditor, ~~he the person~~ shall be liable to indemnify all who, by reason of ~~such that person's~~ failure ~~on his part~~, have paid more than their just proportion of the debt, such indemnity to be recovered by all of them jointly or in separate actions, by any one or more of them for ~~his or~~ their respective parts respectively, at their election.

Sec. 2119.01. When a person owning property in this state has disappeared and has not been heard from, after diligent inquiry and for at least three months, under circumstances that afford reasonable ground to believe that ~~he the person~~ is dead, cannot return, or refuses to return to ~~his the person's~~ home, and ~~his the person's~~ estate requires attention, supervision, and care, or is needed for the maintenance of ~~his the person's~~ dependents, the probate court ~~may~~, on application of the spouse or of one of the next of kin, may appoint a trustee to take possession and charge of the property of ~~such the~~ person, other than the property with respect to which ~~such the~~ person has made provision by written instrument designating an agent or attorney in fact. ~~Such~~ The application shall be filed in the county in which ~~such the~~ person last resided or if ~~his the person's~~ last known residence was ~~without~~ outside this state, ~~such the~~ application may be filed in any county in which ~~any such that~~ property is situated.

Sec. 2119.02. The probate court, before appointing a trustee for an

absentee, shall cause notice of the filing of the application under section 2119.01 of the Revised Code and of the time and place of hearing ~~thereon~~ on the application to be published once a week for four consecutive weeks in ~~some~~ a newspaper of general circulation in the county and shall cause copies of ~~such~~ the notice to be mailed to the spouse and next of kin of the absentee residing within the state, ~~excepting~~ except the applicant, and to the absentee residing at ~~his~~ the absentee's last known address. The court may order notice to be given to ~~such~~ any other persons in ~~such~~ the manner as that it ~~deems~~ considers best.

Sec. 2119.03. ~~(A)~~ (A) The trustee appointed under section 2119.01 of the Revised Code may proceed without order of the probate court to do the following:

~~(A) To take~~ (1) Take possession of the property of the absentee wherever situated within the state;

~~(B) To collect~~ (2) Collect all debts due to the absentee;

~~(C) To retain~~ (3) Retain and invest the estate in accordance with Chapters 2113. to 2125. of the Revised Code.

(B) The trustee may pay ~~such~~ that part or all of the income or principal of the estate as the court, from time to time, may direct for the maintenance and support of the absentee's dependents and, under the order of the court, may bring and defend suits on behalf of the absentee, compromise claims in favor of and against the absentee, and pay ~~such~~ any debts of the absentee as that the court finds necessary for the protection of ~~his~~ the absentee's dependents, including insurance premiums, orders for an award of spousal support, and other obligations. The court may make ~~such~~ any other orders as that it ~~deems~~ considers proper for the care and custody of the property and its proceeds.

Sec. 2119.04. In order to provide money for the payments authorized by section 2119.03 of the Revised Code, proceedings may be had for the mortgaging, leasing, or sale of the real ~~estate~~ property of an absentee in the same manner as provided by sections 2127.01 to 2127.43, ~~inclusive~~, of the Revised Code, for sales of real ~~estate~~ property by executors and administrators. The probate court, upon notice to the spouse and ~~such~~ any other persons and in ~~such~~ the manner as that the court directs, may order all or any part of the personal ~~estate~~ property to be sold.

Sec. 2119.05. If at any time the absentee returns and makes application to the probate court for the termination of the trust established under section 2119.01 of the Revised Code, the court shall, on notice to the trustee and other interested parties, order the trustee to file ~~his~~ a final account and on settlement ~~thereof~~ of the account shall terminate the trust and order all

remaining property returned. If an executor, administrator, or guardian is appointed for the estate of ~~such the~~ absentee, the court shall ~~thereupon~~ order the trustee to file ~~his a~~ final account and on settlement ~~thereof of the account~~ shall terminate the trust and order all of the property remaining in the ~~hands possession or under the control~~ of the trustee to be delivered to the fiduciary entitled ~~thereto to the property~~.

Sec. 2121.01. (A) Except as provided in division (B) of this section, a presumption of the death of a person arises upon either of the following:

(1) When the person has disappeared and been continuously absent from ~~his the person's~~ place of last domicile for a five-year period without being heard from during the period;

(2) When the person has disappeared and been continuously absent from ~~his the person's~~ place of last domicile without being heard from and was at the beginning of ~~his the person's~~ absence exposed to a specific peril of death, even though the absence has continued for less than a five-year period.

(B) When a person who is on active duty in the armed services of the United States has been officially determined to be absent in a status of "missing" or "missing in action," a presumption of death arises when the head of the federal department concerned has made a finding of death pursuant to the "Federal Missing Persons Act," 80 Stat. 625 (1966), 37 U.S.C.A. 551, as amended and hereafter amended.

Sec. 2121.02. (A) When ~~such~~ a presumption of death arises under section 2121.01 of the Revised Code with respect to a person who at the time of disappearance was domiciled in this state, the attorney general of this state or any person entitled under the ~~last~~ will of ~~such the~~ presumed decedent or under Chapter 2105. of the Revised Code to any share in the presumed decedent's property within this state, or any person or entity who, under the terms of any contract, beneficiary designation, trust, or otherwise, may be entitled to any property, right, or interest by reason of the death of the presumed decedent, may file a complaint setting forth the facts ~~which~~ that raise the presumption of death in the probate court of the county of the presumed decedent's last residence.

(B) When a presumption of death arises pursuant to section 2121.01 of the Revised Code with respect to a person who at the time of the person's disappearance was domiciled at a place other than within the state, and the presumed decedent owns real property within this state, the complaint may be filed in the county where any part of the real property of the presumed decedent is located by any of the persons or entities referred to in division (A) of this section, or by any domiciliary executor or administrator of the

decedent. A foreign fiduciary shall include with the complaint an exemplified copy of the domiciliary proceedings pursuant to which the foreign fiduciary was appointed.

(C) In the case of a presumed decedent who was domiciled in this state, the complainant shall name as parties defendant the presumed decedent and each of the following that do not join in the complaint:

(1) The presumed decedent's surviving spouse, if any;

(2) All persons known to the complainant who are entitled under the presumed decedent's ~~last~~ will and all persons who are entitled under Chapter 2105. of the Revised Code to any share of the presumed decedent's property;

(3) All persons or entities known to the complainant who have or would have by reason of the presumed decedent's death any right or interest under any contract, beneficiary designation, trust, or otherwise;

(4) All contract obligors known to the complainant whose rights or obligations would be affected by a determination that the presumed decedent is in fact dead.

(D) In the case of a presumed decedent who was not domiciled in this state but who owned real estate property in this state, the complainant shall name as parties defendant each of the following that do not join in the complaint:

(1) The presumed decedent's surviving spouse, if any;

(2) All persons known to the complainant who are entitled under the presumed decedent's ~~last~~ will and all persons who are entitled under Chapter 2105. of the Revised Code to any share of the presumed decedent's real property within this state.

(E) All parties defendant, other than the presumed decedent, shall be served with summons in the same manner as provided by the Rules of Civil Procedure.

(F) The complainant shall cause to be advertised once a week for four consecutive weeks in a newspaper published in the county, the fact that the complaint has been filed together with a notice that on a day certain, ~~which~~ that shall be at least four weeks after the last appearance of the advertisement, or after the final publication where any defendant is being served by publication, whichever is later, the probate court will hear evidence relevant to the allegations of the complaint.

(G) No guardian ad litem, trustee for the suit, or other representative shall be required to be appointed to represent the presumed decedent in the proceeding.

Sec. 2121.05. (A) Except as provided otherwise in ~~Chapter 2121. of the Revised Code~~ this chapter, all of the proceedings for the probate of the

decedent's ~~last~~ will, if any, and all the proceedings, domiciliary or ancillary, for the administration of the decedent's estate that are set forth in the Revised Code for use upon the death of a decedent, shall upon the signing of the decree of presumed death be instituted and carried on in the same manner as if the presumed decedent were in fact dead. All acts pursuant to these proceedings shall be as valid as if the presumed decedent were in fact dead.

(B) Following the decree the court may make ~~such~~ any supplementary orders ~~as that~~ in its discretion are necessary to consummate any right or interest arising by reason of the death of the presumed decedent under any contract, trust, or other nonprobate property interest of any person or entity who was a party to the proceedings. The court may condition the granting of ~~any such that~~ order by requiring any person or entity who would benefit ~~thereby by the order~~ to furnish bond for a three-year period after the decree in the form and amount, with or without sureties, as the court shall order. If any supplementary order is directed to the holder of assets of the presumed decedent ~~which that~~ were created by the decree of presumed death, the court, at the request of the party defendant to whom the order is directed, shall condition the granting of ~~any such that~~ order by requiring any person or entity who would benefit ~~thereby by the order~~ to furnish a suretyship bond for a three-year period after the decree in the amount of the assets so created by the decree with interest for the period of the bond at the rate specified in the order.

(C) The term "assets of the presumed decedent ~~which that~~ were created by the decree of presumed death" as used in division (B) of this section and division (D) of section 2121.08 of the Revised Code, means those potential assets of the presumed decedent in which the presumed decedent had a contractual or other right, contingent upon the presumed decedent's death, to have ~~such those~~ assets paid to ~~his~~ the presumed decedent's designee and the decree of presumed death would fulfill the contingency. Only that portion of the proceeds of life insurance policies on the life of the presumed decedent that exceeds any net cash surrender value of ~~such the~~ policies on the date of the decree is within the definition of the term "assets of the presumed decedent ~~which that~~ were created by the decree of presumed death."

(D) The bond shall provide that, if within the three-year period after the decree is entered by the court it is established that the presumed decedent is alive, ~~such the~~ person or entity shall on the subsequent order of the court refund or return any sums, with interest as provided in the court order, or property received by virtue of ~~such the~~ order, to the presumed decedent or to the person or entity who, by reason of the erroneous finding of death of the

presumed decedent, made ~~such the~~ payment or delivered ~~such the~~ property. The bond shall be further conditioned on returning the fair value of the property if the same shall have been sold or otherwise disposed of in the interim.

(E) If the person or entity who would benefit by an order, as provided in division (B) of this section, fails to provide a bond for the amount of the assets of the presumed decedent ~~which that~~ were created by the decree, with interest as specified in the order, the holder shall hold those assets for the three-year period they would have been bonded. In that event, the holder shall pay interest at the same rate specified in the order as a condition of the bond and the interest shall accumulate and be held throughout that period.

(F) Nothing in this section shall preclude ~~such the~~ person or entity from selling, encumbering, or otherwise disposing of any property so received and any purchaser, transferee, or mortgagee acquires good title to ~~such the~~ property free and clear of any claim of the presumed decedent.

Sec. 2121.06. Upon the signing of the decree establishing the death of the presumed decedent, the real ~~estate property~~ of the presumed decedent passes and ~~devolves~~ devolves as in the case of actual death, and the persons entitled by will, or under Chapter 2105. of the Revised Code, may enter and take possession. Persons taking the real ~~estate property~~ may sell or mortgage it and the purchaser or mortgagee takes a good title, free and discharged of any interest or claim of the presumed decedent. The persons taking ~~such the~~ real ~~estate property~~ shall not sell, convey, or mortgage any part ~~thereof of the property~~ within the three-year period specified in section 2121.08 of the Revised Code without first giving bond in an amount to be fixed by the probate court and with sureties to be approved by the court. In the discretion of the court the bond may be taken without sureties. ~~Such The~~ bond shall be conditioned to account for and pay over to the presumed decedent, in case within the three-year period after the decree is entered by the court it is established that the presumed decedent is still alive, the value of the real ~~estate property~~ sold or conveyed, or in the case of the making of a mortgage, to pay the amount of the mortgage and interest ~~thereon on the mortgage~~, or in case of a foreclosure of ~~such that~~ mortgage, to account for and pay over the value of the real ~~estate property~~ mortgaged.

Sec. 2121.08. (A) The probate court may at any time within a three-year period from the date of the decree establishing the death of a presumed decedent, upon proof satisfactory to the court that the presumed decedent is in fact alive, vacate the decree establishing the presumption of ~~his~~ death. After the decree has been vacated all the powers of the executor or administrator of the presumed decedent cease, but all proceedings had and

steps taken with respect to the administration of the estate of the presumed decedent prior to the vacating of ~~such the~~ decree remain valid. The executor or administrator of the estate of ~~such the~~ presumed decedent who is found to be alive shall settle ~~his the~~ account of ~~his the~~ executor's or administrator's administration down to the time of the vacating of the decree and shall transfer all assets remaining in ~~his hands~~ the possession or under the control of the executor or administrator to the person ~~as whose for whom the~~ executor or administrator ~~he has acted~~ is acting, or to ~~such that~~ person's authorized agent or attorney.

(B) The title of any person to any money, property, right, or interest as surviving spouse, next of kin, heir, legatee, devisee, co-owner with right of survivorship, beneficiary or other contractual payee, successor to a trust interest, or otherwise of the presumed decedent shall be subject to this section, and upon vacating of ~~such the~~ decree as provided in this section any property, money, right, or interest, or ~~the its~~ fair value ~~thereof~~ if the same shall have been sold or otherwise disposed of, may be recovered from the person who had received ~~any such that~~ property, money, right, or interest.

(C) Except as provided in division (D) of this section, in any action against a beneficiary for the recovery of property or the value ~~thereof of the~~ property, or upon the bond given as condition for delivery of money, other personal property, or sale or encumbrance of real property, the beneficiary may set off as against ~~such that~~ claim, an allowance for services rendered in maintaining or preserving the property, and for any moneys or other considerations made or given by the beneficiary for the preservation, care, or maintenance of the property during the period of absence of the person erroneously presumed to be dead, and the reasonable value of any part of the property used for support by those whom the person erroneously presumed to be dead had a legal obligation to support during ~~his the~~ the person's absence.

(D) There shall be no set off as against those assets defined in division (C) of section 2121.05 of the Revised Code to be assets of the presumed decedent ~~which that~~ were created by the decree of presumed death. Those assets created by the erroneous decree of presumed death shall be returned with interest to the person entitled ~~thereto to them~~.

(E) Any net cash surrender value on any policies of life insurance on the life of a person erroneously presumed to be dead are subject to the set off provision in division (C) of this section. The person erroneously presumed to be dead, or persons claiming under ~~him~~ the person erroneously presumed to be dead, may recover whatever remains of cash values from the person to whom paid. ~~Such The~~ claimants have no recourse against the insurance company ~~which that~~ made ~~such the~~ payments, and it is discharged from

liability on the policies affected.

Sec. 2121.09. After vacation of the decree of the presumption of death has been established, as provided by section 2121.08 of the Revised Code, the person erroneously presumed to be dead ~~may~~, on motion filed of record stating the facts, may be substituted as plaintiff or petitioner in all actions or proceedings brought by the executor or administrator, whether prosecuted to judgment or decree or otherwise. ~~Such~~ That person ~~may~~, in all actions or proceedings previously brought against the executor or administrator, may be substituted as defendant or respondent, on motion filed by ~~him~~ the person or on ~~his~~ the person's behalf, but shall not be compelled to go to trial in less than three months from the time of filing of ~~such~~ the motion. Judgments or decrees recovered against the executor or administrator, before the vacation of the decree, may be opened on application made by the person erroneously presumed to be dead within three months after the vacating of the decree, provided it is supported by an affidavit alleging the existence of facts ~~which~~ that would be a valid defense. If the application is not made within the three months or is made but the supporting alleged facts are adjudged an insufficient defense, the judgment or decree is conclusive to all intents, saving the defendant's right to review as in other cases on appeal.

Sec. 2123.02. In a situation described in section 2123.01 of the Revised Code, the executor or administrator may file in the probate court of the county where the estate is being administered a ~~petition~~ complaint signed by ~~such~~ the executor or administrator or ~~his~~ the executor's or administrator's attorney, which ~~petition~~ complaint shall be verified. The surviving spouse and the legatees and devisees, or the heirs and distributees of the decedent, including those whose names are unknown, shall be made parties defendant. The ~~petition~~ complaint shall contain a concise statement of the pertinent facts and shall conclude with a prayer, for the determination of the heirs and distributees of ~~such~~ the decedent or of the devisees or legatees not named in the will and their respective interests in the estate.

Sec. 2123.03. Upon the filing of the ~~petition~~ complaint mentioned in section 2123.02 of the Revised Code, the same proceedings, pleadings, and rule days as in civil actions in the court of common pleas shall apply. All parties defendant who are known to be residents of the state and whose ~~place~~ places of residence ~~is~~ are known shall be served with summons, as provided for the service of summons in civil actions in ~~such~~ that court.

Sec. 2123.05. At the time assigned for the hearing of a proceeding set forth under section 2123.01 of the Revised Code, or at any time to which ~~said~~ the hearing may be adjourned, the probate court may hear proof taken by commission, or by witnesses produced in open court, of the facts set forth

in the ~~petition~~ complaint, and shall, if satisfied from the evidence, find and adjudge who are or were the heirs or next of kin of the decedent, and entitled by the laws of this state to inherit the estate of the deceased, or the devisees or legatees named or unnamed in the will, ~~which~~. The finding and adjudication shall be entered on the journal of the court, which entry, or a certified copy thereof of the entry, shall be prima facie evidence of the facts therein found.

Sec. 2123.06. Whenever it is necessary for any person other than an executor or administrator to determine who are or were the heirs at law of a deceased person, on the ~~petition~~ complaint of any interested party and proceedings ~~like~~ similar to those set forth in sections 2123.01 to 2123.05; ~~inclusive~~, of the Revised Code, the probate court may make a determination ~~thereof~~ of who are or were the heirs at law of the deceased person.

Sec. 2127.011. (A) In addition to the other methods provided by law or in the will and unless expressly prohibited by the will, an executor or administrator may sell at public or private sale, grant options to sell, exchange, re-exchange, or otherwise dispose of any parcel of real ~~estate~~ property belonging to the estate at any time at prices and upon terms ~~as that~~ are consistent with this section and may execute and deliver deeds and other instruments of conveyance if all of the following conditions are met:

(1) The surviving spouse, all of the legatees and devisees in the case of testacy, and all of the heirs in the case of intestacy, give written consent to a power of sale for a particular parcel of real ~~estate~~ property or to a power of sale for all the real ~~estate~~ property belonging to the estate. Each consent to a power of sale provided for in this section shall be filed in the probate court.

(2) Any sale under a power of sale authorized pursuant to this section shall be made at a price of at least eighty per cent of the appraised value, as set forth in an approved inventory.

(3) No power of sale provided for in this section is effective if the surviving spouse; or any legatee, devisee, or heir is a minor. No person may give the consent of the minor that is required by this section.

(B) A surviving spouse who is the executor or administrator may sell real ~~estate~~ property to ~~himself~~ self pursuant to this section.

Sec. 2127.02. As soon as an executor or administrator ascertains that the personal property in ~~his hands~~ the possession or under the control of the executor or administrator is insufficient to pay all the debts of the decedent, together with the allowance for support to the surviving spouse, minor children, or surviving spouse and minor children of the decedent as provided in section 2106.13 of the Revised Code, and the costs of administering the estate, ~~he~~ the executor or administrator shall commence a civil action in the

probate court for authority to sell the decedent's real property.

Sec. 2127.04. (A) With the consent of all persons entitled to share in an estate upon distribution, the executor, administrator, or administrator with the will annexed may, and upon the request of these persons shall, commence an action in the probate court for authority to sell any part or all of the decedent's real ~~estate~~ property, even though the real ~~estate~~ property is not required to be sold to pay debts or legacies. A guardian may make a request under this division, or give consent, on behalf of the guardian's ward.

(B) An executor, administrator, or administrator with the will annexed may commence an action in the probate court, on the executor or administrator's own motion, to sell any part or all of the decedent's real ~~estate~~ property, even though the real ~~estate~~ property is not required to be sold to pay debts or legacies. The court shall not issue an order of sale in the action unless one of the categories specified in divisions (B)(1)(a), (b), and (c), (B)(2)(a), (b), and (c), and (B)(3) of this section applies:

(1)(a) At least fifty per cent of all the persons interested in the real ~~estate~~ property proposed to be sold have consented to the sale.

(b) Prior to the issuance of the order, no written objection is filed with the court by any person or persons who hold aggregate interests in the interest of the decedent in the real ~~estate~~ property proposed to be sold, that total in excess of twenty-five per cent.

(c) The court determines that the sale is in the best interest of the decedent's estate.

(2)(a) No person's interest in the interest of the decedent in the real ~~estate~~ property proposed to be sold exceeds ten per cent.

(b) Prior to the issuance of the order, no written objection is filed with the court by any person or persons who hold aggregate interests in the interest of the decedent in the real ~~estate~~ property proposed to be sold, that total in excess of twenty-five per cent.

(c) The court determines that the sale is in the best interest of the decedent's estate.

(3) The real ~~estate~~ property proposed to be sold escheats to the state under division (K) of section 2105.06 of the Revised Code.

(C) Notwithstanding any provision of the Revised Code, an executor, administrator, or administrator with the will annexed shall commence an action in the probate court to sell any part or all of the decedent's real ~~estate~~ property if any person who is entitled to inherit all or part of the real ~~estate~~ property cannot be found after a due and diligent search. The court shall not issue an order of sale in the action unless the sale is in the best interest of the

person who cannot be found and in the best interest of the decedent's estate.

If a sale is ordered under this division, the costs of its administration shall be taken from the proceeds of the sale.

(D) A surviving spouse who is an executor or administrator of the decedent spouse's estate is not disqualified, by reason of being executor or administrator, as a person to whom a parcel of real ~~estate~~ property may be sold pursuant to this section.

Sec. 2127.05. Whenever necessary for the education, support, or the payment of the just debts of the ward, or for the discharge of liens on the real ~~estate~~ property of the ward, ~~or wherever~~ whenever the real ~~estate~~ property of the ward is suffering unavoidable waste, or a better investment of its value can be made, or whenever it appears that a sale of the real ~~estate~~ property will be for the benefit of the ward or ~~his~~ the ward's children, the guardian of the person and estate or of the estate only of a minor, person unable to manage ~~his~~ the person's property because of mental illness or deficiency, habitual drunkard, confined person, or other person under disability may commence a civil action in the probate court for authority to sell all or any part of the real ~~estate~~ property of the ward. If it appears to the advantage of the ward to lay out all or any part of the ~~land~~ real property in town lots, application for ~~such~~ that authority may also be made in the action.

When the same person is guardian for two or more wards whose real ~~estate~~ property is owned by them jointly or in common, the actions may be joined, and in one complaint the guardian may ask for the sale of the interest of all or any number of ~~his~~ the guardian's wards in the real ~~estate~~ property. If different persons are guardians of wards interested jointly or in common in the same real ~~estate~~ property, they may join as parties plaintiff in the same action. On the hearing, in either case, the court may authorize the sale of the interest of one or more of the wards.

Sec. 2127.06. If the fiduciary who brings an action under section 2127.01 to 2127.43, ~~inclusive~~, of the Revised Code, dies, resigns, or is removed, or ~~his~~ the fiduciary's powers cease at any time before the real ~~estate~~ property sold is conveyed, a successor fiduciary may be substituted as a party to the action and may convey ~~land~~ real property, whether sold before or after ~~his~~ the successor fiduciary's appointment. ~~He~~ The successor fiduciary may also be required to give an additional bond.

Sec. 2127.07. Any interest in real ~~estate~~ property, whether legal or equitable, ~~which~~ that the deceased had a right to sell or dispose of at the time of ~~his~~ the deceased's death, or of which the ward was seized at the time the action was brought, including coal, iron ore, limestone, fireclay, or other mineral upon or under ~~such~~ the real ~~estate~~ property, or the right to

mine them, may be sold by an executor, administrator, or guardian under sections 2127.01 to 2127.43, ~~inclusive~~, of the Revised Code. This section does not give an executor or administrator with the will annexed authority to sell real estate property for the payment of legacies, other than as charged by the testator or by operation of law. This section does not give a guardian authority to sell an equitable estate in real estate property placed by deed of trust, beyond the power of the ward to sell, convey, or assign.

Sec. 2127.08. When the interest of a decedent or ward in real estate property is fractional and undivided, the action for authority to sell ~~such the~~ real estate property shall include only ~~such the~~ undivided fractional interest, except that the executor, administrator, or guardian, ~~or~~ the owner of any other fractional interest, or any lien holder may, by pleading filed in the cause setting forth all interests in the property and liens ~~thereon~~ on the property, require that the action include the entire interest in the property, and the owner of ~~said the~~ interests and liens shall receive ~~his the owner's~~ respective share of the proceeds of sale after payment has been made of the expenses of sale including reasonable attorney fees for services in the case; which. Those fees must shall be paid to the plaintiff's attorney unless the court awards some part ~~thereof of the fees~~ to other counsel for services in the case for the common benefit of all the parties, having regard to the interest of the parties, the benefit each may derive from the sale, and the equities of the case. The fees of the executor, administrator, or guardian shall be a charge only against such the portion of the proceeds of sale ~~as that~~ represents the interests of the decedent or ward.

Sec. 2127.09. An action by an executor, administrator, or guardian to obtain authority to sell real estate property shall be brought in the county in which ~~he the executor, administrator, or guardian~~ was appointed or in which the real estate property subject to sale or any part thereof of the property is situated. If the action is brought in a county other than that in which the real estate property or a part ~~thereof of the property~~ is situated, a certified transcript of the record of all proceedings had ~~therein in that county~~ shall be filed with and recorded by the probate court of each county in which such the real estate property or any part thereof of the property is situated.

Sec. 2127.10. An action to obtain authority to sell real estate property shall be commenced by the executor, administrator, or guardian by filing a complaint with the probate court.

The complaint shall contain a description of the real estate property proposed to be sold and its value, as near as can be ascertained, a statement of the nature of the interest of the decedent or ward in the real estate property, a recital of all mortgages and liens upon and adverse interests in

the real estate property, the facts showing the reason or necessity for the sale, and any additional facts necessary to constitute the cause of action under the section of the Revised Code on which the action is predicated.

Sec. 2127.11. When the actual market value of a decedent's or ward's real estate property to be sold is less than three thousand dollars, and the court so finds, it may by summary order authorize the sale and conveyance of the ~~land~~ real property at private sale, on ~~such~~ the terms as ~~that~~ it ~~deems~~ considers proper, and in ~~such a~~ that proceeding, all requirements of sections 2127.01 to 2127.43 of the Revised Code, as to service of summons, appraisal, and additional bond, shall be waived.

Sec. 2127.12. In an action by an executor or administrator to obtain authority to sell real estate property, the following persons shall be made parties defendant:

(A) The surviving spouse;

(B) The heirs, devisees, or persons entitled to the next estate of inheritance from the decedent in the real estate property and having an interest in it, but their spouses need not be made parties defendant;

(C) All mortgagees and other lienholders whose claims affect the real estate property or any part of it;

(D) If the interest subject to sale is equitable, all persons holding legal title to the interest or any part of it, and those who are entitled to the purchase money for it, other than creditors;

(E) If a fraudulent transfer is sought to be set aside, all persons holding or claiming under the transfer;

(F) All other persons having an interest in the real estate property.

Sec. 2127.13. In an action by a guardian to obtain authority to sell the real estate property of ~~his~~ the guardian's ward the following persons shall be made parties defendant:

(A) The ward;

(B) The spouse of the ward;

(C) All persons entitled to the next estate of inheritance from the ward in ~~such~~ the real estate property who are known to reside in Ohio, but their spouses need not be made parties defendant;

(D) All lienholders whose claims affect ~~such~~ the real estate property or any part ~~thereof~~ of the property;

(E) If the interest subject to ~~such~~ the sale is equitable, all persons holding legal title ~~thereto~~ to the real property or any part ~~thereof~~ of the property;

(F) All other persons having an interest in ~~such~~ the real estate property, other than creditors.

Sec. 2127.14. Service of summons, actual or constructive, in an action to sell the real estate property of a decedent or a ward shall be had as in other civil actions, but if any competent person in interest enters appearance or consents in writing to the sale, service on ~~such~~ that person shall not be necessary. If all parties consent in writing to the sale, an order ~~therefor~~ for the sale may issue forthwith.

Sec. 2127.15. All pleadings and proceedings in an action to obtain authority to sell the real estate property of a decedent or a ward in the probate court shall be the same as in other civil actions, except as otherwise provided in sections 2127.01 to 2127.43 of the Revised Code.

Sec. 2127.16. In a sale of real estate property by an executor, administrator, or guardian, ~~such the~~ real estate property shall be sold free of all right and expectancy of dower ~~therein in the property~~, but out of the proceeds of the sale, in lieu of dower, the court shall allow to the person having any dower interest in the property ~~such a~~ sum in money as that is the just and reasonable value of ~~such the~~ dower, unless the answer of ~~such the~~ the person waives ~~such that~~ that allowance.

Sec. 2127.17. In an action to obtain authority to sell real estate property, if a party in ~~his~~ the party's answer objects to an order for the sale of real estate property by an executor, administrator, or guardian, and on hearing it appears to the court that either the complaint or the objection is unreasonable, it may award costs to the party prevailing on that issue.

Sec. 2127.18. Upon the hearing of an action to obtain authority to sell real estate property by an executor, administrator, or guardian, if satisfied that all necessary parties defendant are properly before the court, and that the demand for relief ought to be granted, the court may determine the equities among the parties and the priorities of lien of the several lien holders on the real estate property, and order a distribution of the money arising from the sale in accordance with its determination. The court may in the same cause order contributions among all parties in interest.

Sec. 2127.19. When an action to obtain authority to sell real estate property is determined by the probate court, the probate judge shall make the necessary order for an entry of release and satisfaction of all mortgages and other liens upon the real estate property except ~~such the~~ the mortgage ~~as that~~ as that is assumed by the purchaser. The executor, administrator, or guardian shall ~~thereupon~~ enter ~~such the~~ the release and satisfaction, together with a memorandum of the title of the case, the character of the proceedings, and the volume and page of record where recorded, upon the record of ~~such the~~ the mortgage, judgment, or other lien in the office where it appears as matter of record. If the executor, administrator, or guardian fails to enter ~~such the~~ the

release and satisfaction, the court ~~may~~, on the application of an interested party, may enter ~~such the~~ release and satisfaction and tax in ~~his the~~ executor's, administrator's, or guardian's cost bill the fee provided by law for entering ~~such the~~ release and satisfaction, and a fee of twenty-five cents to the court.

Sec. 2127.21. If a guardian's complaint in an action to obtain authority to sell real ~~estate~~ property seeks to have ~~land~~ real property laid out in town lots, and the court finds it to the advantage of the ward, it shall authorize the survey and platting of the ~~land~~ real property as provided by law. Upon subsequent return of the survey and plat, the court, if it approves it, shall authorize the guardian on behalf of ~~his the~~ the guardian's ward to sign, seal, and acknowledge the plat in that behalf for record.

Sec. 2127.22. If an appraisalment of the real ~~estate~~ property is contained in the inventory required of an executor or administrator by section 2115.02 of the Revised Code, and of a guardian by section 2111.14 of the Revised Code, the probate court may order a sale in accordance with the appraisalment, or order a new appraisalment. If a new appraisalment is not ordered, the value set forth in the inventory shall be the appraised value of the real ~~estate~~ property. If the court orders a new appraisalment, the value returned shall be the appraised value of the real ~~estate~~ property.

If the interest of the deceased or ward in the real ~~estate~~ property is fractional and undivided, and if a party requests and the court orders the entire interest in the real ~~estate~~ property to be sold, a new appraisalment of the entire interest in the real ~~estate~~ property shall be ordered.

If the relief requested is granted and new appraisalment is ordered, the court shall appoint one, or on request of the executor, administrator, or guardian, not exceeding three judicious and disinterested persons of the vicinity, not next of kin of the complainant, to appraise the real ~~estate~~ property in whole and in parcels at its true value in money. ~~Where~~ If the real ~~estate~~ property lies in two or more counties the court may appoint appraisers in any or all of the counties in which the real ~~estate~~ property or a part of it is situated.

Sec. 2127.23. The appraisers appointed under section 2127.22 of the Revised Code shall agree to truly and impartially appraise the real ~~estate~~ property at its fair cash value upon actual view and to perform the duties required of them by the order of the court. The appraisalment shall be signed by the appraisers, and the officer to whom it is issued shall make return of it to the court for confirmation.

Sec. 2127.24. ~~When~~ If a person appointed by the court under section 2127.22 of the Revised Code as an appraiser fails to discharge ~~his the~~

person's duties, the probate judge on ~~his~~ the judge's own motion or on the motion of the executor, administrator, or guardian may appoint another appraiser.

Sec. 2127.27. Upon the return and approval of the appraisal provided for by section 2127.22 of the Revised Code, the court shall require the executor, administrator, or guardian to execute a bond with two or more personal sureties, or one or more corporate sureties, whose qualifications shall be those provided by section 2109.17 of the Revised Code. ~~Such~~ The bond shall be payable to the state in an amount ~~which that~~ the court deems considers sufficient, having regard to the amount of real estate property to be sold, its appraised value, the amount of the original bond given by the executor, administrator, or guardian, and the distribution to be made of the proceeds arising from the sale, ~~and such~~. The bond shall be conditioned for the faithful discharge of ~~his~~ the executor's, administrator's, or guardian's duties and the payment of, and accounting for, all moneys arising from ~~such~~ the sale according to law. ~~Such~~ The bond shall be additional to that given by the executor, administrator, or guardian at the time of ~~his~~ his appointment. If the court finds the amount of the original bond given by the executor, administrator, or guardian is sufficient, having regard for the amount of real estate property to be sold, its appraised value, and the distribution to be made of the proceeds arising from the sale, the giving of additional bond may be dispensed with by order of the court. ~~Such~~ The bond shall be given in the court from which the executor, administrator, or guardian ~~received his~~ appointment was appointed.

If the action to obtain authority to sell real estate property is pending in another court, the latter shall proceed no further until there is filed ~~therein in~~ that court a certificate from the court ~~wherein in which~~ the executor, administrator, or guardian received his appointment was appointed, under its seal, that ~~such the~~ the bond has been given or that the original bond is sufficient. This section does not prevent the court in an action to sell real estate property from ordering the sale of ~~such that~~ real estate property without bond in cases where the testator had provided by ~~his~~ the testator's will that the executor need not give bond.

Sec. 2127.28. The probate court may, after notice to all parties in interest, allow a real estate commission in an action to sell real estate property by an executor, administrator, or guardian, but an allowance shall be passed upon by the court prior to the sale.

The court may allow payment for certificate or abstract of title or policy of title insurance in connection with the sale of any ~~land~~ real property by an executor, administrator, or guardian.

Sec. 2127.29. When the bond required by section 2127.27 of the Revised Code is filed and approved by the court, it shall order the sale of the real ~~estate~~ property included in the complaint set forth in section 2127.10 of the Revised Code, or the part of the real ~~estate~~ property it ~~deems~~ considers necessary for the interest of all parties concerned. If the complaint alleges that it is necessary to sell part of the real ~~estate~~ property, and that by the partial sale the residue of the ~~estate~~ real property, or a specific part of it, would be greatly injured, the court, if it so finds, may order a sale of the whole ~~estate~~ real property.

Sec. 2127.30. If the order of sale set forth in section 2127.29 of the Revised Code includes real ~~estate~~ property in which the ward or the estate has an equitable interest only, the court may make an order for the appraisal and sale of ~~such~~ that equitable estate free from dower, for the indemnity of the estate against any claim for purchase money, and for payment of the value of ~~such~~ the dower in money, as the court ~~deems~~ considers equitable, having regard for the rights of all parties in interest.

Sec. 2127.32. The real ~~estate~~ property included in the court's order of sale, as provided in section 2127.29 of the Revised Code, shall be sold either in whole or in parcels at public auction at the door of the courthouse in the county in which the order of sale was granted, or at another place, as the court directs, and the order shall fix the place, day, and hour of sale. If it appears to be more for the interest of the ward or the estate to sell the real ~~estate~~ property at private sale, the court may authorize the complainant to sell it either in whole or in parcels. If an order for private sale is issued, it shall be returned by the complainant. Upon motion and showing of a person interested in the proceeds of the sale, filed after thirty days from the date of the order, the court may require the complainant to return the order, if the premises have not been sold. ~~Thereupon~~ Upon return of the order, the court may order the real ~~estate~~ property to be sold at public sale.

If upon showing of any person interested, the court finds that it will be to the interest of the ward or the estate, it may order a reappraisal and sale in parcels.

If the sale is to be public, the executor, administrator, or guardian ~~must~~ shall give notice of the time and place of the sale by advertisement at least three weeks successively in a newspaper published in the county where the ~~lands are~~ real property is situated.

Sec. 2127.33. ~~Where~~ If the sale authorized by a court as provided in section 2127.32 of the Revised Code is private, the real ~~estate~~ property shall not be sold for less than the appraised value. ~~When~~ If the sale is at public auction, the real ~~estate~~ property if improved shall not be sold for less than

two thirds of the appraised value, or if not improved, for less than one half of the appraised value. In private sales if no sale has been effected after one bona fide effort to sell under this section, or if in public sales the ~~land~~ real property remains unsold for want of bidders when offered pursuant to advertisement, the court may fix the price for which ~~such~~ the real estate property may be sold or may set aside the appraisal and order a new appraisal. If ~~such~~ the new appraisal does not exceed five hundred dollars, and upon the first offer ~~thereunder~~ under the new appraisal at public sale there are no bids, then upon the motion of any party interested the court may order the real estate property to be readvertised and sold at public auction to the highest bidder.

Sec. 2127.34. The order for the sale of real estate property, granted by the probate court in an action by an executor, administrator, or guardian, shall prescribe the terms of the sale, and payment of the purchase money, either in whole or in part, for cash, or on deferred payments. In the sales by executors or administrators, deferred payments shall not exceed two years with interest.

Sec. 2127.35. An executor, administrator, or guardian shall make return of ~~his~~ the executor's, administrator's, or guardian's proceedings under the order for the sale of real estate property granted by the probate court. The court, after careful examination, if satisfied that the sale has in all respects been legally made, shall confirm the sale, and order the executor, administrator, or guardian to make a deed to the purchaser.

The deed shall be received in all courts as prima-facie evidence that the executor, administrator, or guardian in all respects observed the direction of the court, and complied with the requirements of the law, ~~and~~ shall convey the interest in the real estate property directed to be sold by the court, and shall vest title to the interest in the purchaser as if conveyed by the deceased in ~~his~~ the deceased's lifetime, or by the ward free from disability, and by the owners of the remaining interests in the real estate property.

Sec. 2127.36. The order for the sale of real estate property granted in an action by an executor, administrator, or guardian shall require that before the delivery of the deed the deferred installments of the purchase money be secured by mortgage on the real estate property sold, and mortgage notes bearing interest at a rate approved by the probate court. If after the sale is made, and before delivery of the deed, the purchaser offers to pay the full amount of the purchase money in cash, the court may order that it be accepted, if for the best interest of the estate or the ward, and direct its distribution.

The court in ~~such an~~ that order may also direct the sale, without

recourse, of any or all of the notes taken for deferred payments, if for the best interest of the estate or the ward, at not less than their face value with accrued interest, and direct the distribution of the proceeds.

Sec. 2127.37. ~~When~~ If an action to sell real estate property is prosecuted by an executor or administrator ~~he, the executor or administrator~~ shall be allowed the compensation provided by law, by the probate court from which ~~his the executor's or administrator's~~ letters issued. ~~When such~~ If that action is by a guardian, ~~his the guardian's~~ duties and obligations ~~therein in the action~~ shall be considered by the court appointing ~~him the guardian~~ in awarding ~~such the~~ compensation ~~as that~~ the court ~~deems~~ considers reasonable.

Sec. 2127.38. The sale price of real estate property sold following an action by an executor, administrator, or guardian shall be applied and distributed as follows:

(A) To discharge the costs and expenses of the sale, including reasonable fees to be fixed by the probate court for services performed by attorneys for the fiduciary in connection with the sale, and compensation, if any, to the fiduciary for ~~his~~ services in connection with the sale as the court may fix, which costs, expenses, fees, and compensation shall be paid prior to any liens upon the real estate property sold and notwithstanding the purchase of the real estate property by a lien holder;

(B) To the payment of taxes, interest, penalties, and assessments then due against the real estate property, and to the payment of mortgages and judgments against the ward or deceased person, according to their respective priorities of lien, so far as they operated as a lien on the real estate property of the deceased at the time of the sale, or on the estate of the ward at the time of the sale, ~~which that~~ shall be apportioned and determined by the court, or on reference to a master, or otherwise;

(C)(1) In the case of an executor or administrator, the remaining proceeds of sale shall be applied as follows:

~~(1)(a)~~ (a) To the payment of legacies with which the real estate property of the deceased was charged, if the action is to sell real estate property to pay legacies;

~~(2)(b)~~ (b) To discharge the claims and debts of the estate in the order provided by law.

(2) Whether the executor or administrator was appointed in this state or elsewhere, the surplus of the proceeds of sale ~~must shall~~ be considered for all purposes as real estate property, and be disposed of accordingly.

Sec. 2127.39. ~~When~~ If an action to sell real estate property is brought by an executor or administrator with the will annexed, if in the ~~last~~ will of the

deceased there is a disposition of ~~his~~ the decedent's estate for the payment of debts, or a provision that may require or induce the probate court to marshal the assets differently from the way the law otherwise would prescribe, ~~such~~ those devises, or parts of the will, shall be set forth in the complaint, and a copy of the will exhibited to the court, whereupon the court shall marshal the proceeds of the sale accordingly, so far as it can be done consistently with the rights of creditors.

Sec. 2127.40. When an action is brought by an executor or administrator to sell real ~~estate~~ property to pay debts, the real ~~estate~~ property subject to sale shall include all rights and interests in ~~lands, tenements, and hereditaments~~ real property transferred by the decedent in ~~his~~ the decedent's lifetime with intent to defraud ~~his~~ the decedent's creditors, except that ~~lands~~ real property fraudulently transferred cannot be taken from any person who purchased them for a valuable consideration, in good faith, and without knowledge of the fraud. No claim to ~~such lands~~ that real property shall be made unless within four years next after the decease of the grantor.

If real ~~estate~~ property fraudulently transferred is to be included in ~~such~~ an ~~that~~ action, the executor or administrator, either before or at the same time, may commence a civil action in the court of common pleas in the county in which the real ~~estate~~ property is situated to recover possession of it, or, in ~~his~~ the action for its sale, ~~he~~ the executor or administrator may allege the fraud and have the fraudulent transfer avoided. But when the real ~~estate~~ property is included in the complaint before the recovery of possession by the executor or administrator, the action shall be brought in the court of common pleas in the county in which the real ~~estate~~ property is situated.

Sec. 2127.41. If, after the institution of proceedings for the partition of the real property of a decedent, it is found that the assets in the ~~hands~~ possession or under the control of the executor or administrator probably are insufficient to pay the debts of the estate, together with the allowance for support of the surviving spouse, minor children, or surviving spouse and minor children as provided in section 2106.13 of the Revised Code, the expenses of administration, and the legacies that are a charge upon the real property, the executor or administrator shall make a written statement to the probate court of the assets, indebtedness, expenses, and legacies, and the court ~~forthwith~~ shall ascertain the amount necessary to pay the debts, expenses, and legacies and give a certificate of the amount to the executor or administrator.

The executor or administrator then shall present the certificate to the court in which the proceedings for partition are or have been pending, and,

on ~~his~~ the motion of the executor or administrator, the court shall order the amount named in the certificate to be paid over to the executor or administrator out of the proceeds of the sale of the premises, if thereafter they are sold or already have been sold. This section does not prohibit an executor or administrator from proceeding to sell real property belonging to the estate for the payment of debts or legacies, although it has been sold on partition or otherwise, or the proceeds of the sale have been fully distributed.

Sec. 2127.42. Wards living out of this state and owning ~~lands~~ real property within it are entitled to the benefit of sections 2127.01 to 2127.43 of the Revised Code. Complaints for the sale of real ~~estate~~ property by guardians of ~~such those~~ wards shall be filed in the county in which the ~~land~~ real property is situated, or if situated in two or more counties, then in one of the counties in which a part of it is situated. Additional security shall be required from ~~such the~~ guardians, ~~when deemed if considered~~ necessary by the probate court of the county in which the complaints are filed.

Sec. 2127.43. ~~Chapter 2127. of the Revised Code~~ This chapter extends to an action brought by the trustee of a nonresident minor or mentally ill or deficient person to sell the real ~~estate~~ property of the ward.

Sec. 2129.02. ~~When~~ If letters of administration or letters testamentary have been granted in any state other than this state, in any territory or possession of the United States, or in any foreign country, as to the estate of a deceased resident of that state, territory, possession, or country, and ~~when~~ if no ancillary administration proceedings have been commenced in this state, the person to whom the letters of appointment were granted may file an authenticated copy of them in the probate court of any county of this state in which is located real ~~estate~~ property of the decedent.

The claim of any creditor of ~~such a~~ that decedent shall be subject to section 2117.06 of the Revised Code. The person filing ~~such those~~ letters in the probate court may accelerate the bar against claims against the estate established by that section, by giving written notice to a potential claimant that identifies the decedent by name, states the date of the death of the decedent, identifies the court, states its mailing address, and informs the potential claimant that any claims ~~he~~ the potential claimant may have against the estate are required to be presented to the court within the earlier of thirty days after receipt of the notice by the potential claimant or ~~one year~~ six months after the date of the death of the decedent. A claim of that potential claimant that is not presented to the court within the earlier of thirty days after receipt of the notice by the potential claimant or ~~one year~~ six months after the date of the death of the decedent is forever barred as a

possible lien upon the real ~~estate~~ property of the decedent in this state. If, at the expiration of that period, any such claim has been filed and remains unpaid after reasonable notice of the claim to the nonresident executor or administrator, ancillary administration proceedings as to the estate may be had forthwith.

Sec. 2129.05. Authenticated copies of wills, executed and proved according to the laws of any state or territory of the United States, relative to property in this state, may be admitted to record in the probate court of a county where a part of ~~such that~~ property is situated. ~~Such The~~ authenticated copies, so recorded, shall be as valid as wills made in this state.

When such a will, or authenticated copy, is admitted to record, a copy ~~thereof of the will or of the authenticated copy~~, with the copy of the order to record it annexed ~~thereto to that copy~~, certified by the probate judge under the seal of ~~his the~~ probate court, may be filed and recorded in the office of the probate judge of any other county where a part of ~~such the~~ property is situated, and it shall be as effectual as the authenticated copy of ~~such the~~ will would be if approved and admitted to record by the court.

Sec. 2129.08. (A) After an authenticated copy of the will of a nonresident decedent has been allowed and admitted to record as provided in this chapter, and after there has been filed in the probate court a complete exemplification of the record of the grant of the domiciliary letters of appointment and of any other records of the court of domiciliary administration that the court requires, the court shall appoint as the ancillary administrator the person named in the will, or nominated in accordance with any power of nomination conferred in the will, as general executor of the decedent's estate or as executor of the portion of the decedent's estate located in this state, provided that the person makes application and qualifies under division (B)(2) of section 2109.21 of the Revised Code and in all other respects as required by law. If the testator in the will naming or providing for the nomination of that executor orders or requests that bond not be given by ~~him that executor~~, bond shall not be required unless, for sufficient reason, the court requires it.

(B) If a nonresident decedent died intestate, or failed to designate in ~~his the nonresident decedent's~~ will any person qualified to act as ancillary administrator or to confer in the will a power to nominate a person as an executor as described in division (A) of this section, or if the will of a nonresident decedent conferred ~~such a that~~ power but no person qualified to act as ancillary administrator was nominated, the court shall appoint in ~~such that~~ capacity ~~some a~~ suitable person who is a resident of the county including, but not limited to, a creditor of the estate.

(C) An ancillary administrator, acting as to the estate of a testate decedent that is located in this state, may sell and convey the real and personal property by virtue of the will as executors or administrators with the will annexed may do.

(D) No person shall be appointed as an ancillary administrator of the estate of a nonresident presumed decedent that is located in this state, except after Chapter 2121. of the Revised Code, relative to the appointment of an ancillary administrator, has been complied with.

Sec. 2129.11. If no domiciliary administration has been commenced, the ancillary administrator shall proceed with the administration in ~~Ohio~~ this state as though the decedent had been a resident of ~~Ohio~~ this state at the time of ~~his~~ the decedent's death.

Sec. 2129.13. If an ancillary administrator finds that the personal property of the nonresident decedent in ~~Ohio~~ this state is not sufficient to pay the expenses of administration, public rates and taxes, and other valid claims ~~which that~~ have been presented, ~~he~~ the ancillary administrator shall proceed to sell as much of the real ~~estate~~ property of the decedent located in this state as that is necessary to pay ~~such those~~ debts. The procedure shall be the same as in sales of real ~~estate~~ property in administration proceedings relating to the estates of resident decedents under sections 2127.01 to 2127.43, ~~inclusive~~, of the Revised Code.

Sec. 2129.14. A domiciliary executor or administrator of a nonresident decedent may file in the probate court by which the ancillary administrator was appointed information showing that it will be necessary to sell ~~Ohio~~ real ~~estate~~ property of the decedent located in this state to pay debts and legacies, and the court may thereupon authorize the ancillary administrator to sell ~~such any~~ part or all of ~~such the~~ real ~~estate as~~ property that is necessary. The ancillary administrator shall proceed to sell ~~such the~~ real ~~estate~~ property in the manner provided by section 2129.13 of the Revised Code.

Sec. 2129.15. Within five months after ~~his~~ appointment, the ancillary administrator of a nonresident decedent shall forward to the domiciliary administrator, if any, of ~~such the~~ decedent, if the name and address of ~~such the~~ domiciliary administrator are known, a certificate showing all assets of the estate in this state and all debts and liabilities including estimated expenses of administration. If the name and address of ~~such the~~ domiciliary administrator are not known, ~~such the~~ certificate shall be forwarded to the next of kin of the deceased whose names and addresses are known and to the court having jurisdiction in estate matters in the county in which the decedent resided at the time of ~~his~~ death.

Sec. 2129.17. An ancillary administrator shall file in the probate court

of every county in ~~Ohio~~ this state in which real ~~estate~~ property of the nonresident decedent is located a certified copy of the records in the court of ~~his~~ the ancillary administrator's appointment ~~which~~ that affect the title to ~~such~~ that real ~~estate~~ property.

Sec. 2129.18. Whenever property of a nonresident decedent as to whose estate ancillary administration proceedings are being had in ~~Ohio~~ this state passes by the laws of intestate succession or under a will to a beneficiary not named ~~therein~~ in the will, proceedings may be had to determine the persons entitled to ~~such~~ that property in the same manner as in the estates of resident decedents under sections 2123.01 to 2123.07, ~~inclusive~~, of the Revised Code. The ancillary administrator shall file a certified copy of ~~such~~ the finding in the probate court in every county in ~~Ohio~~ this state in which real ~~estate~~ property of the decedent is located. ~~Such~~ The administrator shall procure and file in the court for the information of the court a certified copy of any determination of heirship relative to ~~such~~ the decedent's estate made in the state of the domiciliary administration.

Sec. 2129.19. Prior to filing ~~his~~ the ancillary administrator's final account, an ancillary administrator shall file in the probate court an application for a certificate of transfer as to the real ~~estate~~ property of the nonresident decedent situated in ~~Ohio~~ this state, in the same manner as in the administration of the estates of resident decedents under section 2113.61 of the Revised Code.

Sec. 2129.23. When the expense of the ancillary administration of a nonresident decedent's estate, including ~~such~~ any attorney's fee as ~~that~~ is allowed by the probate court, all public charges and taxes, and all claims of creditors presented as provided in section 2129.12 of the Revised Code, have been paid, any residue of the personal ~~estate~~ property and the proceeds of any real ~~estate~~ property sold for the payment of debts shall be distributed by the ancillary administrator as follows:

(A) With the approval of the court ~~such~~, the residue may be delivered to the domiciliary administrator or executor.

(B) If the court so orders, ~~such~~ the residue shall be delivered to the persons entitled ~~thereto~~ to it.

Sec. 2129.25. When an executor or administrator is appointed in any other state, territory, or foreign country for the estate of a person dying out of this state, and no executor or administrator ~~thereon~~ for the estate is appointed in this state, the foreign executor or administrator may file an authenticated copy of ~~his~~ the foreign executor's or administrator's appointment in the probate court of any county in which there is real ~~estate~~ property of the deceased, together with an authenticated copy of the will.

After filing ~~such~~ those copies, ~~he~~ the foreign executor or administrator may be authorized, under an order of the court, to sell real ~~estate~~ property for the payment of debts or legacies and charges of administration, in the manner prescribed in sections 2127.01 to 2127.43, ~~inclusive~~, of the Revised Code.

Sec. 2129.26. ~~When~~ If it appears to the probate court granting the order of sale set forth in section 2129.25 of the Revised Code that the foreign executor or administrator is bound with sufficient surety in the state or country in which ~~he~~ the foreign executor or administrator was appointed to account for the proceeds of ~~such~~ the sale, for the payment of debts or legacies, and for charges of administration, and an authenticated copy of ~~such~~ the bond is filed in court, no further bond for that purpose shall be required of ~~him~~ the foreign executor or administrator. ~~When~~ If the court finds that ~~such~~ the bond is insufficient, before making ~~such~~ the sale, ~~such~~ the foreign executor or administrator ~~must~~ shall give bond to this state with two or more sufficient sureties, conditioned to account for and dispose of ~~such~~ the proceeds of the sale for the payment of the debts or legacies of the deceased and the charges of administration according to the laws of the state or country in which ~~he~~ the foreign executor or administrator was appointed.

~~When~~ ~~such~~ If the foreign executor or administrator is authorized by order of the court to sell more than is necessary for the payment of debts, legacies, and charges of administration, before making the sale, ~~he~~ the foreign executor or administrator shall give bond with two or more sufficient sureties to this state, conditioned to account before the court for all the proceeds of the sale that remain and to dispose of ~~such~~ the proceeds after payment of ~~such~~ the debts, legacies, and charges.

Sec. 2129.28. If a trustee is named in a foreign will ~~which~~ that creates a trust relating to ~~lands~~ real property situated in this state, ~~such~~ the trustee may execute the trust upon giving bond to the state in ~~such~~ the sum and with ~~such~~ the sureties as that the probate court of the county in which ~~such~~ lands the real property or a part ~~thereof~~ are of the real property is situated approves, conditioned to discharge with fidelity the trust reposed in ~~him~~ the trustee. If the testator in the will naming the trustee orders or requests that bond ~~be~~ not be given by ~~him~~ the trustee, bond shall not be required, unless for sufficient cause the court requires it.

Sec. 2129.29. If a trustee has been appointed under a foreign will ~~which~~ that creates a trust relating to ~~lands~~ real property situated in this state by a foreign court according to the laws of the foreign jurisdiction, ~~he~~ the trustee may execute the trust upon giving bond as provided in section 2129.28 of the Revised Code, and after satisfying the probate court of the county in which ~~such~~ lands the real property or a part ~~of them~~ are it is situated, by an

authenticated record of ~~his~~ appointment, that ~~he~~ the person or entity has been appointed trustee to execute the trust.

Sec. 2129.30. ~~When~~ If necessary, the probate court of the county where the property affected by the trust is situated, on application by petition of the parties interested, may appoint a trustee to carry into effect a trust created by a foreign will. ~~Such~~ The trustee, before entering upon ~~his~~ the trust, ~~must~~ shall give bond with ~~such~~ the security and in ~~such~~ the amount as that the court directs.

Sec. 2131.08. (A) Subject to sections 1746.14, 1747.09, and 2131.09 of the Revised Code, no interest in real or personal property shall be good unless it must vest, if at all, not later than twenty-one years after a life or lives in being at the creation of the interest. All estates given in tail, by deed or will, in ~~lands or tenements~~ real property lying within this state shall be and remain an absolute estate in fee simple to the issue of the first donee in tail. It is the intention by the adoption of this section to make effective in this state what is generally known as the common law rule against perpetuities, except as set forth in divisions (B) and (C) of this section.

(B) For the purposes of this section and subject to sections 1746.14, 1747.09, and 2131.09 of the Revised Code, the time of the creation of an interest in real or personal property subject to a power reserved by the grantor to revoke or terminate the interest shall be the time at which the reserved power expires by reason of the death of the grantor, by release of the power, or otherwise.

(C) Any interest in real or personal property that would violate the rule against perpetuities, under division (A) of this section, shall be reformed, within the limits of the rule, to approximate most closely the intention of the creator of the interest. In determining whether an interest would violate the rule and in reforming an interest, the period of perpetuities shall be measured by actual rather than possible events.

(D) Divisions (B) and (C) of this section shall be effective with respect to interests in real or personal property created by wills of decedents dying after December 31, 1967, with respect to interests in real or personal property created by inter vivos instruments executed after December 31, 1967, and with respect to interests in real or personal property created by inter vivos instruments executed on or before December 31, 1967, that by reason of division (B) of this section will be treated as interests created after December 31, 1967. Divisions (B) and (C) of this section shall be effective with respect to interests in real or personal property created by the exercise of a power of appointment if divisions (B) and (C) of this section apply to the instrument that exercises the power, whether or not divisions (B) and (C)

of this section apply to the instrument that creates the power.

Sec. 2131.11. ~~When~~ If an investment share certificate, share account, deposit, or stock deposit is made; in any bank, building and loan or savings and loan association, credit union, or society for savings, payable to the owner during ~~his~~ the owner's lifetime, and to another on ~~his~~ the owner's death, ~~such~~ the investment share certificate, share account, deposit, or stock deposit ~~or, any part thereof~~ of that certificate, account, or deposit, or any interest or dividend ~~thereon~~ on the certificate, account, or deposit, may be paid to the owner during ~~his~~ the owner's lifetime, and on ~~his~~ the owner's death ~~such~~ the investment share certificate, share account, deposit, or stock deposit ~~or, any part thereof~~ of that certificate, account, or deposit, or any interest or dividend ~~thereon~~ on the certificate, account, or deposit, may be paid to the designated beneficiary, and the receipt of acquittance of the person paid is a sufficient release and discharge of the bank, building and loan or savings and loan association, credit union, or society for savings for any payment so made.

Sec. 2133.04. (A) A declarant may revoke a declaration at any time and in any manner. The revocation shall be effective when the declarant expresses ~~his~~ an intention to revoke the declaration, except that, if the declarant made ~~his~~ the declarant's attending physician aware of the declaration, the revocation shall be effective upon its communication to the attending physician of the declarant by the declarant ~~himself~~, a witness to the revocation, or other health care personnel to whom the revocation is communicated by ~~such a~~ that witness. Absent actual knowledge to the contrary, the attending physician of a declarant and other health care personnel who are informed of the revocation of a declaration by an alleged witness may rely on the information and act in accordance with the revocation.

(B) Upon the communication as described in division (A) of this section to the attending physician of a declarant of the fact that ~~his~~ the declaration has been revoked, the attending physician or other health care personnel acting under the direction of the attending physician shall make the fact a part of the declarant's medical record.

Sec. 2133.05. (A) If the attending physician of a declarant and one other physician who examines the declarant determine that ~~he~~ the declarant is in a terminal condition or in a permanently unconscious state, whichever is addressed in the declaration, if the attending physician additionally determines that the declarant no longer is able to make informed decisions regarding the administration of life-sustaining treatment for ~~himself~~ the declarant and that there is no reasonable possibility that the declarant will

regain the capacity to make those informed decisions for ~~himself~~ the declarant, and if the attending physician is aware of the existence of the declarant's declaration, then the attending physician shall do all of the following:

(1) Record the determinations, together with the terms of the declaration or any copy of the declaration acquired as described in division (C) of section 2133.02 of the Revised Code, in the declarant's medical record;

(2)(a) Make a good faith effort, and use reasonable diligence, to notify either of the following of the determinations:

(i) If the declarant designated in ~~his~~ the declarant's declaration one or more persons to be notified at any time that life-sustaining treatment would be withheld or withdrawn pursuant to the declaration, that person or those persons;

(ii) If division (A)(2)(a)(i) of this section is not applicable, the appropriate individual or individuals, in accordance with the following descending order of priority: if any, the guardian of the declarant, but this division does not permit or require, and shall not be construed as permitting or requiring, the appointment of a guardian for the declarant; the declarant's spouse; the declarant's adult children who are available within a reasonable period of time for consultation with the declarant's attending physician; the declarant's parents; or an adult sibling of the declarant or, if there is more than one adult sibling, a majority of the declarant's adult siblings who are available within a reasonable period of time for ~~such~~ the consultation.

(b) The attending physician shall record in the declarant's medical record the names of the individual or individuals notified pursuant to division (A)(2)(a) of this section and the manner of notification.

(c) If, despite making a good faith effort, and despite using reasonable diligence, to notify the appropriate individual or individuals described in division (A)(2)(a) of this section, the attending physician cannot notify the individual or individuals of the determinations because the individual or individuals are deceased, cannot be located, or cannot be notified for some other reason, then the requirements of divisions (A)(2)(a) and (b) and (3) of this section and, except as provided in division (B)(1)(b) of this section, the provisions of division (B) of this section shall not apply in connection with the declarant and ~~his~~ the declarant's declaration. However, the attending physician shall record in the declarant's medical record information pertaining to the reason for the failure to provide the requisite notices and information pertaining to the nature of the good faith effort and reasonable diligence used.

(3) Afford time for the individual or individuals notified in accordance

with division (A)(2) of this section to object in the manner described in division (B)(1)(a) of this section.

(B)(1)(a) Within forty-eight hours after receipt of a notice pursuant to division (A)(2) of this section, any individual so notified shall advise the attending physician of the declarant whether ~~he~~ the individual objects on a basis specified in division (B)(2)(c) of this section. If an objection as described in that division is communicated to the attending physician, then, within two business days after the communication, the individual shall file a complaint as described in division (B)(2) of this section in the probate court of the county in which the declarant is located. If the individual fails to so file a complaint, ~~his~~ the individual's objections as described in division (B)(2)(c) of this section shall be considered to be void.

(b) Within forty-eight hours after a person described in division (A)(2)(a)(i) of this section or a priority individual or any member of a priority class of individuals described in division (A)(2)(a)(ii) of this section receives a notice pursuant to division (A)(2) of this section or within forty-eight hours after information pertaining to an unnotified person described in division (A)(2)(a)(i) of this section or an unnotified priority individual or unnotified priority class of individuals described in division (A)(2)(a)(ii) of this section is recorded in a declarant's medical record pursuant to division (A)(2)(c) of this section, either of the following shall advise the attending physician of the declarant whether ~~he or they object~~ there is an objection on a basis specified in division (B)(2)(c) of this section:

(i) If a person described in division (A)(2)(a)(i) of this section was notified pursuant to division (A)(2) of this section or was the subject of a recordation under division (A)(2)(c) of this section, then the objection shall be communicated by the individual or a majority of the individuals in either of the first two classes of individuals that pertain to the declarant in the descending order of priority set forth in division (A)(2)(a)(ii) of this section.

(ii) If an individual or individuals in the descending order of priority set forth in division (A)(2)(a)(ii) of this section were notified pursuant to division (A)(2) of this section or were the subject of a recordation under division (A)(2)(c) of this section, then the objection shall be communicated by the individual or a majority of the individuals in the next class of individuals that pertains to the declarant in the descending order of priority set forth in division (A)(2)(a)(ii) of this section.

If an objection as described in division (B)(2)(c) of this section is communicated to the attending physician in accordance with division (B)(1)(b)(i) or (ii) of this section, then, within two business days after the communication, the objecting individual or majority shall file a complaint as

described in division (B)(2) of this section in the probate court of the county in which the declarant is located. If the objecting individual or majority fails to file a complaint, ~~his or their~~ the objections as described in division (B)(2)(c) of this section shall be considered to be void.

(2) A complaint of an individual that is filed in accordance with division (B)(1)(a) of this section or of an individual or majority of individuals that is filed in accordance with division (B)(1)(b) of this section shall satisfy all of the following:

(a) Name any health care facility in which the declarant is confined;

(b) Name the declarant, ~~his~~ the declarant's attending physician, and the consulting physician associated with the determination that the declarant is in a terminal condition or in a permanently unconscious state, whichever is addressed in the declaration;

(c) Indicate whether the plaintiff or plaintiffs object on one or more of the following bases:

(i) To the attending physician's and consulting physician's determinations that the declarant is in a terminal condition or in a permanently unconscious state, whichever is addressed in the declaration;

(ii) To the attending physician's determination that the declarant no longer is able to make informed decisions regarding the administration of life-sustaining treatment;

(iii) To the attending physician's determination that there is no reasonable possibility that the declarant will regain the capacity to make informed decisions regarding the administration of life-sustaining treatment;

(iv) That the course of action proposed to be undertaken by the attending physician is not authorized by the declarant's declaration;

(v) That the declaration was executed when the declarant was not of sound mind or was under or subject to duress, fraud, or undue influence;

(vi) That the declaration otherwise does not substantially comply with this chapter.

(d) Request the probate court to issue one of the following types of orders:

(i) An order to the attending physician to reevaluate, in light of the court proceedings, the determination that the declarant is in a terminal condition or in a permanently unconscious state, whichever is addressed in the declaration, the determination that the declarant no longer is able to make informed decisions regarding the administration of life-sustaining treatment, the determination that there is no reasonable possibility that the declarant will regain the capacity to make those informed decisions, or the course of action proposed to be undertaken;

(ii) An order invalidating the declaration because it was executed when the declarant was not of sound mind or was under or subject to duress, fraud, or undue influence, or because it otherwise does not substantially comply with this chapter;

(e) Be accompanied by an affidavit of the plaintiff or plaintiffs that includes averments relative to whether ~~he~~ the plaintiff is an individual or ~~they~~ the plaintiffs are individuals as described in division (A)(2)(a)(i) or (ii) of this section and to the factual basis for ~~his~~ the plaintiff's or ~~their~~ the plaintiffs' objections;

(f) Name any individuals who were notified by the attending physician in accordance with division (A)(2)(a) of this section and who are not joining in the complaint as plaintiffs;

(g) Name, in the caption of the complaint, as defendants the attending physician of the declarant, the consulting physician associated with the determination that the declarant is in a terminal condition or in a permanently unconscious state, whichever is addressed in the declaration, any health care facility in which the declarant is confined, and any individuals who were notified by the attending physician in accordance with division (A)(2)(a) of this section and who are not joining in the complaint as plaintiffs.

(3) Notwithstanding any contrary provision of the Revised Code or of the Rules of Civil Procedure, the state and persons other than an objecting individual as described in division (B)(1)(a) of this section, other than an objecting individual or majority of individuals as described in division (B)(2)(b)(i) or (ii) of this section, and other than persons described in division (B)(2)(g) of this section are prohibited from commencing a civil action under this section and from joining or being joined as parties to an action commenced under this section, including joining by way of intervention.

(4)(a) A probate court in which a complaint as described in division (B)(2) of this section is filed within the period specified in division (B)(1)(a) or (b) of this section shall conduct a hearing on the complaint after a copy of the complaint and a notice of the hearing have been served upon the defendants. The clerk of the probate court in which the complaint is filed shall cause the complaint and the notice of the hearing to be so served in accordance with the Rules of Civil Procedure, which service shall be made, if possible, within three days after the filing of the complaint. The hearing shall be conducted at the earliest possible time, but no later than the third business day after ~~such~~ the service has been completed. Immediately following the hearing, the court shall enter on its journal its determination

whether a requested order will be issued.

(b) If the declarant's declaration authorized the use or continuation of life-sustaining treatment should ~~he~~ the declarant be in a terminal condition or in a permanently unconscious state and if the plaintiff or plaintiffs requested a reevaluation order to the attending physician of the declarant as described in division (B)(2)(d)(i) of this section, the court shall issue the reevaluation order only if it finds that the plaintiff or plaintiffs have established a factual basis for the objection or objections involved by clear and convincing evidence, to a reasonable degree of medical certainty, and in accordance with reasonable medical standards.

(c) If the declarant's declaration authorized the withholding or withdrawal of life-sustaining treatment should ~~he~~ the declarant be in a terminal condition or in a permanently unconscious state and if the plaintiff or plaintiffs requested a reevaluation order to the attending physician of the declarant as described in division (B)(2)(d)(i) of this section, the court shall issue the reevaluation order only if it finds that the plaintiff or plaintiffs have established a factual basis for the objection or objections involved by a preponderance of the evidence, to a reasonable degree of medical certainty, and in accordance with reasonable medical standards.

(d) If the plaintiff or plaintiffs requested an invalidation order as described in division (B)(2)(d)(ii) of this section, the court shall issue the order only if it finds that the plaintiff or plaintiffs have established a factual basis for the objection or objections involved by clear and convincing evidence.

(e) If the court issues a reevaluation order to the declarant's attending physician pursuant to division (B)(4)(b) or (c) of this section, then the attending physician shall make the requisite reevaluation. If, after doing so, the attending physician again determines that the declarant is in a terminal condition or in a permanently unconscious state, that the declarant no longer is able to make informed decisions regarding the administration of life-sustaining treatment, that there is no reasonable possibility that the declarant will regain the capacity to make those informed decisions, or that ~~he~~ the attending physician would undertake the same proposed course of action, then ~~he~~ the attending physician shall notify the court in writing of the determination and comply with the provisions of section 2133.10 of the Revised Code.

Sec. 2133.06. (A) As long as a qualified patient is able to make informed decisions regarding the administration of life-sustaining treatment, ~~he~~ the qualified patient may continue to do so.

(B) Life-sustaining treatment shall not be withheld or withdrawn from a

declarant pursuant to a declaration if ~~she~~ the declarant is pregnant and if the withholding or withdrawal of the treatment would terminate the pregnancy, unless the declarant's attending physician and one other physician who has examined the declarant determine, to a reasonable degree of medical certainty and in accordance with reasonable medical standards, that the fetus would not be born alive.

Sec. 2133.08. (A)(1) If written consent to the withholding or withdrawal of life-sustaining treatment, witnessed by two individuals who satisfy the witness eligibility criteria set forth in division (B)(1) of section 2133.02 of the Revised Code, is given by the appropriate individual or individuals as specified in division (B) of this section to the attending physician of a patient who is an adult, and if all of the following apply in connection with the patient, then, subject to section 2133.09 of the Revised Code, ~~his~~ the patient's attending physician may withhold or withdraw the life-sustaining treatment:

(a) The attending physician and one other physician who examines the patient determine, in good faith, to a reasonable degree of medical certainty, and in accordance with reasonable medical standards, that the patient is in a terminal condition or the patient currently is and for at least the immediately preceding twelve months has been in a permanently unconscious state, and the attending physician additionally determines, in good faith, to a reasonable degree of medical certainty, and in accordance with reasonable medical standards, that the patient no longer is able to make informed decisions regarding the administration of life-sustaining treatment and that there is no reasonable possibility that the patient will regain the capacity to make those informed decisions.

(b) The patient does not have a declaration that addresses ~~his~~ the patient's intent should ~~he~~ the patient be determined to be in a terminal condition or in a permanently unconscious state, whichever applies, or a durable power of attorney for health care, or has a document that purports to be such a declaration or durable power of attorney for health care but that document is not legally effective.

(c) The consent of the appropriate individual or individuals is given after consultation with the patient's attending physician and after receipt of information from the patient's attending physician or a consulting physician that is sufficient to satisfy the requirements of informed consent.

(d) The appropriate individual or individuals who give a consent are of sound mind and voluntarily give the consent.

(e) If a consent would be given under division (B)(3) of this section, the attending physician made a good faith effort, and used reasonable diligence,

to notify the patient's adult children who are available within a reasonable period of time for consultation as described in division (A)(1)(c) of this section.

(2) The consulting physician under division (A)(1)(a) of this section associated with a patient allegedly in a permanently unconscious state shall be a physician who, by virtue of advanced education or training, of a practice limited to particular diseases, illnesses, injuries, therapies, or branches of medicine or surgery or osteopathic medicine and surgery, of certification as a specialist in a particular branch of medicine or surgery or osteopathic medicine and surgery, or of experience acquired in the practice of medicine or surgery or osteopathic medicine and surgery, is qualified to determine whether the patient currently is and for at least the immediately preceding twelve months has been in a permanently unconscious state.

(B) For purposes of division (A) of this section, a consent to withhold or withdraw life-sustaining treatment may be given by the appropriate individual or individuals, in accordance with the following descending order of priority:

(1) If any, the guardian of the patient. This division does not permit or require, and shall not be construed as permitting or requiring, the appointment of a guardian for the patient.

(2) The patient's spouse;

(3) An adult child of the patient or, if there is more than one adult child, a majority of the patient's adult children who are available within a reasonable period of time for consultation with the patient's attending physician;

(4) The patient's parents;

(5) An adult sibling of the patient or, if there is more than one adult sibling, a majority of the patient's adult siblings who are available within a reasonable period of time for ~~such~~ that consultation;

(6) The nearest adult who is not described in divisions (B)(1) to (5) of this section, who is related to the patient by blood or adoption, and who is available within a reasonable period of time for ~~such~~ that consultation.

(C) If an appropriate individual or class of individuals entitled to decide under division (B) of this section whether or not to consent to the withholding or withdrawal of life-sustaining treatment for a patient is not available within a reasonable period of time for ~~such~~ the consultation and competent to so decide, or declines to so decide, then the next priority individual or class of individuals specified in that division is authorized to make the decision. However, an equal division in a priority class of individuals under that division does not authorize the next class of

individuals specified in that division to make the decision. If an equal division in a priority class of individuals under that division occurs, no written consent to the withholding or withdrawal of life-sustaining treatment from the patient can be given pursuant to this section.

(D)(1) A decision to consent pursuant to this section to the use or continuation, or the withholding or withdrawal, of life-sustaining treatment for a patient shall be made in good faith.

(2) Except as provided in division (D)(4) of this section, if the patient previously expressed ~~his~~ an intention with respect to the use or continuation, or the withholding or withdrawal, of life-sustaining treatment should ~~he~~ the patient subsequently be in a terminal condition or in a permanently unconscious state, whichever applies, and no longer able to make informed decisions regarding the administration of life-sustaining treatment, a consent given pursuant to this section shall be valid only if it is consistent with that previously expressed intention.

(3) Except as provided in division (D)(4) of this section, if the patient did not previously express ~~his~~ an intention with respect to the use or continuation, or the withholding or withdrawal, of life-sustaining treatment should ~~he~~ the patient subsequently be in a terminal condition or in a permanently unconscious state, whichever applies, and no longer able to make informed decisions regarding the administration of life-sustaining treatment, a consent given pursuant to this section shall be valid only if it is consistent with the type of informed consent decision that the patient would have made if ~~he~~ the patient previously had expressed ~~his~~ an intention with respect to the use or continuation, or the withholding or withdrawal, of life-sustaining treatment should ~~he~~ the patient subsequently be in a terminal condition or in a permanently unconscious state, whichever applies, and no longer able to make informed decisions regarding the administration of life-sustaining treatment, as inferred from the lifestyle and character of the patient, and from any other evidence of the desires of the patient, prior to ~~his~~ the patient's becoming no longer able to make informed decisions regarding the administration of life-sustaining treatment. The Rules of Evidence shall not be binding for purposes of this division.

(4)(a) The attending physician of the patient, and other health care personnel acting under the direction of the attending physician, who do not have actual knowledge of a previously expressed intention as described in division (D)(2) of this section or who do not have actual knowledge that the patient would have made a different type of informed consent decision under the circumstances described in division (D)(3) of this section, may rely on a consent given in accordance with this section unless a probate

court decides differently under division (E) of this section.

(b) The immunity conferred by division (C)(1) of section 2133.11 of the Revised Code is not forfeited by an individual who gives a consent to the use or continuation, or the withholding or withdrawal, of life-sustaining treatment for a patient under division (B) of this section if the individual gives the consent in good faith and without actual knowledge, at the time of giving the consent, of either a contrary previously expressed intention of the patient, or a previously expressed intention of the patient, as described in division (D)(2) of this section, that is revealed to the individual subsequent to the time of giving the consent.

(E)(1) Within forty-eight hours after a priority individual or class of individuals gives a consent pursuant to this section to the use or continuation, or the withholding or withdrawal, of life-sustaining treatment and communicates the consent to the patient's attending physician, any individual described in divisions (B)(1) to (5) of this section who objects to the application of this section to the patient shall advise the attending physician of the grounds for the objection. If an objection is so communicated to the attending physician, then, within two business days after that communication, the objecting individual shall file a complaint against the priority individual or class of individuals, the patient's attending physician, and the consulting physician associated with the determination that the patient is in a terminal condition or that the patient currently is and for at least the immediately preceding twelve months has been in a permanently unconscious state, in the probate court of the county in which the patient is located for the issuance of an order reversing the consent of the priority individual or class of individuals. If the objecting individual fails to so file a complaint, ~~his~~ the individual's objections shall be considered to be void.

A probate court in which a complaint is filed in accordance with this division shall conduct a hearing on the complaint after a copy of the complaint and a notice of the hearing have been served upon the defendants. The clerk of the probate court in which the complaint is filed shall cause the complaint and the notice of the hearing to be so served in accordance with the Rules of Civil Procedure, which service shall be made, if possible, within three days after the filing of the complaint. The hearing shall be conducted at the earliest possible time, but no later than the third business day after ~~such~~ the service has been completed. Immediately following the hearing, the court shall enter on its journal its determination whether the decision of the priority individual or class of individuals to consent to the use or continuation, or the withholding or withdrawal, of life-sustaining

treatment in connection with the patient will be confirmed or reversed.

(2) If the decision of the priority individual or class of individuals was to consent to the use or continuation of life-sustaining treatment in connection with the patient, the court only may reverse that consent if the objecting individual establishes, by clear and convincing evidence and, if applicable, to a reasonable degree of medical certainty and in accordance with reasonable medical standards, one or more of the following:

(a) The patient is able to make informed decisions regarding the administration of life-sustaining treatment.

(b) The patient has a legally effective declaration that addresses ~~his~~ the patient's intent should ~~he~~ the patient be determined to be in a terminal condition or in a permanently unconscious state, whichever applies, or a legally effective durable power of attorney for health care.

(c) The decision to use or continue life-sustaining treatment is not consistent with the previously expressed intention of the patient as described in division (D)(2) of this section.

(d) The decision to use or continue life-sustaining treatment is not consistent with the type of informed consent decision that the patient would have made if ~~he~~ the patient previously had expressed ~~his~~ an intention with respect to the use or continuation, or the withholding or withdrawal, of life-sustaining treatment should ~~he~~ the patient subsequently be in a terminal condition or in a permanently unconscious state, whichever applies, and no longer able to make informed decisions regarding the administration of life-sustaining treatment as described in division (D)(3) of this section.

(e) The decision of the priority individual or class of individuals was not made after consultation with the patient's attending physician and after receipt of information from the patient's attending physician or a consulting physician that is sufficient to satisfy the requirements of informed consent.

(f) The priority individual, or any member of the priority class of individuals, who made the decision to use or continue life-sustaining treatment was not of sound mind or did not voluntarily make the decision.

(g) If the decision of a priority class of individuals under division (B)(3) of this section is involved, the patient's attending physician did not make a good faith effort, and use reasonable diligence, to notify the patient's adult children who were available within a reasonable period of time for consultation as described in division (A)(1)(c) of this section.

(h) The decision of the priority individual or class of individuals otherwise was made in a manner that does not comply with this section.

(3) If the decision of the priority individual or class of individuals was to consent to the withholding or withdrawal of life-sustaining treatment in

connection with the patient, the court only may reverse that consent if the objecting individual establishes, by a preponderance of the evidence and, if applicable, to a reasonable degree of medical certainty and in accordance with reasonable medical standards, one or more of the following:

(a) The patient is not in a terminal condition, the patient is not in a permanently unconscious state, or the patient has not been in a permanently unconscious state for at least the immediately preceding twelve months.

(b) The patient is able to make informed decisions regarding the administration of life-sustaining treatment.

(c) There is a reasonable possibility that the patient will regain the capacity to make informed decisions regarding the administration of life-sustaining treatment.

(d) The patient has a legally effective declaration that addresses ~~his~~ the patient's intent should ~~he~~ the patient be determined to be in a terminal condition or in a permanently unconscious state, whichever applies, or a legally effective durable power of attorney for health care.

(e) The decision to withhold or withdraw life-sustaining treatment is not consistent with the previously expressed intention of the patient as described in division (D)(2) of this section.

(f) The decision to withhold or withdraw life-sustaining treatment is not consistent with the type of informed consent decision that the patient would have made if ~~he~~ the patient previously had expressed ~~his~~ an intention with respect to the use or continuation, or the withholding or withdrawal, of life-sustaining treatment should ~~he~~ the patient subsequently be in a terminal condition or in a permanently unconscious state, whichever applies, and no longer able to make informed decisions regarding the administration of life-sustaining treatment as described in division (D)(3) of this section.

(g) The decision of the priority individual or class of individuals was not made after consultation with the patient's attending physician and after receipt of information from the patient's attending physician or a consulting physician that is sufficient to satisfy the requirements of informed consent.

(h) The priority individual, or any member of the priority class of individuals, who made the decision to withhold or withdraw life-sustaining treatment was not of sound mind or did not voluntarily make the decision.

(i) If the decision of a priority class of individuals under division (B)(3) of this section is involved, the patient's attending physician did not make a good faith effort, and use reasonable diligence, to notify the patient's adult children who were available within a reasonable period of time for consultation as described in division (A)(1)(c) of this section.

(j) The decision of the priority individual or class of individuals

otherwise was made in a manner that does not comply with this section.

(4) Notwithstanding any contrary provision of the Revised Code or of the Rules of Civil Procedure, the state and persons other than individuals described in divisions (B)(1) to (5) of this section are prohibited from filing a complaint under division (E) of this section and from joining or being joined as parties to a hearing conducted under division (E) of this section, including joining by way of intervention.

(F) A valid consent given in accordance with this section supersedes any general consent to treatment form signed by or on behalf of the patient prior to, upon, or after ~~his~~ the patient's admission to a health care facility to the extent there is a conflict between the consent and the form.

(G) Life-sustaining treatment shall not be withheld or withdrawn from a patient pursuant to a consent given in accordance with this section if ~~she~~ the patient is pregnant and if the withholding or withdrawal of the treatment would terminate the pregnancy, unless the patient's attending physician and one other physician who has examined the patient determine, to a reasonable degree of medical certainty and in accordance with reasonable medical standards, that the fetus would not be born alive.

Sec. 2133.09. (A) The attending physician of a patient who is an adult and who currently is and for at least the immediately preceding twelve months has been in a permanently unconscious state may withhold or withdraw nutrition and hydration in connection with the patient only if all of the following apply:

(1) Written consent to the withholding or withdrawal of life-sustaining treatment in connection with the patient has been given by an appropriate individual or individuals in accordance with section 2133.08 of the Revised Code, and divisions (A)(1)(a) to (e) and (2) of that section have been satisfied.

(2) A probate court has not reversed the consent to the withholding or withdrawal of life-sustaining treatment in connection with the patient pursuant to division (E) of section 2133.08 of the Revised Code.

(3) The attending physician of the patient and one other physician as described in division (A)(2) of section 2133.08 of the Revised Code who examines the patient determine, in good faith, to a reasonable degree of medical certainty, and in accordance with reasonable medical standards, that nutrition and hydration will not or no longer will provide comfort or alleviate pain in connection with the patient.

(4) Written consent to the withholding or withdrawal of nutrition and hydration in connection with the patient, witnessed by two individuals who satisfy the witness eligibility criteria set forth in division (B)(1) of section

2133.02 of the Revised Code, is given to the attending physician of the patient by an appropriate individual or individuals as specified in division (B) of section 2133.08 of the Revised Code.

(5) The written consent to the withholding or withdrawal of the nutrition and hydration in connection with the patient is given in accordance with division (B) of this section.

(6) The probate court of the county in which the patient is located issues an order to withhold or withdraw the nutrition and hydration in connection with the patient pursuant to division (C) of this section.

(B)(1) A decision to consent pursuant to this section to the withholding or withdrawal of nutrition and hydration in connection with a patient shall be made in good faith.

(2) Except as provided in division (B)(4) of this section, if the patient previously expressed ~~his~~ an intention with respect to the use or continuation, or the withholding or withdrawal, of nutrition and hydration should ~~he~~ the patient subsequently be in a permanently unconscious state and no longer able to make informed decisions regarding the administration of nutrition and hydration, a consent given pursuant to this section shall be valid only if it is consistent with that previously expressed intention.

(3) Except as provided in division (B)(4) of this section, if the patient did not previously express ~~his~~ an intention with respect to the use or continuation, or the withholding or withdrawal, of nutrition and ~~hydration~~ hydration should ~~he~~ the patient subsequently be in a permanently unconscious state and no longer able to make informed decisions regarding the administration of nutrition and hydration, a consent given pursuant to this section shall be valid only if it is consistent with the type of informed consent decision that the patient would have made if ~~he~~ the patient previously had expressed ~~his~~ an intention with respect to the use or continuation, or the withholding or withdrawal, of nutrition and hydration should ~~he~~ the patient subsequently be in a permanently unconscious state and no longer able to make informed decisions regarding the administration of nutrition and hydration, as inferred from the lifestyle and character of the patient, and from any other evidence of the desires of the patient, prior to ~~his~~ the patient's becoming no longer able to make informed decisions regarding the administration of nutrition and hydration. The Rules of Evidence shall not be binding for purposes of this division.

(4)(a) The attending physician of the patient, and other health care personnel acting under the direction of the attending physician, who do not have actual knowledge of a previously expressed intention as described in division (B)(2) of this section or who do not have actual knowledge that the

patient would have made a different type of informed consent decision under the circumstances described in division (B)(3) of this section, may rely on a consent given in accordance with this section unless a probate court decides differently under division (C) of this section.

(b) The immunity conferred by division (C)(2) of section 2133.11 of the Revised Code is not forfeited by an individual who gives a consent to the withholding or withdrawal of nutrition and hydration in connection with a patient under division (A)(4) of this section if the individual gives the consent in good faith and without actual knowledge, at the time of giving the consent, of either a contrary previously expressed intention of the patient, or a previously expressed intention of the patient, as described in ~~division~~ division (B)(2) of this section, that is revealed to the individual subsequent to the time of giving the consent.

(C)(1) Prior to the withholding or withdrawal of nutrition and hydration in connection with a patient pursuant to this section, the priority individual or class of individuals that consented to the withholding or withdrawal of the nutrition and hydration shall apply to the probate court of the county in which the patient is located for the issuance of an order that authorizes the attending physician of the patient to commence the withholding or withdrawal of the nutrition and hydration in connection with the patient. Upon the filing of the application, the clerk of the probate court shall schedule a hearing on it and cause a copy of it and a notice of the hearing to be served in accordance with the Rules of Civil Procedure upon the applicant, the attending physician, the consulting physician associated with the determination that nutrition and hydration will not or no longer will provide comfort or alleviate pain in connection with the patient, and the individuals described in divisions (B)(1) to (5) of section 2133.08 of the Revised Code who are not applicants, which service shall be made, if possible, within three days after the filing of the application. The hearing shall be conducted at the earliest possible time, but no sooner than the thirtieth business day, and no later than the sixtieth business day, after ~~such~~ the service has been completed.

At the hearing, any individual described in divisions (B)(1) to (5) of section 2133.08 of the Revised Code who is not an applicant and who disagrees with the decision of the priority individual or class of individuals to consent to the withholding or withdrawal of nutrition and hydration in connection with the patient shall be permitted to testify and present evidence relative to the use or continuation of nutrition and hydration in connection with the patient. Immediately following the hearing, the court shall enter on its journal its determination whether the requested order will be issued.

(2) The court shall issue an order that authorizes the patient's attending physician to commence the withholding or withdrawal of nutrition and hydration in connection with the patient only if the applicants establish, by clear and convincing evidence, to a reasonable degree of medical certainty, and in accordance with reasonable medical standards, all of the following:

(a) The patient currently is and for at least the immediately preceding twelve months has been in a permanently unconscious state.

(b) The patient no longer is able to make informed decisions regarding the administration of life-sustaining treatment.

(c) There is no reasonable possibility that the patient will regain the capacity to make informed decisions regarding the administration of life-sustaining treatment.

(d) The conditions specified in divisions (A)(1) to (4) of this section have been satisfied.

(e) The decision to withhold or withdraw nutrition and hydration in connection with the patient is consistent with the previously expressed intention of the patient as described in division (B)(2) of this section or is consistent with the type of informed consent decision that the patient would have made if ~~he~~ the patient previously had expressed ~~his~~ an intention with respect to the use or continuation, or the withholding or withdrawal, of nutrition and hydration should ~~he~~ the patient subsequently be in a permanently unconscious state and no longer able to make informed decisions regarding the administration of nutrition and hydration as described in division (B)(3) of this section.

(3) Notwithstanding any contrary provision of the Revised Code or of the Rules of Civil Procedure, the state and persons other than individuals described in division (A)(4) of this section or in divisions (B)(1) to (5) of section 2133.08 of the Revised Code and other than the attending physician and consulting physician associated with the determination that nutrition and hydration will not or no longer will provide comfort or alleviate pain in connection with the patient are prohibited from filing an application under this division and from joining or being joined as parties to a hearing conducted under this division, including joining by way of intervention.

(D) A valid consent given in accordance with this section supersedes any general consent to treatment form signed by or on behalf of the patient prior to, upon, or after ~~his~~ the patient's admission to a health care facility to the extent there is a conflict between the consent and the form.

Sec. 2151.13. The juvenile judge may appoint such bailiffs, probation officers, and other employees as are necessary and may designate their titles and fix their duties, compensation, and expense allowances. The juvenile

court may by entry on its journal authorize any deputy clerk to administer oaths when necessary in the discharge of ~~his~~ the deputy clerk's duties. Such employees shall serve during the pleasure of the judge.

The compensation and expenses of all employees and the salary and expenses of the judge shall be paid in semimonthly installments by the county treasurer from the money appropriated for the operation of the court, upon the warrant of the county auditor, certified to by the judge.

The judge may require any employee to give bond in the sum of not less than one thousand dollars, conditioned for the honest and faithful performance of ~~his~~ the employee's duties. The sureties on such bonds shall be approved in the manner provided by section 2151.12 of the Revised Code. The judge shall not be personally liable for the default, misfeasance, or nonfeasance of any employee ~~from whom a bond has been required.~~

Sec. 2335.34. On the first Monday of January, each year, the clerk of each court of common pleas and court of appeals, each probate judge, and each sheriff shall make two certified lists of causes in which money has been paid and has remained in the hands of ~~such that~~ person or in the hands of a former clerk, probate judge, or sheriff, for one year next preceding ~~such that~~ first Monday of January. ~~Such~~ The lists shall designate the amount of money and in whose hands it remains. One list shall be set up in a conspicuous place by ~~such the~~ officer, in ~~his~~ the officer's office, for the period of thirty days, and the other list shall be posted at ~~or on the door a public area~~ of the courthouse or published on the web site of the court or officer, on the second Monday of January, for the same period of time.

Sec. 3101.02. Any consent required under section 3101.01 of the Revised Code shall be personally given before the probate judge or a deputy clerk of the probate court, or certified under the hand of the person consenting, by two witnesses, one of whom ~~must~~ shall appear before the judge and make oath that ~~he~~ the witness saw the person whose name is annexed to the certificate subscribe it, or heard ~~him~~ the person consenting acknowledge it.

Sec. 3101.03. If the parent or guardian of a minor is a nonresident of, or is absent from, the county in which the marriage license is applied for, ~~he~~ the parent or guardian personally may appear before the official upon whose authority marriage licenses are issued; in the county in which ~~he~~ the parent or guardian is at the time domiciled, and give ~~his~~ consent in writing to ~~such that~~ marriage. The consent ~~must~~ shall be attested to by two witnesses, certified to by ~~such that~~ official, and forwarded to the probate judge of the county in which the license is applied for. The probate judge may administer any oath required, issue and sign ~~such the~~ license, and affix the seal of the

probate court.

Sec. 3101.10. A minister upon producing to the secretary of state, credentials of ~~his~~ the minister's being a regularly ordained or licensed minister of any religious society or congregation, shall be entitled to receive from the secretary of state a license authorizing ~~him~~ the minister to solemnize marriages in this state so long as ~~he~~ the minister continues as a regular minister in ~~such~~ that society or congregation. A minister shall produce for inspection ~~his~~ the minister's license to solemnize marriages upon demand of any party to a marriage at which ~~he~~ the minister officiates or proposes to officiate or upon demand of any probate judge.

Sec. 3101.13. Except as otherwise provided in this section, a certificate of every marriage solemnized shall be transmitted by the authorized person solemnizing the marriage, within thirty days after the solemnization, to the probate judge of the county in which the marriage license was issued. If, in accordance with section 2101.27 of the Revised Code, a probate judge solemnizes a marriage and if the probate judge issued the marriage license to the husband and wife, ~~he~~ the probate judge shall file a certificate of that solemnized marriage in ~~his~~ the probate judge's office within thirty days after the solemnization. All ~~such~~ of the transmitted and filed certificates shall be consecutively numbered and recorded in the order in which they are received.

Sec. 3101.14. Every marriage license shall have printed upon it in prominent type the notice that, unless the person solemnizing the marriage returns a certificate of the solemnized marriage to the probate court that issued the marriage license within thirty days after performing the ceremony, or, if the person solemnizing the marriage is a probate judge who is acting in accordance with section 2101.27 of the Revised Code and who issued the marriage license to the husband and wife, unless ~~such~~ a that probate judge files a certificate of the solemnized marriage in ~~his~~ the probate judge's office within thirty days after the solemnization, ~~he~~ the person or probate judge is guilty of a minor misdemeanor and, upon conviction, may be punished by a fine of fifty dollars. An envelope suitable for returning the certificate of marriage, and addressed to the proper probate court, shall be given with each license, except that this requirement does not apply if a marriage is to be solemnized by a probate judge who is acting in accordance with section 2101.27 of the Revised Code and who issued the marriage license to the husband and wife.

Sec. 3313.85. If the board of education of any city, exempted village, or local school district or the governing board of any educational service center ~~fails to perform the duties imposed upon it or~~ fails to fill a vacancy in ~~such~~

that board within a period of thirty days after ~~such~~ the vacancy occurs, the probate court of the county in which ~~such~~ the district or service center is located, upon being advised and satisfied of ~~such~~ that failure, shall act as ~~such~~ that board ~~and perform all duties imposed upon such board~~ to fill any vacancy as promptly as possible.

Sec. 5111.113. (A) As used in this section:

(1) "Adult care facility" has the same meaning as in section 5119.70 of the Revised Code.

(2) "Commissioner" means a person appointed by a probate court under division ~~(B)~~(E) of section 2113.03 of the Revised Code to act as a commissioner.

(3) "Home" has the same meaning as in section 3721.10 of the Revised Code.

(4) "Personal needs allowance account" means an account or petty cash fund that holds the money of a resident of an adult care facility or home and that the facility or home manages for the resident.

(B) Except as provided in divisions (C) and (D) of this section, the owner or operator of an adult care facility or home shall transfer to the department of job and family services the money in the personal needs allowance account of a resident of the facility or home who was a recipient of the medical assistance program no earlier than sixty days but not later than ninety days after the resident dies. The adult care facility or home shall transfer the money even though the owner or operator of the facility or home has not been issued letters testamentary or letters of administration concerning the resident's estate.

(C) If funeral or burial expenses for a resident of an adult care facility or home who has died have not been paid and the only resource the resident had that could be used to pay for the expenses is the money in the resident's personal needs allowance account, or all other resources of the resident are inadequate to pay the full cost of the expenses, the money in the resident's personal needs allowance account shall be used to pay for the expenses rather than being transferred to the department of job and family services pursuant to division (B) of this section.

(D) If, not later than sixty days after a resident of an adult care facility or home dies, letters testamentary or letters of administration are issued, or an application for release from administration is filed under section 2113.03 of the Revised Code, concerning the resident's estate, the owner or operator of the facility or home shall transfer the money in the resident's personal needs allowance account to the administrator, executor, commissioner, or person who filed the application for release from administration.

(E) The transfer or use of money in a resident's personal needs allowance account in accordance with division (B), (C), or (D) of this section discharges and releases the adult care facility or home, and the owner or operator of the facility or home, from any claim for the money from any source.

(F) If, sixty-one or more days after a resident of an adult care facility or home dies, letters testamentary or letters of administration are issued, or an application for release from administration under section 2113.03 of the Revised Code is filed, concerning the resident's estate, the department of job and family services shall transfer the funds to the administrator, executor, commissioner, or person who filed the application, unless the department is entitled to recover the money under the medicaid estate recovery program instituted under section 5111.11 of the Revised Code.

SECTION 2. That existing sections 2101.01, 2101.02, 2101.021, 2101.03, 2101.04, 2101.06, 2101.07, 2101.08, 2101.09, 2101.10, 2101.11, 2101.13, 2101.15, 2101.16, 2101.162, 2101.19, 2101.20, 2101.22, 2101.23, 2101.24, 2101.27, 2101.30, 2101.34, 2101.37, 2101.38, 2101.41, 2101.43, 2103.01, 2105.051, 2105.06, 2105.10, 2105.11, 2105.13, 2105.14, 2105.15, 2105.16, 2105.19, 2106.01, 2106.08, 2106.11, 2107.01, 2107.02, 2107.03, 2107.04, 2107.05, 2107.07, 2107.08, 2107.081, 2107.082, 2107.083, 2107.084, 2107.085, 2107.09, 2107.10, 2107.11, 2107.15, 2107.17, 2107.18, 2107.20, 2107.21, 2107.22, 2107.29, 2107.32, 2107.34, 2107.35, 2107.36, 2107.38, 2107.46, 2107.47, 2107.49, 2107.50, 2107.501, 2107.51, 2107.52, 2107.53, 2107.54, 2107.55, 2107.56, 2107.58, 2107.59, 2107.60, 2107.61, 2107.65, 2107.71, 2107.73, 2107.75, 2108.51, 2109.02, 2109.021, 2109.03, 2109.04, 2109.05, 2109.06, 2109.07, 2109.09, 2109.10, 2109.11, 2109.12, 2109.14, 2109.17, 2109.19, 2109.20, 2109.21, 2109.22, 2109.24, 2109.25, 2109.26, 2109.302, 2109.303, 2109.32, 2109.33, 2109.34, 2109.35, 2109.36, 2109.361, 2109.37, 2109.371, 2109.372, 2109.38, 2109.39, 2109.40, 2109.42, 2109.43, 2109.44, 2109.45, 2109.46, 2109.47, 2109.48, 2109.49, 2109.50, 2109.51, 2109.52, 2109.53, 2109.54, 2109.55, 2109.56, 2109.57, 2109.58, 2109.59, 2109.60, 2109.61, 2109.62, 2111.02, 2111.021, 2111.031, 2111.04, 2111.041, 2111.06, 2111.07, 2111.09, 2111.091, 2111.12, 2111.131, 2111.14, 2111.141, 2111.16, 2111.17, 2111.181, 2111.19, 2111.20, 2111.21, 2111.22, 2111.25, 2111.26, 2111.27, 2111.28, 2111.29, 2111.30, 2111.31, 2111.33, 2111.34, 2111.35, 2111.36, 2111.37, 2111.38, 2111.39, 2111.40, 2111.41, 2111.44, 2111.46, 2111.48, 2111.50, 2113.01, 2113.03, 2113.04, 2113.05, 2113.06, 2113.07, 2113.12, 2113.13, 2113.14, 2113.15, 2113.16, 2113.18, 2113.19, 2113.20, 2113.21, 2113.22, 2113.25,

2113.30, 2113.31, 2113.311, 2113.33, 2113.34, 2113.35, 2113.36, 2113.39, 2113.40, 2113.41, 2113.45, 2113.46, 2113.48, 2113.49, 2113.50, 2113.51, 2113.52, 2113.54, 2113.58, 2113.61, 2113.62, 2113.67, 2113.68, 2113.69, 2113.70, 2113.72, 2113.73, 2113.74, 2113.75, 2113.81, 2113.82, 2113.85, 2113.86, 2113.87, 2113.88, 2115.02, 2115.03, 2115.06, 2115.09, 2115.10, 2115.11, 2115.12, 2115.16, 2115.17, 2117.01, 2117.02, 2117.03, 2117.04, 2117.061, 2117.08, 2117.09, 2117.10, 2117.13, 2117.15, 2117.17, 2117.18, 2117.30, 2117.31, 2117.34, 2117.35, 2117.36, 2117.37, 2117.41, 2117.42, 2119.01, 2119.02, 2119.03, 2119.04, 2119.05, 2121.01, 2121.02, 2121.05, 2121.06, 2121.08, 2121.09, 2123.02, 2123.03, 2123.05, 2123.06, 2127.011, 2127.02, 2127.04, 2127.05, 2127.06, 2127.07, 2127.08, 2127.09, 2127.10, 2127.11, 2127.12, 2127.13, 2127.14, 2127.15, 2127.16, 2127.17, 2127.18, 2127.19, 2127.21, 2127.22, 2127.23, 2127.24, 2127.27, 2127.28, 2127.29, 2127.30, 2127.32, 2127.33, 2127.34, 2127.35, 2127.36, 2127.37, 2127.38, 2127.39, 2127.40, 2127.41, 2127.42, 2127.43, 2129.02, 2129.05, 2129.08, 2129.11, 2129.13, 2129.14, 2129.15, 2129.17, 2129.18, 2129.19, 2129.23, 2129.25, 2129.26, 2129.28, 2129.29, 2129.30, 2131.08, 2131.11, 2133.04, 2133.05, 2133.06, 2133.08, 2133.09, 2151.13, 2335.34, 3101.02, 3101.03, 3101.10, 3101.13, 3101.14, 3313.85, and 5111.113 and sections 2101.36, 2113.02, 2113.17, 2113.24, 2113.26, 2113.27, 2113.28, 2113.29, 2113.57, and 2113.63 of the Revised Code are hereby repealed.

SECTION 3. The provisions of this act that relate to the estates of decedents apply to the estates of decedents who die on or after the effective date of this act.

SECTION 4. The General Assembly, applying the principle stated in division (B) of section 1.52 of the Revised Code that amendments are to be harmonized if reasonably capable of simultaneous operation, finds that the following sections, presented in this act as composites of the sections as amended by the acts indicated, are the resulting versions of the sections in effect prior to the effective date of the sections as presented in this act:

Section 2101.24 of the Revised Code as amended by both Sub. H.B. 416 and Sub. H.B. 426 of the 126th General Assembly.

Section 2109.44 of the Revised Code as amended by both Am. Sub. H.B. 538 and Sub. S.B. 129 of the 121st General Assembly.

Speaker _____ *of the House of Representatives.*

President _____ *of the Senate.*

Passed _____, 20____

Approved _____, 20____

Governor.

Am. Sub. S. B. No. 124

129th G.A.

The section numbering of law of a general and permanent nature is complete and in conformity with the Revised Code.

Director, Legislative Service Commission.

Filed in the office of the Secretary of State at Columbus, Ohio, on the ___ day of _____, A. D. 20____.

Secretary of State.

File No. _____ Effective Date _____